



# Tornado Warning

## With new law, meeting-notice requirement is 'crystal clear'

By Bob Mercer on May 1, 2015 at 5:42 p.m.

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PIERRE – A new law that takes effect July 1 across South Dakota might finally clean up the practices by some public boards and commissions for displaying meeting notices.

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The Legislature tried to address the problem in 2012. Lawmakers said a public meeting notice with a proposed agenda needed to be "visible, readable, and accessible for at least an entire twenty-four hours" before at the principal office of the public body.

But where and how those notices were displayed weren't consistent.

Sometimes they were posted in windows at entrances to buildings. Other times they were posted on a wall or a window in spots, such as within a building, that passersby couldn't see.

The situation came to a confusing conclusion in November.

The state Open Meeting Commission ruled 3-2 that the Freeman school board met the 24-hour requirement by putting a meeting notice on a window inside the building for three days.

The Open Meeting Commission also ruled unanimously that Freeman violated another part of the meeting-notice requiring posting on the public body's Internet site if it has one.

That led to the Legislature amending the law this year by adding the word "continuous" to the 24-hour requirement.

Rep. Burt Tulson, R-Lake Norden, and Sen. Ried Holien, R-Watertown, sponsored the new legislation.

They were the lead sponsors for the 2012 law, too.

"I'm just a firm believer in open meetings. I've been in enough meetings people weren't aware of," Holien said Friday.

"The more we can do to spread the word, the better," he said.

The South Dakota Newspaper Association supported their legislation and testified at the public hearings last winter.

At Freeman, according to SDNA executive director David Bordewyk, the agenda was visible in the window of the superintendent's office inside the building from 8 a.m. to 5 p.m. for three days in a row to meet the 24-hour requirement.

Bordewyk said that wasn't the intent of the 2012 law.

Gerry Kaufman, director of policy and legal services for the Associated School Boards of South Dakota, told House and Senate committees the organization supported the change to add continuous.

"It does clarify both the intent of the legislation that we passed previously and the language," Rep. Dean Wink, R-Howes, said at the House hearing.

The 2012 amendment came in the wake of 2009 and 2011 cases about postings that were made inside buildings.

The commission ruled there wasn't a violation in those cases or in the 2014 Freeman case.

"There's not much change here but it looks reasonable. Let's move it forward," Senate Democratic leader Billie Sutton, of Burke, said at the Senate hearing.

The measure subsequently won unanimous approval on the consent calendars in the House and the Senate.

Yet as recently as April, both practices were still used in state government, depending on the board or commission and the state department to which it was attached.

Tony Venhuizen, the governor's chief of staff, recently alerted officials in all bureaus and departments in state government's executive branch about the need to comply with the new law.

The challenge he's facing is finding ways to post notices at the Capitol and at some of the other state buildings so they are visible to the public around the clock.

Relatively few people use the Capitol's second-story entrance, at the top of the building's classical front steps, along Capitol Avenue.

The Capitol's main after-hours entrance is at ground level on the north side. Many visitors use the entrance throughout the day because of the adjacent parking lots.

There are also entrances on the east and west sides at ground level that are open during business hours.

Venhuizen said he's talking with other state officials about what steps might be taken.

"This is particularly important because of the passage of HB 1125, which makes the legal requirement crystal-clear," Venhuizen said.

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