

State of South Dakota

EIGHTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 2009

400Q0186

HOUSE APPROPRIATIONS ENGROSSED NO. **HB 1033** - 2/13/2009

Introduced by: The Committee on Health and Human Services at the request of the
Department of Human Services

1 FOR AN ACT ENTITLED, An Act to make an appropriation for the construction of an addition
2 to the admissions area of the George S. Mickelson Center for the Neurosciences at the
3 Human Services Center.

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

5 Section 1. There is hereby appropriated the sum of seven hundred fifty thousand dollars
6 (\$750,000) in other fund expenditure authority, or so much thereof as may be necessary, to the
7 Department of Human Services for the purpose of designing, renovating, and constructing an
8 addition not to exceed four thousand gross square feet to the current admissions area of the
9 George S. Mickelson Center for the Neurosciences at the Human Services Center.

10 Section 2. The Bureau of Administration, pursuant to § 5-14-2, shall supervise the design,
11 renovation, and construction of the facilities approved by this Act. The commissioner of the
12 Bureau of Administration and the secretary of the Department of Human Services shall approve
13 vouchers and the state auditor shall draw warrants to pay expenditures authorized by this Act.



State of South Dakota

EIGHTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 2009

400Q0266

HOUSE APPROPRIATIONS ENGROSSED NO. **HB 1048** - 2/13/2009

Introduced by: The Committee on Appropriations at the request of the Department of Environment and Natural Resources

1 FOR AN ACT ENTITLED, An Act to increase the transfer from the water and environment
2 fund, and increase the solid waste management fee, mining license and permit fees, water
3 right filing and permit application fees, and well driller and pump installer license fees, all
4 of which are deposited in the environment and natural resources fee fund.

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

6 Section 1. That § 1-40-32 be amended to read as follows:

7 1-40-32. On the first of July each year, ~~four hundred thousand dollars (\$400,000)~~ five
8 hundred thousand dollars or all the interest deposited for the previous year in the water and
9 environment fund established pursuant to § 46A-1-60, whichever is less, shall be transferred
10 from the water and environment fund to the environment and natural resources fee fund
11 established pursuant to § 1-40-30.

12 Section 2. That § 34A-6-85 be amended to read as follows:

13 34A-6-85. Twenty-five percent of the fees received pursuant to §§ 34A-6-81 and 34A-6-82
14 shall be deposited in the environment and natural resources fee fund established in § 1-40-30



1 and shall be used to defray costs of administering the solid waste management program
2 requirements of chapter 34A-6. All fees received pursuant to §§ ~~34A-6-81~~ to §§ 34A-6-83 and
3 34A-6-84, inclusive, and seventy-five percent of the fees received pursuant to §§ 34A-6-81 and
4 34A-6-82 shall be deposited in the water and environment fund established in § 46A-1-60, and
5 their expenditures shall be limited to the solid waste source reduction, recycling, and waste
6 management program established in § 46A-1-83. Grants or loans from ~~this~~ the water and
7 environment fund shall be administered by the Board of Water and Natural Resources in
8 accordance with the rules established for solid waste management grants or loans in § 46A-1-84.
9 The board shall offer a grant or loan preference to tire management projects utilizing fees
10 originating pursuant to § 34A-6-83, including waste tire shredding and transporting. The board
11 shall award financial assistance to projects for waste tire shredding and transporting until there
12 is capacity in the private sector to fully utilize all new waste tires generated in this state on an
13 annual basis. Financial assistance for waste tire shredding and transporting may total no more
14 than two hundred fifty thousand dollars in any one fiscal year, but such financial assistance may
15 not be awarded to any state agency. The board shall offer a grant or loan preference to any
16 municipal solid waste landfill facility using volume-based fees reflecting full and true disposal
17 cost. After deducting the amounts provided for waste tire activities provided for by this section
18 and § 34A-6-85.1, at least fifty percent of the amount remaining from the fees imposed pursuant
19 to §§ 34A-6-81 to 34A-6-84, inclusive, shall be awarded as recycling grants or loans.

20 Section 3. That § 45-6-65 be amended to read as follows:

21 45-6-65. An operator shall obtain a license to mine for sand, gravel, rock to be crushed and
22 used in construction, pegmatite minerals or for limestone, iron ore, sand, gypsum, shale,
23 pozzolan, or other materials used in the process of making cement or lime. The operator shall
24 comply with the requirements of §§ 45-6-68, 45-6-69, 45-6-71, and 45-6-72 for each site to be

1 mined. Failure to comply with these requirements for each site mined constitutes mining without
2 a valid license.

