

State of South Dakota

EIGHTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 2008

400P0144

SENATE LOCAL GOVERNMENT ENGROSSED NO. **HB 1026** - 1/30/2008

Introduced by: The Committee on Local Government at the request of the Office of the
Secretary of State

1 FOR AN ACT ENTITLED, An Act to revise certain provisions and procedures concerning
2 elections.

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

4 Section 1. That § 6-8B-4 be amended to read as follows:

5 6-8B-4. The governing body shall publish notice of the election once each week for two
6 consecutive weeks in all official newspapers designated by the public body or if there is no
7 official newspaper, a newspaper of general circulation serving the public body. The second
8 notice shall be published ~~at least twenty~~ not less than four nor more than ten days before the
9 election.

10 ~~Notice~~ The notice shall state the maximum amount of bonds to be issued, the purpose for
11 which bonds are to be issued, and other matters the governing body determines to be necessary.

12 Section 2. That § 9-10-6 be amended to read as follows:

13 9-10-6. ~~In all commission-governed municipalities within thirty~~ Within sixty days after an
14 election directing the employment of a manager, ~~unless an annual election occurs within sixty~~



1 ~~days thereafter~~ in any commission-governed municipality, a special election shall be called and
2 held to elect ~~such~~ the nine commissioners. A plurality vote in the election of commissioners
3 ~~shall be~~ is sufficient to elect the commissioners.

4 ~~They~~ The commissioners shall qualify as provided by law and organize by electing ~~one of~~
5 ~~their number~~ a commissioner to act as mayor until the first regular meeting of the board in the
6 ~~next ensuing May, and thereupon such board shall succeed the board of commissioners then~~
7 ~~servin~~ g month following the first annual election of commissioners. At the first regular meeting
8 in ~~May of each year~~ they the month following the annual election, the commissioners shall elect
9 ~~one of their number~~ a commissioner to act as mayor for a term of one year.

10 ~~Such~~ The board ~~shall have~~ has the same powers conferred upon ~~boards~~ the board of
11 commissioners in a commission-governed municipality pursuant to chapter 9-9.
12 Except as otherwise provided in this chapter, the board shall be governed by the provisions of
13 the law relating to a commission-governed municipality.

14 Section 3. That § 9-11-8 be amended to read as follows:

15 9-11-8. The question of changing the form of government ~~having been once~~ may not be
16 voted upon ~~shall not be~~ again submitted within ~~two years thereafter~~ one year after the election
17 held pursuant to § 9-11-6.

18 Section 4. That § 9-13-21 be amended to read as follows:

19 9-13-21. The finance officer shall prepare and furnish, at the expense of the municipality,
20 all official ballots. The quantity of ballots provided shall be at least ten percent more than the
21 number of voters at the last comparable election. The ballots shall be white in color, of good
22 quality of print paper, printed in black ink, and in the English language only.

23 The ballots for municipal elections shall be available for absentee voting no later than fifteen
24 days prior to election day. If the ballots are for a secondary election, the ballots shall be

1 available no later than seven days prior to the secondary election day.

2 The names of the candidates for each office to be voted for in the precinct shall be arranged
3 without any other designation than that of the office for which they are candidates. If more than
4 one member of the governing body is to be elected, the ballot shall contain instructions as to
5 how many candidates for the governing body are to be voted for. The finance officer shall
6 determine, by lot, each candidate's position on the ballot. Each candidate may be present or
7 represented when the position on the ballot is being determined.

8 No candidate's name may be printed upon the official ballot unless the candidate has been
9 nominated as provided in this chapter.

10 Section 5. That § 9-13-28 be amended to read as follows:

11 9-13-28. The ~~auditor or clerk~~ finance officer, within two days after the result of the election
12 is declared, shall notify each person elected to office of the person's election. If a person does
13 not qualify within ten days after the first meeting of the month next succeeding the election, the
14 office shall become vacant.

15 Section 6. That chapter 12-1 be amended by adding thereto a NEW SECTION to read as
16 follows:

17 If any state court finds that a declaration of candidacy on a nominating petition is not valid,
18 the candidacy shall be invalidated as of the date of filing. If the invalidation creates a vacancy
19 which continues to exist after a primary election, the vacancy may be filled as provided in
20 §§ 12-6-56 and 12-6-57.

21 Section 7. That § 12-1-7.1 be repealed.

22 ~~12-1-7.1. The county auditor shall report to the secretary of state prior to each primary and~~
23 ~~general election on forms provided by the secretary of state whether the county uses paper~~
24 ~~ballots or an automated tabulating system and its type.~~

1 Section 8. That § 12-6-51.1 be amended to read as follows:

2 12-6-51.1. If no candidate for United States Senate, ~~congressman~~ United States House of
3 Representatives, or Governor in a race involving three or more candidates receives thirty-five
4 percent of the votes of ~~his~~ the candidate's party, a secondary election shall be held ~~two~~ three
5 weeks from the date of the first primary election. At the secondary election the only persons
6 voted for shall be the two candidates receiving the highest number of votes at the first election.
7 However, if there is a tie for second place in the first primary election and there is no tie for first
8 place, all tying second place candidates shall be placed along with the first place candidate on
9 the ballot for the secondary election. The secondary election shall be held at the same polling
10 places, be conducted, returned, and canvassed and the results declared in the same manner as
11 the first election. The person receiving the highest number of votes at the secondary election is
12 nominated as the candidate ~~of his~~ for the party.

