



# 2014 ASBO CONFERENCE

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# 2014 ASBO CONFERENCE

- **DEADLINES**
- **AGENDA / POSTING/ OPEN MEETINGS/ EXECUTIVE SESSION**
- **LEGAL DESIGNATIONS**
- **BOND / OATH**
- **INSURANCE**



# 2014 ASBO CONFERENCE

- **FINANCIAL REPORTS**
- **PUBLIC HEARINGS**
- **CAPITOL OUTLAY**
- **BUDGET**
- **PUBLIC RECORDS**
- **GIFTS TO THE SCHOOL**



# 2014 ASBO CONFERENCE

- **INTERGOVERNMENTAL COOPERATION**
- **RECORDS RETENTION**
- **CONTRACTS**
- **BID LAWS**
- **SURPLUS PROPERTY**



# PUBLISHING DEADLINES

***SDCL 13-8-35....***

**“Within twenty days after a meeting of the school board, the board shall cause to be published in the designated legal newspaper a full account of the unapproved proceedings of such meeting,....” .**



# PUBLISHING DEADLINES

***HOWEVER.....***



# PUBLISHING DEADLINES

## ***SDCL 1-27-1.17.....***

**The unapproved, draft minutes of any public meeting held pursuant to § 1-25-1 that are required to be kept by law shall be available for inspection by any person within ten business days after the meeting....**



# PUBLISHING DEADLINES

**The “10 business day rule” does not apply if an audio or video recording of the meeting is available to the public on the governing body's website within five business days after the meeting.**





# PUBLISHING DEADLINES

**A violation of SDCL 1-27-1.17 is a Class 2 misdemeanor.**

- ***consult with your own school attorney on whether to follow SDCL 13-8-35 OR SDCL 1-27-1.17***



# PUBLISHING DEADLINES

***Wages - SDCL 6-1-10....***

**“Notwithstanding the provisions of §§ ... and 13-8-35, the ... and school boards shall publish with the minutes of the first meeting following the beginning of the fiscal year, or within thirty days thereafter, ...”**



# PUBLISHING DEADLINES

**“... or in the minutes of the first meeting following the completion of salary negotiations with employees for that fiscal year, or within thirty days thereafter, ...”**



# PUBLISHING DEADLINES

**“...a complete list of all the salaries of all officers and employees and thereafter shall publish once any salary paid to any officer or employee who has been added or whose salary has been increased....”**



# PUBLISHING DEADLINES

**“...The governing board shall publish, in their minutes, at least monthly, a total of payroll by department.”**



# **PUBLISHING DEADLINES**

**Election Notices –**

**Follow Secretary of State Calendar  
for School Elections ---**

**[[http://sdsos.gov/elections-  
voting/election-resources/default.aspx](http://sdsos.gov/elections-voting/election-resources/default.aspx)]**

**(Municipal and School Elections)**



# AGENDA DEADLINES

## Notice of meetings of public bodies

- school board shall provide public notice, with **proposed agenda**
- visible, readable, and accessible for at least an entire **twenty-four hours** before any meeting
- at the **principal office** of the public body holding the meeting
- posted on **website** if school has a website



# **OMC DECISIONS -- AGENDA NOTICE/POSTING**

- 1. Brown County- only published notice of meeting in the official newspaper...**
- 2. Kingsbury County Commission – budget informational meeting...**
- 3. Brown County Commission – agenda posted on door but facing inside...**





# **OMC DECISIONS -- AGENDA NOTICE/POSTING**

- 4. Butte County Commission – agenda must contain sufficient information to advise public as to each of the issues that will be address...**
- 5. Roberts County Commission – remained at gathering after official business started to be discussed...**
- 6. City of Aberdeen – agenda posted on inside hallway bulletin board...**



# OMC DECISIONS -- AGENDA NOTICE/POSTING

***7. Leola School District - “The proposed Agenda is a tentative, preliminary Agenda that may be amended when the governing Board takes action to formally adopt the meeting Agenda.”***



# OPEN MEETINGS

**SDCL 1-25-1...It is not an official meeting of one political subdivision or public body if its members provide information or attend the official meeting of another political subdivision or public body for which the notice requirements of § 1-25-1.1 have been met.**



# OPEN MEETINGS

## SDCL 1-25-1

- **Any official meeting may be conducted by teleconference**
- **Member deemed present if the member answers present to the roll call for the purpose of determining a quorum.**
- **All votes during teleconference meeting shall be taken by roll call.**



