

State of South Dakota

EIGHTIETH
LEGISLATIVE ASSEMBLY, 2005

400L0233

HOUSE TAXATION COMMITTEE ENGROSSED NO.

HB 1033 - 01/18/2005

Introduced by: The Committee on Taxation at the request of the Department of Revenue and Regulation

1 FOR AN ACT ENTITLED, An Act to establish certain provisions with regard to the past tax
2 liability of sellers who agree to collect sales and use tax under the Streamlined Sales and
3 Use Tax Agreement.

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

5 Section 1. No seller who registers to pay or to collect and remit applicable South Dakota
6 sales or use tax in accordance with the terms of the Streamlined Sales and Use Tax Agreement
7 is liable for any uncollected or unpaid sales or use tax, penalty or interest, unless the seller was
8 registered in this state during the twelve-month period preceding the date the state is found in
9 compliance with the Streamlined Sales and Use Tax Agreement.

10 Section 2. The provisions of section 1 of this Act preclude assessment for any uncollected
11 or unpaid sales or use tax, penalty, or interest for sales made during the period the seller was not
12 registered in the state, if registration occurs within twelve months of the date the state is found
13 in compliance with the Streamlined Sales and Use Tax Agreement.

14 Section 3. The provisions of section 1 of this Act do not apply to any seller with respect to
15 any matter or matters for which the seller received notice of the commencement of an audit and



1 the audit is not yet finally resolved, including any related administrative and judicial processes.
2 The provisions of section 1 of this Act do not apply to any sales or use taxes already paid or
3 remitted to the state or to taxes collected by the seller.

4 Section 4. Absent the seller's fraud or intentional misrepresentation of a material fact, the
5 provisions of section 1 of this Act are fully effective, if the seller remains registered and
6 continues payment or collection and remittance of applicable sales or use taxes for a period of
7 at least thirty-six months from the date of the seller's original registration. The state's statute of
8 limitations applicable to asserting a tax liability is tolled during this thirty-six month period.

9 Section 5. The provisions of section 1 of this Act are applicable only to sales or use taxes
10 due from a seller in its capacity as a seller and not to sales or use taxes due from a seller in its
11 capacity as a buyer.

State of South Dakota

EIGHTIETH
LEGISLATIVE ASSEMBLY, 2005

400L0362 **HOUSE APPROPRIATIONS COMMITTEE ENGROSSED**
NO. HB 1055 - 01/21/2005

Introduced by: The Committee on Appropriations at the request of the Bureau of Finance and
Management

1 FOR AN ACT ENTITLED, An Act to make an appropriation for the payment of settlement
2 expenses to SDDS, Inc., and to declare an emergency.

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

4 Section 1. There is hereby appropriated from the general fund the sum of five million two
5 hundred ten thousand dollars (\$5,210,000), or so much thereof as may be necessary, to the
6 SDDS, Inc., for the payment of settlement expenses.

7 Section 2. The commissioner of the Bureau of Finance and Management shall approve
8 vouchers for the payment of settlement expenses and the state auditor shall draw warrants to pay
9 expenditures authorized by this Act.

10 Section 3. Whereas, this Act is necessary for the support of the state government and its
11 existing public institutions, an emergency is hereby declared to exist, and this Act shall be in
12 full force and effect from and after its passage and approval.



State of South Dakota

EIGHTIETH
LEGISLATIVE ASSEMBLY, 2005

717L0081

SENATE TAXATION COMMITTEE ENGROSSED NO.

SB 2 - 01/26/2005

This bill has been extensively amended (houghoused) and may no longer be consistent with the original intention of the sponsor.

Introduced by: Senators Lintz, Greenfield, Hundstad, and Peterson (Jim) and Representatives Hargens, Deadrick, Fryslie, and Rhoden at the request of the Interim Committee on Property Assessment

1 FOR AN ACT ENTITLED, An Act to revise the procedure for assessing certain agricultural
2 property.

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

4 Section 1. That § 10-6-33.25 be amended to read as follows:

5 10-6-33.25. For the purposes of § 10-6-33.24, the agricultural income value shall be
6 determined using capitalized annual cash rent. The annual cash rent is the annual cash rent,
7 excluding the per acre tax on agricultural land, determined through an analysis of arms-length
8 rental agreements collected within the county in the year three years prior to the year for which
9 the agricultural income value is being determined. The agricultural income value of cropland
10 shall be based on average rents over a three-year period for cropland under natural conditions.
11 The agricultural income value of noncropland shall be based on average rents over a three-year
12 period for noncropland under natural conditions. However, no arms-length rental agreements
13 for irrigated land may be used to determine the annual cash rent pursuant to this section. The
14 annual cash rent shall be capitalized at seven and three-fourths percent.



