

State of South Dakota

SEVENTY-SECOND SESSION
LEGISLATIVE ASSEMBLY, 1997

917A0541

HOUSE BILL NO. 1268

Introduced by: Representatives Van Gerpen, Kredit, and Putnam and Senator Frederick

1 FOR AN ACT ENTITLED, An Act to revise the provisions for drainage disputes.

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

3 Section 1. That § 46A-10A-34 be repealed.

4 ~~—46A-10A-34. A board shall provide for appointment of its drainage commission to serve as~~
5 ~~a board of resolution and, under the regulations and controls adopted pursuant to this chapter,~~
6 ~~shall provide that the board of resolution in individual cases may make, upon an affirmative vote~~
7 ~~of three-fourths of the full membership of the board of resolution, special exceptions or variances~~
8 ~~to any official controls and shall reach decisions in individual drainage disputes between~~
9 ~~landowners, consistent with the provisions of § 46A-10A-20. The board may constitute itself as~~
10 ~~the board of resolution. The board may further provide that specified types or categories of~~
11 ~~drainage disputes may not be heard by the board of resolution. A drainage dispute which is not~~
12 ~~within the jurisdiction of the board of resolution shall be taken directly to the circuit court of the~~
13 ~~county wherein the conflict exists.~~

14 Section 2. That § 46A-10A-34.1 be repealed.

15 ~~—46A-10A-34.1. Any other provision of law notwithstanding, any board or commission, by~~
16 ~~mutual agreement, may serve as a board of adjudication, pursuant to § 46A-10A-34, for any~~

1 ~~other county. The jurisdiction of such board or commission is limited to the adjudication~~
2 ~~function specifically outlined in the agreement with the county board of the county holding~~
3 ~~jurisdiction over the drainage dispute.~~

4 Section 3. That § 46A-10A-35 be repealed.

5 ~~—46A-10A-35. Any decision reached by a commission in order to settle a conflict involving~~
6 ~~drainage between landowners may be appealed to the board. Any board decision may be~~
7 ~~appealed or further appealed to the circuit court of the county wherein the conflict arose. An~~
8 ~~appeal under this section shall be commenced within twenty days of the decision being appealed.~~
9 ~~The provisions of this section notwithstanding, landowners may take a drainage conflict directly~~
10 ~~to the circuit court of the county wherein the conflict exists.~~

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

13 Any interested party involved in any type of drainage dispute that is not addressed by this
14 chapter may file an action in circuit court in the county where the cause of action arose or resort
15 to mediation.