3 The fee for the license is an annual fee of one hundred dollars for each individual mine site
4 authorized under the license, which shall be deposited in the environment and natural resources
5 fee fund established in § 1-40-30 by the department.

6 Section 4. That § 45-6B-14 be amended to read as follows:

7 45-6B-14. The application fee of one thousand dollars shall accompany the application.
8 However, the fee shall be fifty thousand dollars for a large scale precious metal, coal, or
9 uranium mine permit.

10 Section 5. That § 45-6B-36 be amended to read as follows:

11 45-6B-36. Within sixty days prior to the anniversary date of the permit each year, the
12 operator shall submit a map on the scale provided for by subdivision 45-6B-10(3) showing the
13 reclamation accomplished and any deviations from the originally approved operating and
14 reclamation plans. Except for operators which are units of state or local government, the
15 operator shall submit, in addition to the map, an annual fee of one hundred dollars or an annual
16 fee of fifty thousand dollars if the operation is a large scale precious metal, coal, or uranium
17 mine that was permitted after January 1, 2009. The annual fee for any large scale coal or
18 uranium mine permit shall be reduced by any tax paid in accordance with chapter 10-39B during
19 the year preceding the date the annual fee is due.

20 Section 6. That § 10-39B-1 be amended to read as follows:

21 10-39B-1. The Legislature finds that:

- 22 (1) Exploration for and development of energy minerals ~~and oil and gas reserves~~ in this
23 state may from time to time require the expenditure of state funds in the
24 administration of the rules and statutes; and

1 (2) The State of South Dakota should be compensated for those reasonable costs incurred
2 in carrying out the duties as set forth in ~~chapter~~ chapters 45-9, 45-6B, and 45-6D.

3 Section 7. That § 10-39B-2 be amended to read as follows:

4 10-39B-2. There is imposed on the severance of energy minerals in this state an excise tax,
5 to be known as a conservation tax, equal to two and four-tenths mills of the taxable value of any
6 energy minerals severed and saved. The tax shall be paid by the operator as defined in
7 subdivision 10-39A-1.1(3). An operator may not pass the tax on to the owner of the energy
8 minerals. The tax provided for in this chapter shall be placed in the environment and natural
9 resources fee fund established pursuant to § 1-40-30 and collected in accordance with chapter
10 10-39A except that §§ 10-39A-1, 10-39A-3, and 10-39A-7 to 10-39A-14, inclusive, do not
11 apply to the tax imposed by this chapter. The tax collected from the production of oil or gas may
12 be used to carry out the duties as set forth in chapter 45-9. The tax collected from the production
13 of coal or uranium may be used to carry out the duties as set forth in chapters 45-6B and 45-6D.

14 Section 8. That § 46-2-13 be amended to read as follows:

15 46-2-13. The department shall charge and receive the following fees, to be collected in
16 advance; ~~however, no such fees may be collected from any state agency or state institution:~~

17 (1) For filing and examining ~~an application for a permit to construct~~ a location notice
18 required for construction of a structure across a dry draw or nonnavigable
19 watercourse for the purpose of diverting or collecting storm water and of applying
20 the water to beneficial use, ~~ten~~ fifty dollars;

21 (2) For filing and examining an application for a permit to appropriate water, to construct
22 works and to put the water to beneficial use, including filing of proofs of publication,
23 recording the permit to appropriate water and action on all other papers relating to
24 the application up to and including issuance of the permit, ~~one hundred fifty five~~ five

1 hundred dollars for the first one hundred twenty acre feet per year or fraction thereof,
2 ~~seventy-five~~ two hundred fifty dollars for the second one hundred twenty acre feet
3 or fraction thereof and ~~twenty-five~~ one hundred dollars for each subsequent one
4 hundred twenty acre feet or fraction thereof. If the water permit is denied,
5 seventy-five percent of the fee shall be returned to the applicant. The fee for an
6 application to appropriate 0.1 cubic feet per second or less, to change a diversion
7 point or to add a diversion point with no new appropriation of water is ~~fifty~~ one
8 hundred dollars. The fee for filing and examining an application to appropriate water
9 for future use is equal to ten percent of the fee charged for an application to
10 appropriate water, construct works and put the water to beneficial use. The fee for
11 maintaining the effectiveness of a future use permit after the period of seven years
12 as set out in § 46-5-38.1 is likewise equal to ten percent of the fee charges for an
13 application to appropriate water, construct works, or put the water to beneficial use.
14 If an application to put part or all of the water reserved by a future use permit to
15 beneficial use is filed, the entire fee for an application to appropriate water, construct
16 works, or put water to beneficial use shall be paid;

