



2020 South Dakota Legislature

Senate Bill 191

Introduced by: **Senator Langer**

1 **An Act to provide emergency authority to counties, community improvement**
2 **districts, and municipalities in the event of a public health crisis and to**
3 **declare an emergency.**

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

5 **Section 1.** The governing body for each county may, by ordinance, provide for the declaration
6 of a public health emergency within the county's jurisdiction outside the corporate limits of
7 any municipality. The ordinance shall take effect immediately upon passage and shall be
8 published in full either as part of the minutes or separately.

9 **Section 2.** That § 7-8-20 be AMENDED:

10 **7-8-20. General powers of county commissioners.**

11 In addition to others specified by law, the board of county commissioners shall
12 have power:

- 13 (1) To institute and prosecute civil actions in the name of the county, for and on behalf
14 of the county;
- 15 (2) To make orders respecting the care and preservation of all property belonging to
16 the county and to sell any real property of the county when authorized by law so to
17 do;
- 18 (3) To levy a tax not exceeding the amount authorized by law, and to liquidate
19 indebtedness;
- 20 (4) To audit the accounts of all officers having the care, management, collection or
21 disbursement of any money belonging to the county or appropriated for its benefit;
- 22 (5) To construct and repair bridges; to open, lay out, vacate, and change highways; to
23 purchase or acquire grounds for courthouse, jail, or other building sites, locate or
24 relocate the courthouse on such sites; to establish election precincts in its county
25 and appoint the judges of election; and, as a board of equalization, to equalize the
26 assessment roll of its county in the manner provided by law;

- 1 (6) To furnish necessary blank books, blanks, and stationery for the county auditor,
2 register of deeds, county treasurer, state's attorney, sheriff, and other elected or
3 appointed county officers, to be paid out of the county treasury; also a fireproof
4 safe or vaults, when in its judgment the same shall be advisable, in which to keep
5 all the books, records, vouchers, and papers pertaining to the business of the board;
- 6 (7) To superintend the fiscal concerns of the county and secure their management in
7 the best possible manner;
- 8 (8) To regulate the transaction of business in alcoholic beverages and the use and
9 consumption of alcoholic beverages, to establish the number of on-sale licenses
10 which may be issued, to provide for reasonable classification of on-sale licenses and
11 fix the fees to be charged for the licenses consistent with the provisions of Title 35;
- 12 (9) To make ordinances prohibiting the sale or exhibition of any obscene matter;
13 however, no county resolution shall be effective in any incorporated area within said
14 county;
- 15 (10) To do and perform such other duties and acts as it is or may hereafter be required
16 to do and perform;
- 17 (11) To provide additional compensation to the county treasurer, county auditor, county
18 register of deeds, state's attorney, and sheriff. This compensation shall be in
19 addition to the salaries prescribed in §§ 7-7-9.1, 7-7-12, and 7-12-15;
- 20 (12) To provide office space, in addition to that provided in the county courthouse, for
21 state's attorneys, appointed officials of the county and other employees;
- 22 (13) To receive and administer grants, loans and assistance and to enter into
23 agreements for cooperative action, with or on behalf of any public agency or
24 nonprofit organization, to establish, promote and support community development;
- 25 (14) To enact ordinances to regulate and prevent the placing of ashes, dirt, garbage or
26 any offensive matter in any highway or public ground or in any body or stream of
27 water within the county, but outside of an incorporated municipality or outside of
28 the one mile limits of any incorporated municipality;
- 29 (15) To enact ordinances to regulate and compel the cleansing, abatement or removal
30 of any sewer, cesspool or any unwholesome or nauseous thing or place;
- 31 (16) To license and regulate transient merchants, hawkers, solicitors, peddlers, itinerant
32 vendors, and every person retailing tangible personal property or services, unless
33 such business is carried on exclusively within the boundaries of a municipality or is
34 carried on through home solicitation or from a fixed permanent location and place

- 1 of business in this state where such goods and services are offered on a continuing
2 basis;
- 3 (17) To enact by ordinance, for any portion of the county which is zoned, certain building
4 codes pursuant to § 11-10-5;
- 5 (18) To prohibit or restrict open burning, after consultation with local fire officials and
6 law enforcement officials, in order to protect the public health and safety; and
- 7 (19) To enact emergency and temporary ordinances to promote the health of the citizens
8 of the county and to suppress disease outside the corporate limits of any
9 municipality, provided that no ordinance may be in effect or enforced after July 1,
10 2021.

11 **Section 3.** That § 9-32-1 be AMENDED:

12 **9-32-1. Promotion of health and suppression of disease.**

13 Every municipality shall have power to do what ~~may be~~ is necessary or expedient
14 for the promotion of health or the suppression of disease, ~~and may, by ordinance, provide~~
15 for the declaration of a public health emergency within the municipality's jurisdiction.

16 **Section 4.** Upon one reading a municipality may enact emergency and temporary ordinances
17 to promote the health of the citizens of the municipality and to suppress disease, within its
18 territorial jurisdiction under § 9-29-1, provided that no ordinance may be in effect or enforced
19 after July 1, 2021. The ordinance shall take effect immediately upon passage and shall be
20 published in full either as part of the minutes or separately.

21 **Section 5.** Upon one reading a county or community improvement district under chapter 7-
22 25A may enact emergency and temporary ordinances to promote the health of the citizens of
23 the county or community improvement district and to suppress disease outside the boundaries
24 of any municipality, provided that no ordinance may be in effect or enforced after July 1,
25 2021. The ordinance shall take effect immediately upon passage and shall be published in full
26 either as part of the minutes or separately.

27 **Section 6.** Any local political subdivision order, resolution, or ordinance passed or enacted
28 after March 1, 2020, that resulted in ordering the closure of or placed reasonable restrictions
29 on the use of any public or private location, including a business, park, school, or other
30 location that promotes public gathering to slow or prevent the spread of communicable
31 diseases is deemed authorized as of the date of enactment.

- 1 **Section 7.** This Act is repealed on July 1, 2021.
- 2 **Section 8.** Whereas, this Act is necessary for the immediate preservation of the public peace,
- 3 health, or safety, an emergency is hereby declared to exist, and this Act shall be in full force
- 4 and effect from and after its passage and approval.