13 Section 9. That § 12-6-51.3 be amended to read as follows:

14 12-6-51.3. Within twenty-four hours after the completion of the canvass, the secretary of
15 state shall certify runoff candidates, listed in the order determined by a drawing of names, to all
16 county auditors ~~and include a ballot which may be duplicated.~~

17 Section 10. That § 12-6-51.4 be repealed.

18 ~~12-6-51.4. Any other provision of this chapter notwithstanding, the members of the county~~
19 ~~commission may, by resolution, choose to hold the secondary election authorized pursuant to~~
20 ~~§ 12-6-51.1 in conjunction with a regular school district election, and with a general municipal~~
21 ~~election if the municipality has chosen to combine with the school district pursuant to §§ 9-13-~~
22 ~~1.1 and 13-7-10. The combined election shall be held on the first Tuesday after the third~~
23 ~~Monday of June. All expenses of a combined primary runoff, school district, and municipal~~
24 ~~election shall be shared in a manner agreed upon by the governing bodies of the school district,~~

1 ~~the municipality, and the board of county commissioners. All other governmental~~
2 ~~responsibilities associated with holding elections under the provisions of chapters 9-13, 12-6,~~
3 ~~and 13-7 shall be shared as agreed upon by the governing bodies.~~

4 Section 11. That § 12-14-12 be repealed.

5 ~~— 12-14-12. Five days after the close of voter registration for each primary and general~~
6 ~~election, each county auditor shall report to the secretary of state the number of election~~
7 ~~precincts throughout the county.~~

8 Section 12. That § 12-17B-1 be amended to read as follows:

9 12-17B-1. Terms used in this chapter mean:

- 10 (1) "Automatic tabulating equipment," the apparatus necessary to automatically examine
11 and count votes as designated on ballots, ~~punch cards~~, or entered directly into a
12 computer by means of a touch screen or other data entry device and data processing
13 machines which can be used for counting these votes and tabulating results;
- 14 (2) "Ballot," paper ballots containing the names of candidates and statements of
15 measures to be voted on;
- 16 (3) "Counting location," any location selected by the person in charge of the election for
17 the counting of votes cast in an election. A counting location shall be within the
18 territorial jurisdiction of such person unless there is no suitable tabulating equipment
19 available within the jurisdiction. However, in any event, all counting locations shall
20 be within this state;
- 21 (4) "Direct recording electronic," a voting system which records votes by means of a
22 ballot display provided by electro-optical devices that can be actuated by the voter,
23 that process the data by means of a computer program, and that records voting data
24 in internal memory devices;

- 1 (5) "Electronic ballot marking system," any electronic device which marks votes on a
2 ballot;
- 3 (6) "Optical scan," a procedure in which votes are tabulated by means of examining
4 marks made in voting response locations on the ballots with an optical mark reader
5 (OMR);
- 6 (7) "Resolution board," a board at an automatic tabulating location comprised of a
7 representative from each political party having a candidate on the ballot and whose
8 candidate on the county-wide ballot at the last general election received at least
9 fifteen percent of the votes. The county auditor may request additional board
10 members balanced evenly by party. If the resolution board consists of more than one
11 member from each party, the party shall designate which member of the party shall
12 serve as co-leader of the resolution board. The co-leaders shall ensure that each board
13 member is conducting resolution board duties uniformly and in accordance with
14 applicable statutes and administrative rules. The board shall determine the disposition
15 of those ballots which cannot be properly counted by the tabulating equipment and
16 observe the activities at the counting location on behalf of ~~their~~ the board member's
17 respective party affiliation. In strictly nonpartisan elections, the resolution board shall
18 be comprised of two persons who are not employees of the jurisdiction conducting
19 the election and shall be appointed by the person in charge of the election.

20 Section 13. That § 12-17B-13.1 be amended to read as follows:

21 12-17B-13.1. If automatic tabulating equipment is located at a polling place for processing
22 ballots while the polls are open, the equipment may not be operated in a manner which returns
23 an over-voted or partially under-voted ballot to the voter. The equipment shall be operated in
24 a manner which returns any ballot that appears to the tabulating equipment to be blank or has

1 any possible mark which the tabulating equipment cannot determine. If a ~~blank~~ the ballot is
2 returned to the voter, the voter may choose to remark ~~that~~ the ballot, obtain a new ballot, or ~~have~~
3 ~~the ballot resubmitted as a blank~~ resubmit the ballot.

4 Any central count automatic tabulating equipment ~~containing~~ shall contain the capability to
5 out-stack ballots and shall be operated in a manner to out-stack any ballot which appears to the
6 tabulating equipment to be blank or has any possible mark which the tabulating equipment
7 cannot determine. If the ballot contains ~~votes from which the voter's intent may be legally~~
8 ~~determined, the~~ any such mark, the resolution board shall examine the mark and make a
9 determination of any individual vote according to the rules promulgated pursuant to chapter 1-
10 26 by the state board of elections. The resolution board shall make a duplicate ballot as
11 prescribed in § 12-17B-14 which shall be counted by the automatic tabulating equipment.

12 Section 14. That § 12-18-3 be amended to read as follows:

13 12-18-3. Except for sample ballots and materials and supplies necessary for the conduct of
14 the election, no person may, in any polling place or within or on any building in which a polling
15 place is located or within one hundred feet from any entrance leading into a polling place,
16 maintain an office ~~or communications center~~ or public address system, or use any
17 communication or photographic device in a manner which repeatedly distracts, interrupts, or
18 intimidates any voter or election worker, or display campaign posters, signs, or other campaign
19 materials or by any like means solicit any votes for or against any person or political party or
20 position on a question submitted. No person may engage in any practice which interferes with
21 the voter's free access to the polls or disrupts the administration of the polling place, or conduct,
22 on the day of an election, any exit poll or public opinion poll with voters within one hundred
23 feet of a polling place. A violation of this section is a Class 2 misdemeanor.

24 Section 15. That § 12-18-9.1 be amended to read as follows:

1 12-18-9.1. The superintendent of elections may order poll watchers and voters waiting to
2 vote to position themselves where ~~they~~ the poll watchers and voters cannot see into voting
3 booths, read identifying numbers on photo identification cards, or interfere with voters in the
4 act of voting or with the official actions of the election board. A violation of such an order is
5 a Class 2 misdemeanor.

6 Section 16. That § 12-18-12 be amended to read as follows:

7 12-18-12. Before delivering a ballot to any voter the member of the precinct election board
8 in charge of the ballots shall stamp on ~~the back and near the top~~ of the ballot the official stamp
9 provided for that purpose as follows:

- 10 (1) On a hand-counted ballot, on the back and near the top of the ballot; and
11 (2) On an optical scan ballot, the location indicated by the person in charge of the
12 election.

