

State of South Dakota

EIGHTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2014

525V0622

HOUSE BILL NO. 1219

Introduced by: Representatives Wick, Bolin, Ecklund, Greenfield, Haggar (Jenna), Heinemann (Leslie), Nelson, Olson (Betty), Sly, Stalzer, Steele, and Westra and Senators Van Gerpen, Curd, Jensen, Lederman, Maher, Omdahl, and Otten (Ernie)

1 FOR AN ACT ENTITLED, An Act to require joint municipal and school annual elections.

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

3 Section 1. That § 9-13-1 be amended to read as follows:

4 9-13-1. In each municipality an annual election for the election of officers shall be combined
5 with the election in each school district in which any portion of the municipality is located. The
6 election shall be held on the ~~second Tuesday of April~~ first Tuesday after the first Monday in
7 November of each year, at a ~~place in each ward of the municipality as the governing body shall~~
8 ~~designate. If the governing body of the municipality chooses a different election day as provided~~
9 ~~in this chapter, the governing body shall establish such election day by January fourteenth of the~~
10 ~~election year~~ locations designated by the county auditor. The polls at the election shall be kept
11 open continuously from seven a.m. until seven p.m.

12 Section 2. That § 9-13-1.1 be amended to read as follows:

13 9-13-1.1. ~~Any other provision of this chapter notwithstanding, the members of the governing~~
14 ~~body of a municipality may choose to hold a general municipal election in conjunction with a~~



1 regular school district election. The combined election is subject to approval by the governing
2 body of the school district. The combined election shall be held on the regular date set for either
3 the general municipal election or the school district election and all dates associated with either
4 election pursuant to chapters 9-13 and 13-7 shall be adjusted accordingly. The county auditor
5 shall provide for the conduct of the combined school district and municipal election. Expenses
6 of a the combined election shall be shared ~~in a manner agreed upon~~ by the governing bodies of
7 the municipality and the school district as determined by the county auditor. All other
8 governmental responsibilities associated with holding elections under the provisions of chapters
9 9-13, ~~and 13-7~~, and title 12 shall be shared as agreed upon by the governing bodies.

10 Section 3. That § 9-13-1.2 be repealed.

11 ~~9-13-1.2. If the joint election provided for in §§ 9-13-1.1 and 13-7-10.1 is scheduled for a~~
12 ~~date other than the second Tuesday in April, all dates associated with the election are those~~
13 ~~provided in chapter 13-7.~~

14 Section 4. That § 9-13-6 be amended to read as follows:

15 9-13-6. The finance officer of the municipality shall have a notice published in the official
16 newspaper of the municipality setting forth the vacancies which will occur by termination of the
17 terms of office of elective officers. The notice shall also state the time and place where
18 nominating petitions may be filed for such offices. The notice shall be published once each
19 week for two consecutive weeks between the ~~fifteenth day of January and the thirtieth day of~~
20 ~~January~~ first and fifteenth day of July.

21 Section 5. That § 9-13-7 be amended to read as follows:

22 9-13-7. No candidate for elective municipal office may be nominated unless a nominating
23 petition is filed with the finance officer no later than five p.m. on the ~~last~~ second Friday in
24 ~~February~~ August preceding the day of election. The petition shall be considered filed if it is

1 mailed by registered mail by five p.m. on the ~~last~~ second Friday in ~~February~~ August before the
2 election. The petition shall contain the name, residence address, and mailing address of the
3 candidate and the office for which the candidate is nominated and shall be on the form
4 prescribed by the State Board of Elections. The signer's post office box number may be given
5 in lieu of a street address if the signer lives within a municipality of the second or third class.
6 The finance officer may only accept nominating petitions that are on the prescribed form and
7 were circulated and submitted pursuant to the provisions in chapters 9-13 and 12-6. If the
8 nominating petition meets the statutory requirements, the filing of the petition constitutes
9 nomination. The municipal finance officer shall certify to the county auditor the candidate
10 names and ballot language to be voted on by the fourth Friday in August.

11 Section 6. That § 9-13-9 be amended to read as follows:

12 9-13-9. In municipalities of the first and second class, if the candidate is to be voted for by
13 the voters at large, a nominating petition shall be signed by fifteen registered voters of the
14 municipality for each thousand or major fraction of the population, as shown by the last
15 preceding federal census. No petition need be signed by more than fifty voters.

