

State of South Dakota

SEVENTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2002

474H0081

HOUSE LOCAL GOVERNMENT COMMITTEE

ENGROSSED NO. **HB 1009** - 01/17/2002

Introduced by: The Committee on Local Government at the request of the Secretary of State

1 FOR AN ACT ENTITLED, An Act to revise the election procedures of certain special purpose
2 districts.

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

4 Section 1. That § 31-12A-15 be amended to read as follows:

5 31-12A-15. In ~~every~~ each road district an annual election of officers shall be held on the first
6 Tuesday after the anniversary date of the first election at ~~such a~~ a place in the district as the board
7 of trustees shall designate. ~~Such~~ The election shall be conducted according to chapter ~~9-13~~ 8-3,
8 at a meeting of the registered voters who reside in the road district.

9 Section 2. That chapter 31-12A be amended by adding thereto a NEW SECTION to read
10 as follows:

11 Notice of the meeting and election required by § 31-12A-15 shall be given by the secretary-
12 treasurer by one publication in a legal newspaper of general circulation in each county in which
13 the district is situated or notice may be given by posting in a public place within the district and
14 delivering the notice to each registered voter of the district. The notice shall include the time and
15 place of the election and each vacancy to be filled at the election. The meeting shall be held not



1 less than seven days nor more than fourteen days after the date of publication or delivery of the
2 notice.

3 Section 3. That § 34-11A-2 be amended to read as follows:

4 34-11A-2. Any municipality located within the area may be included in the ambulance district
5 if twenty percent of the landowners within the municipality who are also registered voters within
6 the municipality sign a separate petition from that municipality, or if the governing body of the
7 municipality establishes intent by passing a resolution so indicating.

8 Section 4. That § 34-11A-29 be amended to read as follows:

9 34-11A-29. A regular meeting of the registered voters who are residing within the boundaries
10 of a district shall be held in the first quarter of each calendar year and special meetings may be
11 called by the board of directors at any time. The annual election shall be conducted during the
12 regular meeting. Notice ~~thereof~~ of the annual election shall be given by the secretary-treasurer
13 by one publication in a legal newspaper of general circulation in each county in which ~~such~~ the
14 district is situated. The meeting shall be held not less than seven days nor more than fourteen
15 days after the date of publication of ~~such~~ the notice.

16 Section 5. That § 34-31A-3 be amended to read as follows:

17 34-31A-3. Any municipality located within the area, whether the municipality has a fire
18 department or not, may be included in the rural fire district if twenty percent of the landowners
19 within the municipality who are also registered voters within the municipality sign ~~the~~ a separate
20 petition from that municipality, or if the governing body of the municipality establishes intent by
21 passing a resolution so indicating.

22 Section 6. That § 34-31A-43 be amended to read as follows:

23 34-31A-43. A regular meeting of the electors who are owners of any interest in real property
24 assessed for taxation in the district and who are residing within the boundaries of a district shall

1 be held in the first quarter of each calendar year and special meetings may be called by the board
2 of directors at any time. The annual election shall be conducted during the regular meeting.
3 ~~Notice thereof~~ of the annual election shall be given by the secretary-treasurer by one publication
4 in a legal newspaper of general circulation in each county in which ~~such~~ the district is situated.
5 The meeting shall be held not less than seven days nor more than fourteen days after the date of
6 publication of ~~such~~ the notice.

7 Section 7. That § 46A-18-23 be amended to read as follows:

8 46A-18-23. Prior to May first of each year, on ~~dates~~ a date established by the directors, an
9 annual meeting of the district shall be held during which the registered voters shall elect, by
10 ballot, under the direction of the secretary of the district, directors to replace those whose terms
11 have expired. Newly elected directors shall assume office at the time of their election.

12 Section 8. That § 46A-18-47 be amended to read as follows:

13 46A-18-47. In the election provided in § 46A-18-45, ~~eligibility~~ registered voters are eligible
14 ~~to vote as prescribed by § 46A-18-5 shall govern.~~ If special assessments are proposed, only
15 those landowners subject to such assessments may vote. If the financing proposal provides for
16 both general tax levies and special assessments, the votes applicable to the general tax and the
17 votes applicable to the special assessments shall be counted separately and accepted separately
18 for purposes of determining the outcome of the election.

