

# State of South Dakota

## EIGHTY-NINTH SESSION LEGISLATIVE ASSEMBLY, 2014

366V0034

### SENATE ENGROSSED NO. **SB 82** - 02/11/2014

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 and to revise  
3 certain provisions concerning agreements or other transactions of the South Dakota Housing  
4 Development Authority.

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

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

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

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

15 (2) Any contract involving more than ~~three~~ five thousand dollars but less than the



1 amount for which competitive bidding is required, and there is no other source of  
2 supply or services available within the county, municipality, township, or school  
3 district if the consideration for such supplies or services is reasonable and just and  
4 if the accumulated total of such contracts paid during any given fiscal year does not  
5 exceed the amount specified in § 5-18A-14;

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

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

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

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

(7) Any contract or agreement between a governmental entity specified in § 6-1-1 and a public postsecondary educational institution if an employee of the Board of Regents serves as an elected or appointed officer for the governmental entity, and if the employee does not receive direct compensation or payment as a result of the contract or agreement; and

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

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

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

Section 3. That § 11-11-34 be amended to read as follows:

11-11-34. The authority may enter into agreements or other transactions with, administer programs of, and accept grants and the cooperation of, the United States or any agency or instrumentality thereof or of the state or any agency or instrumentality thereof or of any other state or any agency or instrumentality thereof in furtherance of the purposes of this chapter and to do any and all things necessary in order to avail itself of such aid and cooperation.

Section 4. That subdivision (3) of § 11-11-102 be amended to read as follows:

(3) Make and execute contracts with mortgage bankers ~~or,~~ other financial institutions, or government agencies in this state, or outside this state if none which are qualified

1           are located within this state, for the servicing of mortgages acquired by the authority  
2           pursuant to this chapter, and pay the reasonable value of services rendered to the  
3           authority pursuant to those contracts;

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