

Committee: Senate Local Government

Friday, February 05, 2021 7:45 AM

Roll Call

Present: Sen. Bolin, Sen. Cammack, Sen. Diedrich, Sen. Foster, Sen. Klumb, and  
Sen. Herman Otten

Excused: Sen. Frye-Mueller

OTHERS PRESENT: See Original Minutes

**The meeting was called to order by Senator Herman Otten**

**MOTION: TO APPROVE THE MINUTES OF WEDNESDAY, FEBRUARY 03<sup>RD</sup>**

Moved by: Klumb

Second by: Bolin

Action: Prevailed by voice vote

**SB 134 : limit the required application of green building standards.**

Presented by: Ryan Maher, Senator

Proponents: Heather Forney, Board of Regents (Handout(s) 1)

Deb Mortenson, Associated General Contractors of South Dakota, Pierre

Opponents: Justin G. Smith, AIA South Dakota, Sioux Falls (Handout(s) 2)

Justin Bell, South Dakota Design Professionals Coalition, Mobridge

Rick Bell, self, Rapid City, South Dakota

**MOTION: AMEND SB 134**

134A

On page 1, line 8, of the Introduced bill, delete " silver standard" and insert " certified"

On page 1, line 8, of the Introduced bill, after "rating" insert " with at least seventeen energy and atmosphere points"

On page 2, line 5, of the Introduced bill, delete " The design of any new construction must attempt to achieve the highest rating, reasonably obtainable, in accordance with the high-performance green building standard" and insert " New construction shall, in good faith, be designed with the intention of meeting or exceeding the high performance green building standard that was in effect when the construction was registered with the rating system. Before construction begins, the Office of the State Engineer, architect, and building owner shall identify, in good faith, all components of the new construction that are used to satisfy the requirements of this section, but the construction is not required to receive certification"

Moved by: Cammack

Second by: Bolin

Action: Prevailed by voice vote

**MOTION: DEFER SB 134 TO THE 41<sup>ST</sup> LEGISLATIVE DAY**

Moved by: Foster

Action: Died for lack of a second

**MOTION: DO PASS SB 134 AS AMENDED**

Moved by: Bolin  
Second by: Herman Otten  
Action: Prevailed by roll call vote (4-2-1-0)

Voting Yes: Bolin, Cammack, Klumb, and Herman Otten

Voting No: Diedrich and Foster

Excused: Frye-Mueller

**SB 81 : authorize certain flags and flagpoles to be located on residential property within in a community improvement district.**

Presented by: James Bolin, South Dakota State Senator, Canton  
Proponents: Twyla Rosenbaum, Dakota Dunes, self

**MOTION: AMEND SB 81**

81A

On page 1, line 1, of the Introduced bill, delete " within in a community improvement district" and insert " regardless of any private covenants, restrictions, bylaws, rules, or requirements"

On the Introduced bill, delete everything after the enacting clause and insert:  
"

**Section 1.** That a NEW SECTION be added:

11-5-7. Flag--Display

Any homeowner, regardless of any private covenants, restrictions, bylaws, rules, or requirements may display one portable, removable official United States flag, not larger than four and half feet by six feet and may additionally display the official South Dakota State flag or one portable, removable official flag, not larger than four and half feet by six feet, that represents the United States Army, Navy, Air Force, Marine Corps, or Coast Guard, or a POW MIA flag. The additional flag must be equal in size to or smaller than the official United States flag.

**Section 2.** That a NEW SECTION be added:

11-5-8. Flagpole--Display

Any homeowner, regardless of any private covenants, restrictions, bylaws, rules, or requirements, may erect a freestanding flagpole no more than twenty feet high on any portion of the homeowner's property, if the flagpole does not obstruct sightlines at intersections and is not erected within or upon an easement. The homeowner may further display from that flagpole, one official United States flag, not larger than four and half feet by six feet, and may additionally display one official South Dakota State flag or official flag that represents the United States Army, Navy, Air Force, Marines, or Coast Guard, or a POW MIA flag. The additional flag must be equal in size to or smaller than the official United States flag.

The flagpole specifications and display are subject to building codes imposed by this state or appropriate local governing body.

"

Moved by: Cammack

Second by: Klumb  
Action: Prevailed by voice vote

**MOTION: DO PASS SB 81 AS AMENDED**

Moved by: Bolin  
Second by: Klumb  
Action: Prevailed by roll call vote (6-0-1-0)

Voting Yes: Bolin, Cammack, Diedrich, Foster, Klumb, and Herman Otten

Excused: Frye-Mueller

**SB 168 : revise the population requirement for appointment of coroners.**

Presented by: James Bolin, South Dakota State Senator, Canton

**MOTION: DO PASS SB 168**

Moved by: Klumb  
Second by: Diedrich  
Action: Prevailed by roll call vote (6-0-1-0)

Voting Yes: Bolin, Cammack, Diedrich, Foster, Klumb, and Herman Otten

Excused: Frye-Mueller

**HAVING PASSED UNANIMOUSLY, THE CHAIR CERTIFIED SB 168 AS UNCONTESTED AND AS SUCH BE PLACED ON THE CONSENT CALENDAR.**

The Gavel was passed to Senator Diedrich, Vice Chair

**SB 92 : require that certain proposed rules include an affordable housing impact statement.**

Presented by: Herman Otten, Senator

Proponents: Julie M Johnson, Homes Are Possible Inc, Aberdeen  
Tim Dougherty, South Dakota Home Builders Association, Pierre