# OPEN MEETINGS

## SDCL 1-25-1...

***“The official meetings of the state, its political subdivisions, and any public body of the state or its political subdivisions are open to the public unless a specific law is cited by the state, the political subdivision, or the public body to close the official meeting to the public.”***



# EXECUTIVE SESSION

**SDCL 1-25-2.....Executive sessions may be held for the sole purposes of:**

- **SDCL 1-25-2(1) (employee matter)**
- **SDCL 1-25-2(2) (student matter)**
- **SDCL 1-25-2(3) (legal matter)**
- **SDCL 1-25-2(4) (negotiations)**
- **SDCL 1-25-2(5) (marketing/pricing)**



# EXECUTIVE SESSION

The following are from actual school board minutes.

**“Motion by -, second by -, to move in to executive session at 8:01 p.m.”**

**“Motion by – seconded by – to go into executive session for a personnel issue.”**

**“Motion by – second by – to convene the board into executive session for Legal 1-25-2.3”**

**“Motion...to enter into Executive Session based on SDCL 1-23-2, Subsection 4, Contracts, Negotiations, at – p.m.”**



## EXECUTIVE SESSION

- **any official action concerning such matters shall be made at an open official meeting;**
- **executive session shall be held only upon a majority vote of the members present and voting;**
- **discussion in executive session restricted to the purpose specified in the closure motion;**





# **OMC DECISIONS EXECUTIVE SESSION**

- 1. Town of Herrick - the signing of the letter by the Town Board on Town letterhead strongly suggests official action did occur in the executive session.**
  
- 2. Davisson County – meeting with task force in executive session SDCL Ch. 1-25 violation**



# **OMC DECISIONS EXECUTIVE SESSION**

**3. City of Tripp – “The council had a duty to exit executive session and make a motion authorizing the finance office to discuss this matter with the attorney and do whatever the attorney recommends.”**

**4. City of Sioux Falls - must reveal, not conceal, the subject matter of the official action upon which it is voting.**



# OMC DECISIONS EXECUTIVE SESSION

**5. Rapid City Regional Airport - Board's private meeting with a party interested in the contract not permissible under "contractual matters" and should have been conducted in an open meeting.**



# **OMC DECISIONS EXECUTIVE SESSION**

**6. SD Bd. of Regents – Discussions on purchase price, site location, acres, costs and benefits, suitability, needs assessment, building plans, and certainly the overall decision to select a new permanent location for the state’s university system should not have been discussed in executive session.**



# OMC DECISIONS EXECUTIVE SESSION

## 7. SD Science & Technology Authority --- SDCL 1-25-2(3)

*... “expresses one exception to the open meeting principle and that exception is for consultations with legal counsel, which consultations may relate to litigation matters or to contractual matters....”*



# OMC DECISIONS EXECUTIVE SESSION

- ***“if there is a general exception for contractual matters, it would, in our view, largely gut the open meeting law...’ Such an exception would be, as the cliché goes, a hole in the law that you could drive a truck through. Or perhaps a school bus.”***



# AGENDA DEADLINES

- **Notice of special or rescheduled meetings of public bodies:**
  - by mail, email, or telephone, to members of the local news media who have requested notice
  - must comply with the public notice requirements for regular meetings to the extent that circumstances permit (*posting*)



# LEGAL DESIGNATIONS

**13-8-10. Regular meetings shall be on the second Monday of each month unless otherwise designated by the board at the annual meeting. ...**





# LEGAL DESIGNATIONS

- 13-8-10. The board shall designate**
- (a) the depository or depositories as provided in § 13-16-15, and**
  - (b) the custodians of all accounts; and**
  - (c) designate the legal newspaper to be used for publishing all official notices and proceedings.**



## **SDCL 13-8-10**

- **A majority of the members of the school board constitutes a quorum for the purpose of conducting business.**
- **Any board action may be taken if it is approved by the majority of the members voting.\*\*\***



# BOND

**13-8-18. Amount of business manager's bond. The penal sum of the bonds required for school business managers shall be fixed and approved by the school board.**



## **BOND**

**13-8-19. Approval and filing of bonds. The bonds of the business manager shall be approved by the school board. The bonds shall be filed with the county auditor.**