17 (3) For each inspection of constructed water use works, including diversion works, dams,
18 pumping plants, canals, or other conduits and for confirming the application of water
19 to beneficial use under provisions of a permit to appropriate water, including
20 issuance of a water license, ~~fifty two hundred dollars or actual costs, if costs exceed~~
21 ~~fifty dollars.~~ The fee shall be submitted with the application to appropriate water and
22 be refunded if the application is denied;

23 (4) For officially filing ~~any other paper, two dollars and fifty cents~~ a transfer of
24 ownership of an application or permit to appropriate water, fifty dollars;

1 (5) For filing and examining an application to reinstate a permit filed pursuant to § 46-
2 2A-8.1, ~~fifty~~ one hundred dollars; and

3 (6) For filing and examining an application to claim a vested right pursuant to §§ 46-5-
4 49 and 46-6-2, ~~fifteen~~ fifty dollars, which may not be refunded.

5 ~~In ascertaining actual cost of any work, as the term is used in this section, the salary of any~~
6 ~~salariied officer for the time employed shall be included.~~ All fees received by the department
7 shall be paid into the state treasury to the environment and natural resources fee fund established
8 in § 1-40-30.

9 Section 9. That § 46-6-9 be amended to read as follows:

10 46-6-9. Any well driller, before doing any well drilling and before contracting for any such
11 work, shall first secure and thereafter maintain a license. The words "South Dakota Licensed
12 Well Driller No." shall be plainly displayed at a conspicuous place on the premises where the
13 work is being conducted. The fee for the license is ~~fifty~~ two hundred dollars for a resident, and
14 fifty three hundred dollars for a nonresident. The same amounts shall be paid each calendar year
15 for renewal of the license. A resident is any person whose primary residence is located in South
16 Dakota and has not claimed residency in any other state within ninety days of filing an
17 application to become licensed. The fee shall be paid to the Department of Environment and
18 Natural Resources and deposited with the state treasurer in the environment and natural
19 resources fee fund established in § 1-40-30. The license shall be issued pursuant to the
20 procedures contained in chapter 46-2A. No license may be issued unless the applicant is
21 experienced and knowledgeable in good well construction methods. The Water Management
22 Board shall promulgate rules pursuant to chapter 1-26 establishing qualifications for well
23 drillers.

24 Section 10. That § 46-6-9.3 be amended to read as follows:

1 46-6-9.3. The Water Management Board shall issue a well pump installer license to any
2 applicant who meets the requirements specified in this section. The fee for the license is ~~fifty~~
3 two hundred dollars for a resident, and ~~fifty three hundred~~ three hundred dollars for a nonresident. The same
4 amounts shall be paid each calendar year for renewal of the license. A resident is any person
5 whose primary residence is located in South Dakota and has not claimed residency in any other
6 state within ninety days of filing an application to become licensed. The fee shall be paid to the
7 Department of Environment and Natural Resources and deposited by the state treasurer in the
8 ~~state general fund~~ environment and natural resources fee fund established in § 1-40-30. The
9 license shall be issued pursuant to the procedures contained in chapter 46-2A. No license may
10 be issued unless the applicant is experienced and knowledgeable in well pump installation
11 methods. The Water Management Board shall promulgate rules pursuant to chapter 1-26
12 establishing well pump installation qualifications.

State of South Dakota

EIGHTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 2009

816Q0500

HOUSE APPROPRIATIONS

ENGROSSED NO. **HB 1140** - 2/13/2009

Introduced by: Representatives Juhnke, Carson, Deadrick, Hunhoff (Bernie), Lucas, Moser, Putnam, Van Gerpen, and Vanneman and Senators Garnos, Bartling, Hanson (Gary), Hunhoff (Jean), Kloucek, and Vehle

1 FOR AN ACT ENTITLED, An Act to make an appropriation from the railroad trust fund for
2 the construction of a railroad siding.

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

4 Section 1. There is hereby appropriated from the railroad trust fund created pursuant to § 49-
5 16C-1 the sum of two million five hundred thousand dollars (\$2,500,000), or so much thereof
6 as may be necessary, to the Department of Transportation for the purpose of constructing a
7 railroad siding near Napa Junction in Yankton County. The construction of this railroad siding
8 will complete one of the conditions of the sale of the South Dakota owned core line railroad to
9 the Burlington Northern Santa Fe Railroad that occurred in 2005.

