

AN ACT

ENTITLED, An Act to rename the office and the title of the head of the Old Age and Survivors Insurance Division in the Office of the State Auditor and specify the position's duties.

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

Section 1. That § 3-11-2 be amended to read as follows:

3-11-2. Terms used in this chapter mean:

- (1) "Coverage group" has the meaning given that term by the provisions of section 218 of Title II of the Social Security Act, as amended, and applicable federal regulations adopted pursuant thereto;
- (2) "Administrator," the administrator of the State Social Security and the Internal Revenue Service Division;
- (3) "Division," the State Social Security and the Internal Revenue Service Division in the State Auditor's Office;
- (4) "Employee" includes officers of the state, and any political subdivision thereof, including officers and employees of any association organized under and pursuant to the provisions of chapter 9-17;
- (5) "Employment," any service performed by an employee of the state, or any political subdivision thereof, for such employer, except:
 - (a) Service which in the absence of an agreement entered into under this chapter would constitute "employment" as defined in the federal Social Security Act; or
 - (b) Service which under the federal Social Security Act may not be included in an agreement between the state and the secretary of health, education, and welfare entered into under this chapter;
- (6) "Federal Insurance Contributions Act," chapter 21 of subtitle C of the federal Internal

Revenue Code as such act has been amended;

- (7) "Political subdivision," a subdivision of the state to which has been delegated certain powers of local government, but only if the employees of such subdivision are not by virtue of their relation to such subdivision, employees of the state or another subdivision. The term includes special districts or authorities created by the Legislature, and qualifying governmental instrumentalities;
- (8) "Qualifying," any and all coverage groups permitted by the federal Social Security Act when an agreement or any modification thereof is entered into between the State of South Dakota and the secretary of health and human services;
- (9) "Secretary of health and human services" includes the former federal security administrator, and it includes any individual to whom either the secretary or the administrator has delegated any of his functions under the federal Social Security Act with respect to coverage under such act of employees of states and their political subdivisions;
- (10) "Social Security Act," the act of Congress approved August 14, 1935, Chapter 531, 49 Stat. 620, officially cited as the "Social Security Act," (including regulations and requirements issued pursuant thereto), as such act has been amended;
- (11) "Wages" and "salaries," all remuneration for employment as defined herein, including the cash value of all remuneration paid in any medium other than cash, except that such term shall not include that part of such remuneration which, even if it were for "employment" within the meaning of the Federal Insurance Contributions Act, would not constitute "wages" within the meaning of that act.

Section 2. The term, director, wherever it is used in chapter 3-11, means administrator. The Code Commission in future supplements and revisions of chapter 3-11 of the South Dakota Codified Laws shall substitute the term, administrator, and its derivatives for the term, director, and its derivatives.

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

3-11-4. The state auditor shall appoint an administrator and other such employees as may be necessary and fix their bonds, salaries, and compensation. The administrator shall:

- (1) Serve as a liaison between the Social Security Administration and the Internal Revenue Service and all state and local government employers in the state;
- (2) Administer and maintain the Section 218 Agreement that governs voluntary social security and medicare coverage by state and local government employers in the state;
- (3) Prepare Section 218 modifications to include additional coverage groups, correct errors in other modifications, identify additional political subdivisions that join a covered retirement system, and obtain medicare coverage for public employees whose employment relationship with a public employer has been continuous since March 31, 1986;
- (4) Provide the Social Security Administration with notice and evidence of the legal dissolution of covered state or political subdivision entities;
- (5) Conduct referenda for social security and medicare coverage for services performed by employees in positions under a public retirement system;
- (6) Resolve coverage and taxation questions associated with Section 218 Agreements and modifications with the Social Security Administration and the Internal Revenue Service;
- (7) Advise public employers on social security, medicare, and other tax withholding matters;
- (8) Provide information to state and local public employers as appropriate and in accordance with the state's enabling legislation, policies, procedures and standards;
- (9) Provide advice on Section 218 optional exclusions applicable to either the state or individual modifications, or both, and advice on state and local laws, rules, regulations and compliance concerns;

- (10) Maintain physical custody of the state's Section 218 Agreement, modifications, dissolutions and intrastate agreements; and
- (11) Deposit and report social security tax and federal income tax to the Internal Revenue Service.

Section 4. That § 3-11-24 be amended to read as follows:

3-11-24. The administrator shall promulgate rules, pursuant to chapter 1-26, for the administration of this chapter and in conformity with section 218 of Title II of the federal Social Security Act and federal regulations adopted pursuant thereto. Such rules shall include procedures to determine the extent of coverage within separate coverage groups and prescribing the manner and method of filing reports and paying contributions required under the agreement.

An Act to rename the office and the title of the head of the Old Age and Survivors Insurance Division in the Office of the State Auditor and specify the position's duties.

=====

I certify that the attached Act originated in the

HOUSE as Bill No. 1225

Chief Clerk

=====

Speaker of the House

Attest:

Chief Clerk

President of the Senate

Attest:

Secretary of the Senate

House Bill No. 1225
File No. _____
Chapter No. _____

=====

Received at this Executive Office this _____ day of _____ ,

20____ at _____ M.

By _____
for the Governor

=====

The attached Act is hereby approved this _____ day of _____ , A.D., 20____

Governor

=====

STATE OF SOUTH DAKOTA,
ss.

Office of the Secretary of State

Filed _____ , 20____
at _____ o'clock __ M.

Secretary of State

By _____
Asst. Secretary of State