

State of South Dakota

SEVENTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2002

400H0721

SENATE ENGROSSED NO. **SB 182** - 02/05/2002

Introduced by: The Committee on State Affairs at the request of the Governor

1 FOR AN ACT ENTITLED, An Act to revise the procedures for opting out of the property tax
2 freeze.

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

4 Section 1. That § 10-12-43 be amended to read as follows:

5 10-12-43. The governing body of the school district may raise additional revenues for general
6 fund purposes only, from property tax through the imposition of an excess tax levy. The
7 governing body of a school district may impose the excess tax levy with an affirmative two-thirds
8 vote of the governing body on or before July fifteenth of the year prior to the year the taxes are
9 payable. The governing body of the taxing district shall specify in the resolution the year or
10 number of years the excess tax levy will be applied. No excess levy may be imposed for a period
11 longer than five years unless the governing body again complies with the provisions of § 10-12-
12 43.

13 The requirements for an announcement made pursuant to this section are as follows:

14 (1) The decision of the governing body to originally impose or subsequently increase an
15 excess tax levy shall be first published within ten days of the decision;



1 (2) Publication shall be made at least twice in the legal newspaper designated pursuant
2 to § 13-8-10, with no fewer than five days between publication dates, before the opt
3 out takes effect;

4 (3) The announcement shall be at least two newspaper columns in width;

5 (4) The announcement shall be headed with the following statement: "ATTENTION
6 TAXPAYERS: NOTICE OF PROPERTY TAX INCREASE OF \$(fill in amount)."

7 The remainder of the announcement shall consist of a reproduction of the "Resolution
8 for Opt Out," including the amount that property taxes will be increased annually by
9 the proposed opt out and a statement of the right to refer the decision of the board
10 to a vote of the people as provided in this section. The secretary of revenue, in rules
11 promulgated pursuant to chapter 1-26, shall prescribe a uniform form to be used by
12 the school district for notification of taxpayers as required by this section.

13 However, the requirements of subdivisions (3) and (4) shall be waived if:

14 (A) The opt out is for less than fifteen thousand dollars; or

15 (B) A copy of the resolution for opt out is mailed to every property taxpayer in the local
16 governmental unit, by first class mail or bulk mail, within twenty days of the decision
17 to opt out; and

18 (C) A copy of the resolution for opt out is printed in each official newspaper in the local
19 governmental unit's boundaries.

20 For the purposes of subsections (A), (B), and (C), the first publication is not deemed to have
21 occurred until three days after the mailing is sent or the resolution is delivered to the official
22 newspaper.

23 The opt out decision may be referred to a vote of the people upon a petition signed by at
24 least five percent of the registered voters in the school district and filed with the governing body

1 within twenty days of the first publication of the decision. The referendum election shall be held
2 on or before October first of the year prior to the time the taxes are payable.

3 The governing body of the school district may rescind an opt out decision by a majority vote
4 of the governing body of the school district.

5 The amount originally imposed or subsequently increased by the school district may be
6 rescinded by the taxpayers if a vote is initiated. The petition to initiate to rescind the opt out shall
7 be signed by at least five percent of the registered voters in the school district and filed with the
8 governing body no later than July fifteenth in the year prior to the year the taxes are payable. The
9 election shall be held on or before October first preceding the year the taxes are payable. The
10 excess levy is rescinded if approved by an affirmative vote of a majority of the votes cast in the
11 taxing district.

12 Any petition filed January first or after does not affect taxes payable that year.

13 Section 2. That § 10-13-36 be amended to read as follows:

14 10-13-36. The governing body of a taxing district may exceed the limit pursuant to
15 § 10-13-35 through the imposition of an excess tax levy. The governing body of a taxing district
16 may impose an excess tax levy with an affirmative two-thirds vote of the governing body on or
17 before July fifteenth of the year prior to the year the taxes are payable. The governing body of
18 the taxing district shall specify in the resolution the year or number of years the excess tax levy
19 will be applied. No excess levy may be imposed for a period longer than five years unless the
20 governing body again complies with the provisions of § 10-13-36.

21 The requirements for an announcement made pursuant to this section are as follows:

22 (1) The decision of the governing body to originally impose or subsequently increase an
23 excess tax levy shall be published within ten days of the decision;

24 (2) Publication shall be made at least twice in the legal newspaper designated by the

1 governing body pursuant to law, with no fewer than five days between publication
2 dates, before the opt out takes effect;

3 (3) The announcement shall be at least two newspaper columns in width;

4 (4) The announcement shall be headed with the following statement: "ATTENTION
5 TAXPAYERS: NOTICE OF PROPERTY TAX INCREASE OF \$(fill in amount)."

6 The remainder of the announcement shall consist of a reproduction of the "Resolution
7 for Opt Out," including the amount that property taxes will be increased annually by
8 the proposed opt out and a statement of the right to refer the decision of the board
9 to a vote of the people as provided in this section. The secretary of revenue, in rules
10 promulgated pursuant to chapter 1-26, shall prescribe a uniform form to be used by
11 the taxing district for notification of taxpayers as required by this section.

12 However, the requirements of subdivisions (3) and (4) shall be waived if:

13 (A) The opt out is for less than fifteen thousand dollars; or

14 (B) A copy of the resolution for opt out is mailed to every property taxpayer in the local
15 governmental unit, by first class mail or bulk mail, within twenty days of the decision
16 to opt out; and

17 (C) A copy of the resolution for opt out is printed in each official newspaper in the local
18 governmental unit's boundaries.

19 For the purposes of subsections (A), (B), and (C), the first publication is not deemed to have
20 occurred until three days after the mailing is sent or the resolution is delivered to the official
21 newspaper.

22 The opt out decision may be referred to a vote of the people upon a petition signed by at
23 least five percent of the registered voters in the taxing district and filed with the respective
24 governing body within twenty days of the first publication of the decision. The referendum

1 election shall be held on or before October first preceding the year the taxes are payable. The
2 taxing districts may not exceed the levy limits provided in chapter 10-12 except for the
3 provisions in § 10-12-36.

4 The governing body of the taxing district may rescind an opt out decision by a majority vote
5 of the governing body of the taxing district.

6 The amount originally imposed or subsequently increased by the taxing district may be
7 rescinded by the taxpayers if a vote is initiated. The petition to initiate to rescind the opt out shall
8 be signed by at least five percent of the registered voters in the taxing district and filed with the
9 governing body no later than July fifteenth in the year prior to the year the taxes are payable. The
10 election shall be held on or before October first preceding the year the taxes are payable. The
11 excess levy is rescinded if approved by an affirmative vote of a majority of the votes cast in the
12 taxing district.

13 Any petition filed January first or after does not affect taxes payable that year.