

**PENNINGTON COUNTY BOARD OF COMMISSIONERS  
PROPOSED SPECIAL MEETING AGENDA  
SATURDAY, MARCH 21, 2020  
3:00 P.M.  
COMMISSION CHAMBERS  
COUNTY ADMINISTRATION BUILDING**



*Deb Hadcock, Chair District 3  
Gary Drewes, Vice Chair District 5*

*Ron Rossknecht, Commissioner District 1  
Lloyd LaCroix, Commissioner District 2  
Mark DiSanto, Commissioner District 4*

**Agenda disclaimer: The preferred practice of the Board is to proceed thru the agenda in the order it is published. From time to time, agenda items may be disposed of quickly leaving a gap in the meeting agenda prior to the next advertised agenda item start time. To utilize time effectively in those circumstances, the Board may move items up on the agenda to fill those gaps.**

*Welcome to the March 21<sup>st</sup>, 2020 Board of Commissioners Special Meeting.  
Please silence cell phones, pagers and other electronic communication devices.  
Agendas are located at the back of the Chambers.*

1. Call to Order
2. Moment of Silent Reflection
3. Pledge of Allegiance
4. Review and Approve Agenda
5. Pennington County Resolution to designate decision making authority to the Chair and Vice Chair for emergency policy decisions regarding COVID-19 related issues
6. Families First Coronavirus Response Act (HR 6201) – Pennington County Policies
7. Any and all other business related to the COVID-19 virus
8. Adjourn

Pennington County fully subscribes to the Americans with Disabilities Act. If you desire to attend this public meeting and need accommodations, please notify the Commissioners' Office at (605) 394-2171 at least 24 hours prior to the meeting so that appropriate services and auxiliary aids are available.

Scan the code to access the agenda packet online.



**PENNINGTON COUNTY RESOLUTION  
RESOLUTION TO DESIGNATE DECISION MAKING AUTHORITY TO THE  
CHAIR AND VICE CHAIR ABOUT EMERGENCY POLICY DECISIONS  
REGARDING COVID-19 RELATED ISSUES**

**WHEREAS**, on Friday, March 13, 2020, Kristi Noem, Governor of the State of South Dakota, per Executive Order 2020-04, declared a state of emergency in all counties in the State of South Dakota; and

**WHEREAS**, COVID-19 is a severe respiratory disease transmitted by the person-to-person spread of the novel coronavirus; and

**WHEREAS**, COVID-19 is a public health emergency posing conditions that may endanger the public health, safety and welfare of all persons within the borders of Pennington County, SD; and

**WHEREAS**, new developments have the potential to occur at a rapid pace; and

**WHEREAS**, county operations include facilities that operate twenty-four hours a day; and

**WHEREAS**, decisions regarding employees and operational closures may require swift and timely decision making; and

**WHEREAS**, under SDCL 7-8-20 (7), the Board of County Commissioners has the power to superintend the fiscal concerns of the county and secure their management in the best possible manner; and

**WHEREAS**, under SDCL 7-8-20 (10), the Board of County Commissioners has the power to perform such duties and acts as it is or may hereafter be required to do and perform; and

**WHEREAS**, the Board of County Commissioners finds it is in the best interests of Pennington County to delegate its authority to the Chair and Vice Chair to perform such duties and acts as set forth in this Resolution in order to ensure swift and timely decisions in response to the present public health emergency;

**NOW THEREFORE BE IT RESOLVED**, by the Board of County Commissioners of Pennington County, South Dakota, the Chair and Vice Chair are hereby authorized to make emergency policy and operating decisions regarding COVID-19 related issues; and

**BE IT FURTHER IT RESOLVED**, that the Board of County Commissioners of Pennington County, South Dakota, deem the passage of this resolution to be an emergency measure in the best interest of the public health, safety and welfare and therefore said resolution shall take effect immediately upon approval.

Dated this \_\_\_\_ day of \_\_\_\_\_, 2020.

Pennington County Board of Commissioners

\_\_\_\_\_  
Deb Hadcock, Chair

Attest:

\_\_\_\_\_  
Auditor  
(SEAL)

## **Families First Coronavirus Response Act (HR 6201) – Pennington County Policy**

*This shall be a temporary policy. It shall be in effect from March 31, 2020 through December 31, 2020, unless extended by the United States Secretary of Labor or the Pennington County Board of County Commissioners.*

The Families First Coronavirus Response Act (FFCRA or H.R. 6201) takes effect on March 31, 2020. It contains two primary employment provisions; which expand eligibility for Family and Medical Leave Act (FMLA) leave and make emergency paid sick leave available to specific workers. These provisions will remain in effect through Dec. 31, 2020.