## **BOND**

**13-8-20. New or additional bond required. New or additional bonds for school board members or employees may be required by the school board in a sum to be fixed by the board in the event of the sale of bonds or whenever deemed necessary. The county auditor may require new or additional bonds in districts where deemed necessary by him.**



# OATH

**13-8-15. In all school districts oaths of office shall be filed with the business manager except the oath of office of the business manager which shall be filed with the county auditor. Business managers and presidents of school boards are empowered to administer oaths in all matters in which their respective districts may be a party.**



# INSURANCE

- **LIABILITY INSURANCE AMOUNT**
- **21-32A-1. Waiver of sovereign immunity to extent of risk sharing pool or insurance coverage.**



# FINANCIAL REPORT TO BOARD

***SDCL 13-8-35.* Board minutes must show “a detailed statement of all expenditures of money, with the names of persons to whom payment is made, showing the service rendered or goods furnished, a detailed statement of receipts, and balance on hand.”**





# FINANCIAL REPORT TO BOARD

***SDCL 13-8-35***

**“Expenditures and receipts of trust and agency funds may be published in total only.”**



# Public Hearings – Projects and Debts

***SDCL13-16-6.3. Any proposed installment purchase contract, lease-purchase, or issue of capital outlay certificates which will obligate the school district for future payments on the principal, the total of which will exceed one and one-half percent of the taxable valuation of taxable property within the district,...***



# Public Hearings – Projects and Debts

***may not be entered into, or certificates issued, unless prior thereto the school board conducts a public hearing after notice by publication at least twice in its official newspaper at least ten days before the hearing.***



# Public Hearings – Projects and Debts

***After the hearing the board may approve the action or may refer the matter to the voters of the district.***



# Public Hearings – Projects and Debts

**SDCL 13-16-9.3. Any school district using the capital outlay fund for payment of construction of new facilities or construction of additions to facilities, the total of which requires advertising for bids under chapter 5-18A, shall have a public hearing at least ten days prior to the advertisement of any contract specifications.**



# Public Hearings – Projects and Debts

## **SDCL 13-16-9.3.**

- **The public hearing shall be advertised in the legal newspaper of the school district.**



# Public Hearings – Projects and Debts

## **SDCL 13-16-9.3.**

- **Following the public hearing, and approval of the school board, the school district may use the capital outlay fund as provided in § 13-16-6.**



# Public Hearings – Projects and Debts

## **SDCL 13-16-9.3.**

- **No school district may change the originally advertised use of the fund without holding another public hearing.**





# 5 YEAR CAPITOL OUTLAY PLAN

- **Five year capital outlay plan is a great planning and budgeting tool.**
- **SDCL 13-16-9.2. Any school district using the capital outlay fund for payment of construction of new facilities or construction of additions to facilities**



# 5 YEAR CAPITOL OUTLAY PLAN

- **must develop and maintain a five-year plan on the annual projected revenues and the annual projected expenditures for the capital outlay fund**



# 5 YEAR CAPITOL OUTLAY PLAN

- **and such projected expenditures shall itemize the projected costs for new or additional facilities.**



# Cash Flow Analysis

Provide explanation of process in determining Cash-Flow Need.						
	July	Aug.	Sept.	Oct.	Nov.	Total
Receipts	\$ 170,000	\$ 210,000	\$ 235,000	\$ 260,000	\$ 5,000	
Expense	\$ 200,000	\$ 325,000	\$ 380,000	\$ 325,000	\$ 250,000	
Cash-Flow Need	\$ (30,000)	\$ (115,000)	\$ (145,000)	\$ (65,000)	\$ (245,000)	\$ (600,000.00)



# Budget

## **Budget Timelines (SDCL 13-11-2)**

**Regular meeting in May -- Board considers proposed Budget no later than this date.**

**July 15<sup>th</sup> -- Proposed Budget and notice of hearing published prior to this date.**

**August 1<sup>st</sup> -- Public hearing on proposed budget must be held prior to this date.**

**October 1<sup>st</sup> -- Adoption of final budget and report of levies must be made to the County Auditor prior to this date.**



# Budget and Shareholder's Report

**Introduction Section**

**Organization Section**

**Financial Section**

**Information Section**

**Source: [www.asbointl.org](http://www.asbointl.org) – Meritorious Budget Award Program**



# Budget and Shareholder's Report

- **Introduction Section:**
  - **Board Mission and Vision Statement**
  - **Discuss major goals and objectives**
  - **Summarize budget process**
  - **Discuss of significant trends, events, changes in demographics.**
  - **Present important data and information, in which, there is high level of public interest**



