

State of South Dakota

EIGHTY-FIRST SESSION
LEGISLATIVE ASSEMBLY, 2006

645M0245

SENATE STATE AFFAIRS COMMITTEE ENGROSSED

NO. **SB 188** - 02/09/2006

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

Introduced by: Senators Schoenbeck, Adelstein, Bartling, Broderick, Dempster, Duniphan, Gray, Greenfield, Kelly, Knudson, Koetzle, Koskan, Lintz, McCracken, Moore, Napoli, Nesselhuf, Olson (Ed), Peterson (Jim), Sutton (Dan), Sutton (Duane), and Two Bulls and Representatives Dykstra, Faehn, Frost, Haley, Hanks, Haverly, McCoy, McLaughlin, Murschel, Sebert, Turbiville, Valandra, and Vehle

1 FOR AN ACT ENTITLED, An Act to prohibit governmental entities from selling certain
2 goods, commodities, and services to the general public.

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

4 Section 1. The Legislature of South Dakota finds that the involvement of governmental
5 entities in the sale of goods, commodities, and services is an infringement on the free enterprise
6 system. The Legislature recognizes that the free enterprise system supports and pays for
7 governmental services and competition by governmental entities in some cases is detrimental
8 to the best interests of South Dakota.

9 Section 2. No governmental entity, including those adopting home rule pursuant to S.D.
10 Const., Art. IX, § 2 and including the legislative and executive departments may sell goods,
11 commodities, or services to the general public, if those goods, commodities, or services are
12 readily available through a private business or a nongovernmental entity.



1 Section 3. The Legislature may by law provide for exceptions to section 2 of this Act in
2 regard to sales of goods, commodities, and services by the State of South Dakota.

3 Section 4. The provisions of this Act do not apply to industrial parks or utilities, or to the
4 expansion or creation of infrastructure by a governmental entity for the provision of public
5 services, such as roads, bridges, buildings, water and sewer, and other services not suitable for
6 private enterprise to provide.

7 Section 5. If a governmental entity other than the State of South Dakota desires to enter into
8 the sale of goods, commodities, or services that the governmental entity is not presently
9 providing on the effective date of this Act, the governmental entity shall:

10 (1) Propose an ordinance describing the goods, commodities, or services to be provided.

11 The ordinance shall also set forth the costs of such goods, commodities, or services
12 and the source of funds to finance the costs of such goods, commodities, or services;

13 (2) Before adoption of such ordinance the governing body shall hold at least one public
14 hearing. Notice of the time and place of the hearing and a description of the goods,
15 commodities, and services sought to be provided shall be given once at least ten days
16 in advance by publication in an area newspaper of general circulation. Any interested
17 person shall be given a full, fair, and complete opportunity to be heard at the hearing,
18 and the governing body may refuse or adopt the ordinance with or without
19 amendment; and

20 (3) Any ordinance finally adopted by the governing body is subject to referendum. The
21 resolution shall be effective twenty days after the completed publication thereof
22 unless the referendum is invoked. A majority vote of the electorate voting is required
23 to approve the ordinance.

24 Section 6. The provisions of this Act shall apply prospectively to the expansion of existing

- 1 commercial activities or new commercial activities by a governmental entity.