

State of South Dakota

NINETIETH SESSION
LEGISLATIVE ASSEMBLY, 2015

486W0331

HOUSE BILL NO. 1106

Introduced by: Representatives Hunt, Bartling, Schoenbeck, and Stevens and Senators
Tieszen, Hunhoff (Bernie), and Rusch

1 FOR AN ACT ENTITLED, An Act to establish the rights of municipal, county, or township
2 officers in certain decision-making processes.

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

4 Section 1. An elected or appointed municipal, county, or township officer may receive and
5 consider relevant information from any source to perform the duties of office. An elected or
6 appointed municipal, county, or township officer may rely on his or her own experience and
7 background on any official matters, subject to the applicable law and rule concerning recusal
8 and disqualification of a public officer.

9 Section 2. Any public hearing or meeting conducted by an elected or appointed municipal,
10 county, or township officer regarding any proposed ordinance, resolution, or regulation on any
11 subject is legislative in nature and may be conducted informally to the extent the officer deems
12 necessary to secure public comment on matters of public interest. The formal rules of procedure
13 and evidence do not apply to the conduct of the public hearing or meeting. This provision does
14 not abrogate any open meeting requirements in chapter 1-25.

15 Section 3. Any public hearing or meeting conducted by an elected or appointed municipal,



1 county, or township officer regarding a quasi-judicial matter as defined in subdivision 1-32-
2 1(10) may be conducted informally to secure the information required to make a decision. The
3 formal rules of procedure and evidence do not apply to the conduct of the public hearing or
4 meeting. If an officer relies upon any evidence not produced at a public hearing or meeting, the
5 officer shall disclose the evidence publicly and include the information in the public record to
6 afford all parties an opportunity to respond or participate. Failure to make this disclosure may
7 be grounds for the municipal, county, or township officer's disqualification for that particular
8 decision, pursuant to the grounds for disqualification pursuant to section 4 of this Act.

9 Section 4. An elected or appointed municipal, county, or township officer may receive input
10 from the public, directly or indirectly, about any matter of public interest. Such contact alone
11 does not require the officer to recuse himself or herself from serving as a quasi-judicial officer
12 in another capacity. An elected or appointed officer is presumed to be objective and capable of
13 making decisions fairly on the basis of the officer's circumstances and may rely on the officer's
14 own general experience and background. Only by a showing of clear and convincing evidence
15 that the officer's authority, statements, or actions regarding an issue or a party involved
16 demonstrates prejudice or unacceptable risk of bias may an officer be deemed disqualified in
17 a quasi-judicial proceeding.