16 If the candidate is to be voted for by the voters of a ward of a municipality of the first or
17 second class having more than one ward, a nominating petition shall be signed by at least five
18 percent of the registered voters of the ward. The percentage shall be based on the total number
19 of registered voters voting in the ward at the last preceding general election. No petition need
20 be signed by more than fifty voters.

21 In municipalities of the third class, if the candidate is to be voted for by the voters at large,
22 the nominating petition shall be signed by not less than ten registered voters of the municipality.
23 If the candidate is to be voted for by the voters of a ward of a municipality having more than one
24 ward, the nominating petition shall be signed by not less than five registered voters of the ward.

1 A petition signer in a municipality of the third class is not restricted in the number of petitions
2 which the person may sign.

3 No nominating petition may be circulated until on or after the ~~last~~ second Friday in ~~January~~
4 July prior to the election.

5 Section 7. That § 9-13-13 be amended to read as follows:

6 9-13-13. A notice of each municipal election shall be published once each week for two
7 successive weeks, the first publication may not be less than ten days prior to the election. A
8 facsimile of the official ballot shall be published in the calendar week prior to each election. The
9 notice and ballot shall be published in the official newspaper or newspapers of the municipality
10 as designated in § 9-12-6. If the election is the annual election combined with a school district
11 election, the notice shall be published by the county auditor. The notice for any other municipal
12 election shall be published by the municipal finance officer.

13 If no newspaper is published in the municipality, the notice shall also be posted in three of
14 the most public places in the municipality.

15 Section 8. That § 9-13-14 be amended to read as follows:

16 9-13-14. Every special election authorized by law, except as provided in §§ 6-8B-4 and 9-
17 13-14.2, shall be held upon the same notice, at the same polling places, be conducted, returned,
18 and canvassed, and the result declared as provided ~~herein~~ in this chapter for the annual
19 municipal election, except that these duties shall be performed by officials of the municipality,
20 rather than the county.

21 The notice of such special election shall state any question or questions to be voted upon.

22 Section 9. That § 9-13-21 be amended to read as follows:

23 9-13-21. The finance officer or the county auditor shall prepare and furnish, at the expense
24 of the municipality and the school district as determined by the county auditor, all official

1 ballots. The quantity of ballots provided shall be at least ten percent more than the number of
2 voters at the last comparable election. ~~The ballots shall be white in color, of good quality of~~
3 ~~print paper, printed in black ink, and in the English language only.~~

4 ~~— The ballots for municipal elections shall be available for absentee voting no later than fifteen~~
5 ~~days prior to election day.~~ If the ballots are for a secondary election, the ballots shall be
6 available no later than seven days prior to the secondary election day. Absentee voting shall be
7 conducted pursuant chapter 12-19. If the election is the annual election combined with a school
8 district election, the ballots shall be provided by the county auditor. The ballots for any other
9 municipal election shall be provided by the municipality.

10 The names of the candidates for each office to be voted for in the precinct shall be arranged
11 without any other designation than that of the office for which they are candidates. If more than
12 one member of the governing body is to be elected, the ballot shall contain instructions as to
13 how many candidates for the governing body are to be voted for. The finance officer or county
14 auditor shall determine, by lot, each candidate's position on the ballot. Each candidate may be
15 present or represented when the position on the ballot is being determined.

16 No candidate's name may be printed upon the official ballot unless the candidate has been
17 nominated as provided in this chapter.

18 Section 10. That § 9-13-26.1 be amended to read as follows:

19 9-13-26.1. If a municipality has passed an ordinance requiring a secondary election and no
20 candidate in a race involving three or more candidates receives a majority of the votes cast in
21 the race, a secondary election shall be held three weeks from the date of the first election. At the
22 secondary election, the only persons voted for shall be the two candidates receiving the highest
23 number of votes at the first election. However, if there is a tie for second place in the first
24 election and there is no tie for first place, all tying second place candidates shall be placed along

1 with the first place candidate on the ballot for the secondary election. The secondary election
2 shall be held at the same polling places and shall be conducted, returned, and canvassed in the
3 same manner as the first election, except that these duties shall be performed by officials of the
4 municipality, rather than the county. The result shall be declared and entered in the minutes of
5 the municipality in the same manner as the first election. The person receiving the highest
6 number of votes at the secondary election is elected.