1 The secretary of revenue and regulation may enter into a contract for the collection of cash
2 rent information by county. Cash rent information shall be adjusted by soil survey statistics, if
3 available, and pursuant to section 2 of this Act.

4 Section 2. That chapter 10-6 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 The director of equalization shall annually determine the assessed value of agricultural land
7 as defined by § 10-6-31.3. Any agricultural land assessed based on its agricultural income value
8 pursuant to § 10-6-32.24 and 10-6-33.25 may be value adjusted by the following factors:

9 (1) The capacity of the land to produce agricultural products as defined in § 10-6-33.2;
10 and

11 (2) The location, size, soil survey statistics, terrain, and topographical condition of the
12 land including the climate, accessibility, and surface obstructions which can be
13 documented.

14 Section 3. That chapter 10-6 be amended by adding thereto a NEW SECTION to read as
15 follows:

16 If the median rent value per acre in an identifiable region within a county deviates by more
17 than ten percent from the county median rent value per acre, the county director of equalization
18 may establish a separate rent value per acre for the land defined by the director of equalization
19 within that identifiable region.

State of South Dakota

EIGHTIETH LEGISLATIVE ASSEMBLY, 2005

717L0059

SENATE TAXATION COMMITTEE ENGROSSED NO.

SB 3 - 01/26/2005

Introduced by: Senators Lintz, Greenfield, Hundstad, Knudson, and Peterson (Jim) and Representatives Hargens, Dadrick, Fryslic, and Rhoden at the request of the Interim Committee on Property Assessment

1 FOR AN ACT ENTITLED, An Act to permit written statements to be filed concerning the
2 leasing of agricultural land and to provide for the confidentiality and usage of such
3 information.

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

5 Section 1. That chapter 10-6 be amended by adding thereto a NEW SECTION to read as
6 follows:

7 Each lease of agricultural land or agreement to rent agricultural land for a period of more
8 than ninety days may be abstracted in a written statement in a form approved by the department.

9 The statement, if filed, shall contain the following information:

- 10 (1) The name and address of the lessor and lessee;
- 11 (2) The legal description of the property;
- 12 (3) The situs address, if any, of the property;
- 13 (4) The cash or cash equivalent of the lease payments for cropland and noncropland;
- 14 (5) The value per acre of any other rights retained by the lessor;



1 (6) The conditions of the lease, including the relationship, if any, of the parties; and

2 (7) The lessor expenses associated with the property excluding land cost, interest on the
3 land cost, income tax depreciation, and capital improvements.

4 Section 2. That chapter 10-6 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 All financial information submitted by the lessor or lessee to the director of equalization and
7 received by the department pursuant to this Act is confidential. It is a Class 2 misdemeanor to
8 disclose any financial information collected pursuant to this Act, except to the extent necessary
9 to carry out the official duties of the director of equalization and the department.

10 Section 3. That chapter 10-6 be amended by adding thereto a NEW SECTION to read as
11 follows:

12 The owner or lessor or an agent of the owner or lessor may file the written statement with
13 the director of equalization for use by the assessor for the valuation process. The person filing
14 the written statement shall sign the statement and declare under penalty of perjury that the
15 contents of the statement are accurate. The director of equalization shall transmit a copy of the
16 statement to the department.

State of South Dakota

EIGHTIETH
LEGISLATIVE ASSEMBLY, 2005

400L0331 **SENATE AGRICULTURE AND NATURAL RESOURCES**
COMMITTEE ENGROSSED NO. SB 17 - 01/27/2005

Introduced by: The Committee on State Affairs at the request of the Public Utilities
Commission

1 FOR AN ACT ENTITLED, An Act to revise certain provisions concerning the authority of the
2 Public Utilities Commission with regard to wind energy facilities.

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

4 Section 1. That § 49-41B-1 be amended to read as follows:

5 49-41B-1. The Legislature finds that energy development in South Dakota and the Northern
6 Great Plains significantly affects the welfare of the population, the environmental quality, the
7 location and growth of industry, and the use of the natural resources of the state. The Legislature
8 also finds that by assuming permit authority, that the state must also ensure that these facilities
9 are constructed in an orderly and timely manner so that the energy requirements of the people
10 of the state are fulfilled. Therefore, it is necessary to ensure that the location, construction, and
11 operation of ~~energy conversion facilities and transmission~~ facilities will produce minimal
12 adverse effects on the environment and upon the citizens of this state by providing that ~~an~~
13 ~~energy conversion or transmission~~ a facility may not be constructed or operated in this state
14 without first obtaining a permit from the ~~Public Utilities Commission~~ commission.

