



2020 South Dakota Legislature

House Bill 1226

HOUSE STATE AFFAIRS ENGROSSED

Introduced by: **Representative** Frye-Mueller

1 **An Act to revise certain provisions regarding local referendums.**

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

3 **Section 1.** That § 7-18A-8 be AMENDED:

4 **7-18A-8. Effective date of ordinances and resolutions--Exceptions.**

5 Except ~~such resolutions or ordinances as may be~~ any resolution or ordinance
 6 necessary for the immediate preservation of the public peace, health, or safety, or support
 7 of the county government and its existing public institutions; ~~which provide that provides~~
 8 for an election or hearing on an improvement or assessment; or ~~which call that calls~~ for
 9 bids ~~which that~~ take effect upon the passage and publication thereof, every of every
 10 resolution or ordinance, each resolution or ordinance passed by a board shall take effect
 11 on the ~~twentieth fortieth~~ day after its completed publication unless suspended by operation
 12 of a referendum.

13 **Section 2.** That § 7-18A-16 be AMENDED:

14 **7-18A-16. Referendum petition--Submission to voters.**

15 A petition to refer an ordinance or resolution subject to referendum may be filed
 16 with the auditor within ~~twenty forty~~ days after its publication. The filing of ~~such a the~~
 17 petition shall require the submission of ~~any such the~~ ordinance or resolution to a vote of
 18 the qualified voters of the county for its rejection or approval.

19 **Section 3.** That § 7-18A-29 be AMENDED:

20 **7-18A-29. Publication of notice--Revised ordinance--Publication of**
 21 **ordinances.**

22 Upon the adoption of an ordinance in revision by the board, the auditor shall publish
 23 a notice, once each week for two successive weeks, that an ordinance in revision was
 24 adopted. ~~Twenty Forty~~ days after the completed publication of the notice, unless the

1 referendum ~~shall have~~ has been invoked, ~~such the~~ ordinance ~~shall become~~ becomes
 2 effective without publication in a newspaper. The board shall publish the revised
 3 ordinances in book form.

4 **Section 4.** That § 9-4-4.5 be AMENDED:

5 **9-4-4.5. Annexation resolution--Petition--Requirements.**

6 The required number of voters residing in the combined area of the municipality
 7 and special annexation precinct may file within ~~twenty~~ thirty-five days after the publication
 8 of the annexation resolution a petition with the municipal finance officer, requiring the
 9 submission of the annexation resolution to a vote of the voters of the combined area of
 10 the municipality and special annexation precinct for ~~its~~ the resolution's rejection or
 11 approval.

12 **Section 5.** That § 9-19-7 be AMENDED:

13 **9-19-7. Reading, passage, and publication of ordinances--Incorporation by**
 14 **reference.**

15 The title of ~~all ordinances~~ each ordinance shall be read twice with at least five days
 16 intervening between the first and second reading. The ordinance shall be signed by the
 17 mayor or acting mayor or president of the Board of Trustees, filed with the auditor or
 18 clerk, and published once ~~except that~~. However, an ordinance incorporating and adopting
 19 comprehensive regulations or a code promulgated, approved, and published by a
 20 recognized and established national organization prescribing building, electrical, plumbing,
 21 safety, fire, health, or milk regulations need not be published in a newspaper, ~~but upon~~.
 22 Upon adoption of such an ordinance the auditor or clerk shall publish a notice of the fact
 23 of adoption once a week for two successive weeks in the official newspaper, ~~and twenty~~.
 24 Thirty-five days after the completed publication of ~~such the~~ notice, unless the referendum
 25 ~~shall have~~ has been invoked, ~~such the~~ ordinance ~~shall become~~ becomes effective.

26 **Section 6.** That § 9-19-13 be AMENDED:

27 **9-19-13. Effective date of resolutions and ordinances--Exceptions.**

28 Except ~~such resolutions or ordinances as may be~~ any resolution or ordinance
 29 necessary for the immediate preservation of the public peace, health, or safety, or support
 30 of the municipal government and its existing public institutions, or ~~which provide that~~
 31 provides for an election or for hearing on an improvement or assessment or ~~which call~~

1 ~~that calls~~ for bids, ~~which that~~ take effect upon the passage and publication ~~thereof, every~~
 2 of the resolution or ordinance, each resolution or ordinance passed by the governing body
 3 shall take effect on the ~~twentieth~~ thirty-fifth day after its publication unless suspended by
 4 operation of a referendum.

5 **Section 7.** That § 9-19-17 be AMENDED:

6 **9-19-17. Publication of notice--Revised ordinance--Publication of**
 7 **ordinances.**

8 Upon the adoption of an ordinance ~~which that~~ revises the ordinances of the
 9 municipality by the governing body, the auditor or clerk shall publish a notice of the
 10 adoption of the revised ordinances once in the official newspaper. ~~Twenty-Thirty-five~~ days
 11 after the completed publication of the notice, unless the referendum is invoked, the
 12 ordinance ~~shall become~~ becomes effective without publication in a newspaper.

13 The governing body may publish the revised ordinances in book form. The auditor or
 14 clerk shall furnish a free copy of the book or the revised ordinances to the circuit clerk of
 15 court and the county law library of each county in which the municipality is situated.