13 Section 17. That § 12-21-2 be amended to read as follows:

14 12-21-2. The county recount board of each county which conducts a recount authorized by
15 this chapter shall consist of a recount referee and two voters of the county to be appointed by
16 the presiding judge of the circuit court for that county, and shall provide for representation of
17 the two political parties with the largest party registration in that county. The recount referee
18 shall be a duly qualified member of the bar of the State of South Dakota and a member of the
19 political party which polled the largest number of votes for Governor in the county in the last
20 gubernatorial election. ~~All members~~ Prior to serving, each member of the recount board shall
21 take an oath that the member will act in good faith and with impartiality. The state board of
22 elections shall prescribe the oath to be taken.

23 Section 18. That § 12-21-32 be amended to read as follows:

24 12-21-32. ~~Forthwith upon~~ Upon the conclusion of the recount of all ballots to be recounted

1 the county recount board shall certify the result. The certificate ~~must~~ shall be signed by at least
2 two members of ~~such~~ the board, attested under seal by the county auditor. ~~Such~~ The certificate
3 shall set forth in substance the proceedings of the board and appearances of any candidates or
4 representatives, shall adequately designate each precinct recounted, the vote of ~~such~~ each
5 precinct according to the official canvass ~~thereof~~ previously made as to the office, nomination,
6 position, or question involved, and the correct vote of such precinct as to ~~such~~ the office,
7 nomination, position, or question as determined by ~~such~~ the board through ~~such~~ the recount.
8 ~~Such~~ The certificate shall be made in duplicate, and either the original or duplicate original
9 ~~forthwith~~ shall be transmitted to the secretary of state by ~~registered or certified~~ mail in any
10 recount affecting a certificate to be issued by the secretary of state.

11 Section 19. That § 13-7-13 be amended to read as follows:

12 13-7-13. The business manager of the school district shall provide proper ballots, pollbooks,
13 voting booths, and necessary supplies as required by law to the proper election officials on
14 election day. The ballots shall be similar in form to those authorized by law for municipal
15 elections. The quantity of ballots provided shall be at least ten percent more than the number
16 of voters at the last comparable election. No party affiliation may appear on the ballot and the
17 names of the candidates for the respective vacancies shall be printed on the ballot. Each
18 candidate's position on the ballot shall be chosen by lot by the business manager and each
19 candidate may be present or represented when the position on the ballot is being determined.
20 The ballots for school elections shall be available for absentee voting no later than fifteen days
21 prior to election day.

State of South Dakota

EIGHTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 2008

615P0113

SENATE TAXATION ENGROSSED NO. **HB 1182** - 1/30/2008

Introduced by: Representatives Noem, Burg, Faehn, Moore, Novstrup (Al), Olson (Russell), Olson (Ryan), Peters, Turbiville, and Weems and Senators Hansen (Tom), Abdallah, Bartling, McNenny, and Turbak Berry

1 FOR AN ACT ENTITLED, An Act to revise certain provisions related to property tax
2 assessments for elderly and disabled persons.

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

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

5 10-6A-1. Terms as used in this chapter, ~~unless the context otherwise clearly requires,~~ mean:

6 (1) "Base year," for ~~those heads of households~~ any property owner who reached
7 sixty-five years of age or became disabled in or prior to 1981, the base year is 1977.
8 For ~~those heads of households who reach~~ any property owner who reaches sixty-five
9 years of age or ~~become disabled subsequent to~~ becomes disabled after 1981, the base
10 year is the year in which ~~they reach~~ the property owner reaches the age of sixty-five
11 or the year in which the property owner becomes disabled. In the case of a surviving
12 spouse, the base year is the year ~~which~~ that would have been the base year of the
13 deceased spouse;

14 (2) "Base year assessment," the actual assessed value of a single-family dwelling in the



1 base year or, at the applicant's election, a year subsequent to the base year. The
2 applicant need not have been the owner of the dwelling during the base year;

3 (3) "Department," the South Dakota Department of Revenue and Regulation;

4 (4) "Disabled," ~~persons receiving or having~~ any person who receives or is qualified to
5 receive monetary payments, pursuant to Title II, X, XIV, or XVI of the Social
6 Security Act, as amended, ~~and in effect on January 1, 1981 to January 1, 2008,~~ for all
7 or part of the year for which a property tax assessment freeze application is made;

8 (5) ~~"Head of household," a married person, a single person, a widow or widower, or a~~
9 ~~divorced person;~~

10 ~~(6)~~ "Household," the association of persons who live in the same dwelling, sharing its
11 furnishings, facilities, and accommodations, but not including bona fide lessees,
12 tenants, or roomers and boarders on contract;

13 ~~(7)~~(6) "Household income," all income received during the preceding calendar year by all
14 persons of a household while members of the household;

15 ~~(8)~~(7) "Income," the sum of adjusted gross income as defined in the United States Internal
16 Revenue Code of 1954, as amended, ~~and in effect on December 31, 1989 to~~
17 January 1, 2008, and ~~all nontaxable income, including but not limited to IRA~~
18 disbursements, the amount of capital gains excluded from adjusted gross income,
19 alimony, support money, nontaxable strike benefits, cash public assistance and relief,
20 the gross amount of any pension or annuity, including Railroad Retirement Act
21 benefits and veterans disability pensions, all payments received under the federal
22 social security and state unemployment insurance laws, nontaxable interest ~~received~~
23 ~~from the federal government or any of its instrumentalities,~~ life insurance proceeds
24 that exceed twenty thousand dollars, any gift or inheritance that exceeds five hundred

1 dollars, proceeds from a court action, any sale of a personal item that exceeds five
2 hundred dollars, foster care income, and workers' compensation, and the gross
3 amount of "loss of time" insurance, but not including gifts from nongovernmental
4 sources, food stamps, or surplus foods or other relief in kind provided by a public
5 agency;

6 (8) "Property owner," the owner of a dwelling as recorded by the register of deeds in the
7 county where the dwelling is located. A joint tenant, an owner of a life estate, a
8 beneficiary of a trust, and a vendee of a contract for deed as filed with the register of
9 deeds in the county where the dwelling is located is considered to be an owner;

10 (9) "Real property tax assessment freeze," for tax purposes, the assessment of a
11 single-family dwelling as recorded in the base year on the county assessment roll and
12 held constant at that value;

13 (10) "Secretary," the secretary of the South Dakota Department of Revenue and
14 Regulation;

15 (11) "Single-family dwelling," a house, condominium apartment, or manufactured home
16 as defined in § 32-3-1 ~~which~~ that is assessed and taxed as a separate unit including
17 the platted lot upon which the structure is situated or one acre, whichever is less, and
18 the garage, whether attached or unattached;

19 (12) "Surviving spouse," the spouse of a deceased ~~head of household~~ property owner who
20 has not remarried.

