

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

159C0269

HOUSE ENGROSSED NO. **HB1015** - 2/5/99

Introduced by: The Committee on Local Government at the request of the State Board of Elections

1 FOR AN ACT ENTITLED, An Act to revise certain election procedures for the formation of
2 certain special districts and the election of directors, managers, or trustees.

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

4 Section 1. That chapter 6-16 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 A landowner for the purposes of chapter 6-16 means any person who owns property, as
7 defined pursuant to § 10-4-2 or 10-9-1, within the special district and is listed as an owner of the
8 property by the register of deeds. A partnership, association, cooperative, trust, limited liability
9 company, or corporation may by resolution appoint one person to vote in a special district
10 election on behalf of the partnership, association, cooperative, trust, limited liability company,
11 or corporation. A person who has purchased property under a contract for deed which is of
12 record in the office of the register of deeds in the county where the real property is situated is
13 entitled to vote in the special district election and the seller of the property under a recorded
14 contract for deed may not vote. No person, partnership, association, cooperative, trust, limited
15 liability company, or corporation may vote more than once in any special district election.

16 Section 2. That § 6-16-2 be amended to read as follows:

1 6-16-2. The application for organization shall be a petition verified by one or more
2 circulators by affidavit stating that each affiant personally witnessed the signatures on the petition
3 and believe the signatures to be genuine. The petition shall be signed by at least twenty-five
4 percent of the landowners within the proposed district who are also registered voters within the
5 district. If the proposed district is in two or more counties, a petition shall be filed in each county
6 and each petition shall be signed by at least ~~twenty~~ twenty-five percent of the landowners within
7 the proposed district who are also registered voters within the proposed district in that county.
8 The petition shall be accompanied by a deposit covering the estimated costs as determined by
9 the county auditor of the public notices and the conduct of the election for the formation of the
10 district.

11 Section 3. That § 6-16-4 be amended to read as follows:

12 6-16-4. The county auditor shall publish the notice of the voter registration deadline at least
13 once each week for two consecutive weeks, the last publication to be not less than twenty- five
14 nor more than thirty days prior to the election. The auditor shall publish notices of election at
15 least once each week for two consecutive weeks, the last publication to be not less than four nor
16 more than ten days before the election in a legal newspaper or newspapers of general circulation
17 in the proposed district.

18 Section 4. That § 34-11A-28 be amended to read as follows:

19 34-11A-28. The boundaries of any ambulance district organized under the provisions of this
20 chapter may be changed in the manner prescribed by §§ 34-11A-4 to ~~34-11A-10~~ 34-11A-8,
21 inclusive, ~~but.~~ However, the ~~changes~~ change of boundaries of ~~any such a~~ any such a district may not impair
22 or affect ~~its~~ the district's organization or ~~its~~ the right in or to property; nor may ~~it~~ the change of
23 boundaries impair, affect, or discharge any contract, obligation, lien, or change for or upon which
24 ~~it might~~ the district may be liable had ~~such~~ the change of boundaries not been made.

25 Section 5. That § 34A-5-18 be amended to read as follows:

1 34A-5-18. The board of trustees shall give notice of the election provided for in § 34A-5-17
 2 pursuant to ~~§ 34A-5-8~~ § 6-16-4, and the question shall be submitted to the voters on a separate
 3 ballot and be so stated as to enable each voter to vote for or against the proposed question.

4 Section 6. That § 46A-14-8 be amended to read as follows:

5 46A-14-8. The initiating petition shall contain the following:

- 6 (1) The name of the proposed district;
- 7 (2) That there is need in the interest of the public health, safety, and welfare for creation
 8 of a district to accomplish improvements in the watershed;
- 9 (3) A statement in general terms setting forth the purposes of the contemplated
 10 improvements, the territory to be included in the district; and all proposed
 11 subdivisions thereof, if any, of the district;
- 12 (4) The number ~~and names~~ of managers, ~~which~~ shall be three or five members, ~~to be~~
 13 ~~appointed as first managers of the proposed district, and who shall act for a period of~~
 14 ~~one year or until the first annual meeting. They.~~ Each manager shall be owners of own
 15 land located in the proposed district but ~~none shall~~ may not be a public officer of the
 16 state or federal government;
- 17 (5) A list of landowners and the total acreage of land owned by each within the proposed
 18 district;
- 19 (6) A map of the proposed district and the ownership of all land in the proposed district,
 20 except the outline only of the jurisdiction of the authorized officials of municipalities
 21 included need be shown; and
- 22 (7) The location of the official place of business of the proposed district;
- 23 ~~(8) A request for the organization of the district as proposed and appointment of the first~~
 24 ~~managers.~~

25 Section 7. That § 46A-18-4 be amended to read as follows:

1 46A-18-4. The petition established pursuant to § 46A-18-2 shall contain:

2 (1) The name of the proposed district;

3 (2) The object and purpose of the water project and works proposed to be constructed
4 or acquired, together with a general description of the nature, location, and method
5 of operation of the proposed works or program of activities;

6 (3) A legal description of the lands constituting the proposed district and the ~~names~~ name
7 of any ~~municipalities~~ municipality included partly or wholly within the boundaries of
8 the proposed district;

9 (4) The location of the principal place of business of the proposed district; and

10 (5) The number of members of the board of directors of the proposed district, which
11 number may not be less than three nor more than seven, and a statement as to ~~whether~~
12 if the directors shall be elected at large or shall be elected by director divisions, ~~the~~
13 ~~names and addresses of the members who shall serve as directors until their~~
14 ~~successors are elected and qualified as provided in this chapter, and, if director~~
15 ~~divisions are provided for, the respective divisions that the directors are to represent.~~
16 The persons named in the petition as directors. Each director shall be a qualified
17 ~~voters~~ voter of the district and, if director divisions are provided for, shall be a
18 qualified voters voter of the respective ~~divisions~~ division ~~the directors are~~ director is
19 to represent.

20 Section 8. That § 46A-18-21 be amended to read as follows:

21 46A-18-21. The initial district directors ~~named in the petition for formation, upon~~
22 ~~establishment of the district by the Board of Water and Natural Resources,~~ shall assume the
23 duties of ~~their offices~~ office and serve until ~~their~~ successors are duly elected and qualified.

1 **BILL HISTORY**

2 1/12/99 First read in House and referred to Local Government. H.J. 34

3 1/19/99 Scheduled for Committee hearing on this date.

4 1/19/99 Local Government Do Pass Amended, Passed, AYES 12, NAYS 1. H.J. 80

5 1/21/99 House of Representatives Deferred to another day. H.J. 116

6 1/28/99 Intent to reconsider. H.J. 250

7 1/29/99 House of Representatives Deferred to another day. H.J. 265

8 1/29/99 House of Representatives Reconsidered, AYES 62, NAYS 3. H.J. 264

9 2/3/99 Motion to Amend, Passed. H.J. 350

10 2/3/99 House of Representatives Deferred to another day. H.J. 351

11 2/4/99 House of Representatives Do Pass Amended, Passed, AYES 61, NAYS 4. H.J. 373

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

400C0210

SENATE AGRICULTURE AND NATURAL RESOURCES COMMITTEE ENGROSSED NO.

HB1039 - 2/16/99

Introduced by: The Committee on Agriculture and Natural Resources at the request of the
Department of Game, Fish, and Parks

1 FOR AN ACT ENTITLED, An Act to repeal the licensing of resident and nonresident
2 professional dog trainers, to restrict the training of dogs on wild game birds, and to repeal
3 certain big game licensing requirements.

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

5 Section 1. That § 41-6-78 be amended to read as follows:

6 41-6-78. ~~The Department of Game, Fish and Parks may issue any resident, as defined by this~~
7 ~~title, a resident professional dog training license. The license permits the licensee to train or~~
8 ~~engage in the business of training hunting or field trial dogs when and where wild game is found.~~
9 ~~For purposes of this section, a professional dog trainer is any person who trains or sells any~~
10 ~~breed of hunting dog for remuneration. The license shall be issued annually. No licensee may be~~
11 ~~allowed to No person may train dogs on wild game birds from April fifteenth to July thirty-first,~~
12 ~~inclusive. The licensee shall comply with rules adopted pursuant to § 41-2-18 by the Game, Fish~~
13 ~~and Parks commission to protect and perpetuate the wild game resources of the state. Such rules~~
14 ~~may limit the number of licenses issued and further restrict professional dog training on public~~
15 ~~lands. Failure to comply with such rules or the provisions of this section shall be cause for~~

1 ~~revocation of license and nonissuance of future licenses. No person may train dogs on wild game~~
2 ~~birds from April fifteenth to July thirty-first, inclusive. The commission shall promulgate rules~~
3 ~~pursuant to chapter 1-26 to impose restrictions on the methods, dates, and number of dogs that~~
4 ~~may be trained on wild game birds on public lands and public rights-of-way. Any person who~~
5 violates this section is guilty of a Class 2 misdemeanor.

