



2024 South Dakota Legislature

House Bill 1006

Introduced by: **Representatives** Hansen, DeGroot, and Healy and **Senators** Hunhoff, Foster, and Mehlhaff at the request of the Interim Committee on Rules Review

1 **An Act to increase the amount of time permitted the Interim Rules Review**
 2 **Committee to review final permanent rulemaking materials.**

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 the director with a copy of: the proposed rule; any
 13 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; the housing cost
 15 impact statement required by § 1-26-2.3; and the notice of hearing required by
 16 § 1-26-4.1. The copy of these documents must be served at least twenty days
 17 before the public hearing to adopt the proposed rule. Any publication described in
 18 § 1-26-6.6 must be returned to the agency upon completion of the director's review
 19 and retained by the agency. Twenty days before the public hearing, the agency
 20 shall serve the commissioner of the Bureau of Finance and Management with a
 21 copy of: the proposed rule; the fiscal note required by § 1-26-4.2; the impact
 22 statement on small business required by § 1-26-2.1; the housing cost impact
 23 statement required by § 1-26-2.3; and the notice of hearing required by § 1-26-
 24 4.1;

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

26 (a) Publish the notice of hearing in the manner prescribed by § 1-26-4.1; and

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

32 The time periods specified in this section may be extended by the agency. The
33 requirement to serve the committee in subdivision (8) may be waived by the committee
34 chair, if the agency presents sufficient reasons to the committee chair that the agency is

- 1 unable to comply with the time limit. The waiver may not be granted solely for the
- 2 convenience of the agency.