**MOTION: AMEND SB 92**

92A

On page 1, line 1, of the Introduced bill, delete " an affordable housing impact statement" and insert " a housing cost impact statement"

On page 1, line 6, of the Introduced bill, delete "An agency shall, when submitting any proposed rule that will have a direct impact on the cost of single-family or multi-family housing, prepare an affordable housing impact statement that includes:

- (1) An explanation, in plain, easy-to-read language, regarding the effect of the rule on the cost of housing, the basis for the enactment, and the reason that the rule is necessary;
- (2) The type of housing that will be subject to the rule;
- (3) (a) The projected reporting and recordkeeping for compliance with the rule; and  
(b) The professional skills necessary to prepare the report or record;
- (4) A cost estimate, per housing unit, of compliance with the rule; and

(5) A description of any less intrusive or less costly alternative for achieving the purpose of the rule.

In preparing the affordable housing impact statement, an agency is required to use only readily available information and existing resources." and insert " Before an agency may promulgate any rule prescribing new standards or requirements for building or remodeling a residential structure that is based on a model code developed by a national or international organization of trade professionals, including standards for electrical, plumbing or mechanical systems, energy conservation, or fire prevention, the agency shall prepare a housing cost impact statement setting forth the need for each new standard or requirement and the estimated cost, per dwelling unit, of compliance. To determine the estimated cost of compliance, the agency shall obtain from three licensed contractors, or other applicable building trades professionals operating in this state an estimate of the total cost to consumer of all materials, labor and taxes necessary to comply with the proposed new standard or requirement. The agency shall use the average of these estimates in preparing the impact statement. For purposes of this section, residential structure, means any one-family dwelling, two-family dwelling, or townhouse not more than three stories above grade."

On page 2, line 9, of the Introduced bill, delete "impact statement on affordable housing " and insert "housing cost impact statement "

On page 2, line 17, of the Introduced bill, delete "impact statement on affordable housing " and insert "housing cost impact statement "

On page 2, line 23, of the Introduced bill, delete "impact statement on affordable housing" and insert " housing cost impact statement "

On page 3, line 16, of the Introduced bill, delete " impact statement on affordable housing" and insert " housing cost impact statement"

Moved by: Bolin  
Second by: Klumb  
Action: Prevailed by voice vote

**MOTION: DO PASS SB 92 AS AMENDED**

Moved by: Klumb  
Second by: Bolin  
Action: Prevailed by roll call vote (5-0-2-0)

Voting Yes: Bolin, Diedrich, Foster, Klumb, and Herman Otten

Excused: Cammack and Frye-Mueller

**HAVING PASSED UNANIMOUSLY, THE CHAIR CERTIFIED SB 92 AS UNCONTESTED AND AS SUCH BE PLACED ON THE CONSENT CALENDAR.**

The gavel was passed back to the Chair, Senator Otten

**SB 137 : provide for the reimbursement of lost revenue for businesses forcibly closed by a governmental entity.**

Presented by: Senator Al Novstrup  
Opponents: Yvonne Taylor, South Dakota Municipal League, Fort Pierre, South Dakota  
Lorin D Pankratz, South Dakota Association of County Commissioners, Pierre  
Brian Burge, Beresford, South Dakota, self

**MOTION: AMEND SB 137**

On page 1, line 2, of the Introduced bill, after "closed " insert "or has indoor capacity limits imposed "

On page 1, line 7, of the Introduced bill, after "business" insert " or temporarily limits the indoor capacity of a classification of business"

On page 1, line 8, of the Introduced bill, delete "caused the closure " and insert "passed or enacted the resolution or ordinance "

On page 1, line 8, of the Introduced bill, delete "any " and insert "the "

On page 1, line 8, of the Introduced bill, delete "for " and insert "as follows:

(1) For the period of closure, "

On page 1, line 9, of the Introduced bill, delete " during the period of closure" and insert "; and

(2) For the period of capacity limitation, the amount allowed under subdivision (1), but reduced in proportion to the capacity limit over the maximum capacity otherwise allowed by law"

On page 1, line 10, of the Introduced bill, after "closure " insert "or capacity limitation "

On page 1, line 11, of the Introduced bill, after "market" insert ", or, if less than three years of such historical data is available, the data that is available shall be used"

Moved by: Bolin

Second by: Klumb

Action: Prevailed by voice vote

**MOTION: DEFER SB 137 TO THE 41<sup>ST</sup> LEGISLATIVE DAY**

Moved by: Cammack

Second by: Herman Otten

Action: Prevailed by roll call vote (5-1-1-0)

Voting Yes: Bolin, Cammack, Diedrich, Foster, and Herman Otten

Voting No: Klumb

Excused: Frye-Mueller

**MOTION: ADJOURN**

Moved by: Bolin

Second by: Diedrich

Action: Prevailed by voice vote

Mary Kirk, Committee Secretary

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/s/ HERMAN OTTEN  
Herman Otten, Chair