6 Section 2. That § 41-6-79 be repealed.

7 ~~— 41-6-79. The department of game, fish and parks may issue any nonresident a nonresident~~
8 ~~professional dog training license. The nonresident professional dog training license entitles the~~
9 ~~licensee to all the privileges and is subject to all the restrictions and penalty provisions as the~~
10 ~~resident professional dog training license provided by § 41-6-78.~~

11 Section 3. That § 41-6-10 be amended to read as follows:

12 41-6-10. Licenses, permits, and stamps issued under this title are classified as follows:

- 13 (1) Disabled hunter permit;
- 14 (2) Export bait dealer license;
- 15 (2A) Fall three-day temporary nonresident waterfowl license;
- 16 (3) Fur dealer's license;
- 17 (4) Hoop net, trap or setline license;
- 18 (5) License for breeding and domesticating animals and birds;
- 19 (6) License to take fur-bearing animals;
- 20 (7) Nonresident big game license;
- 21 (8) Nonresident fishing license;
- 22 (9) Nonresident predator/varmint license;
- 23 (10) ~~Nonresident professional dog training license;~~
- 24 (11) Nonresident retail bait dealer license;
- 25 (12) Nonresident shooting preserve license;

- 1 (13) Nonresident small game license;
- 2 (14) Nonresident and resident migratory bird certification permit;
- 3 (15) Nonresident wholesale bait dealer license;
- 4 (16) Nonresident wild turkey license;
- 5 (17) Nursing facility group fishing license;
- 6 (18) Park user's license;
- 7 (19) Permit for transportation of big game animal;
- 8 (20) Private fish hatchery license;
- 9 (21) Resident big game license;
- 10 (22) Resident elk license;
- 11 (23) Resident fishing license and resident senior fishing license;
- 12 (24) ~~Resident professional dog training license;~~
- 13 (25) Resident retail bait dealer license;
- 14 (26) Resident small game license and resident youth small game license;
- 15 (27) Resident predator/varmint license;
- 16 (28) Resident wholesale bait dealer license;
- 17 (29) Resident wild turkey license;
- 18 (30) Scientific collector's license;
- 19 (31) Special nonresident waterfowl license;
- 20 (32) ~~Special Pine Ridge Indian reservation resident and nonresident big game license;~~
- 21 (33) Taxidermist's license;
- 22 (33A) Spring five-day snow goose temporary nonresident waterfowl license;
- 23 (34) Temporary fishing and hunting licenses.

24 The rights and privileges of such licensees are set forth in §§ 41-6-12 to 41-6-45.1, inclusive,
25 and in § 41-17-13. The Game, Fish and Parks Commission shall promulgate rules pursuant to

1 chapter 1-26 to set the fees, eligibility, and duration for such licenses.

1 **BILL HISTORY**

2 1/12/99 First read in House and referred to Agriculture and Natural Resources. H.J. 39

3 2/4/99 Scheduled for Committee hearing on this date.

4 2/4/99 Agriculture and Natural Resources Do Pass Amended, Passed, AYES 12, NAYS 0.

5 H.J. 364

6 2/8/99 House of Representatives Deferred to another day. H.J. 419

7 2/9/99 Motion to Amend, Passed. H.J. 442

8 2/9/99 House of Representatives Do Pass Amended, Passed, AYES 52, NAYS 13. H.J. 442

9 2/10/99 First read in Senate and referred to Agriculture and Natural Resources. S.J. 422

10 2/16/99 Scheduled for Committee hearing on this date.

11 2/16/99 Agriculture and Natural Resources Do Pass Amended, Passed, AYES 9, NAYS 0.

12 S.J. 493

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

400C0406

SENATE TRANSPORTATION COMMITTEE

ENGROSSED NO. **HB1053** - 2/10/99

Introduced by: The Committee on Transportation at the request of the Department of
Transportation

1 FOR AN ACT ENTITLED, An Act to revise the open container law.

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

3 Section 1. That § 35-1-9.1 be amended to read as follows:

4 35-1-9.1. It is a Class 2 misdemeanor for any person to consume any alcoholic beverage, or
5 have a package or any receptacle containing an alcoholic beverage in ~~his~~ the person's possession
6 in a motor vehicle unless the seal of the original package remains unbroken or the alcoholic
7 beverage is so removed from the passenger area of the motor vehicle that no occupant of the
8 motor vehicle ~~shall have~~ has access to it while the vehicle is ~~in motion~~ located on a public
9 highway or the right-of-way of a public highway.

10 Section 2. Terms used in § 35-1-9.1 mean:

11 (1) "Alcoholic beverage," any distilled spirits, wine, and malt beverage as defined in this
12 section;

13 (2) "Distilled spirits," ethyl alcohol, hydrated oxide of ethyl, spirits of wine, whiskey, rum,
14 brandy, gin, and other distilled spirits, including all dilutions and mixtures thereof, for
15 nonindustrial use containing any amount of alcohol;

16 (3) "Malt beverage," beer, ale, porter, stout, and other similar beverages of any name or

1 description made by the alcoholic fermentation of an infusion or decoction, or
2 combination of both, in potable brewing water, of malted barley with hops, or their
3 parts, or their products, or from any substitute therefor, and with or without other
4 malted cereals, and with or without the addition of unmalted or prepared cereals,
5 other carbohydrates or products prepared therefrom, and with or without the addition
6 of carbon dioxide, and with or without other wholesome products suitable for human
7 consumption containing not less than one-half of one percent of alcohol by volume;
8 and

9 (4) "Wine," any liquid either commonly used, or reasonably adapted to use, for beverage
10 purposes, and obtained by the fermentation of the natural sugar content of fruits or
11 other agricultural products containing sugar and containing not less than one-half of
12 one percent of alcohol by weight but not more than twenty-four percent of alcohol by
13 volume.

14 Section 3. It is not a violation of section 1 of this Act if an alcoholic beverage is located in
15 a locked glove compartment of the motor vehicle.

16 Section 4. It is not a violation of section 1 of this Act if an open alcoholic beverage is behind
17 the last upright seat of a motor vehicle that is not equipped with a trunk or in an area not
18 normally occupied by the driver or passengers.

19 Section 5. It is not a violation of section 1 of this Act if a carrier defined in subdivision 35-1-
20 1(3) is licensed pursuant to subdivision 35-4-2(9).

21 Section 6. It is not a violation of section 1 of this Act if any passenger possesses or consumes
22 an alcoholic beverage in the living quarters of a motor home, house coach, or house trailer while
23 the vehicle is not in motion.

1 **BILL HISTORY**

2 1/12/99 First read in House and referred to Transportation. H.J. 42

3 1/16/99 Scheduled for Committee hearing on this date.

4 1/16/99 Transportation Deferred to another day, AYES 8, NAYS 5.

5 1/25/99 Scheduled for Committee hearing on this date.

6 1/25/99 Transportation Do Pass Amended, Passed, AYES 13, NAYS 0. H.J. 169

7 1/27/99 Motion to Amend, Passed. H.J. 219

8 1/27/99 House of Representatives Do Pass Amended, Passed, AYES 57, NAYS 12. H.J. 220

9 1/28/99 First read in Senate and referred to Transportation. S.J. 243

10 2/9/99 Scheduled for Committee hearing on this date.

11 2/9/99 Transportation Do Pass Amended, Passed, AYES 5, NAYS 2. S.J. 398

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

930C0127

SENATE LOCAL GOVERNMENT
COMMITTEE ENGROSSED NO. **HB1070** -
2/11/99

Introduced by: Representatives Brooks, Crisp, Hunt, and Kooistra and Senators Madden,
Albers, and Munson (David)

1 FOR AN ACT ENTITLED, An Act to authorize county road districts to establish certain vehicle
2 speed and weight restrictions and to revise certain county road district formation
3 requirements.

