

State of South Dakota

NINETIETH SESSION
LEGISLATIVE ASSEMBLY, 2015

860W0104

SENATE BILL NO. _____

Introduced by: _____

1 FOR AN ACT ENTITLED, An Act to provide for a uniform county drainage permit application
2 form and to require the disclosure of certain drainage projects.

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

4 Section 1. That § 46A-10A-30 be amended to read as follows:

5 46A-10A-30. Any board or commission under the provisions of this chapter and chapter
6 46A-11 may adopt a permit system for drainage. The permit system shall be prospective in
7 nature and shall consider information required in a drainage permit application as provided in
8 section 2 of this Act. Permits shall be granted consistent with the principles outlined in § 46A-
9 10A-20. The fee for a permit shall be established by the permitting authority, based on the
10 administrative costs of regulating drainage activities, may not exceed ~~one~~ five hundred dollars,
11 and shall be paid only once. However, ~~permitted~~ a drainage plan that is enlarged, ~~rerouted~~
12 beyond the original permitted drainage acres, or otherwise modified beyond the original
13 permitted drainage acres requires a new permit. Any vested drainage right not recorded under
14 the provisions of § 46A-10A-31 requires a permit for its use if a permit system has been
15 established in the county where it exists. Any person or the person's contractor draining water
16 without a permit, if a permit is required under the provisions of this section, is guilty of a Class



1 1 misdemeanor. In addition to or in lieu of any criminal penalty, a court may assess against any
2 person violating the provisions of this section a civil penalty not to exceed one thousand dollars
3 ~~per~~ for each day of violation. A permit system is an official control.

4 Section 2. That chapter 46A-10A be amended by adding thereto a NEW SECTION to read
5 as follows:

6 Any application for a drainage permit submitted to a county pursuant to § 46A-10A-30 shall
7 include a detailed drawing or analysis showing a map of the proposed construction as well as
8 a notification to other affected property owners within one mile downstream of where any water
9 from the drainage system leaves the property of the applicant. The application shall also include
10 the following information:

- 11 (1) General description of the proposed drainage project and whether it involves new
12 drain or tile or the repair of existing drain or tile that has not been previously
13 permitted;
- 14 (2) Name, address, and telephone numbers of the primary applicant, the owner of the
15 land to be drained or tiled, and the owner of the land where system outlets are
16 located;
- 17 (3) Detailed map or drawing showing the site plan and location of facilities;
- 18 (4) Legal description of land to be drained or tiled;
- 19 (5) Legal description or location of outlet;
- 20 (6) Description of outlet (gravity, pump, other) and whether the outlet is gated;
- 21 (7) Design capacity of the drainage or tile system and outlet flow capacity;
- 22 (8) Acres of land to be drained or tiled;
- 23 (9) Description of area where the drainage or tile system will discharge (road ditch,
24 private drain, assessment drain, natural waterway, other);

- 1 (10) Name and address of drainage contractor who will construct the project;
- 2 (11) Public property that could be affected by the proposed project and notification or
3 approval by affected state, federal, or local government agencies;
- 4 (12) Whether a wetlands determination by the federal Natural Resources Conservation
5 Service has been completed for the property to be drained; and
- 6 (13) Other information required by the county.

7 Section 3. That chapter 46A-10A be amended by adding thereto a NEW SECTION to read
8 as follows:

9 A county may delegate drainage permitting authority to one or more watershed districts
10 operating within the county.

11 Section 4. That chapter 46A-10A be amended by adding thereto a NEW SECTION to read
12 as follows:

13 If a board or commission does not adopt a permit system for drainage as authorized by
14 § 46A-10A-30, the board or commission shall adopt a system to require the disclosure of any
15 private drain being constructed in a rural area. If such an existing drainage system is enlarged
16 or otherwise modified beyond the original disclosed drainage acres, a new disclosure of the
17 drainage system shall be required. The county shall by ordinance establish a procedure for the
18 filing of any disclosure at the court house. Each disclosure shall be available for public review.
19 The county shall by ordinance establish a procedure for the publication of a notice of the
20 drainage being constructed at least once a week for at least two successive weeks in a newspaper
21 of general circulation in the county.

22 Section 5. That chapter 46A-10A be amended by adding thereto a NEW SECTION to read
23 as follows:

24 Any disclosure required pursuant to section 4 of this Act shall include a detailed drawing

1 or analysis showing a map of the proposed construction as well as a notification to other
2 affected property owners within one mile downstream of where any water from the drainage
3 system leaves the property of the person disclosing the private drain. The disclosure shall also
4 include the following information:

- 5 (1) General description of the proposed drainage project and whether it involves new
6 drain or tile or the repair of existing drain or tile;
- 7 (2) Name, address, and telephone numbers of the owner of the land to be drained or tiled,
8 and the owner of the land where system outlets are located;
- 9 (3) Detailed map or drawing showing the site plan and location of facilities;
- 10 (4) Legal description of land to be drained or tiled;
- 11 (5) Legal description or location of outlet;
- 12 (6) Description of outlet (gravity, pump, other) and whether the outlet is gated;
- 13 (7) Design capacity of the drainage or tile system and outlet flow capacity;
- 14 (8) Acres of land to be drained or tiled;
- 15 (9) Description of area where the drainage or tile system will discharge (road ditch,
16 private drain, assessment drain, natural waterway, other);
- 17 (10) Name and address of drainage contractor who will construct the project;
- 18 (11) Public property that could be affected by the proposed project and notification or
19 approval by affected state, federal, or local government agencies;
- 20 (12) Whether a wetlands determination by the federal Natural Resources Conservation
21 Service has been completed for the property to be drained; and
- 22 (13) Other information required by the county.

23 Section 6. That chapter 46A-10A be amended by adding thereto a NEW SECTION to read
24 as follows:

1 Any person or the person's contractor who drains water without disclosing the drainage as
2 required by sections 4 and 5 of this Act is guilty of a Class 1 misdemeanor. In addition to or in
3 lieu of any criminal penalty, a court may assess against any person violating the provisions of
4 sections 4 and 5 of this Act a civil penalty not to exceed one thousand dollars for each day of
5 violation.

6 Section 7. This Act is effective on July 1, 2016.

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