

State of South Dakota

SEVENTY-SECOND SESSION
LEGISLATIVE ASSEMBLY, 1997

277A0758

HOUSE BILL NO. 1223

Introduced by: Representative Hunt and Senator Halverson

1 FOR AN ACT ENTITLED, An Act to provide for certain agency appeals to the Interim Rules
2 Review Committee during the rules promulgation process.

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

4 Section 1. That § 1-26-4 be amended as follows:

5 1-26-4. The following procedure shall be complied with prior to the adoption, amendment,
6 or repeal of any rule, except an emergency 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, or constitutional
9 officer of the department to which it is attached;
- 10 (2) Fifteen days after the service required by subdivision (1) or upon receiving the written
11 approval of that officer to proceed, whichever comes first, and twenty days before the
12 hearing, the agency shall serve the director with a copy of the proposed rules, a copy
13 of any publication described in § 1-26-6.6, a copy of the fiscal note described in
14 § 1-26-4.2, and a copy of the notice of hearing required by § 1-26-4.1. Also, twenty
15 days before the hearing, the agency shall serve the Bureau of Finance and
16 Management with a copy of the proposed rules, a copy of the fiscal note described in

- 1 § 1-26-4.2, and a copy of the notice of hearing required by § 1-26-4.1;
- 2 (3) The agency shall publish the notice of hearing in the manner prescribed by § 1-26-4.1,
3 at least twenty days before the hearing;
- 4 (4) The agency shall afford all interested persons reasonable opportunity to submit data,
5 opinions, or arguments, either orally or in writing, or both, at a hearing held for that
6 purpose. The hearing may be continued from time to time until its business has been
7 completed. The agency shall keep minutes of the hearing. A majority of the members
8 of any board or commission authorized to pass rules must be present during the
9 course of the hearing required by this subdivision;
- 10 (5) For a period of ten days after the hearing, the agency shall accept written comments
11 regarding the proposed rule, unless the entity promulgating the rule is a part-time
12 citizen board, commission, committee, task force, or other multiperson decision
13 maker, in which case the record of written comments shall be closed at the conclusion
14 of the public hearing. However, the hearing may be specifically continued for the
15 purpose of taking additional comments;
- 16 (6) After the written comment period, the agency shall fully consider all written and oral
17 submissions regarding the proposed rule. A proposed rule may be modified or
18 amended at this time to include or exclude matters which were described in the notice
19 of hearing;
- 20 (7) ~~The agency shall make any corrections required by the director; and~~ After reviewing
21 the proposed rule, the director shall advise the agency of any recommended
22 corrections to the proposed rule;
- 23 (8) If the agency does not concur with any recommendation of the director, the agency
24 shall appeal the recommended correction to the Interim Rules Review Committee for
25 appropriate action; and

1 (9) The agency shall serve the minutes of the hearing, a complete record of written
2 comments, and a corrected copy of the rules on the members of the Interim Rules
3 Review Committee.

4 The time periods specified in this section may be extended by the agency.