

SDFB Legislative Update – Week 4

Farm Bureau Day at the Capitol is next week, February 10-11. Check the website for more details and plan to attend. It will be a full couple of days with opportunities to get to know your legislators, attend committee meetings and hear from state leaders.

ZONING

As you read last week, Governor Noem has proposed a bill to address some zoning issues. We now have the finalized bill with more details.

SB 157 clarifies processes and procedures for producers looking to build livestock operations that may require a conditional use permit and provides additional tools for counties considering these proposals. This bill will hopefully provide clarity and better certainty for everyone involved in permitting livestock operations and other economic development projects.

Specifically, this bill:

- Codifies a recent Supreme Court test for who qualifies as an 'aggrieved person'. Someone challenging a decision made on a permit would have to meet this four-part test in order to prove they are an aggrieved person.
- Establishes that any initial request for approval of a conditional use be considered approved if the majority of the board approves. Currently, some initial approvals must be approved by a supermajority of the board.
- Clarifies that counties have the option to make certain activities a 'special permitted use' rather than needing to go through the conditional use permit process. This option currently exists for counties, but statute does not clearly lay the process for establishing permitted uses and approving those permits.
- Establishes set timelines for timely consideration of appeals both at the local board level and in court.
- Ensures that expiration timelines for permits don't begin until all appeals have been decided. Too often, producers prevail through appeals processes only to have permits expire shortly after the process is completed. This gives them little or no time to complete construction and forces them to start the whole process over.
- Clarifies that changes made to neighboring property that were made after a permit application is filed that brings an application out of compliance with zoning requirements does not prevent that application from moving forward.

- Requires that a party appealing a decision to court be bonded and allows the court to award attorneys' fees, damages, and other costs against those appealing if they do not prevail. The intent here is to further discourage frivolous appeals.

WATER QUALITY COMPLAINTS

HB 1071 would remove the present requirement that a water quality complaint be signed by the complainant. This has been a requirement for over 20 years and the signer's information is kept confidential. South Dakota has an agreement with the EPA that says the signing is in agreement with EPA oversight. SDFB opposes 1071.

COMMITTEE HEARING – HB 1071 will be heard in the House Ag Committee on Tuesday, Feb. 11 at 7:45 a.m.

PESTICIDE APPLICATOR INSURANCE

HB 1171 would require commercial pesticide applicators maintain proof of financial responsibility (bond, insurance, etc.) of at least \$100,000. Applicators would not have to prove this as a condition of getting a license, but would be held to this requirement should they be inspected by the South Dakota Department of Agriculture.

COMMITTEE HEARING – HB 1171 will be heard in the House Ag Committee on Tuesday, February 11 at 7:45am.

AG LAND TAXATION

HB 1007 passed the House 66 to 0 and was sent to the Senate. This bill requires the Director of Equalization to place documentation in the record whenever the productivity assessment of a parcel of ag land is adjusted to a reduced valuation level.

DRIVER'S LICENSING

SB 70 was heard in the Senate Transportation Committee and SDFB testified in favor of the bill. SB 70 would allow the written portion of the driver's license test to be offered in Spanish. A number of South Dakota dairy workers' first language is Spanish. SB 70 would help overcome the present hurdle of the complexity of the written English language. The road test and other verbal details for a driver's license would continue to be conducted in English.

BALED FEED TRANSPORTATION

HB 1084 will raise the legal height for transporting baled feed from 14-foot 3 inches. to 15 feet. HB 1084 passed the House 66 to 0 and was sent to the Senate.

CAPITAL OUTLAY

SDFB continues to monitor several bills regarding capital outlay taxation for schools. In 2016, in conjunction with the school funding package, the legislature placed a two cap system on capital outlay spending by schools. The amount per student spent is capped at \$2,800. The average per student at that time was \$1,400. A second cap was placed on the amount of annual increase to either 3 percent or inflation, whichever is less. The level of capital outlay revenue that is allowed in general school spending was kept at the expanded 45 percent of budget level.

Some schools and their lobbyists are interested in removing the caps; other interested parties are discussing adjusting the caps to meet the specific needs of some school districts. Discussion will continue and we will keep you posted.

SDFB is not interested in returning to the years before 2016 when capital outlay taxes paid on ag land was increasing 14 percent to 16 percent every year.

As of Thursday afternoon of this week, there were 290 House bills and 185 Senate bills. As of now, it appears 500 bills will pass, which is an increase over recent years.

Feel free to contact me with any questions or concerns during session.

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Helpful Links:

View the SDFB bill-tracker list here:

<https://www.sdfbf.org/Policy-Advocacy/State-Legislative>

View the details on any bill by clicking this link and typing in the bill number:

http://sdlegislature.gov/Legislative_Session/Bills/Default.aspx?Session=2020

Find contact information for the Legislators here:

<http://sdlegislature.gov/Legislators/ContactLegislator.aspx?Session=2020>