15 Section 2. That § 49-41B-2 be amended to read as follows:



1 49-41B-2. Terms as used in this chapter mean:

2 (1) "Associated facilities," facilities which include, ~~but are not limited to~~, aqueducts,
3 diversion dams, transmission substations of two hundred fifty kilovolts or more,
4 storage ponds, reservoirs, or cooling ponds;

5 (2) "Commission," the State Public Utilities Commission;

6 (3) "Construction," any clearing of land, excavation, or other action that would affect the
7 environment of the site for each land or rights of way upon or over which a facility
8 may be constructed, but not including activities incident to preliminary engineering
9 or environmental studies;

10 (4) "Energy conversion facility," any new facility, or facility expansion, designed for or
11 capable of generation of one hundred megawatts or more of electricity, but does not
12 include any wind energy facilities;

13 (5) "Facility," any energy conversion facility, transmission facility, or ~~both~~ wind energy
14 facility, and associated facilities;

15 (6) "Permit," the permit issued by the commission under this chapter required for the
16 construction and operation of a facility;

17 (7) "Person," an individual, partnership, limited liability company, joint venture, private
18 or public corporation, association, firm, public service company, cooperative,
19 political subdivision, municipal corporation, government agency, public utility
20 district, or any other public or private entity, however organized;

21 (8) "Siting area," that area within ten miles in any direction of a proposed energy
22 conversion facility or which is determined by the commission to be affected by a
23 proposed energy conversion facility;

24 (9) "Trans-state transmission facility," an electric transmission line and its associated

1 facilities which originates outside the State of South Dakota, crosses this state and
2 terminates outside the State of South Dakota; and which transmission line and
3 associated facilities delivers electric power and energy of twenty-five percent or less
4 of the design capacity of such line and facilities for use in the State of South Dakota;

5 (10) "Utility," any person engaged in and controlling the generation or transmission of
6 electric energy and gas or liquid transmission facilities as defined by § 49-41B-2.1;

7 (11) "Wind energy facility," a new facility, or facility expansion, consisting of a
8 commonly managed integrated system of towers, wind turbine generators with
9 blades, power collection systems, and electric interconnection systems, that converts
10 wind movement into electricity and that is designed for or capable of generation of
11 one hundred megawatts or more of electricity. A wind energy facility expansion
12 includes the addition of new wind turbines, designed for or capable of generating
13 twenty-five megawatts or more of electricity, which are to be managed in common
14 and integrated with existing turbines and the combined megawatt capability of the
15 existing and new turbines is one hundred megawatts or more of electricity. The
16 number of megawatts generated by a wind energy facility is determined by adding the
17 nameplate power generation capability of each wind turbine.

18 Section 3. That § 49-41B-25 be amended to read as follows:

19 49-41B-25. Within six months of receipt of the initial application for a permit for the
20 construction of ~~substations~~ a wind energy facility, substation, or transmission lines ~~line~~ of less
21 than two hundred fifty kilovolts, the ~~Public Utilities Commission~~ commission shall make
22 complete findings, and render a decision, regarding whether a permit should be granted, denied,
23 or granted upon such terms, conditions or modifications of the construction, operation or
24 maintenance as the commission may deem appropriate. In its decision the commission must find

1 that the construction of the facility meets all requirements of this chapter. Notice of the
2 commission's decision shall be given to the applicant and to parties to the hearing within ten
3 days following the decision.

4 Section 4. That § 49-41B-35 be amended to read as follows:

5 49-41B-35. To implement the provisions of this chapter regarding ~~energy conversion and~~
6 ~~transmission~~ facilities, the commission shall promulgate rules pursuant to chapter 1-26. The
7 commission shall prepare, in consultation with other state agencies, a single application form
8 which incorporates information requirements of those state agencies or their boards or
9 commissions which have related permit issuing powers that must be exercised prior to
10 construction of a facility. Rules may be adopted by the commission:

11 (1) To establish the information requirements and procedures that every utility must
12 follow when filing plans with the commission regarding its ~~existing and proposed~~
13 ~~energy conversion facilities, and for proposed and existing transmission~~ facilities;
14 ~~and~~

15 (2) To establish procedures for utilities to follow when filing an application for a permit
16 to construct ~~an energy conversion facility or a transmission~~ a facility, and the
17 information required to be included in the application; and

18 (3) To require bonds, guarantees, insurance, or other requirements to provide funding for
19 the decommissioning or removal of a wind energy facility.

20 Section 5. That § 49-41B-36 be amended to read as follows:

21 49-41B-36. ~~This chapter shall not~~ Nothing in this chapter may be construed as a delegation
22 to the ~~Public Utilities Commission~~ commission of the authority to route a transmission facility,
23 or to designate or mandate location of an energy conversion facility or wind energy facility.

State of South Dakota

EIGHTIETH LEGISLATIVE ASSEMBLY, 2005

400L0368

HOUSE ENGROSSED NO. **SB 54** - 01/27/2005

Introduced by: The Committee on Judiciary at the request of the Department of Social Services

1 FOR AN ACT ENTITLED, An Act to clarify the procedure to be followed for expedited abused
2 or neglected child proceedings.