21 Section 2. That § 10-6A-2 be amended to read as follows:

22 10-6A-2. Any person making an application under the provisions of this chapter is entitled
23 to a real property tax assessment freeze upon the person's single-family dwelling if the following
24 conditions are met. The person:

1 (1) Has a household income of less than twenty thousand dollars if the household is a
2 single-member household; ~~or~~

3 ~~(2)~~ Has or the person has a household income of less than twenty-five thousand dollars
4 if the household is a multiple-member household; and

5 ~~(3)~~(2) Has ~~owned a single-family dwelling, in fee or by contract to purchase, for at least one~~
6 ~~year and has~~ been a property owner and a resident of South Dakota for at least one
7 year; and

8 ~~(4)~~(3) Has resided for at least two hundred days of the previous calendar year in the
9 single-family dwelling; and

10 ~~(5)~~(4) Has established a base year.

11 The surviving spouse of a person who has previously qualified is entitled to the real property
12 tax assessment freeze if the surviving spouse meets the other conditions of this chapter.

13 Beginning on January 1, 2005, the household income listed in ~~subdivisions (1) and (2)~~
14 subdivision (1) of this section shall increase by the index factor. The index factor is the annual
15 percentage change in the consumer price index for urban wage earners and clerical workers as
16 computed by the Bureau of Labor Statistics of the United States Department of Labor for the
17 year before the year immediately preceding the year of adjustment or the annual percentage
18 change in federal social security payments for the preceding year, whichever is greater.

19 Section 3. That § 10-6A-4 be amended to read as follows:

20 10-6A-4. The application for the real property tax assessment freeze provided under this
21 chapter shall be annually submitted on or before April first on forms prescribed by the secretary
22 of revenue and regulation. The form shall be made available to the county treasurer who shall,
23 upon request of an applicant, assist the applicant in completing the form. The property owner
24 shall sign the certificate under penalty of perjury. A person failing to comply with the April first

1 deadline for the previous year, but otherwise qualifying for the real property tax assessment
2 freeze provided under this chapter, may petition the board of county commissioners to
3 recalculate the taxes based on the valuation the person would have received under this program
4 and abate the difference in taxes.

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

7 Any person who receives a reduction in value due to false application for the real property
8 tax assessment freeze by misrepresenting the facts as to the person's ownership or income shall
9 be assessed the amount of tax reduction received due to the assessment freeze. The assessment
10 is a perpetual lien on the property pursuant to § 10-21-33. The person is barred from receiving
11 the assessment freeze reduction on any property in the state for the following three years.

State of South Dakota

EIGHTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 2008

400P0199

SENATE STATE AFFAIRS ENGROSSED NO. **SB 40** - 1/30/2008

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

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

1 FOR AN ACT ENTITLED, An Act to establish certain requirements regarding the separation
2 and protection of a gas and electric public utility's assets.

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

4 Section 1. That chapter 49-34A be amended by adding thereto a NEW SECTION to read
5 as follows:

6 Unless the commission otherwise orders:

- 7 (1) A public utility shall hold all owned or operated public utility assets in one or more
8 legal entities separate and segregated from the legal entities of any nonutility
9 subsidiaries or affiliates;
- 10 (2) All secured debt of a public utility may be used only for public utility purposes. If
11 more than twenty percent of a public utility's secured assets are divested, the debt
12 shall follow the assets or be retired in the same proportion as the divested assets; and
- 13 (3) No public utility may extend credit to any of its nonutility subsidiaries or affiliates,
14 pledge the assets of the public utility as collateral for the use or benefit of any of its



1 nonutility subsidiaries or affiliates, or guarantee any debt or obligations of any of its
2 nonutility subsidiaries or affiliates.

3 Any public utility which does not comply with the provisions of this Act shall have two
4 years within which to become compliant. Notwithstanding any provision of this Act, after notice
5 and opportunity for hearing, the commission may grant a waiver of any provision of this Act if
6 the commission finds a waiver would not pose an undue risk to the operation of the public utility
7 and is in the public interest.

State of South Dakota

EIGHTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 2008

195P0530

SENATE STATE AFFAIRS
ENGROSSED NO. **SB 143** - 1/30/2008

Introduced by: Senators Gray, Bartling, Dempster, Hanson (Gary), McCracken, and Nesselhuf and Representatives Faehn, Brunner, Hargens, Miles, and Rave

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding collection and
2 administration of the 911 emergency surcharge and operation of 911 services.

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

4 Section 1. That § 34-45-1 be amended to read as follows:

5 34-45-1. Terms used in §§ 34-45-1 to 34-45-17, inclusive, mean:

- 6 (1) "Basic 911," any service which provides the user of a ~~public telephone system~~ calling
7 device, which utilizes any telecommunications technology, the ability to reach a
8 public safety answering point to report police, fire, medical, or other emergency
9 situations by dialing 911;
- 10 (2) "Board," the South Dakota 911 Coordination Board created pursuant to § 34-45-18;
- 11 (3) "Enhanced 911," any ~~emergency telephone~~ system which provides the user of a
12 ~~public telephone system~~ calling device, which utilizes any telecommunications
13 technology, the ability to reach a public safety answering point by dialing the digits
14 911, and which routes ~~an incoming 911~~ that call to the appropriate public safety



1 ~~answer point in a 911 service area and which automatically displays the name,~~
2 ~~address, and telephone number of an incoming 911 call on a video monitor at the~~
3 ~~appropriate public safety answer point provides information about the user to a 911~~
4 ~~dispatcher including the user's name, location, call back number, and assigned~~
5 ~~emergency responders;~~

6 ~~(3)~~(4) "Governing body," the board of county commissioners of a county or the city council
7 or other governing body of a county or municipality or the board of directors of a
8 special district;

