

State of South Dakota

SEVENTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2002

400H0721

HOUSE STATE AFFAIRS COMMITTEE ENGROSSED

NO. **SB 182** - 02/15/2002

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 and for levying or increasing a property tax.

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. On any excess tax levy approved after July 1,2002, the governing body of the taxing
10 district shall specify in the resolution the year or number of years the excess tax levy will be
11 applied. No excess levy may be imposed for a period longer than five years unless the governing
12 body again complies with the provisions of § 10-12-43.

13 The requirements for an announcement made pursuant to this section are as follows:

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



1 (2) Publication shall be made at least twice in the legal newspaper pursuant
2 to § 13-8-10, with no fewer than five days between publication dates, before the opt
3 out takes effect;

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

5 (4) The announcement shall be headed with the following statement in a typeface no less
6 than one-half inch or thirty-six point type: "ATTENTION TAXPAYERS: NOTICE
7 OF PROPERTY TAX INCREASE OF \$(fill in amount)." The remainder of the
8 announcement shall consist of a reproduction of the "Resolution for Opt Out,"
9 including the amount that property taxes will be increased annually by the proposed
10 opt out and a statement of the right to refer the decision of the board to a vote of the
11 people as provided in this section. The secretary of revenue, in rules promulgated
12 pursuant to chapter 1-26, shall prescribe a uniform form to be used by the school
13 district for notification of taxpayers as required by this section.

14 However, the requirements of subdivisions (3) and (4) shall be waived if:

15 (A) The opt out is for less than fifteen thousand dollars; or

16 (B) A copy of the resolution for opt out is mailed to every property taxpayer in the local
17 governmental unit, by first class mail or bulk mail, within twenty days of the decision
18 to opt out; and

19 (C) A copy of the resolution for opt out is delivered to each newspaper, radio, and
20 television outlet that delivers or transmits into the school district.

21 For the purposes of subsections (A), (B), and (C), the first publication is not deemed to have
22 occurred until three days after the mailing is sent or the resolution is delivered to the official
23 newspaper.

24 The opt out decision may be referred to a vote of the people upon a petition signed by at

1 least five percent of the registered voters in the school district and filed with the governing body
2 within twenty days of the first publication of the decision. The referendum election shall be held
3 on or before October first of the year prior to the time the taxes are payable.

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

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

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

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

15 10-13-36. The governing body of a taxing district may exceed the limit pursuant to
16 § 10-13-35 through the imposition of an excess tax levy. The governing body of a taxing district
17 may impose an excess tax levy with an affirmative two-thirds vote of the governing body on or
18 before July fifteenth of the year prior to the year the taxes are payable. On any excess tax levy
19 approved after July 1,2002, the governing body of the taxing district shall specify in the
20 resolution the year or number of years the excess tax levy will be applied. No excess levy may
21 be imposed for a period longer than five years unless the governing body again complies with the
22 provisions of § 10-13-36.

23 The requirements for an announcement made pursuant to this section are as follows:

24 (1) The decision of the governing body to originally impose or subsequently increase an

1 excess tax levy shall be published within ten days of the decision;

2 (2) Publication shall be made at least twice in the legal newspaper designated by the
3 governing body pursuant to law, with no fewer than five days between publication
4 dates, before the opt out takes effect;

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

6 (4) The announcement shall be headed with the following statement in a typeface no less
7 than one-half inch or thirty-six point type: "ATTENTION TAXPAYERS: NOTICE
8 OF PROPERTY TAX INCREASE OF \$(fill in amount)." The remainder of the
9 announcement shall consist of a reproduction of the "Resolution for Opt Out,"
10 including the amount that property taxes will be increased annually by the proposed
11 opt out and a statement of the right to refer the decision of the board to a vote of the
12 people as provided in this section. The secretary of revenue, in rules promulgated
13 pursuant to chapter 1-26, shall prescribe a uniform form to be used by the taxing
14 district for notification of taxpayers as required by this section.

15 However, the requirements of subdivisions (3) and (4) shall be waived if:

16 (A) The opt out is for less than fifteen thousand dollars; or

17 (B) A copy of the resolution for opt out is mailed to every property taxpayer in the local
18 governmental unit, by first class mail or bulk mail, within twenty days of the decision
19 to opt out; and

20 (C) A copy of the resolution for opt out is delivered to each newspaper, radio, and
21 television outlet that delivers or transmits in the local governmental unit's boundaries.

22 For the purposes of subsections (A), (B), and (C), the first publication is not deemed to have
23 occurred until three days after the mailing is sent or the resolution is delivered to the official
24 newspaper.

1 The opt out decision may be referred to a vote of the people upon a petition signed by at
2 least five percent of the registered voters in the taxing district and filed with the respective
3 governing body within twenty days of the first publication of the decision. The referendum
4 election shall be held on or before October first preceding the year the taxes are payable. The
5 taxing districts may not exceed the levy limits provided in chapter 10-12 except for the
6 provisions in § 10-12-36.

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

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

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

17 Section 3. That chapter 10-12 be amended by adding thereto a NEW SECTION to read as
18 follows:

19 The decision of the governing body of a school district to increase the levy or impose a new
20 levy for the school district pension fund, capital outlay fund, or special education fund may be
21 referred to a vote of the people upon a petition signed by at least five percent of the registered
22 voters in the school district and filed with the governing body within twenty days of the first
23 publication of the decision. The referendum election shall be held on or before October first of
24 the year prior to the time the taxes are payable.

1 Section 4. That chapter 10-12 be amended by adding thereto a NEW SECTION to read as
2 follows:

3 The decision of the governing body to increase the levy or impose a new levy for the school
4 district pension fund, capital outlay fund, or special education fund is subject to public
5 announcement according to the following requirements:

6 (1) The decision of the governing body shall be first published within ten days of the
7 decision;

8 (2) Publication shall be made at least twice in the legal newspaper designated pursuant
9 to § 13-8-10, with no fewer than five days between publication dates, before the new
10 levy or increased levy takes effect;

11 (3) The announcement shall be at least two newspaper columns in width;

12 (4) The announcement shall be headed with the following statement: "ATTENTION
13 TAXPAYERS: NOTICE OF PROPERTY TAX INCREASE OF \$(fill in amount)."

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

20 However, the requirements of subdivisions (3) and (4) may be waived if:

21 (A) The tax increase is for less than fifteen thousand dollars; or

22 (B) A copy of the resolution for tax increase is mailed to every property taxpayer in the
23 local governmental unit, by first class mail or bulk mail, within twenty days of the
24 decision to tax increase; and

1 (C) A copy of the resolution for tax increase is printed in each official newspaper in the
2 local governmental unit's boundaries.

3 For the purposes of subsections (A), (B), and (C), the first publication is not deemed to have
4 occurred until three days after the mailing is sent or the resolution is delivered to the official
5 newspaper.