16 **Section 8.** That § 9-20-6 be AMENDED:

17 **9-20-6. Referendum petition--Requirements.**

18 The required number of voters residing in any municipality may file within ~~twenty~~
 19 thirty-five days after the publication of any ordinance or resolution subject to referendum
 20 a petition with the auditor or clerk, requiring the submission of ~~any such~~ the ordinance or
 21 resolution to a vote of the voters of the municipality for its rejection or approval. If filed
 22 on the ~~twentieth~~ thirty-fifth day after publication, ~~such the~~ petitions shall be filed no later
 23 than normal closing hours of the city hall or city auditor's office ~~on said twentieth day.~~

24 **Section 9.** That § 9-39-4.1 be AMENDED:

25 **9-39-4.1. Contracts with municipal power agencies--Action contesting**
 26 **validity--Voters' approval not required.**

27 A municipal corporation, ~~which that~~ operates its own electric distribution system,
 28 whether or not a member of a municipal power agency, may by resolution of its city council
 29 and utility board, if any, enter into a contract ~~or contracts~~ with one or more municipal
 30 power agencies for the purchase, sale, exchange, or transmission of electric energy
 31 extending for ~~such a~~ term of years and with ~~such~~ provisions for the charges made

1 ~~thereunder in the contract~~ as determined in the authorizing resolution or resolutions.
 2 ~~Every~~ Each resolution adopted in accordance with this section shall be published in the
 3 official newspaper of the first or second class municipality. No action may be brought and
 4 no defense may be interposed in an action brought more than ~~twenty~~ thirty-five days after
 5 publication of the resolution, placing at issue the validity of any provision of the resolution
 6 or the power of the municipality to make any contract or incur any obligation authorized
 7 thereby. The provisions of §§ 9-39-36 to 9-39-39, inclusive, ~~shall do~~ not apply to ~~the~~
 8 ~~resolutions or contracts~~ any resolution or contract made pursuant to this section.

9 **Section 10.** That § 11-2-21 be AMENDED:

10 **11-2-21. Filing of board action--Publication of notice--Public inspection.**

11 The action of the board on the plan shall be filed with the county auditor. A notice
 12 of fact of the adoption shall be published once in a legal newspaper of the county ~~and~~
 13 ~~take.~~ The plan takes effect on the ~~twentieth~~ fortieth day after ~~its~~ publication of the plan's
 14 adoption unless the referendum is invoked. Any notice of fact of adoption published under
 15 the provisions of this chapter shall contain a notification that the public may inspect the
 16 entire comprehensive plan at the office of the county auditor during regular business
 17 hours.

18 ~~If such a~~ the zoning or subdivision ordinance is adopted, the ordinance is subject to
 19 the provisions of § 7-18A-5 as a comprehensive regulation unless the referendum is
 20 invoked.

21 **Section 11.** That § 11-2-30 be AMENDED:

22 **11-2-30. Adoption or rejection by board--Publication--Referendum**
 23 **provisions applicable.**

24 After the hearing, the board shall by resolution or ordinance, as appropriate, either
 25 adopt or reject the amendment, supplement, change, modification, or repeal, with or
 26 without changes. Consideration of any changes to the proposed amendment, supplement,
 27 change, modification, or repeal may only be done if the time and place of the hearing is
 28 published at least ten days in advance in a legal newspaper of the county. If adopted, the
 29 board shall publish a notice of the fact of adoption once in a legal newspaper of the county
 30 ~~and take.~~ The adoption takes effect on the ~~twentieth~~ fortieth day after publication. The
 31 provisions of § 11-2-22 are applicable to this section.

32 **Section 12.** That § 11-2-47.1 be AMENDED:

1 **11-2-47.1. Referendum on incorporation of special zoning area.**

2 The board's decision to incorporate the special zoning area may be referred to a
 3 vote of the qualified voters of the proposed special zoning area pursuant to §§ 7-18A-17
 4 to 7-18A-24, inclusive. The qualified voters of the proposed special zoning area may refer
 5 the decision within ~~twenty forty~~ twenty days after ~~its~~ the decision's publication by filing a petition
 6 signed by five percent of the registered voters in the special zoning area, based upon the
 7 total number of registered voters at the last preceding general election. The filing of a
 8 valid petition requires the submission of the decision to incorporate the special zoning
 9 area to a vote of the qualified voters of the proposed special zoning area for ~~its~~ the
 10 decision's rejection or approval. The effective date of the incorporation of the special
 11 zoning area on which a referendum is to be held shall be suspended by the filing of a
 12 referendum petition until the referendum process is completed.

13 **Section 13.** That § 13-16-6.4 be AMENDED:

14 **13-16-6.4. Referendum petition and election on installment purchase or**
 15 **capital outlay certificates.**

16 Approval to enter into an agreement or issue capital outlay certificates to which
 17 § 13-16-6.3 applies is subject to a referendum if five percent of the registered voters,
 18 based upon the total number of registered voters at the last preceding general election,
 19 petition, within ~~twenty-thirty-five~~ twenty days thereafter, to have the question of approval or
 20 disapproval of the agreement or issue of capital outlay certificates or the lease-purchase
 21 agreement placed upon the ballot at the next regular election or at a special election called
 22 for that purpose. The business manager shall give notice of the fact that the question will
 23 be on the ballot at a regular or special election as provided by law for school elections and
 24 prepare official ballots therefor according to the provisions of this title relating to elections
 25 and the issue shall be decided by sixty percent of those voting thereon.