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

4 Section 1. That § 26-8A-21.2 be amended to read as follows:

5 26-8A-21.2. If the court has determined that reasonable efforts to return an adjudicated
6 abused or neglected child to the home of the parent, guardian, or custodian are not appropriate,
7 a permanency hearing shall be held within thirty days after the determination. At the
8 permanency hearing, the court shall determine whether and, ~~if applicable,~~ when:

9 (1) The child should be placed for adoption, ~~and, If the court determines that the child~~
10 ~~should be placed for adoption,~~ the state ~~should file a petition for~~ shall notify the
11 parties of its intent to seek the termination of parental rights if such notice has not
12 already been provided;

13 (2) The child should be referred for legal guardianship;

14 (3) The child should be placed permanently with a fit and willing relative; or

15 (4) A compelling reason is documented with the court that none of the permanent plans



1 listed in this section would be in the best interest of the child, and the child should
2 be placed in another planned permanent living arrangement.

3 The court may immediately proceed with a final dispositional hearing if proper notice of the
4 hearing has been given.

State of South Dakota

EIGHTIETH SESSION
LEGISLATIVE ASSEMBLY, 2005

569L0202

SENATE EDUCATION COMMITTEE ENGROSSED NO. **SB 72** - 01/27/2005

Introduced by: Senators Olson (Ed), Dempster, Duniphan, Knudson, McCracken, Moore, Peterson (Jim), and Sutton (Dan) and Representatives Dykstra, Dennert, Elliott, Haley, Halverson, Hennies, Hunt, McLaughlin, Murschel, Roberts, and Thompson

1 FOR AN ACT ENTITLED, An Act to include legal costs as allowable expenditures from the
2 special education fund.

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

4 Section 1. That § 13-16-32 be amended to read as follows:

5 13-16-32. The South Dakota Board of Education may promulgate rules pursuant to chapter
6 1-26 to identify allowable expenditures from the special education fund. Legal costs incurred
7 by a school district as a direct result of providing special education or special education and
8 related services to a child for whom the district is financially responsible are allowable
9 expenditures. The allowable expenditures may include any legal costs incurred by the school
10 district in the referral, evaluation, and placement processes as well as any other legal expenses
11 for which the district is determined to be legally responsible to pay as a result of due process
12 hearings.

13 Section 2. That § 13-37-48 be repealed.

14 ~~13-37-48. Extraordinary expenses in §§ 13-37-39 and 13-37-40 include the following costs~~



1 ~~associated with any special education due process hearing; the appointment of a hearing officer;~~
2 ~~the hearing officer's preparation; conduct of the due process hearing; hearing officer's~~
3 ~~preparation of the decision; and providing a copy of the tape recording to the opposing parties.~~
4 ~~Notwithstanding any other provision of law or administrative rule, neither a school district's~~
5 ~~special education tax levy nor any other measure of a school district's finances may be~~
6 ~~considered factors by an oversight board and the secretary of the Department of Education when~~
7 ~~approving special education due process hearings costs as extraordinary expenses.~~

State of South Dakota

EIGHTIETH SESSION
LEGISLATIVE ASSEMBLY, 2005

249L0142

SENATE LOCAL GOVERNMENT COMMITTEE

ENGROSSED NO. **SB 86** - 01/26/2005

Introduced by: Senators Duenwald, Broderick, Gray, Koskan, and Olson (Ed) and
Representatives Rounds, Davis, Hennies, Jensen, and Murschel

1 FOR AN ACT ENTITLED, An Act to revise the compensation for deputy coroners.

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

3 Section 1. That § 7-14-9 be amended to read as follows:

4 7-14-9. The coroner may appoint one or more deputies and ~~such deputies~~ each deputy shall
5 receive ~~the same~~ fees and expenses as ~~the coroner, but~~ determined at the discretion of the board
6 of the county commissioners. The deputy coroner may not receive a salary.



State of South Dakota

EIGHTIETH SESSION
LEGISLATIVE ASSEMBLY, 2005

690L0525

SENATE LOCAL GOVERNMENT COMMITTEE

ENGROSSED NO. **SB 96** - 01/26/2005

Introduced by: Senators Duenwald and Nesselhuf and Representatives Schafer, Boomgarden,
Davis, Hackl, and Kroger

1 FOR AN ACT ENTITLED, An Act to allow municipalities to offer full food services at certain
2 licensed municipal facilities and to declare an emergency.

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

4 Section 1. That chapter 35-4 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 Any municipality holding a license pursuant to Title 35 may serve or provide for the service
7 of food at any establishment operating under such license.

8 Section 2. Whereas, this Act is necessary for the support of the state government and its
9 existing public institutions, an emergency is hereby declared to exist, and this Act shall be in
10 full force and effect from and after its passage and approval.