9 (5) "Interconnected Voice-over Internet Protocol (VoIP) service," any service with the
10 following characteristics:

11 (a) Enables real-time voice communication;

12 (b) Requires a broadband connection from the user's locations;

13 (c) Requires IP-compatible equipment; and

14 (d) Permits users to receive calls that originate and terminate on the public
15 switched telephone network;

16 (6) "Interconnected VoIP service line," a service that offers an active telephone number
17 or successor dialing protocol assigned by a VoIP provider to a VoIP service customer
18 that has outbound calling capability which can directly access a public safety
19 answering point when the VoIP service customer has a primary place of use in the
20 state;

21 ~~(4)~~(7) "Local exchange access Telecommunications company," any ~~franchised telephone~~
22 ~~company engaged in providing provider of a telecommunications services between~~
23 ~~points within a local calling area service that either originates or terminates with at~~
24 ~~least one person or point in the state;~~

1 ~~(5)~~ "Local exchange access lines," any telephone line or cellular telephone that connects
2 a telephone subscriber to the local switching office and has the capability of reaching
3 local public safety service agencies;

4 ~~(6)~~(8) "911 emergency reporting system" or "911 system," any ~~telephone~~
5 telecommunications service system consisting of network, database, and on-premises
6 equipment which utilizes the single three-digit number 911 for reporting police, fire,
7 medical, or other emergency situation;

8 ~~(7)~~(9) "911 emergency surcharge," any charge set by the governing body and assessed on
9 each ~~local exchange access line~~ any telecommunications service which physically
10 terminates or originates within the governing body's designated 911 service area. For
11 a mobile telecommunications service, the term, 911 emergency surcharge, means any
12 charge set by the governing body and assessed per cellular telephone identified
13 within the governing body's designated 911 service area as determined by the
14 customer's place of primary use as defined in 4 U.S.C. § 124 as in effect on July 28,
15 2000. Notwithstanding any other provision of this chapter and for purposes of the
16 surcharge imposed by this chapter, the surcharge imposed upon mobile
17 telecommunication services shall be administered in accordance with 4 U.S.C.
18 §§ 116-126 as in effect on July 28, 2000. For prepaid ~~wireless telephone calling~~
19 telecommunications services, the term, 911 emergency surcharge, means any charge
20 set by the governing body and assessed ~~per month of~~ for service purchased within the
21 governing body's designated 911 service area state;

22 ~~(8)~~(10) "Nonrecurring costs," any capital ~~and~~ or start-up expenditure ~~for~~ such as
23 telecommunications equipment, software, database, initial training, and the
24 purchase or lease of subscriber names, addresses, and telephone information

1 for the local exchange access company;

2 (11) "Place of primary use," the street address where the customer's use of the
3 telecommunications service primarily occurs. For purposes of 911 emergency
4 surcharge fees, place of primary use is the customer's registered location on the date
5 the customer is billed;

6 ~~(8A)~~(12) "Prepaid wireless ~~telephone~~ telecommunications service," any wireless
7 telephone telecommunications service that is activated in advance by payment
8 for a finite dollar amount of service or for a finite number of minutes that
9 terminate either upon use by any person ~~and delivery by the wireless provider~~
10 ~~of an agreed amount of service corresponding to the total dollar amount paid~~
11 ~~in advance~~ or within a certain period of time following the initial purchase or
12 activation, unless an additional payment is made;

13 ~~(9)~~(13) "Public agency," any municipality, county, public district, or public authority
14 located in whole or in part within this state which provides or has the authority
15 to provide fire fighting, law enforcement, ambulance, emergency medical, or
16 other emergency services;

17 ~~(10)~~(14) "Public safety answering point," any twenty-four hour communications facility
18 which receives all 911 service calls and reroutes the requestor or information
19 to appropriate public or private safety agencies;

20 ~~(11)~~(15) "Recurring costs," any costs such as network access fee and other telephone
21 charges, software, equipment, database management, maintenance, charges to
22 maintain database of subscriber names, addresses, and telephone information
23 from the local exchange access company. Recurring costs may include
24 personnel expenses for a public safety answering point ~~and any other costs~~

1 directly related to the operation of the 911 service;

2 (16) "Service provider," any person or entity providing, offering to provide, or selling a
3 telecommunications service. The retail sale of prepaid wireless telecommunications
4 service constitutes the sale of telecommunications service for the purposes of the
5 surcharge imposed by this chapter;

6 ~~(12)~~(17) "Service supplier," any person or entity who provides or offers to provide 911
7 system equipment, installation, maintenance, or exchange access services
8 within the 911 service access area; ~~and~~

9 ~~(13)~~(18) "Service user," any person who is provided ~~local access exchange telephone~~
10 a telecommunications service in this state;

11 (19) "Telecommunications service," any means of delivering voice communications from
12 point to point or person to person through the use of identifying digits assigned to a
13 particular user to initiate the communication, including telephone, wireline, wireless,
14 prepaid, or Interconnected VoIP services and includes the retail sale of prepaid
15 wireless telecommunications service.

16 Section 2. That § 34-45-2 be amended to read as follows:

17 34-45-2. The governing body of a public corporation may by ordinance authorize a 911
18 emergency reporting system. The ordinance shall include a description of the proposed 911
19 service area ~~and the maximum surcharge amount.~~

20 Section 3. That § 34-45-3 be amended to read as follows:

21 34-45-3. Any governing body may incur any nonrecurring or recurring costs for the
22 installation, maintenance, or operation of a 911 system and may pay such costs ~~by imposing a~~
23 911 emergency surcharge for such service in those portions of the governing body's jurisdiction
24 for which 911 service will be provided in whole or in part from a 911 emergency surcharge. If

1 the 911 system is to be provided for any territory included in the jurisdiction of the governing
2 bodies of two or more public agencies the public agencies may enter into a joint agreement for
3 such service ~~unless any such body expressly excludes itself therefrom. Any such agreement shall~~
4 ~~provide that each governing body which is a customer of such service shall make payment~~
5 ~~therefor from general revenues. Nothing in this section prevents two or more such governing~~
6 ~~bodies from entering into a contract to establish a separate legal entity to enter into such an~~
7 ~~agreement as the customer of the service supplier.~~

8 Section 4. That § 34-45-4 be amended to read as follows:

9 34-45-4. Upon compliance with § 34-45-2, the governing body may ~~impose~~ collect a
10 monthly uniform charge in an amount not to exceed seventy-five cents per service user line ~~on~~
11 ~~each local exchange access line of the governing body's jurisdiction for which the 911 system~~
12 ~~will be provided~~ billed to the service user on a periodic basis. The board may collect up to three
13 percent of the charge for any prepaid telecommunication service sold in the state. The proceeds
14 ~~of this charge shall be utilized to pay~~ are continuously appropriated for reimbursement of
15 nonrecurring and recurring costs of the 911 ~~related~~ service and operating expenses of the board.
16 No such charge may be imposed upon more than one hundred ~~local exchange access~~ service
17 user lines or equivalent service, per customer account billed, per month.

