

State of South Dakota

EIGHTIETH SESSION
LEGISLATIVE ASSEMBLY, 2005

438L0174

SENATE BILL NO. 205

Introduced by: Senators Kooistra and Kloucek and Representatives Lange and Gillespie

1 FOR AN ACT ENTITLED, An Act to revise certain provisions concerning the referral of acts,
2 determinations, or decisions made by the governing bodies of counties or municipalities.

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

4 Section 1. That § 7-18A-15 be amended to read as follows:

5 7-18A-15. Any ordinance or resolution adopted by a board of county commissioners may
6 be referred to a vote of the qualified voters of the county by the filing of a petition signed by five
7 percent of the registered voters in the county, based upon the total number of registered voters
8 at the last preceding general election, ~~except such ordinances and resolutions as may be~~
9 ~~necessary.~~ However, no ordinance or resolution for the immediate preservation of the public
10 peace, health, or safety, or for the support of the county government and its existing public
11 institutions may be referred. No ordinance or resolution concerning employee contractual
12 agreements may be referred unless specifically authorized by law.

13 Section 2. That § 7-18A-15.1 be repealed.

14 ~~7-18A-15.1. Any legislative decision of a board of county commissioners is subject to the~~
15 ~~referendum process. A legislative decision is one that enacts a permanent law or lays down a~~
16 ~~rule of conduct or course of policy for the guidance of citizens or their officers. Any matter of~~



1 a permanent or general character is a legislative decision.

2 ~~— No administrative decision of a governing body is subject to the referendum process, unless~~
3 ~~specifically authorized by this code. An administrative decision is one that merely puts into~~
4 ~~execution a plan already adopted by the governing body itself or by the Legislature. Supervision~~
5 ~~of a program is an administrative decision. Hiring, disciplining, and setting the salaries of~~
6 ~~employees are administrative decisions.~~

7 Section 3. That § 7-18A-1 be amended to read as follows:

8 7-18A-1. Terms used in this chapter, unless the context plainly requires otherwise, shall
9 mean:

- 10 (1) "Board," a board of county commissioners;
- 11 (2) "Ordinance," a permanent legislative act of a board of county commissioners passed
12 within the limits of its powers;
- 13 (3) "Publish," publication in the official county newspapers;
- 14 (4) "Resolution," any determination, decision, or direction of a board of county
15 commissioners of a special or temporary character, made for the purpose of initiating,
16 effecting, or carrying out its administrative duties and functions.

17 Section 4. That § 9-20-19 be amended to read as follows:

18 9-20-19. Any legislative decision of a governing body is subject to the referendum process.

19 A legislative decision is ~~one that enacts a permanent law or lays down a rule of conduct or~~
20 ~~course of policy for the guidance of citizens or their officers. Any matter of a permanent or~~
21 ~~general character is a legislative decision.~~

22 ~~— No administrative decision of a governing body is subject to the referendum process, unless~~
23 ~~specifically authorized by this code. An administrative decision is one that merely puts into~~
24 ~~execution a plan already adopted by the governing body itself or by the Legislature. Supervision~~

1 ~~of a program is an administrative decision. Hiring, disciplining, and setting the salaries of~~
2 ~~employees are administrative decisions~~ any ordinance, resolution, amendment, or motion
3 adopted by a governing board. No ordinance or resolution concerning employee contractual
4 agreements may be referred unless specifically authorized by law.