

# State of South Dakota

EIGHTY-FIFTH SESSION  
LEGISLATIVE ASSEMBLY, 2010

653R0542

## HOUSE LOCAL GOVERNMENT ENGROSSED NO. **SB 104** - 3/4/2010

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

Introduced by: Senators Knudson, Abdallah, Adelstein, Bradford, Brown, Dempster, Fryslie, Gant, Garnos, Gray, Hansen (Tom), Hanson (Gary), Heidepriem, Hunhoff (Jean), Kloucek, Miles, Olson (Russell), Rhoden, Tieszen, Turbak Berry, and Vehle and Representatives Faehn, Gosch, Hamiel, Hunhoff (Bernie), Noem, Peters, Rausch, Rave, and Solberg

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding disclosure of public  
2 information and public meetings.

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

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

6 If a meeting is required to be open to the public pursuant to § 1-25-1 and if any printed  
7 material relating to an agenda item of the meeting is prepared or distributed by or at the  
8 direction of the governing body or any of its employees and the printed material is distributed  
9 before the meeting to all members of the governing body, the material shall either be posted on  
10 the governing body's website or made available at the official business office of the governing  
11 body at least twenty-four hours prior to the meeting or at the time the material is distributed to  
12 the governing body, whichever is later. If the material is not posted to the governing body's



1 website, at least one copy of the printed material shall be available in the meeting room for  
2 inspection by any person while the governing body is considering the printed material. However,  
3 the provisions of this section do not apply to any printed material or record that is specifically  
4 exempt from disclosure under the provisions of this chapter or to any printed material or record  
5 regarding the agenda item of an executive or closed meeting held in accordance with § 1-25-2.  
6 A violation of this section is a Class 2 misdemeanor. However, the provisions of this section do  
7 not apply to printed material, records, or exhibits involving contested case proceedings held in  
8 accordance with the provisions of chapter 1-26.

9 Section 2. That § 1-25-1 be amended to read as follows:

10 ~~1-25-1. Except as otherwise provided by law, the official meetings of the state and the~~  
11 ~~political subdivisions thereof, including all related boards, commissions and other agencies, and~~  
12 ~~the official meetings of boards, commissions and agencies created by statute or which are~~  
13 ~~nontaxpaying and derive a source of revenue directly from public funds, shall be open to the~~  
14 ~~public, except as provided in this chapter. It does not constitute an official meeting if members~~  
15 ~~of a political subdivision of this state are attending a meeting of the state or one of its political~~  
16 ~~subdivisions, a board, a commission, an association, an agency, or any other public entity for~~  
17 ~~which public notice is provided pursuant to § 1-25-1.1 for the purpose of providing information~~  
18 ~~or observing, and the notice requirements in § 1-25-1.1 do not apply. Meetings, including~~  
19 ~~executive or closed meetings may be conducted by teleconference. Members shall be deemed~~  
20 ~~present if they answer present to the roll call taken by teleconference. Any vote at a meeting held~~  
21 ~~by teleconference shall be taken by roll call. Except for executive or closed meetings held by~~  
22 ~~teleconference, there shall be provided one or more places at which the public may listen to and~~  
23 ~~participate in the proceeding. Except for executive or closed meetings held by teleconference~~  
24 ~~of related boards and commissions of the state, there shall be provided two or more places at~~

1 ~~which the public may listen to and participate in the proceeding. Except for the Digital Dakota~~  
2 ~~Network, no teleconference may be used in conducting hearings or taking final disposition~~  
3 ~~pursuant to § 1-26-4. Teleconference meetings are subject to the notice provisions of chapter~~  
4 ~~1-25. The official meetings of the state, its political subdivisions, and any public body of the~~  
5 ~~state or its political subdivisions are open to the public unless a specific law is cited by the state,~~  
6 ~~the political subdivision, or the public body to close the official meeting to the public. For the~~  
7 ~~purposes of this section, a political subdivision or a public body of a political subdivision means~~  
8 ~~any association, authority, board, commission, committee, council, task force, school district,~~  
9 ~~county, city, town, township, or other agency of the state, which is created or appointed by~~  
10 ~~statute, ordinance, or resolution and is vested with the authority to exercise any sovereign power~~  
11 ~~derived from state law.~~

12 It is not an official meeting of one political subdivision or public body if its members  
13 provide information or attend the official meeting of another political subdivision or public body  
14 for which the notice requirements of § 1-25-1.1 have been met.

15 Any official meeting may be conducted by teleconference as defined in § 1-25-1.2. A  
16 teleconference may be used to conduct a hearing or take final disposition regarding an  
17 administrative rule pursuant to § 1-26-4. A member is deemed present if the member answers  
18 present to the roll call conducted by teleconference for the purpose of determining a quorum.  
19 Each vote at an official meeting held by teleconference shall be taken by roll call.

20 If the state, a political subdivision, or a public body conducts an official meeting by  
21 teleconference, the state, the political subdivision, or public body shall provide one or more  
22 places at which the public may listen to and participate in the teleconference meeting. The  
23 requirement to provide one or more places for the public to listen to the teleconference does not  
24 apply to an executive or closed meeting.

1 A violation of this section is a Class 2 misdemeanor.

2 Section 3. That chapter 1-27 be amended by adding thereto a NEW SECTION to read as  
3 follows:

4 The unapproved, draft minutes of any public meeting held pursuant to § 1-25-1 that are  
5 required to be kept by law shall be available for inspection by any person within ten business  
6 days after the meeting. However, this section does not apply if an audio or video recording of  
7 the meeting is available to the public on the governing body's website within five business days  
8 after the meeting. A violation of this section is a Class 2 misdemeanor. However, the provisions  
9 of this section do not apply to draft minutes of contested case proceedings held in accordance  
10 with the provisions of chapter 1-26.

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

13 Any final recommendations, findings, or reports that result from a meeting of a committee,  
14 subcommittee, task force, or other working group which does not meet the definition of a  
15 political subdivision or public body pursuant to § 1-25-1, but was appointed by the governing  
16 body, shall be reported in open meeting to the governing body which appointed the committee,  
17 subcommittee, task force, or other working group. The governing body shall delay taking any  
18 official action on the recommendations, findings, or reports until the next meeting of the  
19 governing body.