### **FMLA Eligibility Expanded**

Under the FFCRA, all public sector employees qualify to request and use FMLA leave if they:

- Have been employed by the County for at least 30 calendar days,
- Are unable to work remotely or report to their worksite, and
- Have one of the following qualifying reasons under this Act to take FMLA leave:
  - They must care for their child who is younger than 18 whose school or place of care is closed.
  - They must care for their child because the usual care provider is unavailable due to a public health emergency.
  - They are subject to a federal, state or local quarantine or isolation order related to COVID-19.
  - They have been advised by a health care provider to self-quarantine due to COVID-19 concerns.
  - They are experiencing COVID-19 symptoms and seeking a medical diagnosis.
  - They are caring for an individual who is subject to a federal, state or local quarantine order or for someone who has been advised to self-quarantine due to COVID-19 concerns.
  - They are experiencing conditions substantially similar, as specified by the U.S. Department of Health and Human Services in consultation with the U.S. Department of Treasury and the U.S. Department of Labor.

The first 10 days of qualifying FMLA leave may be taken as unpaid leave, or the employee can substitute any accrued leave for the unpaid portion. The County may not require employees to use accrued leave if the employee decides to take unpaid leave during those 10 days of leave.

The County will provide paid leave for qualifying FMLA for up to ten (10) additional weeks of leave at a rate that is capped at \$200/day and \$10,000 in total.

Further, the County will make reasonable efforts to restore employees who return from approved FMLA leave to their same or an equivalent position. If those efforts fail, the County will make reasonable efforts to contact the employee if an equivalent position becomes available during the next year.

The Secretary of Labor has the authority to exclude certain healthcare providers and emergency responders from coverage under the Act.



## Emergency Paid Sick Leave

Under this provision, full-time employees are eligible to take up to 80 hours of paid leave if the employee:

1. Has been ordered by the government to quarantine or isolate because of COVID-19.
2. Has been advised by a health care provider to self-quarantine because of COVID-19.
3. Has symptoms of COVID-19 and is seeking a medical diagnosis.
  - Paid sick leave must be paid at the employee's regular rate of pay\*, or minimum wage, whichever is greater, for leave taken for reasons 1-3 above.
4. Is caring for someone who is subject to a government quarantine or isolation order or has been advised by a health care provider to quarantine or self-isolate.
5. Needs to care for a son or daughter whose school or child care service is closed due to COVID-19 precautions.
6. Is experiencing substantially similar conditions as specified by the US Secretary of Health and Human Services, in consultation with the Secretaries of Labor and Treasury.
  - Employees taking leave for reasons 4-6 above may be compensated at two-thirds\*\* their regular rate of pay, or minimum wage, whichever is greater.
  - *Part-time employees are eligible to take paid emergency sick leave for one of the above reasons, as well, but on a prorated basis.*

Under this policy, all County employees are eligible for paid emergency sick leave as established by the FFCRA regardless of how long they have worked for the County. Pay during the emergency leave will be calculated based on the employee's regular rate\* but is limited to a maximum of \$511/day and \$5,110 in total. Where the emergency sick time is for employees to be caregivers, it is based on 2/3\*\* of the regular rate and limited to a maximum of \$200/day and \$2,000 in total.

Under this policy, emergency paid sick leave is available in addition to other forms of existing County paid leave. Employees may not be required to use other paid leave before using the sick time provided by this law. Employees may not be required to find someone to cover their hours as a condition for taking paid sick time. The County may not retaliate against any employee who takes leave in accordance with the act. The County may not retaliate against an employee who files a complaint or participates in a proceeding related to the act—including a proceeding that seeks to enforce the Act.

The law directs the United States Secretary of Labor to establish emergency temporary standards to protect healthcare workers under OSHA and expand which hospitals and other medical facilities are subject to such standards.

The Department of Labor will provide a model notice for use by County offices to advise employees of the emergency family and medical leave and emergency paid sick leave provisions. Each office or department will be required to display the notice in a conspicuous place.

*(To be removed prior to issue-Note: While private employers will receive a payroll tax credit to cover the wages they pay to employees who take qualified emergency leave under this law, public sector employers will not receive a tax credit.)*



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## MEMORANDUM

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**DATE:** March 20, 2020  
**FROM:** Holli Hennies, Commission Office Manager  
**TO:** Board of Commissioners  
**RE:** Any and all other business related to the COVID-19 virus

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This agenda item is for the Board of Commissioners to address any and all other business in relation to the COVID-19 virus.

Items may include but are not limited to the following:

- County employees including leave benefits
- County operations
- Hiring freeze
- Prohibiting all non-essential travel
- Prohibiting all non-essential purchasing

This agenda item will also include the scheduling of a special Commission Meeting on Friday March, 27<sup>th</sup> at 9:00 a.m. for updates on the status of the COVID-19 virus and any business relating to that may need to be addressed by the Board.