

# State of South Dakota

SEVENTY-SECOND SESSION  
LEGISLATIVE ASSEMBLY, 1997

400A0350

HOUSE JUDICIARY COMMITTEE

ENGROSSED NO. **SB42** - 3/3/97

Introduced by: The Committee on Government Operations and Audit at the request of the  
Attorney General

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding officers and  
2 employees of the state entering into contracts with the state.

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

4 Section 1. That § 1-21-5 be repealed.

5 ~~— 1-21-5. No member of the state fair commission nor its secretary-treasurer, shall be~~  
6 ~~interested, either directly or indirectly, in any contract made by said commission.~~

7 Section 2. That § 5-15-22 be repealed.

8 ~~— 5-15-22. Any member of the capitol complex restoration and beautification commission, or~~  
9 ~~any employee thereof, who shall be interested, either directly or indirectly, in the acquisition of~~  
10 ~~the lands embraced within the grounds plan as enlarged or amended, or in any contract or work~~  
11 ~~connected therewith, so as to receive any benefit therefrom, or the promise of any benefit~~  
12 ~~therefrom, either by way of commission, rebate, bonus, division of profits, or otherwise, shall be~~  
13 ~~guilty of a Class 6 felony and shall be incapable of holding any office or employment under the~~  
14 ~~state.~~

1 Section 3. That § 5-23-14 be repealed.

2 ~~—5-23-14. No contract may be awarded to any officer or employee of the state, nor shall any~~  
3 ~~part of any contract be awarded to any firm, association, or corporation, in which any state~~  
4 ~~officer or employee is interested, either directly or indirectly, and any contract made in violation~~  
5 ~~of the provisions of this chapter is void. However, the provisions of this section do not apply to~~  
6 ~~notaries public nor to state officers or employees or persons serving on boards or commissions,~~  
7 ~~who may be paid per diem compensation provided by § 4-7-10.4, but who are not drawing a~~  
8 ~~salary from the state. The provisions of this section do not apply to a member of the state~~  
9 ~~Legislature when such person is the lowest responsible bidder in accordance with the provisions~~  
10 ~~of chapter 5-18 if such contract award is not in violation of the provisions of section 12 of~~  
11 ~~Article III of the state Constitution. The provisions of this section do not apply to any officer or~~  
12 ~~employee of the state who is a stockholder of a corporation and does not participate in the~~  
13 ~~management or operation of the corporation or an officer or employee of the state whose interest~~  
14 ~~may be held in trust, the corpus and income of which are unknown to the beneficiary. The~~  
15 ~~provisions of this section do not apply to members of the South Dakota national guard who in~~  
16 ~~their official state capacity, are not directly or indirectly involved in awarding or in preparing,~~  
17 ~~recommending or determining the specifications or requirements of the bid and are not otherwise~~  
18 ~~prohibited from contracting by the provisions of this section. The provisions of this chapter do~~  
19 ~~not apply to members or employees of the South Dakota building authority authorized by chapter~~  
20 ~~5-12. This section shall supersede all provisions of state law to the contrary. Any officer or~~  
21 ~~employee of this state who knowingly violates this section is guilty of a Class 2 misdemeanor.~~

22 Section 4. That § 5-23-14.1 be repealed.

23 ~~—5-23-14.1. The provisions of §§ 5-23-14 and 5-23-24 do not apply to any temporary~~  
24 ~~legislative session employee who is appointed by an officer or other appointing authority of the~~  
25 ~~Legislature to work in preparation for, or during, the legislative session.~~

1 Section 5. That § 5-23-24 be repealed.

2 ~~5-23-24. No contract shall be awarded to any officer or employee of the state nor shall all~~  
3 ~~or any part of any contract be performed in any printing plant or publishing house in which any~~  
4 ~~state officer or employee shall be interested, either directly or indirectly, and any contract made~~  
5 ~~in violation of the provisions of this chapter shall be null and void; provided, however, that the~~  
6 ~~provisions of this section shall not apply to such notaries public nor to such other state officers~~  
7 ~~or employees serving on boards or commissions, who are not drawing a salary from the state.~~  
8 ~~The provisions of this section shall also not apply to a member of the state Legislature if such~~  
9 ~~person is the lowest responsible bidder in accordance with the provisions of chapter 5-18 when~~  
10 ~~such contract award is not in violation of the provisions of section 12 of Article III of the state~~  
11 ~~Constitution. Any officer or employee of this state who knowingly violates this section is guilty~~  
12 ~~of a Class 2 misdemeanor.~~

13 Section 6. That § 13-49-17 be repealed.

14 ~~13-49-17. No regent shall be directly or indirectly pecuniarily interested in any contract~~  
15 ~~authorized by § 13-49-15.~~

16 Section 7. That § 31-2-26 be repealed.

17 ~~31-2-26. No officer or employee of the Department of Transportation shall be either directly~~  
18 ~~or indirectly interested financially in any contract made by the department for the purchase of~~  
19 ~~equipment, material, or supplies or contract for purchase of right-of-way construction,~~  
20 ~~maintenance, improving or repairing any highway, including bridges, on, or in connection with,~~  
21 ~~the state trunk highways in the state except as an ordinary taxpayer; nor shall any officer or~~  
22 ~~employee of such department take or receive anything of value for, or on account of, any~~  
23 ~~contract, act, or proceeding relating to the location or relocation of contract for, construction,~~  
24 ~~improvement, repair, or maintenance of any road or bridge, except the salary or compensation~~  
25 ~~provided by law. Any officer or employee of the department who violates any of the provisions~~

1 ~~of this section shall be guilty of a Class 5 felony.~~

2       Section 8. No state officer or employee who approves, awards or administers a contract with  
3 the state, involving the expenditure of public funds or the sale or lease of state property, may  
4 have an interest in a contract which is within the scope of the officer's or employee's official  
5 duties. This prohibition includes officers or employees who, in their official capacity, recommend  
6 the approval or award of the contract or who supervise a person who approves, awards or  
7 administers the contract. This prohibition does not include officers who serve without  
8 compensation or who may be paid per diem pursuant to § 4-7-10.4. Any contract made in  
9 violation of this section is void. Any officer or employee who knowingly violates this section is  
10 guilty of a Class 2 misdemeanor.

1 **BILL HISTORY**

2 1/14/97 First read in Senate and referred to Judiciary. S.J. 19

3 1/24/97 Scheduled for Committee hearing on this date.

4 1/24/97 Judiciary Do Pass Amended, Passed, AYES 4, NAYS 3. S.J. 154

5 1/28/97 Senate Deferred to another day. S.J. 199

6 1/29/97 Motion to Amend, Passed. S.J. 223

7 1/29/97 Senate Do Pass Amended, Passed, AYES 25, NAYS 8. S.J. 223

8 1/30/97 First read in House and referred to Judiciary. H.J. 229

9 2/19/97 Scheduled for Committee hearing on this date.

10 2/19/97 Judiciary Deferred to another day. H.J. 561

11 2/24/97 Scheduled for Committee hearing on this date.

12 2/26/97 Scheduled for Committee hearing on this date.

13 3/3/97 Scheduled for Committee hearing on this date.

14 3/3/97 Judiciary Do Pass Amended, Passed, AYES 9, NAYS 3.