18 Section 5. That § 34-45-5 be amended to read as follows:

19 34-45-5. ~~Any charge imposed pursuant to §§ 34-45-3 and 34-45-4 and required to be~~
20 ~~collected by the local exchange access company shall be added to, and shall be stated separately~~
21 ~~in, the billings to the service user. Any person utilizing telecommunications service in the state~~
22 is liable for the applicable 911 emergency surcharge. Any service provider providing any
23 telecommunications service within the state or which is used within the state shall collect and
24 remit to the governing body the applicable 911 emergency surcharge for telecommunications

1 services billed to service users monthly or the Department of Revenue and Regulation the
2 applicable 911 emergency surcharge for prepaid telecommunication service. The surcharge shall
3 be stated separately in any billing statement, invoice, or receipt.

4 Section 6. That § 34-45-6 be amended to read as follows:

5 34-45-6. Each ~~billed~~ service user is liable for any charge imposed pursuant to §§ ~~34-45-3~~
6 ~~and § 34-45-4~~ until it has been paid to the ~~local exchange access company~~ service provider.

7 Section 7. That § 34-45-8 be amended to read as follows:

8 34-45-8. Any charge imposed pursuant to §§ ~~34-45-3~~ and § 34-45-4 and the amounts
9 ~~required to be collected are to~~ shall be remitted to the governing body ~~quarterly. The amount of~~
10 ~~the charge collected in one calendar quarter by the local exchange access company shall be~~
11 ~~remitted to the governing body no later~~ for telecommunications service billed to service users
12 monthly and to the Department of Revenue and Regulation for prepaid telecommunications
13 service sold in the state on a return required by the Department of Revenue and Regulation. Not
14 more than thirty days after the close of the calendar quarter. ~~On or before the sixteenth day of~~
15 ~~each month following, a return for the preceding quarter shall be filed with the governing body~~
16 ~~in such form as the governing body and local exchange access company shall agree upon. The~~
17 ~~local exchange access company required to file the return~~ each service provider shall deliver the
18 a return together with a remittance of the amount of the charge payable, to the Department of
19 Revenue and Regulation or the appropriate governing body. The local exchange access company
20 Each service provider shall maintain a record of collections made for a period of one year after
21 the collection.

22 Section 8. That § 34-45-8.1 be repealed.

23 ~~34-45-8.1. Each prepaid wireless telephone calling service provider shall remit the surcharge~~
24 ~~amount on each account for which service has been paid and not yet used to the governing body~~

1 ~~each calendar quarter pursuant to § 34-45-8. The surcharge amount shall be remitted to the~~
2 ~~location associated with the telephone number that is programmed into the wireless telephone~~
3 ~~that will be providing prepaid wireless telephone service. If the prepaid wireless telephone~~
4 ~~calling service provider is unable to determine the location of the customer, the surcharge~~
5 ~~amount shall be remitted based on the place at which the customer paid for the prepaid wireless~~
6 ~~telephone service. The prepaid wireless telephone calling service provider may deduct units of~~
7 ~~usage equivalent to the amount of the surcharge from the unused telecommunication service,~~
8 ~~if the provider has so notified the purchaser at or before the time of purchase.~~

9 Section 9. That § 34-45-12 be amended to read as follows:

10 34-45-12. Funds There is hereby created within the state treasury the South Dakota 911
11 Coordination fund. Any funds collected from the prepaid telecommunication service charge
12 imposed pursuant to §§ ~~34-45-3~~ and § 34-45-4 shall be credited to a special fund, apart from the
13 ~~general fund of the public agency, for payments of nonrecurring and recurring costs and for the~~
14 ~~general operational expense of the 911 related service, including but not limited to the personnel~~
15 ~~costs of the dispatchers or the monthly contract costs billed by the public safety answering point.~~
16 ~~If the 911 system is discontinued, any money remaining in the fund after all payments to the~~
17 ~~service supplier pursuant to this section have been made shall be transferred to the general fund~~
18 ~~of the public agency or proportionately to the general funds of each participating public agency~~
19 deposited in the South Dakota 911 Coordination fund. The board may authorize disbursements
20 from the fund pursuant to this chapter for approved nonrecurring costs requested by the
21 governing body of eligible 911 public safety answering points.

22 Section 10. That § 34-45-18 be amended to read as follows:

23 34-45-18. There is hereby established the South Dakota 911 ~~Coordinated Statewide System~~
24 ~~Task Force. The task force shall evaluate the current 911 emergency reporting system in South~~

1 ~~Dakota, develop a plan for implementation of a coordinated statewide system covering as much~~
2 ~~of the state as is practicable, and provide recommendations for the implementation, operation,~~
3 ~~and funding of such a coordinated statewide 911 system in a report to the Governor by~~
4 ~~November 30, 1998~~ Coordination Board. The board shall set minimum standards for operation
5 of public safety answering points, determine criteria for reimbursement for nonrecurrent costs
6 and the amount of reimbursement, and oversee the coordination of 911 services within the state.

