

## 2020 South Dakota Legislature

**Senate Bill 191****AMENDMENT 191L FOR THE SENATE BILL**

1 **An Act to provide emergency authority to counties, community improvement**  
2 **districts, and municipalities in the event of a public health crisis and to**  
3 **declare an emergency.**

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

5 **Section 1.** The governing body for each county may, by ordinance, provide for the declaration  
6 of a public health emergency within the county's jurisdiction outside the corporate limits of  
7 any municipality. The ordinance shall take effect immediately upon passage and shall be  
8 published in full either as part of the minutes or separately.

9 **Section 2.** That § 7-8-20 be AMENDED:

10 **7-8-20. General powers of county commissioners.**

11 In addition to others specified by law, the board of county commissioners shall  
12 have power:

- 13 (1) To institute and prosecute civil actions in the name of the county, for and on behalf  
14 of the county;
- 15 (2) To make orders respecting the care and preservation of all property belonging to  
16 the county and to sell any real property of the county when authorized by law so to  
17 do;
- 18 (3) To levy a tax not exceeding the amount authorized by law, and to liquidate  
19 indebtedness;
- 20 (4) To audit the accounts of all officers having the care, management, collection or  
21 disbursement of any money belonging to the county or appropriated for its benefit;
- 22 (5) To construct and repair bridges; to open, lay out, vacate, and change highways; to  
23 purchase or acquire grounds for courthouse, jail, or other building sites, locate or  
24 relocate the courthouse on such sites; to establish election precincts in its county

- 1 and appoint the judges of election; and, as a board of equalization, to equalize the  
2 assessment roll of its county in the manner provided by law;
- 3 (6) To furnish necessary blank books, blanks, and stationery for the county auditor,  
4 register of deeds, county treasurer, state's attorney, sheriff, and other elected or  
5 appointed county officers, to be paid out of the county treasury; also a fireproof  
6 safe or vaults, when in its judgment the same shall be advisable, in which to keep  
7 all the books, records, vouchers, and papers pertaining to the business of the board;
- 8 (7) To superintend the fiscal concerns of the county and secure their management in  
9 the best possible manner;
- 10 (8) To regulate the transaction of business in alcoholic beverages and the use and  
11 consumption of alcoholic beverages, to establish the number of on-sale licenses  
12 which may be issued, to provide for reasonable classification of on-sale licenses and  
13 fix the fees to be charged for the licenses consistent with the provisions of Title 35;
- 14 (9) To make ordinances prohibiting the sale or exhibition of any obscene matter;  
15 however, no county resolution shall be effective in any incorporated area within said  
16 county;
- 17 (10) To do and perform such other duties and acts as it is or may hereafter be required  
18 to do and perform;
- 19 (11) To provide additional compensation to the county treasurer, county auditor, county  
20 register of deeds, state's attorney, and sheriff. This compensation shall be in  
21 addition to the salaries prescribed in §§ 7-7-9.1, 7-7-12, and 7-12-15;
- 22 (12) To provide office space, in addition to that provided in the county courthouse, for  
23 state's attorneys, appointed officials of the county and other employees;
- 24 (13) To receive and administer grants, loans and assistance and to enter into  
25 agreements for cooperative action, with or on behalf of any public agency or  
26 nonprofit organization, to establish, promote and support community development;
- 27 (14) To enact ordinances to regulate and prevent the placing of ashes, dirt, garbage or  
28 any offensive matter in any highway or public ground or in any body or stream of  
29 water within the county, but outside of an incorporated municipality or outside of  
30 the one mile limits of any incorporated municipality;
- 31 (15) To enact ordinances to regulate and compel the cleansing, abatement or removal  
32 of any sewer, cesspool or any unwholesome or nauseous thing or place;
- 33 (16) To license and regulate transient merchants, hawkers, solicitors, peddlers, itinerant  
34 vendors, and every person retailing tangible personal property or services, unless  
35 such business is carried on exclusively within the boundaries of a municipality or is

1 carried on through home solicitation or from a fixed permanent location and place  
2 of business in this state where such goods and services are offered on a continuing  
3 basis;

4 (17) To enact by ordinance, for any portion of the county which is zoned, certain building  
5 codes pursuant to § 11-10-5;

6 (18) To prohibit or restrict open burning, after consultation with local fire officials and  
7 law enforcement officials, in order to protect the public health and safety; and

8 (19) To enact emergency and temporary ordinances to promote the health of the citizens  
9 of the county and to suppress disease outside the corporate limits of any  
10 municipality, provided that no ordinance may be in effect or enforced after March  
11 1, 2021. Any ordinance adopted under this section may not violate any individual's  
12 or entity's rights under the Constitution of the United States or the South Dakota  
13 Constitution.

14 **Section 3.** That § 9-32-1 be AMENDED:

15 **9-32-1. Promotion of health and suppression of disease.**

16 Every municipality shall have power to do what ~~may be~~ is necessary or expedient  
17 for the promotion of health or the suppression of disease, ~~and may, by ordinance, provide~~  
18 for the declaration of a public health emergency within the municipality's jurisdiction.

19 **Section 4.** A municipality may enact emergency and temporary ordinances to promote the  
20 health of the citizens of the municipality and to suppress disease, within its territorial  
21 jurisdiction under § 9-29-1, provided that no ordinance may be in effect or enforced after  
22 March 1, 2021. The ordinance shall take effect immediately upon passage and shall be  
23 published in full either as part of the minutes or separately. Any ordinance adopted under this  
24 section may not violate any individual's or entity's rights under the Constitution of the United  
25 States or the South Dakota Constitution.

26 **Section 5.** A county or community improvement district under chapter 7-25A may enact  
27 emergency and temporary ordinances to promote the health of the citizens of the county or  
28 community improvement district and to suppress disease outside the boundaries of any  
29 municipality, provided that no ordinance may be in effect or enforced after March 1, 2021.  
30 The ordinance shall take effect immediately upon passage and shall be published in full either  
31 as part of the minutes or separately. Any ordinance adopted under this section may not violate  
32 any individual's or entity's rights under the Constitution of the United States or the South  
33 Dakota Constitution.

- 1 **Section 6.** This Act is repealed on March 1, 2021.
- 2 **Section 7.** Whereas, this Act is necessary for the immediate preservation of the public peace,  
3 health, or safety, an emergency is hereby declared to exist, and this Act shall be in full force  
4 and effect from and after its passage and approval.