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

5 Section 1. That § 31-12A-1 be amended to read as follows:

6 31-12A-1. ~~A populated~~ Any area outside the boundary of a municipality, which is situated
7 so that the construction or maintenance of roads becomes desirable, may be incorporated by its
8 landowners as a road district pursuant to this chapter.

9 Section 2. That § 31-12A-21 be amended to read as follows:

10 31-12A-21. The board of trustees may:

- 11 (1) Appoint a treasurer and a clerk, an engineer, attorney, and other employees for the
12 road district and fix their compensation. These officers shall hold their respective
13 offices at the pleasure of the board, and be bonded for the faithful performance of
14 their duties as may be required by the board;
- 15 (2) Sue and be sued and contract in the name of the district;

- 1 (3) Adopt a corporate seal;
- 2 (4) Construct roadways and maintain them;
- 3 (5) Borrow money, levy taxes, and special assessments, and issue bonds pursuant to
- 4 § 31-12A-23;
- 5 (6) Establish speed and weight limits and other restrictions on roads under the road
- 6 district's jurisdiction in accordance with the provisions of sections 5 to 9, inclusive,
- 7 of this Act.

8 Section 3. That chapter 31-12A be amended by adding thereto a NEW SECTION to read
 9 as follows:

10 Any road constructed or maintained pursuant to this chapter is a public highway, and any
 11 speed limits, vehicle weight limits, and any other vehicle or traffic regulations on such roads may
 12 be enforced by any law enforcement officer.

13 Section 4. That subdivision (14) of § 32-14-1 be amended to read as follows:

14 (14) "Local authorities," every county, municipal, township, road district, and other local
 15 board or body having authority to adopt local police regulations under the
 16 Constitution and laws of this state;

17 Section 5. That § 32-14-3 be amended to read as follows:

18 32-14-3. Local authorities, except as expressly authorized by §§ ~~32-25-16 and 32-29-2~~ shall
 19 ~~have no power or authority to~~ chapter 32-25 and § 32-29-2, may not alter any speed limitations
 20 declared in chapter 32-25 or to enact or enforce any ordinance, charter provision, or bylaw
 21 duplicating the provisions of chapter 32-23 or to enact or enforce any rule or regulation contrary
 22 to the provisions of chapters 32-14 to 32-19, inclusive, or 32-22 and 32-24 to 32-34, inclusive,
 23 except as provided by §§ 32-14-4 and 32-14-5.

24 Section 6. That § 32-14-6 be amended to read as follows:

25 32-14-6. Local authorities, including road districts, may by ordinance or resolution prohibit

1 the operation of vehicles upon any highway or impose restrictions as to the weight of vehicles
2 for a total period not to exceed ninety days in any one calendar year, ~~when. Such prohibitions~~
3 ~~or restrictions apply only to vehicles to be~~ operated upon any highway under the jurisdiction of
4 and for the maintenance of which such local authorities are responsible ~~whenever any said and~~
5 ~~only if the~~ highway by reason of deterioration, rain, snow, or other climatic conditions will be
6 seriously damaged or destroyed unless the use of vehicles ~~thereon on the highway~~ is prohibited
7 or the permissible weights ~~thereof of the vehicles are~~ reduced. ~~Such local authorities~~ Any local
8 authority enacting any such ordinance or resolution shall erect and maintain or cause to be
9 erected and maintained signs designating the provisions of the ordinance or resolution at each
10 end of that portion of any highway affected ~~thereby and the~~ by the ordinance or resolution. The
11 ordinance or resolution ~~shall not be effective until or is not valid~~ unless such signs are erected
12 and maintained.

13 Section 7. That § 32-14-7 be amended to read as follows:

14 32-14-7. Local authorities, including road districts, may ~~also~~ by ordinance or resolution
15 prohibit the operation of trucks or other commercial vehicles or impose limitations as to the
16 weights ~~thereof of such vehicles~~ on designated highways, ~~which. The~~ prohibitions and limitations
17 shall be designated by appropriate signs placed on such highways.

18 Section 8. That § 32-22-47 be amended to read as follows:

19 32-22-47. The board of county commissioners of any county, the board of supervisors of any
20 township, the board of trustees of any road district, or the transportation commission of the
21 South Dakota Department of Transportation, their officers or agents, shall erect and maintain
22 at a point on the right-of-way and within one hundred feet of both entrances to any bridge and
23 may, where they deem necessary, erect and maintain at the nearest road intersection in each
24 direction from any bridge, upon any public highway which it is the duty of the boards to maintain
25 and repair, a conspicuous sign specifying in large numerals, the maximum weight of any vehicle,

1 laden or unladen, which may enter upon or cross over such bridge. No bridge signing is
2 necessary for bridges which can accommodate motor vehicles operating under the legal weight
3 maximums provided in § 32-22-16.

4 Section 9. That § 32-25-9.1 be amended to read as follows:

5 32-25-9.1. Any board of county commissioners may determine and establish speed zones
6 upon all or any part of the highways under its jurisdiction and upon streets and highways on the
7 request of and after any other local authority, including any road district, having charge of the
8 maintenance ~~thereof~~ of the highway has declared its intention to post speed zones. Such speed
9 zones shall be conspicuously posted at the beginning and ending of the zones.

10 Section 10. That § 6-16-2 be amended to read as follows:

11 6-16-2. The application for organization shall be a petition verified by one or more
12 circulators by affidavit stating that each affiant personally witnessed the signatures on the petition
13 and believe the signatures to be genuine. The petition shall be signed by at least twenty-five
14 percent of the landowners within the proposed district who are also registered voters within the
15 district. If the proposed district is in two or more counties, a petition shall be filed in each county
16 and each petition shall be signed by at least twenty percent of the landowners within the
17 proposed district who are also registered voters within the proposed district in that county. The
18 petition shall be accompanied by a deposit covering the estimated costs as determined by the
19 county auditor of the public notices and the conduct of the election for the formation of the
20 district. If the district to be formed is a road district that contains no registered voters, the
21 petition requirements are based solely on landowners.

22 Section 11. That § 6-16-6 be amended to read as follows:

23 6-16-6. A person who is a landowner in the proposed district and is registered to vote in the
24 proposed district may vote in the elections provided for in § 6-16-5. However, the qualifications
25 of a voter for irrigation district elections are provided in chapter 46A-4. Absentee voting is

1 allowed pursuant to chapter 12-19 for the election on the question of formation of the special
2 district. If the district to be formed is a road district that contains no registered voters, voter
3 eligibility is based solely on landowners.

1 **BILL HISTORY**

2 1/16/99 First read in House and referred to Local Government. H.J. 73

3 1/21/99 Scheduled for Committee hearing on this date.

4 1/21/99 Local Government Deferred to another day.

5 1/28/99 Scheduled for Committee hearing on this date.

6 1/28/99 Local Government Do Pass Amended, Passed, AYES 11, NAYS 1. H.J. 235

7 2/1/99 House of Representatives Do Pass Amended, Passed, AYES 46, NAYS 20. H.J. 296

8 2/2/99 First read in Senate and referred to Local Government. S.J. 307

9 2/8/99 Scheduled for Committee hearing on this date.

10 2/10/99 Scheduled for Committee hearing on this date.

11 2/10/99 Local Government Do Pass Amended, Passed, AYES 6, NAYS 1. S.J. 416

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

336C0400

HOUSE LOCAL GOVERNMENT COMMITTEE

ENGROSSED NO. **HB1096** - 2/3/99

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

Introduced by: Representatives Duenwald, Diedrich (Larry), Hagen, Jaspers, Koehn, Kooistra, Lintz, Monroe, Napoli, Wetz, and Young and Senators Vitter, Drake, Madden, Moore, and Staggers

1 FOR AN ACT ENTITLED, An Act to make the appointment of the county planning commission
2 permissive.

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

4 Section 1. That § 11-2-2 be amended to read as follows:

5 11-2-2. ~~For the purpose of promoting health, safety, morals, and the general welfare of the~~
6 ~~county, the~~ The board of county commissioners of each county in the state, ~~shall~~ may appoint
7 a commission of five or more members, ~~the~~ to be known as the county planning commission. If
8 a county proposes to enact or implement any purpose set forth in this chapter then the board of
9 county commissioners shall appoint a county planning commission. The total membership of
10 ~~which~~ the county planning commission shall always be an uneven number and at least one
11 member of which shall be a member of the board, ~~to be known as the county planning~~
12 ~~commission. Such~~ of county commissioners. The county planning commission shall also be is
13 also the county zoning commission.