10 Section 2. The secretary of transportation shall approve vouchers and the state auditor shall
11 draw warrants to pay expenditures authorized by this Act.

12 Section 3. Any amounts appropriated in this Act not lawfully expended or obligated by
13 June 30, 2010, shall revert in accordance with the procedures prescribed in chapter 4-8.

14 Section 4. This Act only becomes effective upon completion of the proposed sale of the



1 state-owned rail line from Napa Junction to Ravinia.

State of South Dakota

EIGHTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 2009

721Q0463

HOUSE APPROPRIATIONS

ENGROSSED NO. **HB 1173** - 2/13/2009

Introduced by: Representatives Putnam, Brunner, Burg, Carson, Cronin, Cutler, Deadrick, Dennert, Fargen, Frerichs, Gibson, Greenfield, Hoffman, Hunhoff (Bernie), Hunt, Jensen, Juhnke, Kirkeby, Krebs, Lange, Lucas, McLaughlin, Moser, Noem, Novstrup (David), Olson (Ryan), Peters, Pitts, Rausch, Rave, Romkema, Rounds, Schlekeway, Schrempp, Sorenson, Street, Tidemann, Turbiville, Van Gerpen, Vanneman, and Verchio and Senators Bartling, Ahlers, Bradford, Brown, Fryslie, Garnos, Gillespie, Gray, Hansen (Tom), Hanson (Gary), Hundstad, Hunhoff (Jean), Jerstad, Kloucek, Maher, Merchant, Miles, Nesselhuf, Olson (Russell), Peterson, Rhoden, and Vehle

1 FOR AN ACT ENTITLED, An Act to appropriate money for the Northern Crops Institute.

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

3 Section 1. There is hereby appropriated from the general fund the sum of twenty-five
4 thousand dollars (\$25,000), or so much thereof that may be necessary, to the Department of
5 Agriculture for a grant to the Northern Crops Institute.

6 Section 2. The secretary of the Department of Agriculture shall approve vouchers and the
7 state auditor shall draw warrants to pay the expenditures authorized by this Act.

8 Section 3. Any amounts appropriated in this Act not lawfully expended or obligated by
9 June 30, 2010, shall revert in accordance with the procedures prescribed in chapter 4-8.



State of South Dakota

EIGHTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 2009

471Q0368

HOUSE AGRICULTURE AND NATURAL RESOURCES

ENGROSSED NO. **HB 1224** - 2/12/2009

Introduced by: Representatives Russell, Brunner, Hoffman, Killer, Kirkeby, Lucas, Olson (Betty), Schrempp, Sly, Van Gerpen, and Verchio and Senators Howie, Bradford, Maher, and Rhoden

1 FOR AN ACT ENTITLED, An Act to place certain restrictions on state participation in a
2 national animal identification system.

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

4 Section 1. That chapter 40-3 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 No officer, agency, or instrumentality of the State of South Dakota, in conjunction with the
7 implementation of any national animal identification system, may:

- 8 (1) Mandate, coerce, use exclusionary tactics, or otherwise force participation in the
9 national animal identification system;
- 10 (2) Register premises (real property), assign premises identification numbers, or
11 otherwise enroll any person in the national animal identification system without the
12 person's prior knowledge and consent;
- 13 (3) Withhold, from any person, indemnity based on the person's status of participation
14 in the national animal identification system; or



1 (4) Deny, revoke, or limit services, certificates, licenses, permits, grants, or other benefits
2 or incentives to any person based on the person's status of participation in the
3 national animal identification system.

4 Section 2. That chapter 40-3 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 Nothing in this Act prohibits:

7 (1) The State of South Dakota from establishing or participating in disease control
8 programs specifically designed to address a specific disease in a specific species of
9 livestock;

10 (2) Private agricultural industry organizations from establishing any source verification
11 program;

12 (3) The State of South Dakota or any person from participating in the South Dakota
13 Certified Beef Program established pursuant to chapter 39-24;

14 (4) Any person from voluntarily participating in the national animal identification
15 system.

State of South Dakota

EIGHTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 2009

727Q0581

HOUSE STATE AFFAIRS ENGROSSED NO. **HB 1239** - 2/9/2009

Introduced by: Representatives Schrempp, Blake, Burg, Dennert, Elliott, Engels, Fargen, Feickert, Gibson, Hoffman, Iron Cloud III, Killer, Kirschman, Lange, Lucas, Nygaard, Olson (Betty), Schlekeway, Solberg, Sorenson, Street, Thompson, Vanderlinde, Verchio, and Wink and Senators Howie, Abdallah, Bradford, Fryslie, Hanson (Gary), Kloucek, Maher, Miles, and Peterson

1 FOR AN ACT ENTITLED, An Act to create the South Dakota Boxing Commission and to
2 provide for the supervision of boxing, kickboxing, and mixed martial arts competitions and
3 sparring exhibitions in the state.

