



2026 South Dakota Legislature

Senate Bill 57

SENATE STATE AFFAIRS ENGROSSED

Introduced by: **Senators** Howard and Larson and **Representatives** Hansen, DeGroot, and Muckey at the request of the Interim Rules Review Committee

1 **An Act to clarify when agency financial resource information must be filed in the**
 2 **permanent administrative rulemaking process.**

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 **Section 1. That § 1-26-4 be AMENDED:**

5 **1-26-4.** The following notice, service, and public hearing procedure must be used
 6 to adopt, amend, or repeal a permanent rule:

7 (1) An agency shall serve a copy of a proposed rule and any publication described in
 8 § 1-26-6.6 upon the departmental secretary, bureau commissioner, public utilities
 9 commissioner, or constitutional officer to which it is attached for the secretary's,
 10 commissioner's, or officer's written approval to proceed;

11 (2) After receiving the written approval of the secretary, commissioner, or officer to
 12 proceed, the agency shall serve code counsel with a copy of: the proposed rule;
 13 any publication described in § 1-26-6.6; the fiscal note required by § 1-26-4.2; the
 14 impact statement on small business required by § 1-26-2.1; any housing cost
 15 impact statement required by § 1-26-2.3; the agency financial resource
 16 information required by § 1-26-4.8; and the notice of hearing required by § 1-26-
 17 4.1. The copy of these documents must be served at least twenty days before the
 18 public hearing to adopt the proposed rule. Any publication described in § 1-26-6.6
 19 must be returned to the agency upon completion of the code counsel's review and
 20 retained by the agency. Twenty days before the public hearing, the agency shall
 21 serve the commissioner of the Bureau of Finance and Management with a copy of:
 22 the proposed rule; the fiscal note required by § 1-26-4.2; the impact statement on
 23 small business required by § 1-26-2.1; any housing cost impact statement required
 24 by § 1-26-2.3; the agency financial resource information required by § 1-26-4.8;
 25 and the notice of hearing required by § 1-26-4.1;

26 (3) At least twenty days before the public hearing, the agency shall:

- 1 (a) Publish the notice of hearing in the manner prescribed by § 1-26-4.1; and
2 (b) Publish, on the agency's website, any housing cost impact statement
3 required by § 1-26-2.3;
- 4 (4) After reviewing the proposed rule pursuant to § 1-26-6.5, code counsel shall advise
5 the agency of any recommended corrections to the proposed rule. If the agency
6 does not concur with any recommendation of code counsel, the agency may appeal
7 the recommended correction to the Interim Rules Review Committee for
8 appropriate action;
- 9 (5) The agency shall afford all interested persons reasonable opportunity to submit
10 amendments, data, opinions, or arguments at a public hearing held to adopt the
11 rule. The hearing may be continued from time to time. The agency shall keep
12 minutes of the hearing. A majority of the members of any board or commission
13 authorized to pass rules must be present during the course of the public hearing;
- 14 (6) If the authority promulgating the rule is a secretary, commissioner, or officer, the
15 agency shall accept written comments regarding the proposed rule for a period of
16 ten days after the public hearing. If the authority promulgating the rule is a board,
17 commission, committee, or task force, each interested person ~~shall~~ must submit
18 written comments at least seventy-two hours before the public hearing. The
19 seventy-two hours does not include the day of the public hearing. The written
20 comments may be submitted by mail or email. The record of written comments
21 may be closed at the conclusion of the public hearing. The hearing may be
22 continued for the purpose of taking additional comments;
- 23 (7) After the written comment period, the agency shall consider all amendments, data,
24 opinions, or arguments regarding the proposed rule. A proposed rule may be
25 modified or amended at this time to include or exclude matters that were described
26 in the notice of hearing; and
- 27 (8) The agency shall serve the minutes of the hearing, a complete record of written
28 comments, the impact statement on small business, any housing cost impact
29 statement, the fiscal note, the agency financial resource information required by
30 § 1-26-4.8, and a corrected copy of the rule on the members of the Interim Rules
31 Review Committee and on code counsel at least seven days before the agency
32 appears before the committee to present the rules.

33 The time periods specified in this section may be extended by the agency. The
34 requirement to serve the committee and code counsel within the time limit specified in
35 subdivision (8) may be waived by the committee chair, if the agency presents sufficient

1 reasons to the committee chair that the agency is unable to comply with the time limit.
2 The waiver may not be granted solely for the convenience of the agency.

3 **Section 2. That § 1-26-4.8 be AMENDED:**

4 **1-26-4.8.** If an agency proposes a rule to increase a fee, the agency shall provide
5 information to the Interim Rules Review Committee and code counsel, pursuant to § 1-
6 26-4, about the financial resources available to the agency. This information consists of
7 the agency's beginning fund balance, receipts, disbursements, and ending fund balance
8 for each of the last two fiscal years ~~and consists of,~~ as well as the agency's beginning fund
9 balance, projected receipts, projected disbursements, and ending balance for the current
10 fiscal year and the next fiscal year.