

State of South Dakota

EIGHTY-THIRD SESSION LEGISLATIVE ASSEMBLY, 2008

723P0003

SENATE BILL NO. 91

Introduced by: Senators Katus, Hoerth, Jerstad, Kloucek, Maher, and Two Bulls and
Representatives Ahlers, Bradford, Davis, Feinstein, Lucas, Nygaard,
Sigdestad, Street, Thompson, and Van Norman

1 FOR AN ACT ENTITLED, An Act to establish design and construction standards for newly
2 constructed or renovated state buildings, public school facilities, and higher education
3 facilities.

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

5 Section 1. Terms used in this Act mean:

- 6 (1) "Building project," the design, construction, renovation, operation, and maintenance
7 of any inhabited physical structure and its associated project building site;
- 8 (2) "Higher education facility," any permanent structure together with all grounds and
9 appurtenant structures that are intended to act as space for carrying on the functions
10 of a higher education institution under the jurisdiction of the Board of Regents. The
11 term does not include a building, regardless of size, that does not have conditioned
12 space as defined by Standard 90.1 of the American Society of Heating, Refrigerating
13 and Air-Conditioning Engineers, referred to as ASHRAE 90.1, as amended to
14 January 1, 2008;



- 1 (3) "LEED silver standard," the rating standard established under the United States
2 Green Building Council's Leadership in Energy and Environmental Design (LEED)
3 rating system and referred to as the silver standard, as that standard existed on
4 January 1, 2008;
- 5 (4) "Renovation" or "renovated," any building renovation project in which the cost of the
6 renovation is more than fifty percent of the value of the building;
- 7 (5) "Renovation project," any building project involving the modification or adaptive
8 reuse of an existing facility;
- 9 (6) "School district facility," any permanent structure together with all grounds and
10 appurtenant structures that are intended to act as space for carrying on the functions
11 of a public school district. The term does not include a building, regardless of size,
12 that does not have conditioned space as defined by Standard 90.1 of the American
13 Society of Heating, Refrigerating and Air-Conditioning Engineers, referred to as
14 ASHRAE 90.1, as amended to January 1, 2008;
- 15 (7) "State agency," each association, authority, board, commission, committee, council,
16 department, division, office, officer, task force, or other agent of the state vested with
17 the authority to exercise any portion of the state's sovereignty. The term does not
18 include the legislative or judicial branch of the government of the state or units of
19 local government, including counties, townships, municipalities, chartered
20 governmental units, school districts, other special districts, or Indian tribes;
- 21 (8) "State building," any permanent structure together with all grounds and appurtenant
22 structures that are intended to act as space for carrying on the functions of a state
23 agency. The term does not include public highways, bridges, sewers, fish ponds, fish
24 hatcheries, service facilities at state parks and highway rest areas. The term does not

1 include a building, regardless of size, that does not have conditioned space as defined
2 by Standard 90.1 of the American Society of Heating, Refrigerating and
3 Air-Conditioning Engineers, referred to as ASHRAE 90.1, as amended to January 1,
4 2008.

5 Section 2. Any building project or renovation project that involves the construction or
6 renovation of a state building shall be designed and constructed or renovated so that the building
7 meets or exceeds the LEED silver standard. This section does not apply to a project constructed
8 by and for an institution of higher education. The requirements of this section apply only to the
9 construction or renovation of a facility or building for which the contract for design services is
10 entered into on or after July 1, 2008.

11 Section 3. The Bureau of Administration shall promulgate rules pursuant to chapter 1-26 for
12 the administration of section 2 of this Act. The rules may establish an exception to the
13 application of section 2 of this Act for a type of building if the bureau determines that the
14 standards described by section 2 of this Act do not apply to that type of building or there is no
15 practical way to apply the standards described by section 2 of this Act to the design and
16 construction of that type of building.

17 Section 4. The Bureau of Administration shall:

- 18 (1) Monitor and document each state agency's compliance with section 2 of this Act and
19 any operating savings resulting from the design and construction or renovation of
20 buildings in accordance with section 2 of this Act; and
21 (2) Not later than September first of each even-numbered year, submit to the Legislature
22 and Governor a report that includes:
23 (a) The bureau's findings under subdivision (1);
24 (b) Any instances in which, and the reasons for which, a state building was not

1 designed and constructed or renovated in the manner provided by section 2 of
2 this Act; and

3 (c) Any recommendations the bureau considers appropriate.

