

State of South Dakota

EIGHTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2014

366V0034

SENATE BILL NO. 82

Introduced by: Senator Maher and Representative Olson (Betty)

1 FOR AN ACT ENTITLED, An Act to revise certain provisions concerning purchases, sales, and
2 contracts made by public officers with the state or its political subdivisions.

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

4 Section 1. That § 6-1-2 be amended to read as follows:

5 6-1-2. The provisions of § 6-1-1 are not applicable if the contract is made pursuant to any
6 one of the conditions set forth in the following subdivisions, without fraud or deceit. However,
7 the contract is voidable if the provisions of the applicable subdivision are not fully satisfied or
8 present at the time the contract was entered into:

9 (1) Any contract involving ~~three~~ five thousand dollars or less regardless of whether other
10 sources of supply or services are available within the county, municipality, township,
11 or school district, if the consideration for such supplies or services is reasonable and
12 just;

13 (2) Any contract involving more than ~~three~~ five thousand dollars but less than the
14 amount for which competitive bidding is required, and there is no other source of
15 supply or services available within the county, municipality, township, or school



1 district if the consideration for such supplies or services is reasonable and just and
2 if the accumulated total of such contracts paid during any given fiscal year does not
3 exceed the amount specified in § 5-18A-14;

4 (3) Any contract with any firm, association, corporation, or cooperative association for
5 which competitive bidding is not required and where other sources of supply and
6 services are available within the county, municipality, township or school district,
7 and the consideration for such supplies or services is reasonable and just, unless the
8 majority of the governing body are members or stockholders who collectively have
9 controlling interest, or any one of them is an officer or manager of any such firm,
10 association, corporation, or cooperative association, in which case any such contract
11 is null and void;

12 (4) Any contract for which competitive bidding procedures are followed pursuant to
13 chapter 5-18A or 5-18B, and where more than one such competitive bid is submitted;

14 (5) Any contract for professional services with any individual, firm, association,
15 corporation, or cooperative, if the individual or any member of the firm, association,
16 corporation, or cooperative is an elected or appointed officer of a county,
17 municipality, township, or school district, whether or not other sources of such
18 services are available within the county, municipality, township, or school district,
19 if the consideration for such services is reasonable and just;

20 (6) Any contract for commodities, materials, supplies, or equipment found in the state
21 contract list established pursuant to § 5-18D-6, at the price there established or
22 below;

23 (7) Any contract or agreement between a governmental entity specified in § 6-1-1 and
24 a public postsecondary educational institution if an employee of the Board of Regents

1 serves as an elected or appointed officer for the governmental entity, and if the
2 employee does not receive direct compensation or payment as a result of the contract
3 or agreement; and

- 4 (8) Any contract with any firm, association, corporation, individual, or cooperative
5 association for which competitive bidding procedures are followed pursuant to
6 chapter 5-18A, and where only one such competitive bid is submitted, provided the
7 procedures established in § 6-1-2.1 are followed.

8 Section 2. That § 3-16-7 be amended to read as follows:

9 3-16-7. ~~Every~~ No public officer, ~~being who is~~ authorized to sell or lease any property, or
10 make any contract in ~~his~~ the officer's official capacity, ~~who voluntarily becomes~~ may become
11 voluntarily interested individually in ~~such~~ any sale, lease, or contract, directly or indirectly; with
12 such entity. A violation of this section is guilty of a Class 2 misdemeanor unless the act is
13 exempted by law.