19 Section 9. That § 3-4-3 be amended by adding thereto a NEW SUBDIVISION to read as
20 follows:

21 In special purpose districts, unless otherwise provided, by the remaining board of trustees.

State of South Dakota

SEVENTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2002

493H0479

SENATE STATE AFFAIRS COMMITTEE ENGROSSED

NO. **HCR 1001** - 01/25/2002

Introduced by: Representatives McCaulley, Begalka, Brown (Jarvis), Clark, Duenwald, Duniphan, Eccarius, Frost, Fryslie, Garnos, Hansen (Tom), Heineman, Hennies (Don), Hennies (Thomas), Holbeck, Hunhoff, Jaspers, Jensen, Juhnke, Klaudt, Koistinen, Konold, Lintz, Madsen, McCoy, Michels, Monroe, Murschel, Napoli, Pederson (Gordon), Peterson (Bill), Pitts, Pummel, Rhoden, Sebert, Slaughter, Solum, Sutton (Duane), Teupel, Van Etten, Van Gerpen, and Wick and Senators Everist, Albers, Apa, Bogue, Brosz, Brown (Arnold), Cradduck, Daugaard, Diedrich (Larry), Diedrich (Elmer), Drake, Greenfield, Ham, Kleven, Madden, McCracken, Munson, Olson (Ed), Putnam, Staggers, and Vitter

1 A CONCURRENT RESOLUTION, Requesting the United States Congress not to attempt to
2 repeal or rescind any of the tax relief legislation passed by the United States Congress in May
3 2001.

4 WHEREAS, the Economic Growth and Tax Relief Reconciliation Act of 2001 (H.R. 1836)
5 was passed with bipartisan support; and

6 WHEREAS, the bill granted much-needed tax relief for all working families in South Dakota;
7 and

8 WHEREAS, some members of the United States Congress are calling for the repeal or delay
9 of parts of the tax relief bill, which would, in effect, raise taxes on South Dakota's families:

10 NOW, THEREFORE, BE IT RESOLVED, by the House of Representatives of the Seventy-



1 seventh Legislature of the State of South Dakota, the Senate concurring therein, that the
2 Congress of the United States be respectfully requested to leave the tax cuts in the Economic
3 Growth and Tax Relief Reconciliation Act of 2001 (H.R. 1836) intact, to accelerate the tax cuts
4 if needed, and to allow the tax cuts therein to be fully implemented, unless the implementation
5 of the tax cuts would interfere with the efforts of the United States to combat terrorism or would
6 imperil the lives of our military service men and women.

State of South Dakota

SEVENTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2002

400H0336

SENATE STATE AFFAIRS COMMITTEE ENGROSSED

NO. **SB 40** - 01/26/2002

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

1 FOR AN ACT ENTITLED, An Act to allocate expenses of the investment council to certain
2 trust funds and to provide provisions for the investment and the distribution of certain trust
3 funds.

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

5 Section 1. That § 4-5-30 be amended to read as follows:

6 4-5-30. The state investment officer, utilizing the facilities of the state budgetary accounting
7 system, shall pool cash accounts within the funds enumerated in § 4-5-23. The Appropriations
8 Committee of the Legislature, upon recommendations from the commissioner of finance and
9 management, shall certify those funds which are to participate in the interest income of the
10 pooled investments. The state investment officer shall credit the gain or interest due as a result
11 of investments made pursuant to § 4-5-29 on a pro rata basis to the participating funds in the
12 same ratio as the average daily cash balance of each fund bears to the total average cash balance
13 of all funds.

14 At the beginning of each fiscal year the state treasurer shall transfer money from the South
15 Dakota retirement fund, cement plant retirement fund, health care trust fund, education



1 enhancement trust fund, the trust fund derived from the sale of state cement enterprises, and any
2 other specific fund approved by the Bureau of Finance and Management, other than the state
3 pooled fund account, to the investment council expense fund, which is hereby created in an
4 amount equal to the ratio of the average assets in each fund for the previous fiscal year to the
5 total average assets managed by the investment council for the previous fiscal year multiplied by
6 the difference between the budget of the investment council for the fiscal year and the beginning
7 cash balance in the investment council expense account. At the beginning of each fiscal year the
8 state treasurer shall transfer money from the pooled income account to the investment council
9 expense account in an amount equal to the ratio of the average daily cash balance of the pooled
10 fund account for the previous fiscal year to total average assets managed by the investment
11 council for the previous fiscal year multiplied by the difference between the budget of the
12 investment council for the fiscal year and the beginning cash balance in the investment council
13 expense account. At the beginning of each fiscal year, the state treasurer shall transfer money
14 from the general fund portion of the pooled income account to the investment council expense
15 account in an amount equal to the ratio of the average daily cash balance of the permanent school
16 and other educational fund provided for in Article VIII of the Constitution for the previous fiscal
17 year to total average assets managed by the investment council for the previous fiscal year
18 multiplied by the difference between the budget of the investment council for the fiscal year and
19 the beginning cash balance in the investment council expense account.

