

AN ACT

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

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

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

1-26-4. The following procedure shall be complied with prior to the adoption, amendment, or repeal of any rule, except an emergency rule:

- (1) An agency shall serve a copy of a proposed rule and any publication described in § 1-26-6.6 upon the departmental secretary, bureau commissioner, or constitutional officer of the department to which it is attached;
- (2) Fifteen days after the service required by subdivision (1) or upon receiving the written approval of that officer to proceed, whichever comes first, and twenty days before the hearing, the agency shall serve the director with a copy of the proposed rules, a copy of any publication described in § 1-26-6.6, a copy of the fiscal note described in § 1-26-4.2, and a copy of the notice of hearing required by § 1-26-4.1. Also, twenty days before the hearing, the agency shall serve the Bureau of Finance and Management with a copy of the proposed rules, a copy of the fiscal note described in § 1-26-4.2, and a copy of the notice of hearing required by § 1-26-4.1;
- (3) The agency shall publish the notice of hearing in the manner prescribed by § 1-26-4.1, at least twenty days before the hearing;
- (4) The agency shall afford all interested persons reasonable opportunity to submit data, opinions, or arguments, either orally or in writing, or both, at a hearing held for that purpose. The hearing may be continued from time to time until its business has been completed. The agency shall keep minutes of the hearing. A majority of the members of any board or commission authorized to pass rules must be present during the course of the

hearing required by this subdivision;

- (5) For a period of ten days after the hearing, the agency shall accept written comments regarding the proposed rule, unless the entity promulgating the rule is a part-time citizen board, commission, committee, task force, or other multiperson decision maker, in which case the record of written comments shall be closed at the conclusion of the public hearing. However, the hearing may be specifically continued for the purpose of taking additional comments;
- (6) After the written comment period, the agency shall fully consider all written and oral submissions regarding the proposed rule. A proposed rule may be modified or amended at this time to include or exclude matters which were described in the notice of hearing;
- (7) After reviewing the proposed rule, the director shall advise the agency of any recommended corrections to the proposed rule;
- (8) If the agency does not concur with any recommendation of the director, the agency shall appeal the recommended correction to the Interim Rules Review Committee for appropriate action; and
- (9) The agency shall serve the minutes of the hearing, a complete record of written comments, and a corrected copy of the rules on the members of the Interim Rules Review Committee.

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

An Act to provide for certain agency appeals to the Interim Rules Review Committee during the rules promulgation process.

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I certify that the attached Act  
originated in the

HOUSE as Bill No. 1223

\_\_\_\_\_  
Chief Clerk  
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\_\_\_\_\_  
Speaker of the House

Attest:

\_\_\_\_\_  
Chief Clerk

\_\_\_\_\_  
President of the Senate

Attest:

\_\_\_\_\_  
Secretary of the Senate

House Bill No. 1223  
File No. \_\_\_\_\_  
Chapter No. \_\_\_\_\_

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Received at this Executive Office  
this \_\_\_\_ day of \_\_\_\_\_ ,

19\_\_ at \_\_\_\_ M.

By \_\_\_\_\_  
for the Governor  
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The attached Act is hereby  
approved this \_\_\_\_\_ day of  
\_\_\_\_\_, A.D., 19\_\_

\_\_\_\_\_  
Governor  
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STATE OF SOUTH DAKOTA,  
ss.

Office of the Secretary of State

Filed \_\_\_\_\_ , 19\_\_  
at \_\_\_\_\_ o'clock \_\_ M.

\_\_\_\_\_  
Secretary of State

By \_\_\_\_\_  
Asst. Secretary of State