

State of South Dakota

SEVENTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2002

400H0320

HOUSE RETIREMENT LAWS COMMITTEE ENGROSSED NO. **HB 1032** - 01/25/2002

Introduced by: The Committee on Retirement Laws at the request of the South Dakota Retirement System

1 FOR AN ACT ENTITLED, An Act to revise certain retirement system provisions to comply
2 with the Economic Growth and Tax Relief Reconciliation Act of 2001, to authorize members
3 to acquire credited service by transferring certain retirement funds, to protect the
4 confidentiality of member information, and to declare an emergency.

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

6 Section 1. That subsection (c) of subdivision 3-12-47(20) be amended to read as follows:

7 (c) Any "compensation" in excess of the limits established in § 401(a)(17) of the
8 Internal Revenue Code as in effect on ~~January 1, 1996~~ January 1, 2002, shall
9 be disregarded for purposes of contributions or for benefit calculations under
10 the system. However, the limit does not apply to compensation earned by a
11 member if the member was employed by a participating unit on or before
12 June 30, 1996;

13 Section 2. That subdivision (28) of § 3-12-47 be amended to read as follows:

14 (28) "Eligible retirement plan," the term eligible retirement plan includes those plans



1 described in section 402(c)(8)(B) of the Internal Revenue Code of 1986, as amended;
2 as in effect on January 1, 2002;

3 Section 3. That § 3-12-89.1 be amended to read as follows:

4 3-12-89.1. Pursuant to chapter 1-26, the board shall adopt rules regulating the maximum
5 annual benefit which may be paid to a member. The rules shall conform to the provisions of
6 § 415 of the Internal Revenue Code of 1954, as amended and as in effect on January 1, 1997,
7 and as clarified in Revenue Ruling 95-29 January 1, 2002.

8 Section 4. That chapter 3-12 be amended by adding thereto a NEW SECTION to read as
9 follows:

10 A contributing member may acquire credited service by utilizing a trustee to trustee transfer
11 of funds, excluding any after tax employee contributions, from a member's individual retirement
12 plan that meets the requirements of sections 403(b) or 457 of the Internal Revenue Code as in
13 effect on January 1, 2002, to pay the cost of purchase pursuant to §§ 3-12-83 or 3-12-84 or the
14 amount of a redeposit pursuant to § 3-12-80.

15 Section 5. That chapter 3-12 be amended by adding thereto a NEW SECTION to read as
16 follows:

17 Any information contained in any record pertaining to a member of the system is confidential
18 and shall be used for the sole purpose of carrying into effect the provisions of this chapter. Any
19 record containing the information is not open to inspection by any person or entity except the
20 member, the board, the employees of the system, or the member's employer. The information and
21 records may be released to the member or with the member's consent. The information and
22 records may also be released pursuant to a court order or subpoena.

23 Section 6. Whereas, this Act is necessary for the support of the state government and its
24 existing public institutions, an emergency is hereby declared to exist, and this Act shall be in full

1 force and effect from and after its passage and approval.

State of South Dakota

SEVENTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2002

814H0180

HOUSE COMMERCE COMMITTEE ENGROSSED NO.

HB 1073 - 01/17/2002

Introduced by: Representatives Flowers, Abdallah, Brown (Jarvis), Burg, Hansen (Tom), Hargens, Holbeck, Hundstad, Jensen, Lange, Olson (Mel), and Sebert and Senators Volesky, Duxbury, Koetzle, McCracken, Moore, and Putnam

1 FOR AN ACT ENTITLED, An Act to require direct reimbursement to ambulance services
2 under certain circumstances.

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

4 Section 1. Notwithstanding any provision of any policy of insurance subject to the general
5 provisions of Title 58, if a policy or contract provides for reimbursement for ambulance service,
6 the reimbursement shall be made payable directly to the ambulance service or jointly to both the
7 insured and the ambulance service. The provisions of this section only apply to nonprofit
8 ambulance services.



State of South Dakota

SEVENTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2002

337H0143

HOUSE JUDICIARY COMMITTEE ENGROSSED NO.