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

5 Section 1. There is hereby created the South Dakota Boxing Commission consisting of five
6 members appointed by the Governor. Not all of the members may be of the same political party.
7 The initial members to be appointed shall draw lots to determine who will hold the two
8 three-year terms, the two two-year terms, and the one one-year term. Thereafter, each member
9 shall serve terms of three years, but no member may serve more than three consecutive terms.

10 Section 2. The commission shall supervise all boxing, kickboxing, and mixed martial arts
11 competitions and sparring exhibitions held in the state and shall promulgate rules pursuant to
12 chapter 1-26 to:

13 (1) Govern the conduct of boxing, kickboxing, and mixed martial arts competitions, and



1 sparring exhibitions;

2 (2) Establish license fees for all boxers, kickboxers, mixed martial artists, boxing,
3 kickboxing, and mixed martial arts promoters, managers, judges, timekeepers,
4 cornerpersons, knockdown counters, matchmakers, and referees or other participants;
5 and

6 (3) Establish a fee based on the percentage of gross revenues from any boxing,
7 kickboxing, or mixed martial arts competition or sparring exhibition held in the state
8 to pay for the expenses of the South Dakota Boxing Commission. However, no fee
9 established pursuant to this subdivision may exceed one percent of the gross revenues
10 of the competition or exhibition from any and all sources including cable television
11 and pay-per-view telecasts of the event, exclusive of any federal tax thereon.

12 Section 3. All fees collected pursuant to this Act shall be placed in the boxing commission
13 fund that is hereby established in the state treasury. All money deposited in the fund is
14 continuously appropriated to pay for the administration of this Act and for the expenses of
15 members of the South Dakota Boxing Commission.

16 Section 4. Boxing, kickboxing, or mixed martial arts competitions or sparring exhibitions
17 held in any city in this state shall be held in conformity to the ordinances of that city, in addition
18 to the requirements of this Act. No boxing, kickboxing, or mixed martial arts competition or
19 sparring exhibition may be held in a city where such contests or exhibitions are prohibited by
20 ordinance.

21 Section 5. All boxing, kickboxing, or mixed martial arts or sparring exhibitions conducted
22 by bona fide educational institutions or by national amateur boxing, kickboxing, or mixed
23 martial arts associations or their local affiliates are exempt from this Act.

State of South Dakota

EIGHTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 2009

956Q0578

HOUSE EDUCATION ENGROSSED NO. **HB 1241** - 2/13/2009

Introduced by: Representatives Sly, Bolin, Killer, Lange, Lucas, McLaughlin, Romkema, Schlekeway, Sorenson, and Vanderlinde and Senators Jerstad, Bradford, Maher, and Merchant

1 FOR AN ACT ENTITLED, An Act to provide for the delivery of special education or special
2 education and related services to a child during the child's transition from one state school
3 district to another.

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

5 Section 1. That chapter 13-28 be amended by adding thereto a NEW SECTION to read as
6 follows:

7 If a child in need of special education or special education and related services is enrolled
8 as a full-time student in a school district in the state, an individualized education program is in
9 effect for the child, and the child's school residence changes from that school district to another
10 school district in the state, the receiving school district in which the child's parent or guardian
11 enrolls the child shall follow the individualized education program that was developed for the
12 child by the individualized education program team in the sending school district until such time
13 as the receiving school district's individualized education program team either adopts the
14 existing individualized education program or develops, adopts, and implements a new



1 individualized education program for the child. Any disagreement that may exist regarding the
2 new individualized education program is subject to the procedural safeguards contained in the
3 Individuals with Disabilities Education Improvement Act of 2004, as amended to January 1,
4 2009. This section does not apply to any child in need of special education or special education
5 and related services assigned to and enrolled in an approved out of district residential or tuition
6 day program.

State of South Dakota

EIGHTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 2009

934Q0499

HOUSE JUDICIARY ENGROSSED NO. **HB 1246** 2/13/2009

Introduced by: Representatives Gosch, Cutler, Hunt, and Schlekeway and Senators Hansen (Tom), Nesselhuf, Turbak Berry, and Vehle

1 FOR AN ACT ENTITLED, An Act to revise certain provisions relating to service of garnishee
2 summons, affidavit, and garnishment disclosure.

