

State of South Dakota

NINETIETH SESSION
LEGISLATIVE ASSEMBLY, 2015

633W0166

SENATE STATE AFFAIRS ENGROSSED NO. **SB 135** - 02/04/2015

Introduced by: Senators Brown, Buhl O'Donnell, Ewing, Greenfield (Brock), Lederman, Monroe, Parsley, Peters, Rave, Rusch, Soholt, Tidemann, Tieszen, and White and Representatives Munsterman, Brunner, Conzet, Cronin, Duvall, Gibson, Haggar (Don), Harrison, Hawks, Hawley, Hickey, Hunhoff (Jean), Hunt, Johns, Kirschman, Klumb, Langer, Otten (Herman), Rasmussen, Ring, Romkema, Rounds, Rozum, Schoenfish, Stevens, Tulson, Verchio, Willadsen, Wink, and Zikmund

1 FOR AN ACT ENTITLED, An Act to authorize municipalities to impose an additional sales
2 and use tax for a limited period of time for a specified use.

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

4 Section 1. That chapter 10-52 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 In addition to the tax imposed by § 10-52-2, any incorporated municipality may impose an
7 additional non-ad valorem tax in accordance with the provisions of this chapter, except upon
8 fuel used for motor vehicles, by ordinance enacted by its local governing board. However, no
9 tax may be levied on the sale, use, storage, and consumption of items taxed pursuant to the
10 provisions of chapters 10-45 and 10-46, unless the tax conforms in all respects to the state tax
11 on such items with the exception of the rate, and the rate levied pursuant to this section does not
12 exceed one percent. The governing board shall specify in the ordinance the proposed use for the



1 tax. The use specified in the ordinance shall be for capital expenditures or refunds not provided
2 for under the existing sources of revenue or budget. The term, capital expenditures, includes
3 land acquisition, professional fees, construction costs, and other fixed assets for the project,
4 facility, municipal utilities, streets, or structure. A portion of the tax revenue collected pursuant
5 to this section may be refunded to the citizens of the municipality pursuant to a methodology
6 specified in the ordinance.

7 The governing board shall specify in the ordinance the year or number of years the tax will
8 be applied and the date the tax will end. If sufficient tax revenue is collected or projected to be
9 collected to pay for the capital expenditures prior to the end date specified in the ordinance, the
10 tax shall be repealed at such date in accordance with the provisions of § 10-52-9. No tax levied
11 pursuant to this section may be extended or renewed, unless the governing body adopts a new
12 ordinance and receives approval from the voters.

13 Any ordinance adopted pursuant to this section shall be referred to a vote of the people for
14 its approval or disapproval.

15 Section 2. That § 10-52-2.10 be amended to read as follows:

16 10-52-2.10. Any incorporated municipality imposing a non-ad valorem tax in accordance
17 with ~~§ 10-52-2~~ this chapter may issue municipal non-ad valorem tax revenue bonds pursuant
18 to this section and chapter 6-8B in anticipation of the collection of the taxes. The bonds shall
19 be payable solely from the collections of the taxes imposed by the municipality under ~~§ 10-52-2~~
20 this chapter, as determined by the governing body. The governing body shall, in the resolution
21 or ordinance authorizing the bonds, agree that it will continue to impose and collect the taxes
22 so long as the bonds are outstanding. The governing body shall also pledge so much of the
23 collections of the taxes as may be necessary to pay the principal premium and interest on the
24 bonds and to maintain any debt service reserve established for the bonds. For bonds issued prior

1 to January 1, 2004, the proceeds of the bonds may be used for land acquisition, the funding of
2 public ambulances and medical emergency response vehicles, public hospitals or nonprofit
3 hospitals with fifty or fewer licensed beds and other public health care facilities or nonprofit
4 health care facilities with fifty or fewer licensed beds, capital asset acquisition and capital
5 improvements, to establish a debt service reserve fund for the bonds and to pay not more than
6 one year's capitalized interest on the bonds.

7 No election is required to authorize the issuance of municipal non-ad valorem tax revenue
8 bonds. The bonds shall be issued and sold as provided in chapter 6-8B.

9 Section 3. That chapter 10-52 be amended by adding thereto a NEW SECTION to read as
10 follows:

11 If the Governor declares a state fiscal emergency and the State of South Dakota enacts a
12 statewide sales and use tax pursuant to chapters 10-45 and 10-46, the provisions of this Act are
13 suspended and no municipality may impose an additional local option sales tax pursuant to this
14 Act until such time as the statewide sales tax enacted to address the state fiscal emergency is
15 repealed.