

State of South Dakota

EIGHTY-SECOND SESSION LEGISLATIVE ASSEMBLY, 2007

861N0458

HOUSE BILL NO. 1144

Introduced by: Representatives Cutler, Ahlers, Boomgarden, Brunner, Faehn, Hunt, Juhnke, Miles, Moore, Novstrup (David), Nygaard, Pederson (Gordon), Rave, Rounds, Street, Turbiville, Vehle, and Willadsen and Senators Turbak, Abdallah, Bartling, Dempster, Gray, Hanson (Gary), Katus, Koetzle, McCracken, and Nesselhuf

1 FOR AN ACT ENTITLED, An Act to limit the transfer of contested Public Utilities
2 Commission cases to the Office of Hearing Examiners.

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

4 Section 1. That § 1-26-17 be amended to read as follows:

5 1-26-17. The notice shall include:

6 (1) A statement of the time, place, and nature of the hearing;

7 (2) A statement of the legal authority and jurisdiction under which the hearing is to be
8 held;

9 (3) A reference to the particular sections of the statutes and rules involved;

10 (4) A short and plain statement of the matters asserted. If the agency or other party is
11 unable to state the matters in detail at the time the notice is served, the initial notice
12 may be limited to a statement of the issues involved. Thereafter upon application a
13 more definite and detailed statement shall be furnished;

14 (5) A statement of any action authorized by law, which may affect the parties, as a result



1 of any decision made at the hearing, whether it be the revocation of a license, the
2 assessment of a fine or other effect;

3 (6) A statement that the hearing is an adversary proceeding and that a party has the right
4 at the hearing, to be present, to be represented by a lawyer, and that these and other
5 due process rights will be forfeited if they are not exercised at the hearing;

6 (7) ~~A~~ Except in contested cases before the Public Utilities Commission, a statement that
7 if the amount in controversy exceeds two thousand five hundred dollars or if a
8 property right may be terminated, any party to the contested case may require the
9 agency to use the Office of Hearing Examiners by giving notice of the request to the
10 agency no later than ten days after service of a notice of hearing issued pursuant to
11 § 1-26-17;

12 (8) A statement that the decision based on the hearing may be appealed to the circuit
13 court and the State Supreme Court as provided by law.

14 Section 2. That § 1-26-18.3 be amended to read as follows:

15 1-26-18.3. In any contested case, if the amount in controversy exceeds two thousand five
16 hundred dollars or if a property right may be terminated, any party to the contested case may
17 require the agency to use the Office of Hearing Examiners by giving notice of the request no
18 later than ten days after service of a notice of hearing issued pursuant to § 1-26-17. This section
19 does not apply to any contested case before the Public Utilities Commission.