

2023 South Dakota Legislature | February 3, 2023

## Week Four: 98<sup>th</sup> Legislative Session

Wednesday, February 1<sup>st</sup> was the final day for individual legislators to file bills for the 98<sup>th</sup> legislative session. At the end of week three there were 346 total bills; now, after the filing deadline, there are 450 total bills, 241 in the House and 209 in the Senate.

## SDBA Bill Watch

**HB 1117 and HB 1118: *Make an appropriation to support the small and mid-sized manufacturers, and to declare an emergency; and make an appropriation to support the South Dakota Small Business Development Center and the South Dakota Procurement Technical Assistance Center, and to declare an emergency.*** These companion bills were created to receive support in favor of the special appropriated funding proposal by the Governor. The passage of these measures would allocate \$2.3 million in general funds to support the Small Business Development Center (SBDC), the Manufacturing and Technology Solutions and the Procurement and Technical Assistance Center. At the request of House Speaker Bartels, and authorization of the SDBA Board, we will "support" these companion bills, and testify in favor during the bill hearing. Both bills passed out of House Commerce and Energy with an affirmative vote of 12-0 and were referred to Joint Committee on Appropriations, no hearing date has been scheduled at this time.

**HB 1108: *An act to Revise Provisions Related to Abandoned Mobile or Manufactured Homes.*** This revised bill contemplates the possible "disposal and/or sale of abandoned mobile or manufactured homes." We are tracking since a bank may have a lien on the home and want to ensure that lienholders remain noticed as part of the process when seeking remedies, the bill suggests. After discussing with the bill sponsor, lienholder notices remain in place as part of the notice requirement. This bill passed out of House Local Government with a 10-0 affirmative vote and subsequently passed on the House floor with a 70-0 Do Pass recommendation and has been sent to Senate Commerce and Energy for its hearing.

**SB 41: *establish a program for housing infrastructure loans and grants and make an appropriation.*** This bill is a refinement of the Housing Opportunity Fund, a bill that

required tweaking after the 2022 legislative session. In 2021, a housing task force was established to develop an infrastructure program for career housing in South Dakota. A \$200 million SD Housing Infrastructure Fund was created and is to be administered by the SD Housing Development Authority. The SDBA testified in favor of this bill, Thursday, January 12, with a due pass recommendation and it passed out of committee with an 8-1 affirmative vote. This bill passed out of the Senate 29-2, Friday, January 13. House State Affairs held a hearing on SB 41 on Wednesday, January 18 and passed out of the committee with a 12-1 affirmative vote and was sent to the House floor for debate. Friday, January 20<sup>th</sup> this bill was debated on the House floor and was deferred to Monday, January 23<sup>rd</sup>, as a little-known legislative rule was used to "pause" discussion, after another amendment was proposed to remove the emergency clause from the bill. Monday, January 23 the House passed this measure with a vote of 54-16. This legislation has been signed by the Speaker of the House and the President Pro Tempore of the Senate. February 1<sup>st</sup>, Governor Noem signed this bill into law. **Thank you to all SDBA members for your engagement with our Call to Action on this legislation.**

**SB 49: *An act to prohibit the improper storage and disposal of records containing personal or protected information and provide a penalty.*** In its current form, SB 49 aims to penalize individuals, government agencies and small businesses (banks, etc.) for what may be perceived as "improper storage and disposal of records," and if charged with a violation would have significant money penalties and possible misdemeanor and felony charges. The SDBA "opposes" this legislation in its present form. With a strong coalition of opposition led by the SDBA, a day before the scheduled hearing on January 19, the Attorney General's office requested this bill to be removed from the committee's agenda. The SDBA participated in a meeting with the AG's office on January 31<sup>st</sup> to further express our dislike for this measure. The AG's office is reevaluating this proposed bill as we continue to urge them to pull the bill.