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

4 Section 1. That § 21-18-11 be amended to read as follows:

5 21-18-11. Such garnishee summons, affidavit, and garnishment disclosure may be served
6 by certified mail, return receipt requested, or personally by the sheriff of the county where any
7 garnishee or defendant may be found, or by any other person not a party to the action. If, after
8 reasonable diligence, service by certified mail or personal service by the sheriff is unsuccessful
9 within the time period provided for in § 21-18-10, the plaintiff may file an affidavit stating that
10 fact and may serve such garnishee summons, affidavit, and garnishment disclosure on the
11 defendant by mailing a copy of the documents, together with a copy to the garnishee, to the
12 defendant's last known address by registered mail. The service shall be made and the same
13 returned, with proof of the service, to the person whose name is subscribed thereto, with
14 reasonable diligence. The person subscribing such garnishee summons may, at his option, by



1 an endorsement thereon fix a time for the service thereof, and the service shall then be made
2 accordingly. The garnishee may proceed by complying with either § 21-18-32 or § 21-18-33
3 and, by such compliance, is exonerated from any further liability to any party to the
4 garnishment.

5 Section 2. That § 21-18-10 be amended to read as follows:

6 21-18-10. The garnishee summons and affidavit shall also be served on the defendant to the
7 action, either before or within thirty days after service on a garnishee, ~~except when~~ unless
8 service of the summons in the action is made without the state or by publication. If the
9 defendant appears in the action by attorney, such service may be made upon such attorney or
10 upon the defendant. ~~Unless the garnishee summons is served on the defendant or the defendant's~~
11 ~~attorney in accordance with the provisions of this section, the service on the garnishee is void~~
12 ~~and of no effect from the beginning."~~

State of South Dakota

EIGHTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 2009

724Q0476

HOUSE COMMERCE ENGROSSED NO. **HB 1260** - 2/13/2009

Introduced by: Representatives Hamiel, Carson, Cronin, Curd, Dennert, Faehn, Frerichs, Greenfield, Hoffman, Hunhoff (Bernie), Kirkeby, Krebs, Lederman, McLaughlin, Schlekeway, Sly, Vanneman, and Wink and Senators Gant, Abdallah, Hansen (Tom), Heidepriem, Knudson, Tieszen, and Vehle

1 FOR AN ACT ENTITLED, An Act to require that a request for proposals be issued for certain
2 state contracts for professional services.

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

4 Section 1. That chapter 5-18 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 For the purposes of this Act, the term, professional services, means services arising out of
7 a vocation, calling, occupation, or employment involving specialized knowledge, labor, or skill,
8 and the labor or skill involved is predominantly mental or intellectual, rather than physical or
9 manual.

10 Section 2. That chapter 5-18 be amended by adding thereto a NEW SECTION to read as
11 follows:

12 For the purposes of this Act, the term, request for proposals, means the document or
13 publication whereby a state agency solicits proposals for a professional services contract.



1 Section 3. That chapter 5-18 be amended by adding thereto a NEW SECTION to read as
2 follows:

3 No agency of the state may award or renew a contract for professional services exceeding
4 twenty-five thousand dollars without complying with the procedures set forth in this Act. Any
5 agency seeking such professional services shall issue a request for proposals. The agency shall
6 publish any request for proposals issued pursuant to this section on the electronic procurement
7 system maintained by the Bureau of Administration. The request for proposals shall include the
8 procedures for the solicitation and award of the contract.

9 Section 4. That chapter 5-18 be amended by adding thereto a NEW SECTION to read as
10 follows:

11 The request for proposals shall state the relative importance of evaluation criteria to be used
12 in the ranking of prospective contractors. The agency shall include the following evaluation
13 criteria in any request for proposals:

- 14 (1) Specialized expertise, capabilities, and technical competence as demonstrated by the
15 proposed approach and methodology to meet the project requirements;
- 16 (2) Resources available to perform the work, including any specialized services, within
17 the specified time limits for the project;
- 18 (3) Record of past performance, including price and cost data from previous projects,
19 quality of work, ability to meet schedules, cost control, and contract administration;
- 20 (4) Availability to the project locale;
- 21 (5) Familiarity with the project locale;
- 22 (6) Proposed project management techniques; and
- 23 (7) Ability and proven history in handling special project constraints.

