



2023 South Dakota Legislature

Senate Bill 200

Introduced by: **Senator Schoenfish**

1 **An Act to authorize participation in contracts by certain board members and**
 2 **employees of water districts.**

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

4 **Section 1. That chapter 46A-9 be amended with a NEW SECTION:**

5 The board may authorize a director, or an employee of the water user district
 6 whose responsibilities include approving, awarding, or administering a contract on behalf
 7 of the district, to be a party to a contract or derive a direct benefit from a contract with
 8 the district, if:

- 9 (1) The person provides a written disclosure of the person's interest to the board;
 10 (2) The board reviews the terms of the contract and the person's obligations and
 11 benefits under the contract;
 12 (3) The board determines that the contract is fair and reasonable to the district and
 13 not contrary to the public interest; and
 14 (4) The board adopts a resolution of approval that is in written form and retained as a
 15 public record.

16 **Section 2. That chapter 46A-9 be amended with a NEW SECTION:**

17 For purposes of section 1 of this Act, a direct benefit from a contract is derived if
 18 the director or employee, the spouse of the director or employee, or any other person
 19 with whom the director or employee lives and commingles assets:

- 20 (1) Has more than a five percent ownership interest in an entity that is a party to the
 21 contract;
 22 (2) Derives income, compensation, or commission directly from the contract or from
 23 an entity that is a party to the contract;
 24 (3) Acquires real or personal property under the contract; or
 25 (4) Serves as a director on the board of a for-profit entity that:

- 1 (a) Derives income or a commission from the contract; or
2 (b) Acquires real or personal property under the contract.
3 A direct benefit is not derived solely from the value associated with any investment
4 or holdings by a director or employee, the spouse of the director or employee, or any
5 other person with whom the director or employee lives and commingles assets.