

State of South Dakota

NINETY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 2019

750B0344

SENATE LOCAL GOVERNMENT ENGROSSED NO. **SB 65** - 2/14/2019

Introduced by: Senators Novstrup, Ewing, Greenfield (Brock), Heinert, Rusch, Schoenbeck, Steinhauer, and Youngberg and Representatives York, Bartels, Chase, Deutsch, Glanzer, Goodwin, Greenfield (Lana), Hammock, Johns, Johnson (David), Perry, Reed, and Wiese

1 FOR AN ACT ENTITLED, An Act to provide for the construction, renovation, improvement,
2 remodeling, alteration, addition to and repairing of courthouses, jails, incarceration
3 reduction facilities, and other necessary buildings.

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

5 Section 1. That the code be amended by adding a NEW SECTION to read:

6 The board of county commissioners may, by resolution, impose a non-ad valorem tax at a
7 rate not to exceed one-half percent in accordance with the provisions of this Act. The tax shall
8 be levied on the sale, use, storage, and consumption of items taxed under chapters 10-45 and
9 10-46 within the county. The tax shall conform in all respects to the state tax on such items with
10 the exception of the rate.

11 Section 2. That the code be amended by adding a NEW SECTION to read:

12 Any tax imposed under section 1 of this Act shall be subject to a vote of the registered voters
13 of the county and enacted only if approved by a majority of the votes cast for and against the



1 resolution at an election. The election shall be held within sixty days after the board's approval
2 of the resolution described in section 1 of this Act. However, if the resolution is passed within
3 three months prior to a primary, general, or statewide special election, the resolution may be
4 submitted at the primary, general, or statewide special election. Except as modified by this
5 section, the election shall be held in the same manner as an election for a referred resolution as
6 provided in chapter 7-18A.

7 Section 3. That the code be amended by adding a NEW SECTION to read:

8 Notwithstanding § 7-18A-8, any new resolution or amendment to a resolution enacted under
9 the authority of this Act, and any tax rate affected thereby, may become effective only on
10 January first or July first of a calendar year. If a resolution or amendment enacted under this Act
11 is approved, the effective date shall be the earlier of January first or July first following at least
12 ninety days notification by the county to the secretary of revenue that the resolution or
13 amendment has been approved notwithstanding § 7-18A-14. Notification of the enactment or
14 approval of the resolution shall be in writing and mailed, along with a copy of the resolution or
15 amendment, by registered or certified mail to the secretary of revenue.

16 Section 4. That the code be amended by adding a NEW SECTION to read:

17 The board of county commissioners shall specify in the resolution the proposed use of the
18 tax. The use specified in the resolution may be any or all of the following: to provide for the
19 construction, renovation, improvement, remodeling, alteration, addition to and repairing of
20 courthouses, jails, incarceration reduction facilities, or other buildings as described in § 7-24-1.
21 The board of county commissioners may also use the proposed tax for the purpose of sharing
22 expenses for the construction or renovation of a jail facility, in accordance with § 24-11-3, with
23 another county or counties.

24 The board of county commissioners shall specify in the resolution the maximum number of

1 years the tax will be applied or the latest date the tax will end. If sufficient tax revenue is
2 collected or projected to be collected to pay for the expenditure prior to the end date specified
3 in the ordinance, the tax shall be repealed at such date in accordance with the provisions of § 10-
4 52-9. No tax levied pursuant to this section may be extended or renewed, unless the board of
5 county commissioners adopts a new resolution and receives approval from voters.

6 Section 5. That the code be amended by adding a NEW SECTION to read:

7 Any excess revenue received and remaining after the termination of a non-ad valorem tax
8 shall be applied to expenses of maintaining or operating, or both, any county capitol
9 improvements specified by the ordinance.

10 Section 6. That the code be amended by adding a NEW SECTION to read:

11 The Department of Revenue shall administer any tax imposed under this Act. The
12 department shall keep full and accurate records of all moneys received and distributed under this
13 Act.

14 Section 7. That the code be amended by adding a NEW SECTION to read:

15 All moneys received and collected on behalf of a county by the Department of Revenue
16 under this Act shall be distributed to the county after deducting the amount of refunds made, the
17 amounts necessary to defray the cost of collecting the tax, and the administrative expenses
18 incident thereto. The balance shall be paid within thirty days after collection to the county
19 entitled to the payment.

20 Section 8. That the code be amended by adding a NEW SECTION to read:

21 The secretary of revenue may promulgate rules, pursuant to chapter 1-26, concerning:

- 22 (1) Licensing, including bonding and filing license applications;
- 23 (2) The filing of returns and the payment of the tax;
- 24 (3) The application of the tax and exemptions;

1 (4) Taxpayer record-keeping requirements; and

2 (5) Determining audits.

3 Section 9. That the code be amended by adding a NEW SECTION to read:

4 Each county imposing a non-ad valorem tax pursuant to this Act may issue county non-ad
5 valorem tax revenue bonds pursuant to § 7-24-2 in anticipation of the collection of the taxes.
6 The bonds shall be payable solely from the collections of the tax imposed by the county under
7 this Act, as determined by the board of county commissioners. The board of county
8 commissioners shall, in the resolution or resolution authorizing the bonds, agree that the county
9 will continue to impose and collect the taxes so long as the bonds are outstanding. The board
10 of county commissioners shall also pledge so much of the collections of the taxes as may be
11 necessary to pay the principal premium and interest on the bonds and to maintain any debt
12 service reserve established for the bonds. The proceeds of the bonds may be used to provide for
13 the construction, renovation, improvement, remodeling, alteration, addition to and repairing of
14 courthouses, jails, incarceration reduction facilities, and other necessary buildings as provided
15 in § 7-24-1 to establish a debt service reserve fund for the bonds and to pay not more than one
16 year's capitalized interest on the bonds.

17 If the non-ad valorem tax is approved by voters, no separate election is required to authorize
18 the issuance of county non-ad valorem tax revenue bonds. Any bonds shall be issued and sold
19 as provided in chapter 6-8B.

20 Section 10. That the code be amended by adding a NEW SECTION to read:

21 If a county has an existing obligation or bond outstanding to fund the renovation or
22 replacement of existing courthouses, jails, incarceration reduction facilities, or other necessary
23 buildings as provided in § 7-24-1 the county may appropriate as much of the collection of the
24 taxes pursuant to this Act, as may be necessary to pay the principal and interest on the existing

1 obligation or bond outstanding.

2 Section 11. That the code be amended by adding a NEW SECTION to read:

3 For the purposes of this Act, an incarceration reduction facility means a structure that

4 provides an appropriate venue for programs and activities designed to reduce incarceration.