24 Section 5. That chapter 5-18 be amended by adding thereto a NEW SECTION to read as

1 follows:

2 The agency and the highest ranked contractor shall mutually discuss and refine the scope of
3 services for the project and shall negotiate terms, including compensation and performance
4 schedule. The compensation level paid shall be reasonable and fair to the agency, as determined
5 by the agency. If the agency and the highest ranked contractor are unable for any reason to
6 negotiate a contract at a compensation level that is reasonable and fair to the agency, the agency
7 shall, either orally or in writing, terminate negotiations with the contractor. The agency may then
8 negotiate with the next highest ranked contractor. The negotiation process may continue through
9 successive contractors, according to agency ranking, until an agreement is reached or the agency
10 terminates the contracting process.

11 Section 6. That chapter 5-18 be amended by adding thereto a NEW SECTION to read as
12 follows:

13 A register of proposals shall be prepared and maintained by any state agency issuing a
14 request for proposals for a professional service contract. The register shall contain the names
15 of any person whose qualifications were considered and the name of the person that was
16 awarded the contract. Any professional service contract and the documentation which was the
17 basis for the contract shall be public. The qualifications and any other documentation of any
18 person not issued a contract shall remain confidential.

19 Section 7. That chapter 5-18 be amended by adding thereto a NEW SECTION to read as
20 follows:

21 The provisions of this Act do not apply to contracts issued for legal or medical services.

State of South Dakota

EIGHTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 2009

447Q0634

HOUSE COMMERCE ENGROSSED NO. **HB 1268** - 2/13/2009

Introduced by: Representative Dreyer and Senator Nesselhuf

1 FOR AN ACT ENTITLED, An Act to revise certain provisions concerning the maximum
2 number of alcoholic beverage retail licenses that may be held by any person, corporation,
3 or business.

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

5 Section 1. That § 35-4-4 be amended to read as follows:

6 35-4-4. No person, corporation, or business entity may hold or have an interest in more than
7 three retail licenses issued under subdivision 35-4-2(3), (4), (6), or (13). However, a person,
8 corporation, or business entity may hold or have an interest in ~~three~~ additional retail licenses
9 issued under subdivision 35-4-2(4) if the licensee derives more than fifty percent of the
10 licensee's annual gross receipts from the sale of food at the location where the license is held.
11 Any person, corporation, or business entity may hold or have an interest in additional retail
12 licenses issued under subdivision 35-4-2(3) in municipalities of the first class if the licensee
13 derives more than fifty percent of the licensee's annual gross receipts from the sale of food,
14 prepared food, and food ingredients at the location where the license is held. Any such new
15 licensee under subdivision 35-4-2(3) shall sell its alcoholic beverages, other than malt



1 beverages, in an area which is separated by a physical barrier from the rest of the establishment.
2 For the purposes of this section, a physical barrier includes a wall or fence erected for the sole
3 purpose of separating the area in which the alcoholic beverages are sold from the rest of the
4 establishment. For purposes of this section, location means one contiguous piece of real estate
5 on which sales are generated by the licensee.

State of South Dakota

EIGHTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 2009

711Q0697

HOUSE APPROPRIATIONS ENGROSSED NO. **HB 1270** - 2/13/2009

Introduced by: Representatives Peters, Burg, Carson, Deadrick, Juhnke, Putnam, Tidemann, Turbiville, and Wink and Senators Gant, Ahlers, Haverly, Hundstad, Hunhoff (Jean), Maher, and Novstrup (Al)

1 FOR AN ACT ENTITLED, An Act to change the purpose of the veterans affairs special
2 revenue fund.

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

4 Section 1. That § 33-17-3 be amended to read as follows:

5 33-17-3. There is hereby ~~continued~~ established in the state treasury a "veterans affairs
6 division special revenue fund." Said fund shall be used for the ~~purposes set forth in §§ 33-17-7~~
7 ~~and 33-17-9~~ benefit of South Dakota veterans.

8 Section 2. That § 33-17-4 be repealed.

9 ~~— 33-17-4. Any amounts paid or contributed by the United States government or any agency~~
10 ~~thereof, by reason of or to compensate for the expenditures referred to in § 33-17-7, shall be~~
11 ~~paid into and be a part of the veterans affairs division special revenue fund.~~

12 Section 3. That § 33-17-5 be repealed.

13 ~~— 33-17-5. Any repayment of loans and interest thereon, shall be receipted into the veterans~~
14 ~~affairs division special revenue fund and all moneys in said fund are hereby appropriated for the~~



1 purposes provided for in §§ 33-17-7 and 33-17-9.