1 **BILL HISTORY**

2 1/21/99 First read in House and referred to Local Government. H.J. 108

3 1/26/99 Scheduled for Committee hearing on this date.

4 1/26/99 Local Government Deferred to another day.

5 1/28/99 Scheduled for Committee hearing on this date.

6 2/2/99 Scheduled for Committee hearing on this date.

7 2/2/99 Local Government Do Pass Amended, Passed, AYES 11, NAYS 2. H.J. 315

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

743C0467

SENATE COMMERCE COMMITTEE ENGROSSED NO. **HB1107** - 2/16/99

Introduced by: Representatives Cutler, Broderick, Chicoine, Fiegen, Fischer-Clemens,
Peterson, and Wilson and Senators Olson, Munson (David), Reedy, Rounds,
and Shoener

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding mutually binding
2 agreements between beer wholesalers and brewers, to revise a term relative to beer industry
3 relationships, and to make provisions for malt beverage brand extensions.

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

5 Section 1. That § 35-8A-12 be amended to read as follows:

6 35-8A-12. Any waiver of the rights or remedies granted by this chapter is void. However,
7 nothing in this chapter limits or prohibits suppliers and wholesalers from entering into mutually
8 binding written agreements as defined in this chapter or to limit or prohibit good faith dispute
9 settlements voluntarily entered into by the parties. However, no provision of any written
10 agreement may purport to require the law of any state other than South Dakota to govern the
11 relationship of the parties or to require wholesalers to waive the right to have disputes with their
12 suppliers resolved in courts of competent jurisdiction in South Dakota or to require a wholesaler
13 to waive the right to trial by jury in South Dakota.

14 Section 2. That § 35-8A-9 be amended to read as follows:

15 35-8A-9. Any party to a distribution agreement aggrieved by a violation of any provision of

1 this chapter may seek injunctive relief enjoining the violation and recovery of damages caused
2 by the violation. The prevailing party to any action charging a violation of this chapter is entitled
3 to recover costs of suit and reasonable attorney's fees. Relief shall be sought in a civil action
4 brought in the circuit court for the county in which the ~~wholesaler has his~~ wholesaler's principal
5 place of business is located, ~~or in any other court of competent jurisdiction, whether state or~~
6 ~~federal~~ or in a federal court of competent jurisdiction located in South Dakota.

7 After a dispute arises, arbitration shall proceed only if all parties agree, at that time, to submit
8 the dispute to arbitration and that the decision of the arbitrators shall be final and binding. The
9 dispute shall be submitted to a panel of three arbitrators. One arbitrator shall be selected by the
10 supplier within thirty days after the parties have agreed to arbitrate. One arbitrator shall be
11 selected by the wholesaler within thirty days after the parties have agreed to arbitrate. The third
12 arbitrator shall be selected from a list of five candidates supplied by the American Arbitration
13 Association at the request of the parties and made within ten days after the parties have agreed
14 to submit the dispute to arbitration. Within ten days after receipt of the list, the wholesaler and
15 the supplier may disqualify up to two candidates from the list. The American Arbitration
16 Association shall select the third arbitrator from the candidates not disqualified by the parties.
17 The arbitration shall proceed in accordance with the rules of the American Arbitration
18 Association within thirty days after the selection of the arbitration panel has been completed. The
19 cost of the arbitration shall be borne equally by the parties. The award of a majority of the
20 arbitrators shall be final and binding on the parties.

21 Section 3. That chapter 35-8A be amended by adding thereto a NEW SECTION to read as
22 follows:

23 For purposes of this chapter, the term, brand, means any word, name, group of letters,
24 symbol, or combination thereof, that is adopted and used by a brewer or importer to identify a
25 specific beer product, and to distinguish that beer product from another beer product.

1 Section 4. That chapter 35-8A be amended by adding thereto a NEW SECTION to read as
2 follows:

3 For purposes of this chapter, the term, brand extension, means any brand that incorporates
4 all or a substantial part of the unique features of a preexisting brand of the same brewer or
5 importer and that relies to a significant extent on the goodwill associated with that preexisting
6 brand.

7 Section 5. That chapter 35-8A be amended by adding thereto a NEW SECTION to read as
8 follows:

9 Any brewer or importer, who assigns a brand extension to a wholesaler, shall assign the
10 brand extension to the wholesaler to whom the brewer or importer granted the exclusive sales
11 territory for the brand from which the brand extension resulted. This requirement does not apply
12 if the wholesaler fails to comply with the written agreement or if the assignment of a brand
13 extension to a wholesaler was made by a brewer or importer before the effective date of this Act.
14 The provisions of this section do not apply to the initial assignment of brands acquired by the
15 supplier from another brewer.

16 Section 6. That chapter 35-8A be amended by adding thereto a NEW SECTION to read as
17 follows:

18 If prior to the effective date of this Act, a brewer or importer assigned a brand extension to
19 a wholesaler who was not the appointed wholesaler for the brand from which the brand extension
20 was made, then any additional brand extension shall be assigned to the wholesaler who first had
21 the brand.

22 Section 7. That subdivision (6) of § 35-8A-2 be amended to read as follows:

23 (6) "Good faith," the duty of each party to any agreement to ~~act in a fair and equitable~~
24 manner in carrying out the agreement ~~deal with the other party in a fair, reasonable,~~
25 and nondiscriminatory manner consistent with reasonable commercial standards of fair

1 dealing;

2 Section 8. That § 35-8A-4 be amended to read as follows:

3 35-8A-4. No supplier may:

4 (1) Induce or coerce, or attempt to induce or coerce, a wholesaler to do any illegal act
5 by threatening to amend, cancel, terminate, or refuse to renew any agreement existing
6 between the supplier and wholesaler, or by any other means;

7 (2) Require a wholesaler by any means to participate in or contribute to any local or
8 national advertising fund controlled directly or indirectly by a supplier, unless the cost
9 is allocated fairly to each wholesaler in that market area according to sales to the
10 wholesalers;

11 (3) Withhold delivery of malt beverages ordered by a wholesaler or change a wholesaler's
12 quota of a brand or brands if the action is not made in good faith;

13 (4) Require a wholesaler to accept delivery of any malt beverages or other item or
14 commodity which was not ordered by the wholesaler or which was ordered but
15 properly canceled by the wholesaler in accordance with the procedures previously
16 established by the supplier. However, a supplier may impose reasonable inventory
17 requirements upon a wholesaler if the requirements are made in good faith and are
18 generally applied to other similarly situated wholesalers of the supplier;

19 (5) Require a wholesaler to purchase one or more brands of malt beverages in order for
20 the wholesaler to purchase another brand or brands of malt beverage for any reason;

21 (6) Prohibit a wholesaler from dealing in any product not supplied by the supplier,
22 including any product of any other supplier of any other alcoholic beverage or any
23 nonalcoholic product, or in any way attempt to regulate or control ancillary businesses
24 of a wholesaler;

25 (7) Fix or maintain the price at which a wholesaler may resell malt beverages;

- 1 (8) Take any action not in good faith against a wholesaler for or because of the filing of
2 a complaint regarding an alleged violation by the supplier of any state or federal law
3 or administrative rule;
- 4 (9) ~~Require or prohibit without good cause any change in the manager or successor~~
5 ~~manager of a wholesaler who has been approved by the supplier~~ Refuse to approve
6 any proposed manager or successor manager without good cause or require or
7 prohibit any change in the manager or successor manager of a wholesaler who has
8 been previously approved by the supplier without good cause. For the purposes of
9 this subdivision, good cause is the failure of a manager or successor manager to meet
10 commercially reasonable standards or to perform commercially reasonable duties as
11 specified in an agreement between the supplier and wholesaler; or
- 12 (10) Withdraw from or discontinue supplying to a wholesaler one or more brands or
13 packages of malt beverages. However, nothing in this subdivision prohibits a supplier
14 from withdrawing or discontinuing any brand or package on a statewide or on a media
15 coverage area basis at any time on reasonable notice or conducting test marketing of
16 a new brand or of a brand of beer which is not currently being sold in this state.

17 Section 9. That chapter 35-8A be amended by adding thereto a NEW SECTION to read as
18 follows:

19 The provisions of this Act apply to any agreement in existence as of July 1, 1999, as well as
20 any agreement entered into after July 1, 1999. Any written agreement in existence on July 1,
21 1999, which is continuous in nature or which has no specific duration or renewal provision, shall
22 be considered, for the purpose of this Act, to have been renewed ninety days after July 1, 1999.