HB 1081 - 01/18/2002

Introduced by: Representatives Madsen, Abdallah, Bartling, Brown (Jarvis), Davis, Duenwald, Fryslie, Garnos, Gillespie, Hargens, Hennies (Thomas), Holbeck, Hunhoff, Juhnke, Klaudt, Lintz, McCaulley, McCoy, Michels, Monroe, Murschel, Nachtigal, Napoli, Peterson (Bill), Peterson (Jim), Pitts, Rhoden, Sebert, Sutton (Duane), Teupel, and Van Gerpen and Senators Greenfield, Apa, Bogue, Hutmacher, McCracken, Moore, and Olson (Ed)

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the revocation or
2 suspension of driving privileges upon conviction for unlawful sales, purchases, possession,
3 or consumption of alcoholic beverages involving persons under twenty-one years of age.

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

5 Section 1. That § 35-9-7 be amended to read as follows:

6 35-9-7. If the conviction or adjudication for a violation of § 35-9-1.1 or 35-9-2 is for a first
7 offense, the court shall, in addition to any other penalty allowed by law, order the suspension of
8 the ~~defendant's~~ person's driving privileges for a period not less than thirty days and not to exceed
9 one year. However, the court may issue an order permitting the person to operate a motor
10 vehicle for purposes of the person's employment or attendance at school or to court-ordered
11 counseling programs during the hours of the day and the days of the week set forth in the order.
12 The court may also restrict the privilege in ~~such~~ some other manner as ~~it sees~~ the court may see



1 fit for a period not to exceed one year.

2 If the conviction or adjudication for a violation of § 35-9-1.1 or 35-9-2 is for a second or
3 subsequent offense, the court shall, in addition to any other penalty allowed by law, order the
4 suspension of the ~~defendant's~~ person's driving privileges for a period not less than sixty days and
5 not to exceed one year. However, the court may issue an order permitting the person to operate
6 a motor vehicle for purposes of the person's employment or attendance at school or to court-
7 ordered counseling programs during the hours of the day and the days of the week set forth in
8 the order. The court may also restrict the privilege in some other manner as the court may see
9 fit for a period not to exceed one year.

State of South Dakota

SEVENTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2002

795H0272

HOUSE RETIREMENT LAWS COMMITTEE
ENGROSSED NO. **HB 1093** - 01/25/2002

Introduced by: Representatives Kooistra, Bradford, Davis, Garnos, Michels, Olson (Mel), and Sebert and Senators Munson, McCracken, and McIntyre

1 FOR AN ACT ENTITLED, An Act to revise certain reemployment requirements in the South
2 Dakota Retirement System.

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

4 Section 1. That chapter 3-12 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 Any member who is receiving a monthly benefit derived from that member's credited service
7 and who is reemployed as a permanent full-time employee, shall make no additional contributions
8 and is not eligible for future benefits pursuant to §§ 3-12-82 and 3-12-111.

9 This section shall not apply to any member who is reemployed as a permanent full-time
10 employee or is party to an employment contract as a permanent full-time employee on or prior
11 to the effective date of this Act.



State of South Dakota

SEVENTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2002

670H0238

HOUSE STATE AFFAIRS COMMITTEE ENGROSSED

NO. **HB 1129** - 01/23/2002

Introduced by: Representatives Madsen, Brown (Jarvis), Duenwald, Eccarius, Elliott, Flowers, Frost, Fryslie, Garnos, Gillespie, Hansen (Tom), Hargens, Hunhoff, Jaspers, Juhnke, Klaudt, Kloucek, Koistinen, Lintz, McCaulley, McCoy, Monroe, Nachtigal, Napoli, Olson (Mel), Pederson (Gordon), Peterson (Bill), Peterson (Jim), Pummel, Rhoden, Richter, Smidt, Teupel, and Van Etten and Senators Putnam, Apa, Bogue, Cradduck, Dennert, Diedrich (Larry), Diedrich (Elmer), Drake, Everist, Greenfield, Hutmacher, Kleven, Madden, McCracken, Moore, Olson (Ed), Sutton (Dan), Vitter, and Volesky

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding concealed pistol
2 permits.

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

4 Section 1. That chapter 23-7 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 Any person who is permitted to carry a concealed pistol in any state whose laws, in the
7 opinion of the South Dakota Attorney General, meet or exceed the requirements of this chapter
8 for the issuance of a permit and whose laws recognize and give effect within that state to a
9 permit issued pursuant to this chapter, may carry a concealed pistol in this state if the permit
10 holder carries the pistol in compliance with the laws of this state.

