

# State of South Dakota

SEVENTY-SEVENTH SESSION  
LEGISLATIVE ASSEMBLY, 2002

660H0535

## HOUSE LOCAL GOVERNMENT COMMITTEE

### ENGROSSED NO. **HB 1109** - 01/31/2002

Introduced by: Representatives Van Etten, Adelstein, Brown (Richard), Duniphan, Glenski, Hansen (Tom), Hennies (Thomas), McCaulley, McCoy, Murschel, Peterson (Bill), and Pummel and Senators Vitter, Brosz, Daugaard, Ham, Kleven, McCracken, and Whiting

1 FOR AN ACT ENTITLED, An Act to exempt local governments from certain competitive bid  
2 requirements.

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

4 Section 1. That § 5-18-2 be amended to read as follows:

5 5-18-2. ~~All~~ Except as provided in section 2 of this Act, all contracts of any public  
6 corporation, whether for the construction of public improvements or contracts for the purchase,  
7 lease or rental of materials, supplies or equipment, ~~when~~ if such contracts involve an expenditure  
8 equal to or in excess of the amount provided for in § 5-18-3, ~~must~~ shall be let to the lowest  
9 responsible bidder. The governing body ~~shall have the right to~~ may reject any and all bids and ~~to~~  
10 readvertise for proposals if none of the bids are satisfactory, or if they believe any agreement has  
11 been entered into by the bidders to prevent competition.

12 Section 2. That chapter 5-18 be amended by adding thereto a NEW SECTION to read as  
13 follows:



1 A contract of a public corporation may be awarded without competitive sealed bids or  
2 competitive sealed proposals regardless of the estimated cost if the governing body determines  
3 that there is only one source for the required service or item of tangible personal property. The  
4 governing body shall conduct negotiations, including price, delivery, and quantity to obtain the  
5 price most advantageous to the governing body. The governing body shall include in the bid file  
6 written verification that there was only one source for service or item. This section does not  
7 apply to construction services or equipment.

8 Section 3. That § 9-12-1 be amended to read as follows:

9 9-12-1. Every municipality shall have power:

- 10 (1) To sue and be sued and to contract in its corporate name;
- 11 (2) To acquire by lease, purchase, gift, condemnation, or other lawful means and hold in  
12 its corporate name or use and control as provided by law both real and personal  
13 property and easements and rights of way within or without the corporate limits for  
14 all purposes authorized by law or necessary to the exercise of any power granted;
- 15 (3) To provide that supplies needed for the use of the municipality shall be furnished by  
16 contract let to the lowest responsible bidder, except as otherwise provided by law;
- 17 (4) To construct, operate, and maintain an auditorium and all public buildings necessary  
18 for the use of the municipality;
- 19 (5) To insure the public property of the municipality;
- 20 (6) To convey, sell, give, dispose of, or lease both the personal and real property of the  
21 municipality as provided by this title.