1 **BILL HISTORY**

2 1/21/99 First read in House and referred to Commerce. H.J. 111

3 2/2/99 Scheduled for Committee hearing on this date.

4 2/2/99 Commerce Do Pass Amended, Passed, AYES 11, NAYS 2. H.J. 313

5 2/4/99 Motion to Amend, Passed. H.J. 383

6 2/4/99 House of Representatives Do Pass Amended, Passed, AYES 63, NAYS 2. H.J. 384

7 2/5/99 First read in Senate and referred to Commerce. S.J. 347

8 2/11/99 Scheduled for Committee hearing on this date.

9 2/16/99 Scheduled for Committee hearing on this date.

10 2/16/99 Commerce Do Pass Amended, Passed, AYES 6, NAYS 1. S.J. 492

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

625C0433

HOUSE ENGROSSED NO. **HB1130** - 2/8/99

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

Introduced by: Representatives Michels, Diedtrich (Elmer), Fischer-Clemens, Sutton (Duane), and Wilson and Senators Albers and Bogue

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the involuntary
2 commitment of certain mentally ill persons.

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

4 Section 1. That chapter 27A-10 be amended by adding thereto a NEW SECTION to read
5 as follows:

6 If any person presents to a facility licensed by the state as a hospital, other than the Human
7 Services Center, and after an examination by a qualified mental health professional it is
8 determined that the person is severely mentally ill and in such condition that immediate
9 intervention is necessary to protect the person from physical harm to self or others, the qualified
10 mental health professional may initiate a twenty-four hour hold on the person and retain the
11 person at the hospital for purposes of observation and emergency treatment. The hospital or the
12 qualified mental health professional shall notify the chair of the county board of mental illness
13 of the twenty-four hour hold. The qualified mental health professional shall petition for
14 commitment of the person according to §§ 27A-10-1 and 27A-10-4. The person shall be
15 afforded rights according to § 27A-10-5. If a petition for emergency commitment pursuant to
16 § 27A-10-1 is not filed within twenty-four hours, the person shall be released.

1 Section 2. That § 27A-15-31 be amended to read as follows:

2 27A-15-31. After examination of a petition filed pursuant to § 27A-15-30, the ~~chairman~~ chair
3 of the county board may order the apprehension and transportation of a minor who meets the
4 criteria in § 27A-15-30, for involuntary commitment to an appropriate regional facility other than
5 the center. A jail ~~shall~~ may not be used for the custody of a minor. However, a juvenile detention
6 facility may be used for pre-hearing custody if the availability of other appropriate regional
7 facilities has been explored and exhausted. If an appropriate regional facility maintains a separate
8 unit for minors, a minor may not be confined with adult detainees or patients. A minor may not
9 be confined in an appropriate regional facility ~~which~~ that does not maintain a separate unit for
10 minors until the availability of other appropriate regional facilities maintaining a separate unit for
11 minors has been explored and exhausted. If a minor must be placed in a facility ~~which~~ that does
12 not have a separate unit for minors, the minor shall be provided separate sleeping quarters and,
13 to the maximum extent possible, separate day areas. Adequate supervision shall be provided.
14 Effective January 1, 1993, appropriate regional facilities shall have a separate unit on which
15 minors may be confined.

1 **BILL HISTORY**

2 1/22/99 First read in House and referred to Health and Human Services. H.J. 130

3 2/3/99 Scheduled for Committee hearing on this date.

4 2/3/99 Health and Human Services Do Pass Amended, Passed, AYES 10, NAYS 1. H.J. 340

5 2/4/99 Health and Human Services Hog Housed.

6 2/5/99 Motion to Amend, Passed. H.J. 402

7 2/5/99 House of Representatives Do Pass Amended, Passed, AYES 60, NAYS 3. H.J. 402

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

943C0597

SENATE TRANSPORTATION COMMITTEE

ENGROSSED NO. **HB1134** - 2/16/99

Introduced by: Representatives Kooistra, Burg, Crisp, Diedrich (Larry), Fischer-Clemens, Fryslie, Hanson, Lockner, Lucas, McIntyre, and Solum and Senators Staggers, Duxbury, Flowers, Frederick, Hutmacher, Kloucek, Lange, Madden, Moore, and Vitter

1 FOR AN ACT ENTITLED, An Act to revise certain provisions concerning weight and speed
2 allowances for certain harvest vehicles.

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

4 Section 1. That § 32-22-42.2 be amended to read as follows:

5 32-22-42.2. No vehicle hauling agricultural products from a harvesting combine to the point
6 of first unloading is subject to enforcement action for violations not exceeding the legal limits
7 imposed pursuant to § 32-22-16 or 32-22-21 by more than ten percent. However, such vehicle
8 may not exceed the posted speed of ~~forty miles per hour~~ limit and is only exempt pursuant to
9 this section within a range of fifty miles of the harvested field. If enforcement action is taken
10 pursuant to this section, the fine or penalty shall apply to that portion of the load more than ten
11 percent above the legal limit. The weight tolerance authorized in this section is not permitted on
12 the interstate highway system. A violation of this section is a Class 2 misdemeanor.

1 **BILL HISTORY**

2 1/22/99 First read in House and referred to Transportation. H.J. 131

3 2/1/99 Scheduled for Committee hearing on this date.

4 2/1/99 Transportation Do Pass, Passed, AYES 8, NAYS 4. H.J. 276

5 2/2/99 Deferred with pending amendment (Rule 5-17). H.J. 327

6 2/4/99 House of Representatives Do Pass, Passed, AYES 52, NAYS 12. H.J. 372

7 2/5/99 First read in Senate and referred to Transportation. S.J. 347

8 2/11/99 Scheduled for Committee hearing on this date.

9 2/16/99 Scheduled for Committee hearing on this date.

10 2/16/99 Transportation Do Pass Amended, Passed, AYES 5, NAYS 2. S.J. 494

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

463C0561

HOUSE HEALTH AND HUMAN SERVICES
COMMITTEE ENGROSSED NO. **HB1136** -
2/4/99

Introduced by: Representatives Fischer-Clemens, Broderick, Cerny, Fryslie, McIntyre, Michels,
and Solum and Senators Moore, Daugaard, Dennert, and Shoener

1 FOR AN ACT ENTITLED, An Act to revise who may be informed of a decedent's intention to
2 make an anatomical gift.

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

4 Section 1. That § 34-26-23.2 be amended to read as follows:

5 34-26-23.2. Any state or local law enforcement agency, officer, or personnel, that may have
6 access to a decedent's motor vehicle operator's license, or the information thereon, shall inform,
7 upon request, the decedent's attending physician or nurse, next of kin, the coroner, or any other
8 person having lawful custody of the decedent's body, of any intention of the decedent, as
9 indicated on the decedent's motor vehicle operator's license, to make an anatomical gift pursuant
10 to § 34-26-23 or 34-26-23.1. Any state or local law enforcement agency, officer, or personnel
11 shall also inform, upon request, any procurement agency for anatomical gifts, including organs,
12 tissues, and eyes, of such intention of the decedent.

1 **BILL HISTORY**

2 1/25/99 First read in House and referred to Health and Human Services. H.J. 172

3 2/3/99 Scheduled for Committee hearing on this date.

4 2/3/99 Health and Human Services Do Pass Amended, Passed, AYES 10, NAYS 0. H.J. 341

5 2/3/99 Health and Human Services Place on Consent Calendar.

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

276C0421

HOUSE TAXATION COMMITTEE ENGROSSED NO. **HB1140** - 1/29/99

Introduced by: Representatives McNenny, Cerny, Cutler, Duenwald, Engbrecht, Koehn, McCoy, Napoli, Pummel, and Weber and Senators Bogue, Benson, Kleven, Lange, Madden, Symens, and Vitter

1 FOR AN ACT ENTITLED, An Act to decrease the rate of interest on property tax certificates
2 and delinquent taxes.

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

4 Section 1. That § 10-9-12 be amended to read as follows:

5 10-9-12. Any tax not paid within the period prescribed in § 10-9-10 is subject to a penalty
6 of the ~~Category D~~ Category B rate of interest as established in § 54-3-16. The penalty shall
7 attach and be a charge upon the tax.