11 Section 2. That chapter 22-14 be amended by adding thereto a NEW SECTION to read as



1 follows:

2 No person may possess a concealed pistol in accordance with chapter 23-7 or this chapter
3 unless that person also has in his or her physical possession a valid South Dakota permit to carry
4 a concealed pistol or a permit effective pursuant to section 1 of this Act. A violation of this
5 section is a petty offense. However, if within twenty-four hours of being charged with a violation
6 of this section, the person produces a permit to carry a concealed pistol which was valid at the
7 time of the alleged offense in the office of the officer making the demand, the charge shall be
8 dismissed.

9 Section 3. That § 23-7-7 be amended to read as follows:

10 23-7-7. A permit to carry a concealed pistol shall be issued to any person by the sheriff of
11 the county ~~or the chief of police of the municipality~~ in which the applicant resides. The permit
12 shall be valid throughout the state and shall be issued pursuant to § 23-7-7.1. Prior to issuing the
13 permit, the sheriff shall execute a background investigation, including a criminal history check,
14 of every applicant for the purposes of verifying the qualifications of the applicant pursuant to the
15 requirements of § 23-7-7.1. For the purposes of this section, a background investigation is
16 defined as a computer check of available on-line records.

17 Section 4. That § 23-7-7.1 be amended to read as follows:

18 23-7-7.1. A temporary permit to carry a concealed pistol shall be issued within five days of
19 application to a person if the applicant:

- 20 (1) Is eighteen years of age or older;
- 21 (2) Has never pled guilty to, nolo contendere to, or been convicted of a felony or a crime
22 of violence;
- 23 (3) Is not habitually in an intoxicated or drugged condition;
- 24 (4) Has no history of violence;

- 1 (5) Has not been found in the previous ten years to be a "danger to others" or a "danger
2 to self" as defined in § 27A-1-1 or is not currently adjudged mentally incompetent;
- 3 (6) Has been a resident of the county or municipality where the application is being made
4 for at least thirty days;
- 5 (7) Has had no violations of chapter 23-7, 22-14, or 22-42 constituting a felony or
6 misdemeanor in the two five years preceding the date of application or is not currently
7 charged under indictment or information for such an offense; and
- 8 (8) Is a citizen of the United States ~~or has been in the United States legally for at least~~
9 ~~two years; and~~
- 10 (9) Is not a fugitive from justice.

11 A person denied a permit may appeal to the circuit court pursuant to chapter 1-26.

12 Section 5. That § 23-7-8 be amended to read as follows:

13 23-7-8. The application for a permit to carry a concealed pistol shall be in triplicate on a form
14 prescribed by the secretary of state. The application shall require the applicant's complete name,
15 address, occupation, place and date of birth, physical description, a statement that the applicant
16 has never pled guilty to, nolo contendere to, or been convicted of a crime of violence, a sworn
17 statement that the information on the application is true and correct, and the applicant's
18 signature. The original shall be delivered to the applicant as the temporary permit, the duplicate
19 shall within seven days be sent by first class mail to the secretary of state who shall issue the
20 official permit, and the triplicate shall be preserved for four years by the authority issuing the
21 permit.

State of South Dakota

SEVENTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2002

528H0301

HOUSE COMMERCE COMMITTEE ENGROSSED NO.

HB 1151 - 01/24/2002

Introduced by: Representatives Broderick, Bartling, and Pederson (Gordon) and Senators
Munson, Bogue, Diedrich (Larry), and McCracken

1 FOR AN ACT ENTITLED, An Act to require the secretary of state to conduct a pilot program
2 granting certain secured parties the ability to file and provide a procedure to record a
3 financing statement for security interest on agricultural lien and to provide rule-making
4 authority to implement the pilot program.

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

6 Section 1. The secretary of state shall conduct a pilot program granting a secured party the
7 access to allow the secured party to file and provide a procedure to record the secured party's
8 liens pursuant to § 57A-9-501 through the state's computer system. The secretary shall determine
9 the procedure and the parameters on how the pilot program shall be implemented and select the
10 lenders to participate in the pilot program. The secretary may promulgate rules, pursuant to
11 chapter 1-26, concerning the procedure for providing a secured party access to, adequate
12 security for, and confidentiality of any public records related to the secured party's liens listed
13 on the state's computer system.