7 Section 11. That § 34-45-18.1 be amended to read as follows:

8 34-45-18.1. The South Dakota 911 ~~Coordinated Statewide System Task Force~~ Coordination
9 Board created pursuant to § 34-45-18 ~~is hereby continued and shall be expanded to include at~~
10 ~~least one representative shall consist of representatives~~ from each of the following groups ~~as~~
11 appointed by the Governor for three-year terms, the initial appointments shall be for staggered
12 terms:

13 (1) One representative of the South Dakota Chapter of the Association of Public Safety
14 Communication Officials;

15 (2) One representative of the South Dakota Chapter of the National Emergency Numbers
16 Association, the South Dakota Emergency Management Association, the South
17 Dakota Emergency Medical Technicians Association, the South Dakota Firefighters
18 Association;

19 (3) Two representatives who are South Dakota telecommunications service providers;

20 (4) One representative who is an employee of the South Dakota Department of Public
21 Safety;

22 (5) Two representatives of the South Dakota Association of County Commissioners;

23 (6) Two representatives of the South Dakota Municipal League;

24 (7) One representative of the South Dakota Police Chiefs Association; and

1 (8) One representative of the South Dakota Sheriffs Association, and at least one
2 member from an operating public safety answering point system.

3 The Governor shall be provided with a list of ten persons for each board position from each
4 group represented. The Governor has the authority to reject any or all names provided. The
5 Governor may also remove any person appointed to the board at any time without cause. The
6 ~~task force shall~~ board may conduct public hearings to develop and recommend standards for
7 operation and utilization of public safety answering points.

8 Section 12. That § 34-45-18.2 be amended to read as follows:

9 34-45-18.2. The ~~task force shall develop a set of minimum~~ board may promulgate rules
10 pursuant to chapter 1-26 setting:

11 (1) Minimum technical, operational, and procedural standards for the operation and
12 utilization of a public safety answering point;

13 (2) Requirements and amounts for reimbursement of recurring and nonrecurring costs;
14 and

15 (3) Standards for coordination of effective 911 service on a statewide basis.

16 Section 13. That § 34-45-18.3 be repealed.

17 ~~34-45-18.3. Each public safety answering point shall obtain a full audit report on 911 traffic~~
18 ~~from its telephone service provider and provide that information to the task force for use in the~~
19 ~~preparation of the standards. Each public safety answering point shall provide the audit report~~
20 ~~to the task force no later than August 2, 1999.~~

21 Section 14. That § 34-45-19 be amended to read as follows:

22 34-45-19. The Governor shall appoint such persons to the task force as the Governor
23 considers necessary to adequately evaluate the current system and for the development of the
24 implementation of such a system. The task force board is attached to the Department of Military

1 ~~and Veterans Affairs, Division of Emergency Management~~ Public Safety for administrative
 2 purposes. The ~~division~~ department shall assist the ~~task force~~ board and coordinate the
 3 development of the coordinated statewide 911 system. The board may employ a 911 coordinator
 4 within the department to assist with the coordination of the statewide 911 system.

5 Section 15. That § 34-45-20 be amended to read as follows:

6 34-45-20. The ~~task force~~ board shall:

7 (1) Evaluate all of the current public safety answering points and systems throughout the
 8 State of South Dakota for their capability to adequately and efficiently administer
 9 systems;

10 (2) ~~Prepare a cost benefit analysis of administrative and operational expenses for all~~
 11 ~~existing 911 public safety answering points and systems;~~

12 ~~(3) Consider the feasibility and advisability of consolidating jurisdictions or systems for~~
 13 ~~the purposes of more efficiently administering systems and utilizing available funds;~~

14 ~~(4) Prepare alternative~~ Develop plans for the implementation for a coordinated uniform
 15 statewide 911 system covering the entire state or so much as is practicable;

16 ~~(5)(3) Prepare a detailed report of~~ Monitor the number and location of public safety
 17 answering points or systems and the use of 911 emergency surcharge funds in their
 18 administrative and operational ~~revenues and~~ budgets;

19 ~~(6)(4) Provide a report of alternative proposals~~ Develop criteria and minimum standards for
 20 operating and financing public safety answering points or systems; ~~and~~

21 ~~(7)(5) Present its findings, implementation plan and recommendations to the Governor by~~
 22 ~~November 30, 1998, for consideration~~ Develop criteria for the eligibility and amount
 23 of reimbursement of recurrent and nonrecurrent costs of public safety answering
 24 points or systems; and

1 (6) Report annually to the Governor and the Legislature about the operations and
2 findings the board and any recommendations for changes to 911 service in the state.

3 Section 16. That chapter 34-45 be amended by adding thereto a NEW SECTION to read as
4 follows:

5 No later than July 1, 2010, each governing body and 911 system shall provide enhanced 911
6 service.

State of South Dakota

EIGHTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 2008

916P0652

SENATE HEALTH AND HUMAN SERVICES ENGROSSED NO. **SB 161** - 1/30/2008

Introduced by: Senators Nesselhuf and Abdallah and Representatives Rhoden and Thompson

1 FOR AN ACT ENTITLED, An Act to create the South Dakota Boxing Commission and to
2 provide for the supervision of boxing and kickboxing competitions and sparring exhibitions
3 in the state.

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

5 Section 1. There is hereby created the South Dakota Boxing Commission consisting of five
6 members appointed by the Governor. The initial members to be appointed shall draw lots to
7 determine who will hold the two three-year terms, the two two-year terms, and the one one-year
8 term. Thereafter, each member shall serve terms of three years, but no member may serve more
9 than three consecutive terms.

10 Section 2. The commission shall supervise all boxing or kickboxing competitions and
11 sparring exhibitions held in the state and shall promulgate rules pursuant to chapter 1-26 to:

- 12 (1) Govern the conduct of boxing or kickboxing competitions, and sparring exhibitions;
13 (2) Establish license fees for all boxers, kickboxers, boxing and kickboxing promoters,
14 managers, judges, timekeepers, cornerpersons, knockdown counters, matchmakers,
15 and referees or other participants; and



1 (3) Establish a fee based on the percentage of gross revenues from any boxing or
2 kickboxing competition or sparring exhibition held in the state to pay for the
3 expenses of the South Dakota Boxing Commission. However, no fee established
4 pursuant to this subdivision may exceed five percent of the gross revenues of the
5 competition or exhibition from any and all sources including cable television and
6 pay-per-view telecasts of the event, exclusive of any federal tax thereon.