8 Section 2. That § 10-21-7.3 be amended to read as follows:

9 10-21-7.3. Any property taxes remitted by electronic transmission pursuant to § 10-21-7.1
10 are delinquent if not remitted by the third day of the month following the month the taxes are
11 due. However, notwithstanding the provisions of § 10-21-23, the first half of property taxes are
12 not delinquent if the fifth payment made monthly pursuant to §§ 10-21-7.1 to 10-21-7.3,
13 inclusive, is credited to the bank account designated by the county treasurer on or before May
14 first. If taxes become delinquent pursuant to this section, interest shall be added to the delinquent
15 taxes at the ~~Category D~~ Category B rate as established pursuant to § 54-3-16 for each day the

1 taxes are delinquent.

2 Section 3. That § 10-21-23 be amended to read as follows:

3 10-21-23. On the first day of May of the year after which taxes have been assessed, one-half
4 of all unpaid real estate taxes are delinquent. However, all real estate taxes totaling fifty dollars
5 or less shall be paid in full on or before April thirtieth. On the first day of each ~~and every~~ month
6 thereafter there shall be added as interest on ~~said~~ the delinquent taxes at the ~~Category D~~
7 Category B rate of interest as established in § 54-3-16. If the other half is not paid on or before
8 the thirty-first day of October of the same year, that also becomes delinquent on November first
9 and the same interest shall attach in the same manner.

10 Section 4. That § 10-23-8 be amended to read as follows:

11 10-23-8. Before making a sale of lands and town lots on which taxes have not been paid, the
12 treasurer shall offer each separate tract for sale in the numerical order in which it appears on the
13 tax list and receive bids for it. If any person bids the full amount of the taxes, interest, and costs
14 due on the land or town lots, stating in the bid the lowest rate of interest per year at which the
15 bidder will pay the taxes assessed and due against the land and lots, the treasurer shall sell to that
16 person the land or town lots and shall issue a certificate of sale to the purchaser. In no case may
17 the rate of interest exceed the rate named in the bid and the bid offered on the land or lots at the
18 lowest rate of interest per year shall be considered the best bid. No rate of interest higher than
19 ~~twelve~~ ten percent per year is a valid bid pursuant to this section. Upon redemption of a
20 certificate that has been sold or assigned to a purchaser other than the county, a fee shall be
21 deducted from the proceeds paid to the holder of the certificate. The county commission may,
22 by resolution, establish a fee not to exceed fifty dollars. No property owner may be assessed this
23 additional fee. The fee shall be deposited in the county general fund. Nothing less than the entire
24 tract or lot may be sold.

25 Section 5. That § 10-23-23 be amended to read as follows:

1 10-23-23. All real property sold for delinquent special assessments pursuant to § 10-23-1 and
2 not redeemed shall be entered by the county treasurer upon the duplicate tax lists of the county
3 for the succeeding years and noted upon all duplicate tax receipts for the real property. The
4 county treasurer shall add to the amount of each special assessment so certified interest at the
5 ~~Category D~~ Category B rate of interest as established in § 54-3-16, and ten cents on each lot or
6 parcel of ground for ~~costs~~ the cost of advertising. No other costs or penalties may be added
7 except as provided by law for certificate of sale, deed, and acknowledgment.

8 Section 6. That § 10-23-25 be amended to read as follows:

9 10-23-25. ~~Whenever~~ If the county treasurer of any county bids off any real property in the
10 name of the county, ~~he~~ the treasurer shall make out a certificate of purchase to the county in the
11 same manner as if sale had been made to any other person. The certificate shall be retained by
12 the treasurer, but no tax receipt may be issued and no amount may be due the state, or any other
13 fund, ~~and no~~ No treasurer's commission may be paid by the county until redemption has been
14 made from the sale or the time of redemption has expired, or until the interest of the county has
15 been assigned. The certificate ~~so~~ issued to the county shall bear interest at the ~~Category D~~
16 Category B rate of interest as established in § 54-3-16.

17 Section 7. That § 10-27-5 be amended to read as follows:

18 10-27-5. If the party seeking relief asserts the invalidity of the tax, its application or its legal
19 existence as a lien or claim against the property involved, as distinguished from irregularities in
20 procedure no tender may be required as to any portion properly asserted to be invalid or void
21 as a tax for any reason going to its base or legal existence. In all such cases, the court in the
22 action or proceeding shall first determine the question of the legality or existence of any tax and,
23 if necessary, to make proper assessment, calculation, and order as to the amount, if any, which
24 should have been legally paid. All of this shall be determined as of the date when the assessment
25 and levy was or should have been made, except that the due date of the tax shall be established

1 as the first day of January next following the date when an assessment originally was or should
2 have been made. The court shall enter its order directing the party seeking relief to deposit a sum
3 with interest at the ~~Category D~~ Category B rate of interest as established in § 54-3-16 from the
4 date when the tax originally became or should have become due.

1 **BILL HISTORY**

2 1/25/99 First read in House and referred to Taxation. H.J. 172

3 1/25/99 House of Representatives Deferred to another day. H.J. 178

4 1/28/99 Scheduled for Committee hearing on this date.

5 1/28/99 Taxation Do Pass Amended, Passed, AYES 10, NAYS 3. H.J. 234

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

592C0376

HOUSE LOCAL GOVERNMENT COMMITTEE

ENGROSSED NO. **HB1144** - 2/8/99

Introduced by: Representatives Hunt, Crisp, Jaspers, McIntyre, Smidt, and Weber and Senators
Frederick, Albers, Brown (Arnold), and Flowers

1 FOR AN ACT ENTITLED, An Act to increase the annual front footage assessment for certain
2 township road maintenance and repairs.

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

4 Section 1. That § 31-13-51 be amended to read as follows:

5 31-13-51. The township board of supervisors, prior to the assessment of real property within
6 the township for the next fiscal year, may levy annually for the purpose of maintaining or
7 repairing street ~~surfacing or pavement~~ surfaces, whether of a permanent type or not, a special
8 front foot assessment not to exceed ~~forty~~ eighty cents per front foot upon the real property
9 fronting and abutting ~~thereon~~ the roadway. Such assessment shall be apportioned on a front foot
10 basis and shall be levied pursuant to § 31-13-52.

1 **BILL HISTORY**

2 1/25/99 First read in House and referred to Local Government. H.J. 173

3 2/2/99 Scheduled for Committee hearing on this date.

4 2/4/99 Scheduled for Committee hearing on this date.

5 2/4/99 Local Government Do Pass Amended, Passed, AYES 13, NAYS 0. H.J. 388

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

960C0138

HOUSE TAXATION COMMITTEE ENGROSSED NO. **HB1146** - 1/29/99

Introduced by: Representatives Fiegen, Koskan, and Richter and Senators Hainje and Paisley

1 FOR AN ACT ENTITLED, An Act to revise the procedure for determining when the unpaid
2 taxes of a mobile home are delinquent.

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

4 Section 1. That § 10-9-10 be amended to read as follows:

5 10-9-10. ~~The~~ On May first, after the tax as computed as prescribed in § 10-9-9 ~~becomes due~~
6 ~~and payable immediately to the county treasurer for the current year. However, the tax does not~~
7 ~~become delinquent if one-half of the tax is paid on or before April thirtieth and the second half~~
8 ~~paid on or before October thirty-first of that year or if registered after April thirtieth if paid on~~
9 ~~or before October thirty-first of that year~~ has been assessed, one-half of the unpaid real estate
10 tax is delinquent. However, any real estate tax totaling fifty dollars or less shall be paid in full on
11 or before April thirtieth. If the other half of the real estate tax is not paid on or before October
12 thirty-first of that year, that portion of the unpaid real estate tax is delinquent. If a mobile home
13 is registered after October thirty-first, the taxes for that year shall be paid within thirty days. Any
14 delinquent tax immediately becomes subject to the provisions of §§ 10-9-12, 10-9-13, and
15 10-9-13.1.

1 **BILL HISTORY**

2 1/25/99 First read in House and referred to Taxation. H.J. 174

3 1/28/99 Scheduled for Committee hearing on this date.

4 1/28/99 Taxation Do Pass Amended, Passed, AYES 13, NAYS 0. H.J. 234

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

525C0330

HOUSE LOCAL GOVERNMENT COMMITTEE

ENGROSSED NO. **HB1172** - 2/8/99

Introduced by: Representatives Slaughter, Diedrich (Larry), Duenwald, Engbrecht, McNenny, Smidt, and Weber and Senators Brown (Arnold) and Halverson

1 FOR AN ACT ENTITLED, An Act to authorize boards of county commissioners to hold certain
2 meetings at locations outside of the county seat.