7 Section 11. That § 9-13-36 be amended to read as follows:

8 9-13-36. ~~¶~~ For any municipal election other than a combined municipal and school district
9 annual election, if a municipality is divided into wards and all of the wards use the same polling
10 places, the governing body of the municipality may appoint a single election board for all of the
11 wards. The election board appointed pursuant to this section shall consist of a minimum of one
12 judge and two clerks. The members of the election board shall receive such compensation as
13 shall be fixed by the governing body. If all of the wards are voting on an identical ballot, a single
14 ballot box and one pollbook may be used for all wards.

15 Section 12. That § 9-13-37 be repealed.

16 ~~—9-13-37. Any other provision of this chapter notwithstanding, the members of the governing~~
17 ~~body of a municipality may choose to hold a municipal election in conjunction with the regular~~
18 ~~June primary election. The combined election is subject to approval by the county commissions~~
19 ~~of the counties in which the municipality is located. Expenses of a combined election shall be~~
20 ~~shared in a manner agreed upon by the governing body of the municipality and the county~~
21 ~~commissions involved. All other governmental responsibilities associated with holding elections~~
22 ~~under the provisions of chapters 9-13 and Title 12 shall be shared as agreed upon by the~~
23 ~~governing bodies. The finance officer shall publish the notice required in § 9-13-6 between~~
24 ~~February fifteenth and March first. No nominating petition may be circulated for signatures until~~

1 ~~March first. Nominating petitions shall be filed under the provisions of § 9-13-7 by the last~~
2 ~~Tuesday in March. The finance officer shall certify to the appropriate county auditor the~~
3 ~~candidate names and ballot language to be voted on by the first Thursday after the last Tuesday~~
4 ~~in March.~~

5 Section 13. That § 9-13-40 be repealed.

6 ~~—9-13-40. Any other provision of this chapter notwithstanding, the members of the governing~~
7 ~~body of a municipality may choose to hold a municipal election on the first Tuesday after the~~
8 ~~first Monday in June. The finance officer shall publish the notice required in § 9-13-6 between~~
9 ~~February fifteenth and March first. No nominating petition may be circulated for signature until~~
10 ~~March first. Nominating petitions shall be filed under the provisions of § 9-13-7 by the last~~
11 ~~Tuesday in March. All other governmental responsibilities associated with holding elections~~
12 ~~under the provisions of chapter 9-13 shall be met by the municipality.~~

13 Section 14. That § 13-7-5 be amended to read as follows:

14 13-7-5. Between the fifteenth day and the thirtieth day of the month three months first and
15 fifteenth days of July preceding the annual school district election, ~~except in the case of the joint~~
16 ~~election as provided in § 13-7-10.1;~~ the business manager of each school district shall publish
17 once each week for two consecutive weeks in the official newspaper, a notice setting forth the
18 vacancies which will occur by termination of the terms of the elective or appointive school
19 board members. However, if the vacancies set forth in the notice exist within a new school
20 board of a newly created school district entity pursuant to § 13-6-62, the county auditor of the
21 county having jurisdiction over the election shall publish the notice once each week for two
22 consecutive weeks at least one month preceding the election. The notice shall also state the time
23 and place where nominating petitions for school board membership may be filed for the
24 vacancies.