4 Section 5. Any building project or renovation project that involves the construction or
5 renovation of a school district facility shall be designed and constructed or renovated so that the
6 facility meets or exceeds the LEED silver standard. The requirements of this section apply only
7 to the construction or renovation of a facility or building for which the contract for design
8 services is entered into on or after July 1, 2008.

9 Section 6. The Department of Education shall promulgate rules pursuant to chapter 1-26 for
10 the administration of section 5 of this Act. The rules may establish an exception to the
11 application of section 5 of this Act for a type of facility if the agency determines that the
12 standards described by section 5 of this Act do not apply to that type of facility or there is no
13 practical way to apply the standards described by section 5 of this Act to the design and
14 construction of that type of facility.

15 Section 7. The Department of Education shall:

16 (1) Monitor and document each school district's compliance with this section and any
17 operating savings resulting from the design and construction or renovation of
18 facilities in accordance with section 5 of this Act; and

19 (2) Not later than September first of each even-numbered year, submit to the Legislature
20 and Governor a report that includes:

21 (a) The department's findings under subdivision (1);

22 (b) Any instances in which, and the reasons for which, a facility was not designed
23 and constructed or renovated in the manner provided by section 5 of this Act;
24 and

1 (c) Any recommendations the department considers appropriate.

2 Section 8. Any building project or renovation project that involves the construction or
3 renovation of a higher education facility under the jurisdiction of the Board of Regents shall be
4 designed and constructed or renovated so that the facility meets or exceeds the LEED silver
5 standard. The requirements of this section apply only to the construction or renovation of a
6 facility or building for which the contract for design services is entered into on or after July 1,
7 2008.

8 Section 9. The Board of Regents shall promulgate rules pursuant to chapter 1-26 for the
9 administration of section 8 of this Act. The rules may establish an exception to the application
10 of section 8 of this Act for a type of facility if the board determines that the standards described
11 by section 8 of this Act do not apply to that type of facility or there is no practical way to apply
12 the standards described by section 8 of this Act to the design and construction of that type of
13 facility.

14 Section 10. The Board of Regents shall:

15 (1) Monitor and document each institution's compliance with this section and any
16 operating savings resulting from the design and construction or renovation of
17 facilities in accordance with section 8 of this Act; and

18 (2) Not later than September first of each even-numbered year, submit to the Legislature
19 and Governor a report that includes:

20 (a) The board's findings under subdivision (1);

21 (b) Any instances in which, and the reasons for which, a facility was not designed
22 and constructed or renovated in the manner provided by section 8 of this Act;
23 and

24 (c) Any recommendations the board considers appropriate.

1 Section 11. The Bureau of Administration shall establish and appoint members to an
2 advisory committee to make recommendations to and advise the bureau on the implementation
3 of the design and construction specifications required by this Act. The advisory committee is
4 abolished upon the repeal of this section. The advisory committee shall include representatives
5 of:

- 6 (1) The design and construction industry involved in public building contracts;
- 7 (2) The Department of Education;
- 8 (3) The Board of Regents;
- 9 (4) Institutions of higher education;
- 10 (5) Public school districts.

11 Section 12. The state auditor shall prepare a report concerning the implementation of the
12 design and construction specifications required by this Act and shall present the report to the
13 Legislature not later than January 15, 2012. The report shall include:

- 14 (1) The costs of implementing the specifications;
- 15 (2) The operating savings attributable to implementing the specifications, including
16 energy and maintenance savings;
- 17 (3) Any impact on employee productivity and student performance resulting from
18 implementing the specifications;
- 19 (4) The effectiveness of the implementation of the specifications; and
- 20 (5) Any recommendations the state auditor considers appropriate.

21 Section 13. Sections 4, 7, and 10 of this Act are repealed on July 1, 2018.

22 Section 14. Section 11 of this Act is repealed on July 1, 2011.