

State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

508J0114

HOUSE JUDICIARY COMMITTEE ENGROSSED NO.

SB 185 - 02/18/2004

Introduced by: Senators Schoenbeck, Brown, de Hueck, and Vitter and Representatives O'Brien, Cutler, Deadrick (Thomas), McCaulley, and Michels

1 FOR AN ACT ENTITLED, An Act to authorize counties to employ attorneys with specialized
2 expertise and to validate prior actions in that regard.

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

4 Section 1. That chapter 7-16 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 Notwithstanding any other provision of this chapter, a board of county commissioners may,
7 if authorized by resolution duly entered upon its minutes, employ an attorney admitted or
8 licensed in the state for legal services in any civil matter in which specialized expertise is
9 required. The attorney may act only in those matters specifically delegated by the board of
10 county commissioners in writing at the time of appointment. The board of county
11 commissioners shall, by resolution duly entered upon its minutes, set the salary for the attorney
12 employed pursuant to this section. The employment of an attorney pursuant to this section may
13 not reduce the salary of the state's attorney or any duly appointed deputy.

14 Section 2. The board of county commissioners may, if authorized by resolution duly entered
15 upon its minutes, employ its own state's attorney for legal services as described in section 1 of



1 this Act. Notwithstanding § 7-16-23, the state's attorney may be compensated pursuant to the
2 resolution described in section 1 of this Act in addition to the compensation of the state's
3 attorney for the performance of other public duties.

4 Section 3. That § 7-16-23 be amended to read as follows:

5 7-16-23. Other than fees for child support enforcement services made upon the request of
6 the Department of Social Services to a state's attorney under a cooperative agreement with the
7 board of county commissioners, fees payable upon request of the Department of Social Services
8 under a cooperative agreement with the board of county commissioners under the Violence
9 Against Women Act, 42 USC 3796gg et seq. as of January 1, 1997, ~~and~~ fees payable under
10 contract for representation of the county or its officers in civil cases and administrative
11 proceedings outside the county pursuant to § 7-16-6, and fees payable under contract for
12 specialized legal services pursuant to section 1 of this Act, a board of county commissioners
13 may not give or pay any fees or costs to a state's attorney as part of a salary or in addition to a
14 salary. However, each board shall participate in the costs of the prosecution and enforcement
15 by the state's attorney of support obligations against any responsible parent, whether of a civil
16 or criminal nature, on a fee for service basis with the Department of Social Services. The fee
17 is paid to the state's attorney in addition to any other compensation of the state's attorney for the
18 performance of other public duties. A full-time state's attorney, as defined by § 7-16-19, is not
19 entitled to receive the fees payable for child support enforcement services or services under the
20 Violence Against Women Act authorized by this section, or fees payable under contract for
21 specialized legal services pursuant to section 1 of this Act, nor is a full-time state's attorney
22 entitled to extra compensation for representation of the county or its officers in civil cases and
23 administrative proceedings outside the county pursuant to § 7-16-6.

24 Section 4. That chapter 7-16 be amended by adding thereto a NEW SECTION to read as

1 follows:

2 Any contracts for legal services made by a board of county commissioners prior to July 1,
3 2004, are hereby validated, legalized, and cured, notwithstanding any errors, omissions, or
4 informalities.