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

4 Section 1. That § 7-8-16 be amended to read as follows:

5 7-8-16. The board of county commissioners shall hold its sessions as an open meeting and
6 transact all business in a public manner ~~and if the county has no courthouse or the courthouse~~
7 ~~is unfit or inconvenient, it may.~~ Meetings shall normally be held at the court house or at the usual
8 place of holding court; however the board may occasionally hold its sessions at any other suitable
9 place at the county seat or at other locations within the geographic county area if the meetings
10 are held in a public place and if notice of the meeting is published once a week for at least two
11 successive weeks before the meeting in the legal newspaper or newspapers of the county in
12 which the meeting is to be held. Joint county-municipal planning sessions may be held at any
13 suitable location within the county. All matters pertaining to the interests of the county shall be
14 heard by the board in session only, but it may continue any business from any regular session to
15 an intermediate day.

1 **BILL HISTORY**

2 1/26/99 First read in House and referred to Local Government. H.J. 192

3 2/4/99 Scheduled for Committee hearing on this date.

4 2/4/99 Local Government Do Pass Amended, Passed, AYES 13, NAYS 0. H.J. 388

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

670C0568

SENATE TRANSPORTATION COMMITTEE

ENGROSSED NO. **HB1193** - 2/16/99

Introduced by: Representatives Monroe and Garnos and Senator Rounds

1 FOR AN ACT ENTITLED, An Act to revise the definition of a temporary supplemental lot.

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

3 Section 1. That subdivision (17) of § 32-6B-1 be amended to read as follows:

4 (17) "Temporary supplemental lot," a location other than the principal place of business
5 or supplemental lot but within the same county as the principal place of business, or
6 in an adjoining county, if the adjoining county has no licensed vehicle dealer selling
7 automobiles, pick-ups, or passenger vans and the temporary supplemental lot is no
8 more than ten miles from the principal place of business, where a licensed vehicle
9 dealer or a licensed used vehicle dealer may conduct business for a period of time not
10 to exceed ten consecutive days for a specific purpose such as fairs, auto shows,
11 auctions, shopping center promotions, or tent sales. A temporary supplemental lot
12 shall meet all local zoning and building codes for the type of business being
13 conducted. If a licensed vehicle dealer establishes a temporary supplemental lot in a
14 county with a licensed used vehicle dealer, a licensed used vehicle dealer may establish
15 a temporary supplemental lot in a county with a licensed vehicle dealer;

16

1 **BILL HISTORY**

2 1/27/99 First read in House and referred to Transportation. H.J. 211

3 2/3/99 Scheduled for Committee hearing on this date.

4 2/3/99 Transportation Do Pass Amended, Passed, AYES 13, NAYS 0. H.J. 345

5 2/5/99 House of Representatives Do Pass Amended, Passed, AYES 58, NAYS 5. H.J. 404

6 2/8/99 First read in Senate and referred to Transportation. S.J. 382

7 2/11/99 Scheduled for Committee hearing on this date.

8 2/16/99 Scheduled for Committee hearing on this date.

9 2/16/99 Transportation Do Pass Amended, Passed, AYES 7, NAYS 0. S.J. 494

10 2/16/99 Transportation Place on Consent Calendar.

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

167C0761

HOUSE ENGROSSED NO. **HB1199** . 2/10/99

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

Introduced by: Representatives Hunt and Fitzgerald and Senators Halverson and Brown
(Arnold)

1 FOR AN ACT ENTITLED, An Act to restrict the distribution of alcoholic beverages to persons

2 under eighteen years of age by parents, guardians, or spouses over twenty-one years of age.

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

4 Section 1. That § 35-9-1 be amended to read as follows:

5 35-9-1. It is a Class 1 misdemeanor to sell or give for use as a beverage any alcoholic

6 beverage to any person under the age of eighteen years ~~unless it is done in the immediate~~

7 ~~presence of a parent or guardian or spouse over twenty-one years of age or by prescription or~~

8 ~~direction of a duly licensed practitioner or nurse of the healing arts for medicinal purposes;~~

9 (1) It is done in the immediate presence of a parent or guardian or spouse, who is at least

10 twenty-one years of age, while not on the premises of an establishment licensed for

11 the retail sale of alcoholic beverages pursuant to § 35-4-2 or at a special event for

12 which an alcoholic beverage license has been issued pursuant to § 35-4-11.4; or

13 (2) It is done by prescription or direction of a duly licensed practitioner or nurse of the

14 healing arts for medicinal purposes.

1 **BILL HISTORY**

2 1/27/99 First read in House and referred to committee assignment waived. H.J. 212

3 1/28/99 Referred to Judiciary. H.J. 240

4 2/1/99 Scheduled for Committee hearing on this date.

5 2/1/99 Judiciary Do Pass Amended, Failed, AYES 6, NAYS 6.

6 2/1/99 Judiciary Deferred to another day.

7 2/3/99 Scheduled for Committee hearing on this date.

8 2/3/99 Judiciary Do Pass Amended, Passed, AYES 13, NAYS 0. H.J. 341

9 2/4/99 Judiciary Hog Housed.

10 2/5/99 House of Representatives Deferred to another day. H.J. 405

11 2/8/99 Motion to Amend, Passed. H.J. 417

12 2/8/99 House of Representatives Do Pass Amended, Failed, AYES 29, NAYS 37. H.J. 417

13 2/8/99 Intent to reconsider. H.J. 418

14 2/9/99 House of Representatives Reconsidered, AYES 52, NAYS 16. H.J. 435

15 2/9/99 Motion to Amend, Passed. H.J. 436

16 2/9/99 House of Representatives Do Pass Amended, Passed, AYES 43, NAYS 25. H.J. 436

17 2/9/99 House of Representatives Title Amended Passed. H.J. 437

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

680C0696

SENATE COMMERCE COMMITTEE ENGROSSED NO. **HB1207** - 2/16/99

Introduced by: Representatives Michels, Crisp, Duniphan, Earley, and Monroe and Senators
Everist, Daugaard, and Halverson

1 FOR AN ACT ENTITLED, An Act to increase the time period for which a driver's license is
2 revoked for certain drug offenses.

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

4 Section 1. That § 32-12-52.3 be amended to read as follows:

5 32-12-52.3. Upon a first conviction or a first adjudication of delinquency for a violation,
6 while in a motor vehicle, of §§ 22-42-5 to 22-42-11, inclusive, 22-42A-3 or 22-42A-4, the court
7 shall revoke the driver's license or driving privilege of the person so convicted for a period of
8 ~~ninety~~ one hundred eighty days. However, the sentencing court may impose a sentence other
9 than that specified in this section if the court finds that mitigating circumstances exist which
10 require a departure from the mandatory sentence provided for in this section. The court's finding
11 of mitigating circumstances allowed by this section and the factual basis relied upon by the court
12 shall be in writing.

13 Upon a second or subsequent conviction or a second or subsequent adjudication of
14 delinquency for a violation, while in a motor vehicle, of §§ 22-42-5 to 22-42-11, inclusive,
15 22-42A-3 or 22-42A-4, the court shall revoke the driver's license or driving privilege of the
16 person so convicted for a period of one year or until the person's seventeenth birthday, whichever

1 is a longer period of time. For any offense under this section, the court may issue an order
2 permitting the person to operate a motor vehicle for purposes of the person's employment or
3 attendance at school. Notwithstanding the provisions of chapters 26-7A, 26-8A, 26-8B, and
4 26-8C, the Unified Judicial System shall notify the Department of Commerce and Regulation of
5 any conviction or adjudication of delinquency for a violation, while in a motor vehicle, of
6 §§ 22-42-5 to 22-42-11, inclusive, 22-42A-3 or 22-42A-4. The period of revocation shall begin
7 on the date the person's revoked driver's license is received by the court or the department. At
8 the expiration of the revocation period, a person may make application as provided by law and
9 shall pay the license fee prescribed in § 32-12-47.1.

1 **BILL HISTORY**

2 1/27/99 First read in House and referred to committee assignment waived. H.J. 213

3 1/28/99 Referred to Judiciary. H.J. 240

4 2/1/99 Scheduled for Committee hearing on this date.

5 2/1/99 Judiciary Do Pass, Passed, AYES 10, NAYS 1. H.J. 310

6 2/3/99 House of Representatives Do Pass, Passed, AYES 61, NAYS 1. H.J. 354

7 2/4/99 First read in Senate and referred to Commerce. S.J. 342

8 2/11/99 Scheduled for Committee hearing on this date.