**SB 109: *An Act to Require Employers to Disclose Compensation or Range of Compensation to Applicants and Employees.*** This bill would require employers with more than 100 or more employees to disclose in each job posting the hourly or salary compensation in addition to a description of all benefits and other compensation to be

offered to the hired, promoted, or transferred applicant or employee. The bill goes on to require the employer shall keep, maintain records to demonstrate compliance of the Act during the employee's or applicant's employment. Additionally, any person can file with the SD Department of Labor and Regulation (SD DOLR) a detailed account of an alleged violation, further requiring the SD DOLR to investigate and subject the employer to civil money penalties of five-hundred dollars for each violation. **The SDBA testified in opposition to this legislation before the Senate Commerce and Energy Committee on January 31<sup>st</sup> and was successful in sending it to the 41 legislative day, killing this bill.**

**HB 1193: An Act to amend provisions of the Uniform Commercial Code (UCC).** The SDBA is bringing this bill and is sponsored by Representative Mike Stevens (R) Yankton in the House and Senator David Wheeler (R) in the Senate. The 2022 amendments to the Uniform Commercial Code ("UCC") address a limited set of transactions largely involving emerging technologies, such as virtual (non-fiat) currencies, distributed ledger technologies, and, to a limited extent, artificial intelligence. The amendments span most of the Articles of the UCC and add a new Article addressing, in part, certain digital assets. This bill was sent to the House Judiciary Committee, and we are waiting for it to be scheduled for hearing.

As mentioned earlier, the final flurry of newly introduced legislation took place Wednesday, February 1<sup>st</sup> and the SDBA is **OPPOSING** the following measures.

**HB 1208: An Act to prevent government entities from entering contracts with companies that promote certain economic boycotts.** This Environmental Social and Governance (ESG) bill focuses on penalizing "all entities" from doing business with state or local governments if it is perceived they "boycott" businesses such as agriculture, timber, mining, fossil fuel, guns and ammunition industries in addition to abortion and gender change facilitation. The SDBA led opposition to this misguided measure with support from several like-minded industry lobbying groups. **We were pleased to defeat this measure before the House State Affairs Committee on Friday, February 3<sup>rd</sup> with an affirmative vote of 12-1, sending this measure to the 41<sup>st</sup> legislative day.**

**HB 1207: An Act to prevent financial services (banks, public trust companies, money transmitters, or insurance) providers from denying service based on certain grounds.** This misguided and obtuse ESG measure stipulates that banks may not deny services when the effect of the denial is to prevent, limit or disadvantage the person from entering or competing in a market or business segment that benefits another person or business activity in which the financial

institution has a financial interest, or deny services in coordination with another person or financial institution. Furthermore, this measure would impose required disclosures to the State Divisions of Banking and Insurance if they utilize standards based on non-financial, non-traditional, or subjective measures, including environmental, social and governance (ESG) criteria or diversity, equity or inclusion (DE&I) or any other political, social or ideological factor. This bill has been sent to the House Commerce and Energy Committee with its hearing date yet to be scheduled. **The SDBA will lead with strong opposition to this measure.**

**SB 208: An Act require financial institutions to report exploitation of an elder or an adult with a disability to the office of the Attorney General.** This bill would require that any possible identified financial exploitation of an elder or adult disabled person be reported to the Office of the Attorney General in the form of a suspicious activity report (SAR). The SDBA is working with the bill sponsor, Senator David Wheeler (R) Huron to inform him that the notification process for these nefarious acts is currently being done. While the SAR reporting is required to go to the U.S. Department of Treasury, Financial Crimes Enforcement Network (FinCEN) local law enforcement agencies along with the AG's office also maintains access to these records.

This summary concludes week four of the 98<sup>th</sup> Legislative Session in Pierre.

We hope you can join us next week, Wednesday Feb. 15 in Pierre for the 2023 SDBA State Legislative Day. Go to [sdba.com](http://sdba.com) and register today!

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