# Budget and Shareholder's Report

## Organizational Section:

- **Explanation of school entity in terms of level of education, geographic area served, number of students and staff, the funds maintained by districts and provided definitions for revenue sources and functions.**





# Budget and Shareholder's Report

## Organizational Section:

- **Include organization chart with staff positions and titles**
- **Explain significant budget and financial policies including Fund Balance, Reserves and debt management.**



# Budget and Shareholder's Report

- **Financial Section:**
  - **Include presentation of the budgets for all governmental funds where a budget is required**
  - **Present a summary budget of all funds and then individual funds.**



# Budget and Shareholder's Report

- **Financial Section:**
  - This section should show an actual comparison of at least 2-3 years, the current budget and then the proposed budget.
  - Provide a list of major capital projects for the budget year. (5 Year Capital Outlay Plan)



# Budget and Shareholder's Report

## Information Section:

- Explain major sources of revenue – State Aid Formula
- Changes in taxable valuations and tax levies



# Budget and Shareholder's Report

## Information Section:

- Enrollment numbers from the past and projected into the future.
- Present information that would help the reader understand the past, present and future direction of the district.



# **PUBLIC RECORDS**

**SDCL13-8-43.**

**All reports, books, records, contracts, and papers in the business manager's office relating to school district business shall be retained in the office of the business manager**



# **PUBLIC RECORDS**

**... and at all times open to the inspection of the president of the board, the secretary of the Department of Education and county auditor, and at reasonable hours to any voter or taxpayer.**



# PUBLIC RECORDS

**SDCL 1-27-1. Except as otherwise expressly provided by statute, all citizens of this state, and all other persons interested in the examination of the public records are fully empowered and authorized to examine such public record, and make memoranda and abstracts therefrom...**





# PUBLIC RECORDS

**...during the hours the respective offices are open for the ordinary transaction of business and, unless federal copyright law otherwise provides, obtain copies of public records in accordance with this chapter.**



# PUBLIC RECORDS

**SDCL 1-27-1.2. Fees for specialized service. If the custodian of a public record provides to a member of the public, upon request, a copy of the public record, a reasonable fee may be charged for any specialized service. Such fee may include a reasonable amount representing a portion of the amortization of the cost of computer equipment, including software, necessarily added in order to provide such specialized service.**



# PUBLIC RECORDS

**SDCL 1-27-1.2 does not require a school to acquire computer capability to generate public records in a new or different form if that new form would require additional computer equipment or software not already possessed by the school.**



# **PUBLIC RECORDS**

## **SDCL 1-27-1.2**

**No fee may be charged for the electronic transfer of any minutes of open meeting actions that were recorded in the last three years.**



# **PUBLIC RECORDS**

**IS THE BUDGET A PUBLIC  
DOCUMENT ???**

**SHOULD THE BUDGET BE  
MADE AVAILABLE???**

**[Daily Republic investigation]**



# RECEIPT OF GIFTS

**SDCL 13-14-5. Every school district is authorized to accept, own, manage, and dispose of any grant, gift, devise, or bequest of money, or real or personal property, and board shall have power to enter into an agreement for the receipt thereof upon such terms as shall be to the best interest of all parties and to make such rules and regulations as it may deem best for the ownership, management, and control of such property.**



# RECEIPT OF GIFTS

**AGO 87-15...There is no legal authority for school to enter into long-term (15 year) exclusive contract with soft drink distributor.**



# RECEIPT OF GIFTS

**AGO 81-30...School may allow community group to construct a pool on school property, accept it as a gift, and commit to future maintenance expense.**





# RECEIPT OF GIFTS

**AGO 11-02...A school cannot transfer undesignated gift (from a Will) to a foundation to establish a post secondary scholarship program.**



# **INTERGOVERNMENTAL COOPERATION**

- **SDCL Ch. 6-5**
- **Political subdivisions may lease or sell or give and convey**
- **any personal property,**
- **real property,**
- **or money of such entity**
- **or perform any work or render any services,**



# **INTERGOVERNMENTAL COOPERATION**

- **to the state or any political subdivision,**
- **to be used by such grantee for an authorized public purpose.**
- **The lease or sale or gift and conveyance, or the performance of such work, to be authorized, shall be made or done on the terms and in the manner provided by resolutions of the governing body.**