20 Section 2. That § 4-5-26 be amended to read as follows:

21 4-5-26. Money made available for investment may be invested in the following classes of
22 securities and investments and, except as provided by § 3-12-117, chapter 3-13, the South
23 Dakota Cement Plant retirement fund, ~~and~~ the permanent trust fund containing the net proceeds
24 from the sale of state cement enterprises, the health care trust fund as provided in S.D. Const.,

1 Art. XII, § 5, and the education enhancement trust fund as provided in S.D., Art. XII, § 6, not
2 otherwise:

- 3 (1) Direct and indirect obligations of the United States government;
- 4 (2) Agencies and instrumentalities of the United States government;
- 5 (3) Direct obligations of the State of South Dakota and any of its political subdivisions;
- 6 (4) Obligations consisting of notes, bonds, debentures, and certificates which are direct
7 obligations of a solvent corporation or trust existing under the laws of the United
8 States or any state thereof, if such investments are rated in the four highest
9 classifications established by at least two standard rating services; or
- 10 (5) Savings accounts, share accounts, certificates of deposit of banks, savings and loan
11 associations, building and loan associations, and bankers' acceptances;
- 12 (6) In addition to the investments authorized by subdivisions (1) to (5) of this section,
13 inclusive, the investment council may also allocate a sum certain of state public funds
14 for investment in the accounts and certificates of South Dakota banks and
15 associations. This sum shall initially be offered to South Dakota banks and
16 associations, and if not initially fully subscribed, the investment officer shall
17 immediately reoffer the unsubscribed sum to other qualified public depositories
18 defined by subdivision 4-6A-1(7).

19 Section 3. Pursuant to S.D. Const., Art. XII, § 5, the state investment officer shall determine
20 the market value of the health care trust fund as of June thirtieth each year less the investment
21 expenses transferred pursuant to § 4-5-30. As soon as practicable after July first the state
22 investment officer shall calculate an amount equal to four percent of that market value, without
23 invading principal, as eligible for distribution. For the purpose of this section, the term, principal,
24 means the sum of all contributions to the fund. Beginning with the distribution in fiscal year

1 2006, a four year average market value shall be used to calculate the distribution. Upon notice
2 of that amount by the state investment officer, the state treasurer shall transfer the amount from
3 the health care trust fund to the state general fund.

4 Section 4. Pursuant to S.D. Const., Art. XII, § 6, the state investment officer shall determine
5 the market value of the education enhancement trust fund as of June thirtieth each year less the
6 investment expenses transferred pursuant to § 4-5-30. As soon as practicable after July first the
7 state investment officer shall calculate an amount equal to four percent of that market value,
8 without invading principal, as eligible for distribution. For the purpose of this section, the term,
9 principal, means the sum of all contributions to the fund. Beginning with the distribution in fiscal
10 year 2006, a four year average market value shall be used to calculate the distribution. Upon
11 notice of that amount by the state investment officer, the state treasurer shall transfer the amount
12 from the education enhancement trust fund to the state general fund.

State of South Dakota

SEVENTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2002

264H0506

SENATE TAXATION COMMITTEE ENGROSSED NO.

SB 85 - 01/25/2002

Introduced by: Senators Symens, Dennert, Diedrich (Larry), Duxbury, and Vitter and
Representatives Jaspers, Duenwald, Hargens, Jensen, Juhnke, Peterson (Jim),
and Van Norman

1 FOR AN ACT ENTITLED, An Act to exempt from sales tax certain contract services provided
2 to agricultural producers by an agent of a parent company through a local contracting entity
3 and certain employee expense reimbursement provided by an agricultural cooperative.

