

State of South Dakota

NINETY-FIRST SESSION
LEGISLATIVE ASSEMBLY, 2016

813X0052

HOUSE BILL NO. 1006

Introduced by: Representatives May, Conzet, Feickert, Klumb, and Schaefer and Senator Ewing at the request of the Interim Committee on County Government

1 FOR AN ACT ENTITLED, An Act to authorize counties to impose sales and use taxes.

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

3 Section 1. That the code be amended by adding a NEW SECTION to read:

4 The board of county commissioners may, by ordinance, impose a non-ad valorem tax at a
5 rate not to exceed one percent in accordance with the provisions of this Act. The tax shall be
6 levied on the sale, use, storage, and consumption of items taxed under chapters 10-45 and 10-46
7 within the county, and shall conform in all respects to the state tax on such items with the
8 exception of the rate.

9 Section 2. That the code be amended by adding a NEW SECTION to read:

10 Any tax imposed under section 1 of this Act may be referred to a vote of the people for its
11 approval or disapproval in the same manner as provided in chapter 7-18A.

12 Section 3. That the code be amended by adding a NEW SECTION to read:

13 Notwithstanding § 7-18A-8, any new ordinance or amendment to an ordinance enacted
14 under the authority of this Act, and any tax rate affected thereby, may be effective only on
15 January first or July first of a calendar year. The ordinance or amendment shall be effective on



1 the earlier of January first or July first following at least ninety days notification by the county
2 to the secretary of revenue that the ordinance or amendment has been enacted unless the
3 ordinance or amendment is suspended by operation of a referendum. If an ordinance or
4 amendment enacted under this Act is referred and the referred ordinance or amendment is
5 approved, the effective date shall be the earlier of January first or July first following at least
6 ninety days notification by the county to the secretary of revenue that the ordinance or
7 amendment has been approved notwithstanding § 7-18A-14. Notification of the enactment or
8 approval of the ordinance shall be in writing and mailed, along with a copy of the ordinance or
9 amendment, by registered or certified mail to the secretary of revenue.

10 Section 4. That the code be amended by adding a NEW SECTION to read:

11 The exemption, definition, administrative, collection, and enforcement provisions of
12 chapters 10-45 and 10-46 apply to any tax imposed under this Act, where applicable.

13 Section 5. That the code be amended by adding a NEW SECTION to read:

14 Notwithstanding any other provision of law, gross receipts as defined in this Act do not
15 include any tax imposed by chapters 10-45, 10-45D, 10-46, 10-52, and 10-52A.

16 Section 6. That the code be amended by adding a NEW SECTION to read:

17 The Department of Revenue shall administer any tax imposed under this Act. The
18 department shall keep full and accurate records of all moneys received and distributed under this
19 Act.

20 Section 7. That the code be amended by adding a NEW SECTION to read:

21 Each person subjected to any tax under this Act shall keep records and books of all receipts
22 and sales, together with invoices, bills of lading, copies of bills of sale, and other pertinent
23 papers and documents. The books, records, papers, and documents are, at all times during
24 business hours of the day, subject to inspection by the secretary of revenue or the secretary's

1 agents and employees to determine the amount of tax due. The books and records shall be
2 preserved for a period of three years unless the secretary of revenue, in writing, authorized the
3 books and records destruction or disposal at an earlier date.

4 Section 8. That the code be amended by adding a NEW SECTION to read:

5 All moneys received and collected on behalf of a county by the Department of Revenue
6 under this Act shall be distributed to the counties after deducting the amount of refunds made,
7 the amounts necessary to defray the cost of collecting the tax, and the administrative expenses
8 incident thereto, the balance shall be paid within thirty days after collection to the county
9 entitled to the payment.

10 Section 9. That the code be amended by adding a NEW SECTION to read:

11 The secretary of revenue may promulgate rules, pursuant to chapter 1-26, concerning:

- 12 (1) Licensing, including bonding and filing license applications;
- 13 (2) The filing of returns and the payment of the tax;
- 14 (3) The application of the tax and exemptions;
- 15 (4) Taxpayer record-keeping requirements; and
- 16 (5) Determining audits.

17 Section 10. That the code be amended by adding a NEW SECTION to read:

18 Each county imposing a non-ad valorem tax pursuant to this Act may issue county non-ad
19 valorem tax revenue bonds pursuant to this section and chapter 6-8B in anticipation of the
20 collection of the taxes. The bonds shall be payable solely from the collections of the tax
21 imposed by the county under this Act, as determined by the board of county commissioners. The
22 board of county commissioners shall, in the resolution or ordinance authorizing the bonds, agree
23 that the county will continue to impose and collect the taxes so long as the bonds are
24 outstanding. The board of county commissioners shall also pledge so much of the collections

1 of the taxes as may be necessary to pay the principal premium and interest on the bonds and to
2 maintain any debt service reserve established for the bonds. The proceeds of the bonds may be
3 used for land acquisition, capital improvements, and capital asset acquisition, to establish a debt
4 service reserve fund for the bonds, and to pay not more than one year's capitalized interest on
5 the bonds.

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

8 Section 11. That the code be amended by adding a NEW SECTION to read:

9 No tax increase may be levied on materials incorporated in construction work pursuant to
10 construction contracts bid or entered into on or before the effective date of any tax imposed
11 pursuant to this Act.

12 Section 12. That the code be amended by adding a NEW SECTION to read:

13 Any person who holds a license pursuant to this Act or who is a person whose receipts are
14 subject to the tax imposed by this Act shall, except as otherwise provided in this section, file
15 a return and pay any tax due to the Department of Revenue on or before the twentieth day of the
16 month following each monthly period. The return shall be filed on forms prescribed and
17 furnished by the department.

18 If the person remits the tax by electronic transfer to the state, the person shall file the return
19 by electronic means on or before the twenty-third day of the month following each monthly
20 period and remit the tax on or before the second to the last day of the month following each
21 monthly period.

22 The secretary of revenue may require or allow a person to file a return and pay any tax due
23 on a basis other than monthly. The return and remittance is due the last day of the month
24 following the reporting period, or at a time otherwise determined by the secretary.

1 The secretary may grant an extension of not more than five days for filing a return and
2 remittance.

3 Unless an extension is granted, penalty or interest under § 10-59-6 shall be paid if a return
4 or remittance is not made on time.

5 Section 13. That § 10-59-1 be amended to read:

6 10-59-1. The provisions of this chapter may only apply to proceedings commenced under
7 this chapter concerning the taxes, the fees, the surcharges, or the persons subject to the taxes,
8 fees, or surcharges imposed by, or any civil or criminal investigation authorized by, chapters 10-
9 33A, 10-39, 10-39A, 10-39B, 10-43, 10-45, 10-45D, 10-46, 10-46A, 10-46B, 10-46E, 10-47B,
10 10-52, 10-52A, 32-3, 32-3A, 32-5, 32-5B, 32-6B, 32-9, 32-10, 34-45, and 34A-13 and §§ 22-25-
11 48, 49-31-51, 50-4-13 to 50-4-17, inclusive, sections 1 to 12, inclusive, of this Act, and the
12 provisions of chapter 10-45B.