

# State of South Dakota

EIGHTY-FIRST SESSION  
LEGISLATIVE ASSEMBLY, 2006

400M0249

## HOUSE BILL NO. 1225

Introduced by: The Committee on Government Operations and Audit

1 FOR AN ACT ENTITLED, An Act to rename the office and the title of the head of the Old Age  
2 and Survivors Insurance Division in the Office of the State Auditor and specify the  
3 position's duties.

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

5 Section 1. That § 3-11-2 be amended to read as follows:

6 3-11-2. Terms used in this chapter, ~~unless the context otherwise requires,~~ mean:

- 7 (1) "Coverage group" has the meaning given that term by the provisions of section 218  
8 of Title II of the Social Security Act, as amended, and applicable federal regulations  
9 adopted pursuant thereto;
- 10 (2) ~~"Director," the director of the Old Age and Survivors Insurance~~ "Administrator," the  
11 administrator of the State Social Security and the Internal Revenue Service Division;
- 12 (3) ~~"Division," the Old Age and Survivors Insurance~~ State Social Security and the  
13 Internal Revenue Service Division in the State Auditor's Office;
- 14 (4) "Employee" includes officers of the state, and any political subdivision thereof,  
15 including officers and employees of any association organized under and pursuant to  
16 the provisions of chapter 9-17;



- 1 (5) "Employment," any service performed by an employee of the state, or any political  
2 subdivision thereof, for such employer, except:
- 3 (a) Service which in the absence of an agreement entered into under this chapter  
4 would constitute "employment" as defined in the federal Social Security Act;  
5 or
- 6 (b) Service which under the federal Social Security Act may not be included in an  
7 agreement between the state and the secretary of health, education, and welfare  
8 entered into under this chapter;
- 9 (6) "Federal Insurance Contributions Act," chapter 21 of subtitle C of the federal Internal  
10 Revenue Code as such act has been amended;
- 11 (7) "Political subdivision," a subdivision of the state to which has been delegated certain  
12 powers of local government, but only if the employees of such subdivision are not  
13 by virtue of their relation to such subdivision, employees of the state or another  
14 subdivision. The term includes special districts or authorities created by the  
15 Legislature, and qualifying governmental instrumentalities;
- 16 (8) "Qualifying," any and all coverage groups permitted by the federal Social Security  
17 Act when an agreement or any modification thereof is entered into between the State  
18 of South Dakota and the secretary of health and human services;
- 19 (9) "Secretary of health and human services" includes the former federal security  
20 administrator, and it includes any individual to whom either the secretary or the  
21 administrator has delegated any of his functions under the federal Social Security Act  
22 with respect to coverage under such act of employees of states and their political  
23 subdivisions;
- 24 (10) "Social Security Act," the act of Congress approved August 14, 1935, Chapter 531,

1 49 Stat. 620, officially cited as the "Social Security Act," (including regulations and  
2 requirements issued pursuant thereto), as such act has been amended;

3 (11) "Wages" and "salaries," all remuneration for employment as defined herein, including  
4 the cash value of all remuneration paid in any medium other than cash, except that  
5 such term shall not include that part of such remuneration which, even if it were for  
6 "employment" within the meaning of the Federal Insurance Contributions Act, would  
7 not constitute "wages" within the meaning of that act.

8 Section 2. The term, director, wherever it is used in chapter 3-11, means administrator. The  
9 Code Commission in future supplements and revisions of chapter 3-11 of the South Dakota  
10 Codified Laws shall substitute the term, administrator, and its derivatives for the term, director,  
11 and its derivatives.

12 Section 3. That § 3-11-4 be amended to read as follows:

13 3-11-4. The state auditor shall appoint ~~a director~~ an administrator and other such employees  
14 as may be necessary and fix their bonds, salaries, and compensation. The administrator shall:

15 (1) Serve as a liaison between the Social Security Administration and the Internal  
16 Revenue Service and all state and local government employers in the state;

17 (2) Administer and maintain the Section 218 Agreement that governs voluntary social  
18 security and medicare coverage by state and local government employers in the state;

19 (3) Prepare Section 218 modifications to include additional coverage groups, correct  
20 errors in other modifications, identify additional political subdivisions that join a  
21 covered retirement system, and obtain medicare coverage for public employees  
22 whose employment relationship with a public employer has been continuous since  
23 March 31, 1986;

24 (4) Provide the Social Security Administration with notice and evidence of the legal

- 1           dissolution of covered state or political subdivision entities;
- 2       (5)   Conduct referenda for social security and medicare coverage for services performed
- 3           by employees in positions under a public retirement system;
- 4       (6)   Resolve coverage and taxation questions associated with Section 218 Agreements
- 5           and modifications with the Social Security Administration and the Internal Revenue
- 6           Service;
- 7       (7)   Advise public employers on social security, medicare, and other tax withholding
- 8           matters;
- 9       (8)   Provide information to state and local public employers as appropriate and in
- 10          accordance with the state's enabling legislation, policies, procedures and standards;
- 11       (9)   Provide advice on Section 218 optional exclusions applicable to either the state or
- 12          individual modifications, or both, and advice on state and local laws, rules,
- 13          regulations and compliance concerns;
- 14       (10) Maintain physical custody of the state's Section 218 Agreement, modifications,
- 15          dissolutions and intrastate agreements; and
- 16       (11) Deposit and report social security tax and federal income tax to the Internal Revenue
- 17          Service.

18       Section 4. That § 3-11-24 be amended to read as follows:

19       3-11-24. ~~The director is hereby authorized to~~ administrator shall promulgate such rules and  
20 ~~regulations as may be necessary, pursuant to chapter 1-26, for the proper administration of this~~  
21 ~~chapter. The director of the division shall promulgate rules and regulations, not inconsistent~~  
22 ~~with this chapter, necessary to provide proper procedures to effectuate the provisions of this~~  
23 ~~chapter and~~ in conformity with section 218 of Title II of the federal Social Security Act and  
24 ~~federal regulations adopted pursuant thereto. Such rules and regulations shall include procedures~~

- 1 to determine the extent of coverage within separate coverage groups and prescribing the manner
- 2 and method of filing reports and paying contributions required under the agreement.