

State of South Dakota

SEVENTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2002

400H0721

SENATE BILL NO. 182

Introduced by: The Committee on State Affairs at the request of the Governor

1 FOR AN ACT ENTITLED, An Act to revise the procedures for opting out of the property tax
2 freeze.

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

4 Section 1. That § 10-12-43 be amended to read as follows:

5 10-12-43. The governing body of the school district may raise additional revenues for general
6 fund purposes only, from property tax through the imposition of an excess tax levy. The
7 governing body of a school district may impose the excess tax levy with an affirmative two-thirds
8 vote of the governing body on or before July fifteenth of the year prior to the year the taxes are
9 payable. The governing body of the taxing district shall specify in the resolution the year or
10 number of years the excess tax levy will be applied. No excess levy may be imposed for a period
11 longer than five years unless the governing body again complies with the provisions of § 10-12-
12 43.

13 It is the policy of the State of South Dakota to require full, open, and public disclosure of
14 taxing decisions. To fulfill that purpose, the published announcement required for this section
15 shall be large and conspicuously placed to ensure that the tax-paying public is fully informed of



1 the decisions affecting them. Therefore, the requirements for an announcement made pursuant
2 to this section are as follows:

3 (1) The decision of the governing body to originally impose or subsequently increase an
4 excess tax levy shall be first published within ten days of the decision;

5 (2) Publication shall be made in every official newspaper physically located in a county
6 affected by the opt out, and the announcement shall be published at least twice, with
7 no fewer than five days between publication dates, before the opt out takes effect;

8 (3) The announcement shall be at least one-fourth of a page in size;

9 (4) The announcement shall be headed with the following statement in capital letters and
10 in a typeface no less than one-half inch or thirty-six point type: "ATTENTION
11 TAXPAYERS: NOTICE OF PROPERTY TAX INCREASE OF \$(fill in amount)."

12 The remainder of the announcement shall consist of a reproduction of the "Resolution
13 for Opt Out," including the amount that property taxes will be increased annually by
14 the proposed opt out, the names of the board members voting to opt out, and a
15 statement of the right to refer the decision of the board to a vote of the people as
16 provided in this section. The secretary of revenue, in rules promulgated pursuant to
17 chapter 1-26, shall prescribe a uniform form to be used by the school district for
18 notification of taxpayers as required by this section.

19 The opt out decision may be referred to a vote of the people upon a petition signed by at
20 least five percent of the registered voters in the school district and filed with the governing body
21 within twenty days of the first publication of the decision. The referendum election shall be held
22 on or before October first of the year prior to the time the taxes are payable. If the decision of
23 the governing board is referred to a vote, no excess levy may be imposed unless imposition of
24 the excess levy receives a sixty percent affirmative vote of the votes cast for and against the

1 excess levy in the taxing district.

2 The governing body of the school district may rescind an opt out decision by a majority vote
3 of the governing body of the school district.

4 The amount originally imposed or subsequently increased by the school district may be
5 rescinded by the taxpayers if a vote is initiated. The petition to initiate to rescind the opt out shall
6 be signed by at least five percent of the registered voters in the school district and filed with the
7 governing body no later than July fifteenth in the year prior to the year the taxes are payable. The
8 election shall be held on or before October first preceding the year the taxes are payable. The
9 excess levy is rescinded if approved by an affirmative vote of a majority of the votes cast in the
10 taxing district.

11 Any petition filed January first or after does not affect taxes payable that year.

12 Section 2. That § 10-13-36 be amended to read as follows:

13 10-13-36. The governing body of a taxing district may exceed the limit pursuant to
14 § 10-13-35 through the imposition of an excess tax levy. The governing body of a taxing district
15 may impose an excess tax levy with an affirmative two-thirds vote of the governing body on or
16 before July fifteenth of the year prior to the year the taxes are payable. The governing body of
17 the taxing district shall specify in the resolution the year or number of years the excess tax levy
18 will be applied. No excess levy may be imposed for a period longer than five years unless the
19 governing body again complies with the provisions of § 10-13-36.

20 It is the policy of the State of South Dakota to require full, open, and public disclosure of
21 taxing decisions. To fulfill that purpose, the published announcement required for this section
22 shall be large and conspicuously placed to ensure that the tax-paying public is fully informed of
23 the decisions affecting them. Therefore, the requirements for an announcement made pursuant
24 to this section are as follows:

- 1 (1) The decision of the governing body to originally impose or subsequently increase an
2 excess tax levy shall be published within ten days of the decision;
- 3 (2) Publication shall be made in every official newspaper physically located in a county
4 affected by the opt out, and the announcement shall be published at least twice, with
5 no fewer than five days between publication dates, before the opt out takes effect;
- 6 (3) The announcement shall be at least one-fourth of a page in size;
- 7 (4) The announcement shall be headed with the following statement in capital letters and
8 in a typeface no less than one-half inch or thirty-six point type: "ATTENTION
9 TAXPAYERS: NOTICE OF PROPERTY TAX INCREASE OF \$(fill in amount)."
10 The remainder of the announcement shall consist of a reproduction of the "Resolution
11 for Opt Out," including the amount that property taxes will be increased annually by
12 the proposed opt out, the names of the board members voting to opt out, and a
13 statement of the right to refer the decision of the board to a vote of the people as
14 provided in this section. The secretary of revenue, in rules promulgated pursuant to
15 chapter 1-26, shall prescribe a uniform form to be used by the taxing district for
16 notification of taxpayers as required by this section.

17 The opt out decision may be referred to a vote of the people upon a petition signed by at
18 least five percent of the registered voters in the taxing district and filed with the respective
19 governing body within twenty days of the first publication of the decision. The referendum
20 election shall be held on or before October first preceding the year the taxes are payable. If the
21 decision of the governing board is referred to a vote, no excess levy may be imposed unless
22 imposition of the excess levy receives a sixty percent affirmative vote of the votes cast for and
23 against the excess levy in the taxing district. The taxing districts may not exceed the levy limits
24 provided in chapter 10-12 except for the provisions in § 10-12-36.

1 The governing body of the taxing district may rescind an opt out decision by a majority vote
2 of the governing body of the taxing district.

3 The amount originally imposed or subsequently increased by the taxing district may be
4 rescinded by the taxpayers if a vote is initiated. The petition to initiate to rescind the opt out shall
5 be signed by at least five percent of the registered voters in the taxing district and filed with the
6 governing body no later than July fifteenth in the year prior to the year the taxes are payable. The
7 election shall be held on or before October first preceding the year the taxes are payable. The
8 excess levy is rescinded if approved by an affirmative vote of a majority of the votes cast in the
9 taxing district.

10 Any petition filed January first or after does not affect taxes payable that year.