2 Section 4. That § 33-17-7 be repealed.

3 ~~—33-17-7. The Legislature finds that the care of the dependents of those in active service or~~
4 ~~of those who have died while in active service, and the postwar adjustment of all military~~
5 ~~personnel of the United States, are primarily and justly the obligations of the federal~~
6 ~~government. However, because of the possibility of delay in making arrangements to extend~~
7 ~~such care or to complete that readjustment, the veterans affairs division special revenue fund~~
8 ~~may be used for the purpose of extending emergency aid and assistance:~~

9 ~~—(1)—To the dependents of those who are in active service or who have died in active~~
10 ~~service, during the time when allotments, gratuity pay, arrears pay, insurance claims,~~
11 ~~widow or widower pensions, or any other claim or benefit of such dependents are~~
12 ~~being adjudicated or processed, or if financial relief is required for any emergency~~
13 ~~need;~~

14 ~~—(2)—To any veteran or veteran's dependents while any application for schooling or~~
15 ~~business rehabilitation, compensation, hospitalization, or any other benefit is being~~
16 ~~adjudicated or processed, or if financial relief is required for any emergency need.~~

17 Section 5. That § 33-17-8 be repealed.

18 ~~—33-17-8. Funds shall be advanced to any veteran or to the veteran's dependents under § 33-~~
19 ~~17-7 if emergency need has been established to the satisfaction of the director of the Division~~
20 ~~of Veterans Affairs, under rules promulgated pursuant to chapter 1-26 by the Veterans~~
21 ~~Commission, and upon agreement by the veteran or the veteran's dependents that the funds so~~
22 ~~loaned shall be repaid without interest and are due two years from the date the money is loaned.~~
23 ~~The agreement shall be in a form prescribed by the Department of Military and Veterans Affairs,~~
24 ~~and money repaid shall be paid into the veterans affairs division special revenue fund under the~~

1 ~~control of the department. In no case may the sums loaned to any veteran, or to the aggregate~~
2 ~~of the veteran's dependents, exceed the sum of five hundred dollars.~~

3 Section 6. That § 33-17-9 be repealed.

4 ~~— 33-17-9. Moneys in the fund described in § 33-17-3 may be expended to pay the~~
5 ~~compensation and expenses of employees of the Division of Veterans Affairs engaged in the~~
6 ~~examination or investigation of on-the-job training projects, opportunities and conditions and~~
7 ~~in providing for and assisting veterans to obtain on-the-job training.~~

8 Section 7. That § 33-17-10 be repealed.

9 ~~— 33-17-10. For the purposes of §§ 33-17-3 and 33-17-9, a veteran is a person who has served~~
10 ~~in the armed forces of the United States, who is in wartime service, or who is a veteran as~~
11 ~~defined in § 33-17-1, who was a legal resident of South Dakota at the time of entry into service~~
12 ~~or who, following discharge, has been a resident of this state for one year. However, a~~
13 ~~nonresident in this state is entitled to any benefits which are available in the nonresident's state~~
14 ~~to a South Dakota resident under the same conditions.~~

15 Section 8. That § 33-17-11 be repealed.

16 ~~— 33-17-11. The provisions of §§ 33-17-7 to 33-17-10, inclusive, shall be construed liberally~~
17 ~~in order to effectuate their purposes.~~

State of South Dakota

EIGHTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 2009

951Q0509

HOUSE TRANSPORTATION

ENGROSSED NO. **HB 1281** - 2/12/2009

This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsor.

Introduced by: Representatives Kirkeby, Brunner, Feickert, Kopp, Krebs, Lange, Street, and Verchio and Senators Schmidt, Dempster, and Rhoden

1 FOR AN ACT ENTITLED, An Act to enhance funding for state highways by increasing fees
2 on certain signs, displays, or devices.

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

4 Section 1. That § 31-29-71.1 be amended to read as follows:

5 31-29-71.1. Any application for the permit required by § 31-29-71 shall be accompanied by
6 the fee specified by the following schedule:

- 7 (1) If the advertising area does not exceed fifty square feet, the fee is ~~eight~~ ten dollars;
- 8 (2) If the area exceeds fifty square feet but does not exceed three hundred square feet, the
9 fee is ~~twelve~~ fifteen dollars;
- 10 (3) If the area exceeds three hundred square feet but does not exceed five hundred square
11 feet, the fee is ~~sixteen~~ twenty dollars;
- 12 (4) If the area exceeds five hundred square feet but does not exceed six hundred square
13 feet, the fee is ~~twenty~~ twenty-five dollars;
- 14 (5) If the area exceeds six hundred square feet, the fee is ~~thirty-two~~ forty dollars.



1 A sign less than sixty-five square feet owned and maintained by a church is exempt from
2 the fees under this section.