# INTERGOVERNMENTAL COOPERATION

**SDCL 1-24-2. Joint exercise of powers authorized--Exceptions. Any power or powers, privileges, or authority exercised or capable of exercise by a public agency of this state may be exercised and enjoyed jointly with any other public agency of this state...**



# **INTERGOVERNMENTAL COOPERATION**

**SDCL 1-24-4. Any such agreement shall specify the following:**

**(1) Its duration;**



# **INTERGOVERNMENTAL COOPERATION**

**SDCL 1-24-4. Any such agreement shall specify the following: ...**

**(2) The precise organization, composition, and nature of any separate legal or administrative entity created thereby together with the powers delegated thereto, provided such entity may be legally created;**



# **INTERGOVERNMENTAL COOPERATION**

**SDCL 1-24-4. Any such agreement shall specify the following:**

**(3) Its purpose or purposes;**



# **INTERGOVERNMENTAL COOPERATION**

**SDCL 1-24-4. Any such agreement shall specify the following: ...**

**(4) The manner of financing the joint or cooperative undertaking and of establishing and maintaining a budget therefor;**





# **INTERGOVERNMENTAL COOPERATION**

**SDCL 1-24-4. Any such agreement shall specify the following: ...**

**(5) The permissible method or methods to be employed in accomplishing the partial or complete termination of the agreement and for disposing of property upon such partial or complete termination; and**



# **INTERGOVERNMENTAL COOPERATION**

**SDCL 1-24-4. Any such agreement shall specify the following: ....**

**(6) Any other necessary and proper matters.**



# Records Retention

## RECORDS RETENTION:

- [boa.sd.gov](http://boa.sd.gov)
- Records Management
- South Dakota Local Schools Retention Manual, Revised 2013



# CONTRACTS

**SDCL 13-20-1. Board approval required for contracts. No contract shall be binding on any school district except it be approved by the school board acting as such, at an annual, regular, or regularly called special meeting.**



# BIDS & QUOTES

- 1. SDCL 5-18A-22. Procurements exempt from chapters 5-18A through 5-18D.**
- 2. SDCL 5-18A-11. Purchases of supplies and services under \$25,000.**
- 3. SDCL 5-18A-14. Public improvement contracts involving \$50,000 or more--Supplies and services contracts involving \$25,000 or more--Advertisement for bids or proposals.**



# BIDS & QUOTES

- 4. SDCL 5-18A-3. Methods of awarding contracts.**
- 5. SDCL 5-18A-4. Competitive sealed bids required.**
- 6. SDCL 5-18A-5. Procedures for competitive sealed bids.**



# BIDS & QUOTES

- 7. SDCL 5-18A-6. Competitive sealed proposals-- When permitted.**
- 8. SDCL 5-18A-7. Procedures for competitive sealed proposals.**
- 9. SDCL 5-18A-8. Unique supplies or services--Sole source procurement—  
Negotiations**



# BIDS & QUOTES

**10. SDCL 5-18A-9. Emergency procurement.**

**11. SDCL 5-18A-12. Cancellation of invitation for bids or request for proposals and rejection of bids or proposals.**

**12. SDCL 5-18A-15. Time for entering into contract.**





# BIDS & QUOTES

**SDCL 5-21-1. Surety bond required--  
Obligation of prompt payment of laborers  
and materialmen.**

**SDCL 5-21-1.1. The requirement of a  
performance security may be waived by  
public corporations when the bid  
submitted does not exceed twenty-five  
thousand dollars.**



# SURPLUS PROPERTY

*The following are from school board minutes:*

- **“motion by-, second by -, to surplus the list provided by -, which has determined no longer necessary, useful or suitable for the purpose for which it was acquired. These items have been determined to be of no value or value less than \$500.”**



# SURPLUS PROPERTY

*The following are from school board minutes:*

- **“motion by \* seconded by \* to surplus the following at a value of less the \$500 each: \*\*\* ”**
- **“motion made by \* and seconded by \* to declare \* surplus property and dispose of it.”**



# SURPLUS PROPERTY

**SDCL 6-13-2. After the governing board of a political subdivision has made a determination of surplus property pursuant to § 6-13-1, the governing board shall appoint three real property owners of the political subdivision to appraise the value of such property.**



# 2014 ASBO CONFERENCE

## *Questions -- CONTACT*

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