

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

507C0438

HOUSE TAXATION COMMITTEE

ENGROSSED NO. **HB1232** - 2/19/99

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

Introduced by: Representatives Diedtrich (Elmer) and Waltman and Senators Lawler and Drake

1 FOR AN ACT ENTITLED, An Act to provide for a retroactive application of the definition of
2 telephone company operating property.

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

4 Section 1. The Legislature finds:

5 (1) That at all times since July 1, 1974, § 10-33-10, as heretofore existing in the statutes
6 of this state were intended by the Legislature to apply the operating property of each
7 telephone company, including each wireless and cellular telephone company;

8 (2) That the Department of Revenue, in good faith, for the years 1992, 1993, 1994, 1995,
9 and 1996 included property belonging to any wireless and cellular telephone company
10 in the definition of operating property pursuant to § 10-33-10 assessed for taxation
11 by the Department of Revenue;

12 (3) That each county in which any wireless and cellular telephone company operates
13 taxed those wireless and cellular telephone companies based upon a value that was
14 assessed by the Department of Revenue pursuant to § 10-33-10 for the years 1992,
15 1993, 1994, 1995, and 1996;

16 (4) That any wireless and cellular telephone company operating within the State of South

1 Dakota in the years 1992, 1993, 1994, 1995, and 1996 did not object to operating
2 property being assessed for taxation by the Department of Revenue pursuant to § 10-
3 33-10;

4 (5) That each county, in good faith, has received all sums paid pursuant to § 10-33-18,
5 which taxes were assessed upon value of the wireless and cellular telephone
6 companies as determined by the Department of Revenue;

7 (6) That the refund of taxes paid by each wireless and cellular telephone company to the
8 counties for the years 1992, 1993, 1994, 1995, and 1996 would seriously impair the
9 fiscal integrity of those counties;

10 (7) That the citizens of those counties which collected taxes based upon the valuation as
11 determined by the Department of Revenue would be denied basic services of
12 government in the event of such a refund or will be required to pay additional taxes
13 to replace the revenues lost to the county treasuries, and therefore ultimately derive
14 little benefit from any such refund; and

15 (8) That the retroactive application of this Act will not result in the collection of any
16 additional taxes from the citizens of the state.

17 Section 2. The provisions of chapter 67 of the 1998 Session Laws of South Dakota are
18 effective as follows:

19 (1) Retroactively for the time period between January 1, 1992, to December 31, 1996,
20 inclusive; and

21 (2) Prospectively from July 1, 1998.

22 Section 3. The effect of the retroactivity provided for in section 2 of this Act is to cover the
23 taxes that were collected by the counties from wireless and cellular telephone companies for the
24 years 1992, 1993, 1994, 1995, and 1996.

25 Section 4. The collection of any taxes from each wireless and cellular telephone company by

1 the counties for the years 1992, 1993, 1994, 1995, and 1996 as a result of having operating
2 property assessed by the Department of Revenue, prior to the passage of this Act is hereby
3 validated and ratified.

4 Section 5. If any provision of this Act or the application of such provision to any person or
5 circumstance is held invalid, the remainder of the Act and the application of such provisions to
6 persons and circumstances other than those as to which it is held invalid is not affected.

7 Section 6. Whereas, this Act is necessary for the support of the state government and its
8 existing public institutions, an emergency is hereby declared to exist, and this Act shall be in full
9 force and effect from and after its passage and approval.

1 **BILL HISTORY**

- 2 1/28/99 First read in House and referred to Taxation. H.J. 241
- 3 2/2/99 Scheduled for Committee hearing on this date.
- 4 2/4/99 Scheduled for Committee hearing on this date.
- 5 2/9/99 Scheduled for Committee hearing on this date.
- 6 2/11/99 Scheduled for Committee hearing on this date.
- 7 2/16/99 Scheduled for Committee hearing on this date.
- 8 2/18/99 Taxation Hog Housed.
- 9 2/18/99 Scheduled for Committee hearing on this date.
- 10 2/18/99 Taxation Do Pass Amended, Passed, AYES 9, NAYS 3. H.J. 607