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

5 Section 1. That chapter 10-45 be amended by adding thereto a NEW SECTION to read as
6 follows:

7 There are specifically exempted from the provisions of this chapter and from the computation
8 of the tax imposed by it, the gross receipts from the sale of services rendered by a parent
9 company to a local cooperative, if the local cooperative is a local contracting entity, for the
10 purpose of paying for the services of an agent who meets with agricultural producers promoting,
11 educating, and providing technical assistance and information on the parent company's products
12 which are sold through a local contracting entity.

13 Section 2. That chapter 10-45 be amended by adding thereto a NEW SECTION to read as
14 follows:



1 There are specifically exempted from the provisions of this chapter and from the computation
2 of the tax imposed by it, the gross receipts from employee expense reimbursement provided by
3 an agricultural cooperative to a company, if the agricultural cooperative owns at least twenty-
4 five percent of such company.

State of South Dakota

SEVENTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2002

571H0690

SENATE TRANSPORTATION COMMITTEE ENGROSSED NO. **SB 164** - 01/24/2002

Introduced by: Senator Diedtrich (Elmer) and Representative Frost

1 FOR AN ACT ENTITLED, An Act to require damage disclosure statements for certain large
2 boats.

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

4 Section 1. That chapter 32-3A be amended by adding thereto a NEW SECTION to read as
5 follows:

6 Upon the sale, assignment, or transfer of a large boat, or if registering a large boat in South
7 Dakota which is titled in another state or jurisdiction, the seller, assignor, or transferor, or person
8 wishing to register in South Dakota a large boat which is titled in another state or jurisdiction
9 shall submit an accurately completed damage disclosure statement when applying for a certificate
10 of title pursuant to § 32-3A-20. The completed damage disclosure statement may be on the back
11 of the certificate of title or on a separate document that has been approved for use by the
12 department. No certificate of title may be issued by the department unless the damage disclosure
13 statement accompanies the application. It is a Class 1 misdemeanor to intentionally falsify any
14 information on the damage disclosure statement. No person is liable to a subsequent owner of
15 a large boat because a prior owner of the large boat failed to disclose that the large boat had



1 previously been damaged and repaired. This section applies to any large boat with damage in
2 excess of twenty-five percent of the retail value as determined by the Anderson Bugg Outboard
3 Services Blue Book or the National Automobile Dealers Association Marine Guide, in effect at
4 the time of the damage. If the large boat has incurred damages more than once, only those
5 damages which occurred at one time would be considered in determining whether the damages
6 exceeded twenty-five percent of the retail value as determined by the Anderson Bugg Outboard
7 Services Blue Book or the National Automobile Dealers Association Marine Guide, in effect at
8 the time of the damage.

9 Section 2. That chapter 32-3A be amended by adding thereto a NEW SECTION to read as
10 follows:

11 For the purposes of the damage disclosure statement provided by section 1 of this Act,
12 damage is damage to the large boat caused by fire, vandalism, collision, weather, submersion in
13 water, or flood, and does not include normal wear and tear, glass damage, mechanical repairs,
14 or electrical repairs that have not been caused by fire, vandalism, collision, weather, submersion
15 in water, or flood.

16 Section 3. That chapter 32-3A be amended by adding thereto a NEW SECTION to read as
17 follows:

18 The department shall retain each damage disclosure statement received. The statement shall
19 become part of the title history available to the public pursuant to § 32-3A-38.

20 Section 4. That chapter 32-3A be amended by adding thereto a NEW SECTION to read as
21 follows:

22 The department shall promulgate rules, pursuant to chapter 1-26, to prescribe the format for
23 the damage disclosure statement provided by section 1 of this Act. An area for a damage
24 disclosure statement shall appear on the back of each certificate of title issued by the department.

1 The department may also approve separate documents on which a damage disclosure statement
2 may be submitted. The damage disclosure statement form shall indicate whether the large boat
3 has been damaged such that it cost more than twenty-five percent of the retail value as
4 determined by the Anderson Bugg Outboard Services Blue Book or the National Automobile
5 Dealers Association Marine Guide, in effect at the time of the damages to repair to its
6 predamaged condition and any other damage information the department deems appropriate. If
7 a separate document from the certificate of title contains the damage disclosure statement, the
8 document shall also require the following information: year, make, model, and hull identification
9 number of the large boat.

10 Section 5. That chapter 32-3A be amended by adding thereto a NEW SECTION to read as
11 follows:

12 The dollar amount of damage to a large boat required to be disclosed pursuant to section 1
13 of this Act shall include the costs necessary to return the damaged large boat to its predamaged
14 condition. Such costs include parts, labor, paint, and hull work done on the damaged large boat.