1 Section 15. That § 13-7-6 be amended to read as follows:

2 13-7-6. No candidate for elective school board membership may be nominated unless ~~such~~
3 the person is a resident voter of the school district and unless a nominating petition has been
4 filed on such person's behalf with the business manager of the school district. The nominating
5 petition shall be filed no later than five p.m. on the ~~Friday thirty-nine days before the date of~~
6 second Friday of August before the election. The petition is considered filed if it is mailed by
7 registered mail by five p.m. on the ~~Friday thirty-nine days~~ second Friday of August before the
8 election. A formal declaration of a candidate shall be signed by the candidate before the
9 circulation of the petition. The petition shall be signed by not less than twenty voters of the
10 school district or if the school district is divided into school board representation areas, the
11 petition shall be signed by not less than twenty voters who reside within the school board
12 representation area. No petition may be circulated until ~~ten weeks prior to the second Friday of~~
13 July before the election. There shall be added by either the signer or the circulator the signer's
14 place of residence and date of signing. The petition shall be verified under oath by the person
15 circulating it. The filing of the nominating petition ~~shall constitute nomination and will entitle~~
16 constitutes nomination and entitles the candidate to have the candidate's name placed on the
17 ballot for the term the candidate specifies on the petition only upon verification signed by the
18 business manager that the nominating petition contains the minimum number of signatures and
19 that the candidate is a resident voter.

20 Section 16. That § 13-7-8 be amended to read as follows:

21 13-7-8. The business manager of the school district or the county auditor shall publish in the
22 official newspaper notices of an election once each week for two consecutive weeks with the
23 first publication not less than ten days before the election. The notice shall state the date of the
24 coming school election, the vacancies to be filled with terms of each, the candidates who have

1 filed for these vacancies, questions, if any, to be submitted at the election, and the location of
2 polling places. A facsimile of the official ballot shall be published in the calendar week prior
3 to each election. If the election is the annual election combined with a municipal election, the
4 notice shall be published by the county auditor. The notice for any other school district election
5 shall be published by the business manager of the school district.

6 Section 17. That § 13-7-10 be amended to read as follows:

7 13-7-10. The annual election for school districts shall be ~~held between the second Tuesday~~
8 ~~in April and the third Tuesday in June~~ combined with the annual election in each municipality
9 that is located within the school district and shall be held on the first Tuesday after the first
10 Monday in November. The election shall be held at a place designated by county auditor. The
11 polls at the election shall be kept open between the hours of seven a.m. and seven p.m. of the
12 day of the election. ~~The school board shall select the date of the election by resolution no later~~
13 ~~than the first regular meeting after January first of each year.~~ Voter registration, absentee voting,
14 and procedures used in counting ballots shall be in accordance with Title 12 except as
15 specifically provided in chapter 13-7.

16 Section 18. That § 13-7-10.1 be repealed.

17 ~~—13-7-10.1. The members of the governing body of a school district may choose to hold a~~
18 ~~general school district election in conjunction with a regular municipal election. The combined~~
19 ~~election is subject to approval by the governing body of the municipality. The combined election~~
20 ~~shall be held on the regular date set for either the school district election or the general~~
21 ~~municipal election. Expenses of a combined election shall be shared in a manner agreed upon~~
22 ~~by the governing bodies of the municipality and the school district. All other governmental~~
23 ~~responsibilities associated with holding elections under the provisions of chapters 9-13 and 13-7~~
24 ~~shall be shared as agreed upon by the governing bodies.~~

1 Section 19. That § 13-7-10.2 be repealed.

2 ~~—13-7-10.2. If the joint election provided for in § 13-7-10.1 is held on the second Tuesday in~~
3 ~~April, no candidate for elective school board membership may be nominated unless the~~
4 ~~candidate is a resident voter of the school district and unless a nominating petition has been filed~~
5 ~~on the candidate's behalf with the business manager of the school district no later than the last~~
6 ~~Friday in February at five p.m. prior to the date of the election. If the petition is mailed by~~
7 ~~registered mail by the last Friday in February at five p.m. before the election, it shall be~~
8 ~~considered filed. A formal declaration of a candidate shall be signed by the candidate before the~~
9 ~~circulation of the petition. The petition shall be signed by not less than twenty voters of the~~
10 ~~school district. No petition may be circulated until the last Friday in January before the election.~~
11 ~~There shall be added by either the signer or the circulator the signer's place of residence and date~~
12 ~~of signing. The petition shall be verified under oath by the person circulating the petition. The~~
13 ~~filing of the nominating petition shall constitute nomination and will entitle the candidate to~~
14 ~~have the candidate's name placed on the ballot for the term the candidate specifies on the~~
15 ~~petition only upon verification signed by the business manager that the nominating petition~~
16 ~~contains the minimum number of signatures and that the candidate is a resident voter.~~

