



SDBA Legislative Update

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Legislative News

Because this is only the second full week of the 2017 session and because newly-elected legislators are still learning the process, new bills are slow in coming as only 30 new bills were introduced this week. That said, here are some new bills that I will follow.

SB59 – The primary thrust of this bill is to set a uniform effective date of July 1 on any constitutional amendment, referred law or initiated measure that is approved by a majority of South Dakota voters. This is the first of several measures likely to be introduced as a result of the voters' approval of the Anti-Government Corruption Measure (Initiated Measure 22) and its subsequent setting aside by a South Dakota circuit judge due to constitutional issues. This bill had its initial hearing in the Senate State Affairs Committee on Friday morning. Its prime sponsor, Sen. Jim White (R-Huron) asked the committee to make a minor change to the bill and then passed the amended measure on a 6-1 vote.

HB1059 – Brought forward by Rep. Hugh Bartels (R-Watertown), this bill provides for the perfection of liens upon application for duplicate certificates of title for motor vehicles and large boats. As most of you know, Rep. Bartels is a recently-retired banker who has been talking with his local county treasurer and staff at the SD Division of Motor Vehicles about how to streamline the process for noting creditor's liens on duplicate certificates of title. Bankers and borrowers alike could benefit from a smoother flow of paperwork specifically in cases where the vehicle is being pledged as collateral to support a loan made for purposes other than financing the purchase of said vehicle. HB1059 requires that "any lien to be noted on a certificate of title shall be evidenced by a copy of the security interest when a person applies for a duplicate certificate of title."

The state of South Dakota had been moving away from the issuance of paper certificates of title in favor of electronic titles for some time now. That said, paper titles do exist and inevitably, some get lost or misplaced, necessitating the production of a duplicate title. When lost titles and duplicate titles intersect with a lending

transaction to be secured by the value of the vehicle, a tangled paperwork process ensues for borrowers, lenders, county treasurers and the state Division of Motor Vehicles. HB1059 is designed to take some of tangles out of that process.

HB1059 will be up for debate in the House Judiciary Committee next Monday. SDBA intends to testify in support.

HB1065 – Brought by freshman Rep. David Johnson (R-Rapid City), this bill proposes to repeal a section of the chapter of South Dakota law dealing with registration of business names that has been on the books since 1939. The law proposed for repeal in HB1065, §37-11-4 states:

"All persons interested in a business described in § 37-11-1 at any time shall be at all times liable for any contracts or obligations incurred while they were so interested and in addition shall be liable for all contracts and obligations incurred prior to the filing of a verified statement showing that they are no longer interested."

On the surface, repealing this statute appears to diminish the position of creditors, and it would seem logical that SDBA would oppose this legislation. That said, SDBA legal counsel Brett Koenecke and I will talk to Rep. Johnson to understand the reason why he has introduced this bill and will subsequently work with the SDBA Board of Directors to officially establish the SDBA's position on this proposed measure.

Action on Prior Bills

SB34 – This bill imposes a 90-day deadline on the State Treasurer to sell those unclaimed stocks, bonds and other negotiable financial instruments, thereby speeding up the time frame for remittance of sale proceeds to the state's general fund. This bill was approved unanimously by members of the Senate State Affairs Committee and passed the full Senate with only two dissenting votes.

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HB1047 – SDBA offered testimony in the House Commerce Committee this week in support of the SD Division of Banking’s bill to streamline the statutory publication and notification requirements for various types of bank and trust company changes. The bill received unanimous support in committee and on the House floor.

HB1033 – The SD Bureau of Human Resources brought this bill in order to satisfy federal requirements relating to the treatment of confidential federal tax information that some state employees and state contractors may access in the performance of their responsibilities. Based on our suggestions offered by the SDBA, you may recall that the bill was amended in the House State Affairs Committee last Friday and was approved by the full House of Representatives on Wednesday. It will have its initial hearing on the Senate side on Monday in the Judiciary Committee. SDBA will continue to monitor HB1033 as amended.

HB1046 and HB1051 – These two bills representing the work product of the Governor’s Trust Task Force were heard on Friday morning by members of the House State Affairs Committee. Both bill received unanimous approval in committee and will be up for action on the House floor next week.

As always, please feel free to contact me any time you have questions or concerns.

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