15 Section 6. That chapter 32-3A be amended by adding thereto a NEW SECTION to read as
16 follows:

17 Any large boat that is required to be titled pursuant to this chapter and is sold or offered for
18 sale by a boat dealer as defined in § 32-3A-2 shall display a sticker, decal, or notice that discloses
19 damage to the large boat in accordance with the provisions of this Act, as determined by the
20 department in rules promulgated pursuant to chapter 1-26. The rules shall also prescribe the
21 format and construction of the sticker, decal, or notice.

22 Section 7. That chapter 32-3A be amended by adding thereto a NEW SECTION to read as
23 follows:

24 Each certificate of title issued by the department shall contain the following phrase: South

1 Dakota state law requires the disclosure of damage on large boats. This information is available
2 upon written request from the Department of Revenue. Each certificate of title shall also contain
3 on its front a statement as to whether previous damage disclosure statements indicate the large
4 boat had been damaged at one time in excess of twenty-five percent of the retail value as
5 determined by the Anderson Bugg Outboard Services Blue Book or the National Automobile
6 Dealers Association Marine Guide, in effect at the time of the damages as provided by section
7 1 of this Act.

8 Section 8. That § 32-3A-38 be amended to read as follows:

9 32-3A-38. The department may upon written request and receipt of a five dollar fee furnish
10 a person a certified abstract of the title history which shall include any damage disclosure
11 statement of any boat registered under the provisions of this chapter. The abstract may include
12 all documents filed with the department to establish the title history of the boat. The fee shall be
13 deposited in the state motor vehicle fund. Governmental entities and their subdivisions are
14 exempt from this fee requirement.

State of South Dakota

SEVENTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2002

664H0691

SENATE JUDICIARY COMMITTEE ENGROSSED NO.

SB 177 - 01/25/2002

Introduced by: Senators Hutmacher and Koskan and Representatives Juhnke and Jensen

1 FOR AN ACT ENTITLED, An Act to revise and modify certain provisions relating to the award
2 of child custody.

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

4 Section 1. That § 25-5-7 be amended to read as follows:

5 25-5-7. The father and mother of an unmarried minor child are equally entitled to the child's
6 custody, service, and earnings. If either the father or mother is dead, or refuses to ~~take the~~
7 assume custody, or ~~has abandoned~~ abandons the family, the other is entitled to the child's
8 custody, service, and earnings. If a sole surviving parent or both parents abandons the child, the
9 court may award custody of the child to a third person pursuant to section 4 of this Act.

10 Section 2. A parent's presumptive right to custody of his or her child may be rebutted by
11 clear and convincing proof that the parent is unfit, has abandoned the child, or has forfeited or
12 otherwise surrendered his or her custodial rights over the child to a third person who stands,
13 constructively or legally, in loco parentis.

14 Section 3. Nothing in section 2 of this Act creates any right on behalf of a stepparent to seek
15 custody or visitation with a stepchild who has lived with that stepparent merely because the



1 stepparent was married to or living with the child's biological parent.

2 Section 4. Any person other than the parent of the child may petition a court of competent
3 jurisdiction for custody or visitation of any child in his or her immediate care if the petitioner has
4 had the child in his or her care and control for a year or more. Either biological parent may rebut
5 the petition by presenting evidence that he or she:

6 (1) Did not abandon his or her parental rights over the child during the time the child was
7 in the care and control of the petitioner; or

8 (2) Did not forfeit or surrender his or her parental rights over the child to any third party
9 during the time the child was in the care and control of the petitioner; or

10 (3) Persistently asserted and exercised his or her parental rights over the child and made
11 good faith efforts to fulfill his or her parental duties and obligations to the child during
12 the time the child was in the care and control of the petitioner.

13 Section 5. If a court determines that a petitioner pursuant to section 4 of this Act should be
14 awarded custody or visitation, the court need not terminate either biological parent's parental
15 rights over the child. A judgment awarding the petitioner custodial rights may award the
16 biological parent with visitation rights with the child.

17 Section 6. If a court awards a third party custodial rights to a child, the court may set child
18 support in whatever amount it deems appropriate, and notwithstanding the provisions of any
19 other statute to the contrary, may waive the biological parent's duty to provide monetary or other
20 support for their child.