17 ~~—Publication of the notice of the election provided for in § 13-7-10.1 shall be in accordance~~
18 ~~with § 13-7-8.~~

19 Section 20. That § 13-7-10.3 be amended to read as follows:

20 13-7-10.3. ~~Any other provision of this chapter notwithstanding, the school board may choose~~
21 ~~to hold the school board election in conjunction with the regular June primary election. The~~
22 ~~combined election is subject to approval by the county commissions of the counties in which~~
23 ~~the school district is located. The county auditor shall provide for the conduct of the combined~~
24 ~~school district and municipal election. Expenses of a the combined election shall be shared in~~

1 a manner agreed upon by the school board and the county commissions involved district and the
2 municipality as determined by the county auditor. All other governmental responsibilities
3 associated with holding elections under the provisions of ~~chapter~~ chapters 13-7, 9-13, and Title
4 12 shall be shared as agreed upon by the governing bodies. The school election official shall
5 certify to the appropriate county auditor the candidate names and ballot language to be voted
6 on by the ~~first Thursday after the last Tuesday in March~~ fourth Friday in August.

7 Section 21. That § 13-7-10.4 be repealed.

8 ~~13-7-10.4. For any school board election held on the first Tuesday after the first Monday in~~
9 ~~June, the deadlines in this section apply. The school's election official shall publish the notice~~
10 ~~provided in § 13-7-5 between February fifteenth and March first. No nominating petition may~~
11 ~~be circulated for signatures until March first. Nominating petitions shall be filed under the~~
12 ~~provisions of § 13-7-6 by the last Tuesday in March.~~

13 Section 22. That § 13-7-11 be amended to read as follows:

14 13-7-11. The number and place of voting precincts shall be determined by the county auditor
15 in the case of a combined annual school district and municipal election, and by the school board
16 in any other school district election.

17 Section 23. That § 13-7-12 be amended to read as follows:

18 13-7-12. ~~Each~~ For any school district election other than a combined school district and
19 municipal election, each voting precinct shall be presided over by an election board consisting
20 of a minimum of two precinct deputies and one precinct superintendent appointed by the school
21 board. Members of school boards may serve on election boards.

22 Each precinct superintendent and precinct deputy other than members of school boards shall
23 receive compensation as shall be fixed by the school board and paid from the district treasury.

24 Section 24. That § 13-7-13 be amended to read as follows:

1 13-7-13. The business manager of the school district or the county auditor shall provide
2 proper ballots, pollbooks, voting booths, and necessary supplies as required by law ~~to the proper~~
3 ~~election officials on election day. The ballots shall be similar in form to those authorized by law~~
4 ~~for municipal elections.~~ The quantity of ballots provided shall be at least ten percent more than
5 the number of voters at the last comparable election. No party affiliation may appear on the
6 ballot and the names of the candidates for the respective vacancies shall be printed on the ballot.
7 Each candidate's position on the ballot shall be chosen by lot by the ~~business manager~~ county
8 auditor, and each candidate may be present or represented when the position on the ballot is
9 being determined. ~~The ballots for school elections shall be available for absentee voting no later~~
10 ~~than fifteen days prior to election day~~ If the election is the annual election combined with a
11 municipal election, the ballots shall be provided by the county auditor. The ballots for any other
12 school district election, except as provided in § 13-6-62, shall be provided by the business
13 manager of the school district.

14 Section 25. That § 13-6-62 be amended to read as follows:

15 13-6-62. If under the provisions of this chapter a new school district entity is created, the
16 voters shall elect a new school board to govern such school district as hereinafter provided. The
17 county auditor of the county having jurisdiction shall conduct the election under the existing
18 statutory provisions for conducting annual elections in school districts, except that the county
19 auditor may set the date of the election and related deadlines and requirements as provided in
20 this section. The county auditor shall perform the duties specified for the business manager as
21 provided in chapter 13-7, as amended and shall also give the notice of the number of school
22 board vacancies and residency requirements for school board membership as may be set forth
23 in the plan approved by the voters. The declaration of candidacy shall be filed in the office of
24 the county auditor, and the date of election may be fixed on or before the first Monday in May.

- 1 Costs of conducting the election shall be paid by the new school district.