7 Section 3. All fees collected pursuant to this Act shall be placed in the boxing commission
8 fund that is hereby established in the state treasury. All money deposited in the fund is
9 continuously appropriated to pay for the administration of this Act and for the compensation and
10 expenses of members of the South Dakota Boxing Commission.

11 Section 4. Boxing or kickboxing competitions or sparring exhibitions held in any city in this
12 state shall be held in conformity to the ordinances of that city, in addition to the requirements
13 of this Act. No boxing or kickboxing competition or sparring exhibition may be held in a city
14 where such contests or exhibitions are prohibited by ordinance.

15 Section 5. All boxing or sparring exhibitions conducted by bona fide educational institutions
16 or by national amateur boxing associations or their local affiliates are exempt from this Act.

State of South Dakota

EIGHTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 2008

924P0521

SENATE STATE AFFAIRS ENGROSSED NO. **SB** **190** - 1/28/2008

Introduced by: Senators Hanson (Gary), Abdallah, Bartling, Heidepriem, Kloucek, Maher, Nesselhuf, Peterson (Jim), and Smidt (Orville) and Representatives Moore, Dennert, Gassman, Gillespie, Halverson, Nelson, Noem, and Sigdestad

1 FOR AN ACT ENTITLED, An Act to impose a fee on certain pipelines carrying crude oil and
2 to create a crude oil pipeline compensation fund that may be used in the event of a crude oil
3 spill.

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

5 Section 1. Terms used in this Act mean:

- 6 (1) "Barrel," a barrel is 42 U.S. gallons measured at 60 degrees Fahrenheit;
- 7 (2) "Crude oil," any unrefined liquid petroleum. Crude oil may range in density from
8 very light to very heavy and in color from yellow to black, may have a paraffin,
9 asphalt, or mixed base, and may include chemicals and elements which are
10 considered toxic and pollutants if released into the environment;
- 11 (3) "Crude oil pipeline company," any person that is transporting crude oil;
- 12 (4) "Department," the South Dakota Department of Revenue and Regulation;
- 13 (5) "Secretary," the secretary of the Department of Revenue and Regulation.



1 Section 2. There is hereby imposed a fee upon any crude oil transported by pipeline of two
2 cents per barrel of crude oil. Any crude oil company that transports averages less than ten
3 thousand barrels of crude oil per day by pipeline is exempt from the fee and provisions imposed
4 by this Act.

5 Section 3. There is hereby created in the state treasury the crude oil pipeline compensation
6 fund. The secretary shall deposit the fee collected pursuant to this Act in the crude oil pipeline
7 compensation fund. The fund may provide reimbursement of reasonable and necessary costs for
8 any corrective action in excess of ten thousand dollars for a crude oil release that may occur.
9 Reimbursement may include costs of an approved corrective action and third-party claims for
10 crude oil releases.

11 The fund shall be a participating fund and shall be credited for all interest earned on fund
12 balances. Expenditures from the fund may be made only upon approval by the Legislature. If
13 the balance in the fund exceeds thirty million dollars, the collection of the fee shall cease. If the
14 balance in the fund becomes less than five million dollars, collection of the fee shall resume.

15 Section 4. Any person who holds a license issued pursuant to this Act or who is a person
16 whose receipts are subject to the fees imposed by this Act shall, except as otherwise provided
17 in this section, file a return, and pay any fee due, to the Department of Revenue and Regulation
18 on or before the twentieth day of the month following each monthly period. The return shall be
19 filed on forms prescribed and furnished by the department. The secretary may grant an extension
20 of not more than five days for filing a return and remittance. Unless an extension is granted,
21 penalty or interest under § 10-59-6 shall be paid if a return or remittance is not made on time.

22 Section 5. Any crude oil pipeline company subject to the fee shall keep records of all crude
23 oil transported through the pipeline. The records are, at all times during business hours of the
24 day, subject to inspection by the department to determine the amount of fees due. The records

1 shall be preserved for a period of three years unless the secretary, in writing, authorized their
2 destruction or disposal at an earlier date.

3 Section 6. The secretary may promulgate rules, pursuant to chapter 1-26, concerning:

- 4 (1) License applications;
- 5 (2) The filing of returns and payment of the fee;
- 6 (3) Determining the application of the fee;
- 7 (4) Record-keeping requirements; and
- 8 (5) Determining auditing methods.

9 Section 7. Any person who:

- 10 (1) Makes any false or fraudulent return in attempting to defeat or evade the fee is guilty
11 of a Class 6 felony;
- 12 (2) Fails to pay the fee due under this Act within sixty days from the date the fee
13 becomes due is guilty of a Class 1 misdemeanor;
- 14 (3) Fails to keep the records required by this Act or refuses to exhibit these records to the
15 department for the purpose of examination is guilty of a Class 1 misdemeanor;
- 16 (4) Fails to file a return required by this Act within sixty days from the date the return
17 is due is guilty of a Class 1 misdemeanor;
- 18 (5) Engages in business as a crude oil pipeline without obtaining a license is guilty of a
19 Class 6 felony.

20 For purposes of this section, the term, crude oil pipeline company, includes corporate
21 officers having control, supervision of, or charged with the responsibility for making returns or
22 payments pursuant to this Act.

23 Section 8. If a corporation subject to the fee imposed by this Act fails for any reason to file
24 the required returns or to pay the fee due, any of its officers having control, or supervision of,

1 or charged with the responsibility for making such returns and payments are personally liable
2 for such failure. The dissolution of a corporation does not discharge an officer's liability for a
3 prior failure of the corporation to make a return or remit the fee due. The sum due for such a
4 liability may be assessed and collected as provided by law.

5 If any responsible corporate officer elects not to be personally liable for the failure to file
6 the required returns or to pay the fee due, the corporation shall provide the department with a
7 surety bond or certificate of deposit as security for payment of any fee that may become due.
8 The bond or certificate of deposit provided for in this section shall be in an amount equal to the
9 estimated annual fee imposed by the Act.

10 Section 9. Any real and personal property owned by a crude oil pipeline company is subject
11 to the real and personal property taxes levied by the state, counties, municipalities, townships,
12 or other political subdivisions of the state.