9 2/16/99 Scheduled for Committee hearing on this date.

10 2/16/99 Commerce Do Pass Amended, Passed, AYES 6, NAYS 1. S.J. 493

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

393C0179

HOUSE LOCAL GOVERNMENT COMMITTEE

ENGROSSED NO. **HB1246** - 2/8/99

Introduced by: Representatives Cerny, Chicoine, McNenny, and Wudel and Senators
Hutmacher, Benson, Moore, and Reedy

1 FOR AN ACT ENTITLED, An Act to provide a per diem allowance for county and municipal

2 housing and redevelopment commissioners.

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

4 Section 1. That § 11-7-16 be amended to read as follows:

5 11-7-16. ~~No commissioner shall receive compensation for his services, but each~~ Each

6 commissioner ~~shall~~ may be ~~entitled to receive necessary~~ reimbursed for expenses, including

7 traveling expenses, incurred in the performance of ~~his~~ the commissioner's duties. In addition,

8 each commissioner may receive per diem not to exceed thirty-five dollars for each day of actual

9 service for attending meetings or hearings.

1 **BILL HISTORY**

2 1/28/99 First read in House and referred to committee assignment waived. H.J. 244

3 2/4/99 Scheduled for Committee hearing on this date.

4 2/4/99 Local Government Do Pass Amended, Passed, AYES 12, NAYS 1. H.J. 388

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

448C0769

SENATE JUDICIARY COMMITTEE
ENGROSSED NO. **SB203** - 2/16/99

Introduced by: Senator Everist and Representatives Michels and Wilson

1 FOR AN ACT ENTITLED, An Act to enact the Uniform Prudent Investor Act.

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

3 Section 1. (a) Except as otherwise provided in subsection (b), a trustee who invests and
4 manages trust assets owes a duty to the beneficiaries of the trust to comply with the prudent
5 investor rule set forth in this Act.

6 (b) The prudent investor rule, a default rule, may be expanded, restricted, eliminated, or
7 otherwise altered by the provisions of a trust. A trustee is not liable to a beneficiary to the extent
8 that the trustee acted in reasonable reliance on the provisions of the trust.

9 Section 2. (a) A trustee shall invest and manage trust assets as a prudent investor would, by
10 considering the purposes, terms, distribution requirements, and other circumstances of the trust.
11 In satisfying this standard, the trustee shall exercise reasonable care, skill, and caution.

12 (b) A trustee's investment and management decisions respecting individual assets must be
13 evaluated not in isolation but in the context of the trust portfolio as a whole and as a part of an
14 overall investment strategy having risk and return objectives reasonably suited to the trust.

15 (c) Among circumstances that a trustee shall consider in investing and managing trust assets
16 are such of the following as are relevant to the trust or its beneficiaries:

- 1 (1) General economic conditions;
- 2 (2) The possible effect of inflation or deflation;
- 3 (3) The expected tax consequences of investment decisions or strategies;
- 4 (4) The role that each investment or course of action plays within the overall trust
- 5 portfolio, which may include financial assets, interests in closely held enterprises,
- 6 tangible and intangible personal property, and real property;
- 7 (5) The expected total return from income and the appreciation of capital;
- 8 (6) Other resources of the beneficiaries;
- 9 (7) Needs for liquidity, regularity of income, and preservation or appreciation of capital;
- 10 and
- 11 (8) An asset's special relationship or special value, if any, to the purposes of the trust or
- 12 to one or more of the beneficiaries.

13 (d) A trustee shall make a reasonable effort to verify facts relevant to the investment and
14 management of trust assets.

15 (e) A trustee may invest in any kind of property or type of investment consistent with the
16 standards of this Act.

17 (f) A trustee who has special skills or expertise, or is named trustee in reliance upon the
18 trustee's representation that the trustee has special skills or expertise, has a duty to use those
19 special skills or expertise.

20 Section 3. A trustee shall diversify the investments of the trust unless the trustee reasonably
21 determines that, because of special circumstances, the purposes of the trust are better served
22 without diversifying.

23 Section 4. Within a reasonable time after accepting a trusteeship or receiving trust assets, a
24 trustee shall review the trust assets and make and implement decisions concerning the retention
25 and disposition of assets, in order to bring the trust portfolio into compliance with the purposes,

1 terms, distribution requirements, and other circumstances of the trust, and with the requirements
2 of this Act.

3 Section 5. A trustee shall invest and manage the trust assets solely in the interest of the
4 beneficiaries.

5 Section 6. If a trust has two or more beneficiaries, the trustee shall act impartially in investing
6 and managing the trust assets, taking into account any differing interests of the beneficiaries.

7 Section 7. In investing and managing trust assets, a trustee may only incur costs that are
8 appropriate and reasonable in relation to the assets, the purposes of the trust, and the skills of
9 the trustee.

10 Section 8. Compliance with the prudent investor rule is determined in light of the facts and
11 circumstances existing at the time of a trustee's decision or action and not by hindsight.

12 Section 9. (a) A trustee may delegate investment and management functions that a prudent
13 trustee of comparable skills could properly delegate under the circumstances. The trustee shall
14 exercise reasonable care, skill, and caution in:

- 15 (1) Selecting an agent;
- 16 (2) Establishing the scope and terms of the delegation, consistent with the purposes and
17 terms of the trust; and
- 18 (3) Periodically reviewing the agent's actions in order to monitor the agent's performance
19 and compliance with the terms of the delegation.

20 If the trustee obtains the written approval of a majority of the known beneficiaries or is
21 directed by the court, the trustee is not liable for the acts of the person to whom the authority
22 is delegated except in the cases of gross misconduct or gross negligence by the delegating trustee
23 in the selection, establishing the scope and terms of the delegation or reviewing the agent's
24 actions.

25 (b) In performing a delegated function, an agent owes a duty to the trust to exercise

1 reasonable care to comply with the terms of the delegation.

2 (c) A trustee who complies with the requirements of subsection (a) is not liable to the
3 beneficiaries or to the trust for the decisions or actions of the agent to whom the function was
4 delegated.

5 (d) By accepting the delegation of a trust function from the trustee of a trust that is subject
6 to the law of this state, an agent submits to the jurisdiction of the courts of this state.

7 Section 10. The following terms or comparable language in the provisions of a trust, unless
8 otherwise limited or modified, authorizes any investment or strategy permitted under this Act:
9 investments permissible by law for investment of trust funds; legal investments; authorized
10 investments; using the judgment and care under the circumstances then prevailing that persons
11 of prudence, discretion, and intelligence exercise in the management of their own affairs, not in
12 regard to speculation but in regard to the permanent disposition of their funds, considering the
13 probable income as well as the probable safety of their capital; prudent man rule; prudent trustee
14 rule; prudent person rule; and prudent investor rule.

15 Section 11. This Act applies to trusts existing on and created after its effective date. As
16 applied to trusts existing on its effective date, this Act governs only decisions or actions
17 occurring after that date.

18 Section 12. This Act shall be applied and construed to effectuate its general purpose to make
19 uniform the law with respect to the subject of this Act among the states enacting it.

20 Section 13. This Act may be cited as the South Dakota Uniform Prudent Investor Act.

21 Section 14. That § 55-5-6 be repealed.

22 ~~55-5-6. The trustee shall invest and manage trust assets as a prudent investor would~~
23 ~~considering the purposes, terms, distribution requirements, and other circumstances of the trust.~~
24 ~~This standard requires the exercise of reasonable care, skill, and caution and shall be applied to~~
25 ~~investments not in isolation, but in the context of the trust portfolio as a whole and as a part of~~

1 ~~an overall investment strategy that should incorporate risk and return objectives reasonably~~
2 ~~suitable to the trust.~~

3 Section 15. That §§ 55-5-7 to 55-5-16, inclusive, be repealed.

1 **BILL HISTORY**

2 1/28/99 First read in Senate and referred to Judiciary. S.J. 234

3 2/1/99 Scheduled for Committee hearing on this date.

4 2/10/99 Scheduled for Committee hearing on this date.

5 2/12/99 Scheduled for Committee hearing on this date.

6 2/12/99 Judiciary Do Pass Amended, Passed, AYES 7, NAYS 0. S.J. 474

7 2/12/99 Judiciary Place on Consent Calendar.