14 Section 2. The provisions of this Act are repealed on July 1, 2004.



State of South Dakota

SEVENTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2002

445H0112

HOUSE HEALTH AND HUMAN SERVICES
COMMITTEE ENGROSSED NO. **HB 1162** -
01/23/2002

Introduced by: Representatives Van Etten, Frost, Jensen, Konold, Madsen, and McCaulley
and Senators Albers and de Hueck

1 FOR AN ACT ENTITLED, An Act to prohibit the advertising of adoptions under certain
2 circumstances.

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

4 Section 1. No person or entity may advertise or cause to be published, within the state, an
5 advertisement or notice of a child offered or wanted for adoption. No person or entity may hold
6 oneself out through an advertisement as having the ability to place, locate, or receive a child for
7 adoption. This section does not apply to the Department of Social Services, a licensed child
8 placement agency as defined in § 26-6-14, or an attorney licensed in the State of South Dakota.

9 Section 2. For the purposes of this Act, an advertisement means any communication by
10 newspaper, radio, television, handbill, placard, telephone directory, or other print, broadcast, or
11 electronic medium.

12 Section 3. No person may publish or cause to be published, within this state, any
13 advertisement or notice of a child offered or wanted for adoption. A violation of this section is
14 a Class 2 misdemeanor. This section does not apply to any advertisement placed by the



- 1 Department of Social Services, a licensed child placement agency as defined in § 26-6-14, or an
- 2 attorney licensed in the State of South Dakota.

State of South Dakota

SEVENTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2002

876H0401

HOUSE JUDICIARY COMMITTEE ENGROSSED NO.

HB 1170 - 01/25/2002

Introduced by: Representatives McCoy, Abdallah, Hennies (Don), Hennies (Thomas), Kooistra, McCaulley, Olson (Mel), and Van Gerpen and Senators Staggers, Volesky, and Whiting

1 FOR AN ACT ENTITLED, An Act to provide certain provisions regarding assaults against law
2 enforcement personnel and to provide a criminal penalty therefor.

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

4 Section 1. Any person who, with the intent to assault, throws, smears, or causes blood,
5 emesis, mucus, semen, excrement, or human waste to come in contact with a law enforcement
6 officer as defined in subdivision 22-1-2(22), while performing official duties or actions, is guilty
7 of a Class 1 misdemeanor.



State of South Dakota

SEVENTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2002

673H0456

HOUSE JUDICIARY COMMITTEE ENGROSSED NO.

HB 1189 - 01/25/2002

Introduced by: Representatives Wick, Abdallah, Adelstein, Brown (Richard), Duniphan, Hennies (Thomas), Holbeck, Hundstad, Jensen, McCaulley, Peterson (Bill), and Smidt and Senators Munson, Greenfield, Koetzle, Koskan, Olson (Ed), and Staggers

1 FOR AN ACT ENTITLED, An Act to establish the crime of air piracy and to increase the
2 penalty for theft of certain aircraft.

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

4 Section 1. That chapter 22-30 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 Any person who obtains physical control of any aircraft registered pursuant to the provisions
7 of chapter 50-11 by means of inflicting or threatening to inflict serious bodily harm or death on
8 any person is guilty of air piracy.

9 A violation of this section that results in the death of any person is a Class B felony. Any
10 other violation of this section is a Class 1 felony.

11 Section 2. That chapter 22-30A be amended by adding thereto a NEW SECTION to read
12 as follows:

13 Any person who takes or obtains physical control of any aircraft registered pursuant to the



1 provisions of chapter 50-11 with the intent to deprive another of the aircraft or without the
2 permission of the owner or the owner's agent is guilty of theft of an aircraft.

3 A violation of this section is a Class 3 felony.

State of South Dakota

SEVENTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2002

832H0629

HOUSE JUDICIARY COMMITTEE ENGROSSED NO.

HB 1203 - 01/25/2002

Introduced by: Representative McCaulley and Senator Bogue

1 FOR AN ACT ENTITLED, An Act to revise the procedure for foreclosure by advertisement.

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

3 Section 1. That § 21-48-6 be amended to read as follows:

4 21-48-6. Notice that such mortgage will be foreclosed by sale of the mortgaged premises,
5 or some part of them, ~~must~~ shall be given, by publishing the ~~same~~ notice at least once each week
6 for four successive weeks in a legal newspaper of the county where the premises intended to be
7 sold, or some of them, are situated, if there be one in the county, and if not, in the nearest
8 newspaper in the state. Every notice ~~must~~ shall specify:

9 (1) The names of the mortgagor and mortgagee, and the assignee, if any;

10 (2) The date of the mortgage;

11 (3) The amount claimed to be due ~~thereon~~ on the mortgage at the date of the notice;

12 (4) A description of the mortgaged premises, conforming substantially to that contained
13 in the mortgage;

14 (5) The time and place of sale;

15 (6) A description of the default;



1 (7) That the mortgagor can apply for foreclosure by action pursuant to § 21-48-9;

2 (8) The name and address of all persons claiming a lien, encumbrance, or other recorded
3 ownership interest in the property.

4 Section 2. That § 21-48-9 be amended to read as follows:

5 21-48-9. ~~When~~ If the mortgagee or his the mortgagee's assignee has commenced foreclosure
6 by advertisement, the mortgagor or his, the mortgagor's successor in interest, or any other
7 person claiming a lien, encumbrance, or recorded ownership interest in the real property that is
8 the subject of the foreclosure, may require the owner and holder of the mortgage to foreclose
9 by action and for that purpose shall present to the court having jurisdiction thereof an application
10 describing the mortgage and stating ~~his~~ the applicant's interest and stating ~~the fact that he desires~~
11 why the mortgage should be foreclosed by action without necessity of stating any reasons, and
12 upon such application the judge of such court shall, by an order to that effect, enjoin the
13 mortgagee or ~~his~~ the mortgagee's assignee from foreclosing such mortgage by advertisement, and
14 direct that all further proceedings for the foreclosure be had in the circuit court properly having
15 jurisdiction of the subject matter; ~~and for.~~ For the purpose of carrying out the provisions of this
16 section, service may be made upon the attorney or agent of the mortgagee or assignee.

17 Section 3. That chapter 21-48 be amended by adding thereto a NEW SECTION to read as
18 follows:

19 At least twenty-one days prior to the date set for sale, the foreclosing creditor shall serve a
20 written copy of the notice of foreclosure sale on the mortgagor and any lien holder or
21 encumbrancer whose interest in the property being foreclosed would be affected by the
22 foreclosure.

23 Section 4. That § 21-48-23 be amended to read as follows:

24 21-48-23. A record of foreclosure sale must be made as follows:

- 1 (1) An affidavit of the publication of the notice of sale and of any notice of postponement
2 must be made by the printer or publisher of the newspaper in which such notice was
3 published, or some person in his employ knowing the facts;
- 4 (2) An affidavit by the person foreclosing the mortgage, or his attorney, or someone
5 knowing the facts, setting forth the facts relating to the military service status of the
6 owner of the mortgaged premises at the time of sale which affidavit, where such may
7 be required, may also set forth the fact of service of notice of sale upon the secretary
8 of the treasury of the United States of America or his delegate in accordance with the
9 provisions of subsection (c)(1) of section 7425 of the Internal Revenue Code of 1954
10 as amended by Public Law 89-719, known as the Federal Tax Lien Act of 1966, and
11 as amended through January 1, 1987;
- 12 (3) An affidavit executed by the person foreclosing the mortgage, that person's attorney
13 or someone knowing the facts, stating that the mortgagor and any person who is
14 required to receive notice under section 3 of this Act have been given notice of the
15 foreclosure and that no request for foreclosure by action has been made;
- 16 (4) Such affidavits and the certificate of sale hereinabove provided for, must be recorded
17 at length by the register of deeds of the county in which the real property is situated
18 in a book kept for that purpose, and such original instruments, or the records thereof,
19 or certified copies of such records, shall be prima facie evidence of the facts therein
20 contained;
- 21 ~~(4)~~(5) A note shall be made by the register of deeds in the margin of the record of any
22 mortgage which has been foreclosed, showing the book and page where the evidence
23 of such foreclosure sale is recorded.

State of South Dakota

SEVENTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2002

654H0654

HOUSE HEALTH AND HUMAN SERVICES
COMMITTEE ENGROSSED NO. **HB 1241** -
01/25/2002

Introduced by: Representatives Brown (Jarvis), Bartling, Broderick, Davis, Hargens, McCaulley, Murschel, Peterson (Jim), Van Etten, and Van Gerpen and Senators Drake, Moore, and Putnam

1 FOR AN ACT ENTITLED, An Act to provide a time limit for filing an application for county
2 welfare assistance for hospital expenses by or on behalf of a medically indigent person.

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

4 Section 1. That § 28-13-32.3 be amended to read as follows:

5 28-13-32.3. To receive assistance under this chapter for the costs of hospitalization, a person
6 must be medically indigent as defined in § 28-13-1.3. The person or someone acting on behalf
7 of the person shall apply to the person's county of residence for assistance within two years of
8 the date of the hospital's discharge of the person.

