

2022 South Dakota Legislature

House Bill 1300**AMENDMENT 1300A FOR THE INTRODUCED BILL**

1 **An Act to provide for certain permissible dates for municipal and school district**
2 **elections.**

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

4 **Section 1. That § 9-13-1 be AMENDED:**

5 **9-13-1.** In each municipality ~~an~~ the annual election ~~for the election of officers shall~~
6 must be held on the ~~second Tuesday of April of~~ first Tuesday after the first Monday in June
7 or the first Tuesday after the first Monday in November of each year, at a place in each
8 ward of the municipality ~~as designated by the municipality's governing body shall~~
9 designate. ~~If the governing body of the municipality chooses a different election day as~~
10 ~~provided in this chapter, the~~ The governing body shall establish such the date of the annual
11 election ~~day~~ by January fourteenth of the election year. The polls at the election ~~shall~~ must
12 be kept open continuously from seven a.m. until seven p.m.

13 **Section 2. That § 9-13-1.1 be AMENDED:**

14 **9-13-1.1.** Any other provision of this chapter notwithstanding, ~~the members of~~
15 the governing body of a municipality may choose to hold a general municipal election in
16 conjunction with a regular school district election. The combined election is subject to
17 approval by the ~~governing body~~ board of the school district. The combined election ~~shall~~
18 must be held on the regular date set for either the general municipal election or the school
19 district election and all dates associated with either election pursuant to chapters 9-13
20 and 13-7 shall be adjusted accordingly first Tuesday after the first Monday in June or the
21 first Tuesday after the first Monday in November. Expenses of a combined election ~~shall~~
22 must be shared in a manner agreed upon by the governing ~~bodies~~ body of the municipality
23 and the board of the school district. All other governmental responsibilities associated with

1 holding elections under ~~the provisions of~~ chapters 9-13 and 13-7 shall must be shared as
2 agreed upon by the governing ~~bodies~~ body and the board.

3 **Section 3. That § 9-13-5 be AMENDED:**

4 **9-13-5.** No election ~~shall may~~ be held in any municipality, or ward thereof, ~~wherein~~
5 ~~there is if~~ no question is to be submitted to the voters or ~~wherein there are if~~ no opposing
6 candidates for any office; ~~in case there are no opposing candidates the are on the ballot.~~
7 The auditor or clerk shall issue certificates of election to the unopposed nominees, if any,
8 in the same manner as to successful candidates after election.

9 **Section 4. That § 9-13-6.1 be AMENDED:**

10 **9-13-6.1.** If more than one commissioner or alderman is to be elected for a like
11 term, the governing body ~~before October first in the year preceding the election may, at~~
12 least six months but not more than twelve months preceding the election, approve an
13 ordinance designating that candidates ~~shall~~ run for a specific position ~~such as "A" and "B"~~
14 ~~with each position~~ representing one of the incumbent seats.

15 **Section 5. That § 9-13-7 be AMENDED:**

16 **9-13-7.** No candidate for elective municipal office may be nominated unless a
17 nominating petition is filed with the finance officer no later than five p.m. on the last ~~Friday~~
18 ~~in February~~ preceding the day of Tuesday in March for a June election, or the last Tuesday
19 in August for a November election. ~~The A~~ petition ~~shall be~~ is considered filed if it is mailed
20 by registered mail by five p.m. on the last ~~Friday in February before the election day to~~
21 file a petition. The petition ~~shall must~~ contain the name, residence address, and mailing
22 address of the candidate, and the office for which the candidate is nominated ~~and shall.~~
23 The petition must be on the form prescribed by the State Board of Elections.

24 The signer's post office box number may be given ~~in lieu~~ instead of a street address
25 if the signer lives within a municipality of the second or third class.

26 The finance officer may only accept nominating petitions that are on the prescribed
27 form and were circulated and submitted pursuant to the provisions in chapters 9-13 and
28 12-6. ~~Upon verification signed by the municipal finance officer or clerk that the nominating~~
29 ~~petition contains the minimum number of signatures of registered voters within either the~~
30 ~~municipality or ward, or both, and that the candidate is a registered voter within either~~
31 ~~the municipality or ward, or both, the filing of the petition constitutes nomination~~

1 A filed petition constitutes nomination after the municipal finance officer or clerk
2 verifies that:

3 (1) The petition contains the minimum number of signatures required by § 9-13-9;
4 and

5 (2) The candidate is a registered voter within the municipality or ward for which the
6 candidate is pursuing elective office.

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

8 **9-13-9.** In municipalities of the first and second class, if the candidate is to be
9 ~~voted for by the voters~~ elected at large, a nominating petition ~~shall~~ must be signed by the
10 ~~greater~~ lesser of five percent of the registered voters of the municipality based on the
11 number of registered voters recorded by the county auditor on the second Tuesday in
12 January of the year of the election. ~~No petition need be signed by more than, or~~ fifty
13 voters.

14 If the candidate is to be ~~voted for by the voters of~~ elected for a ward of a
15 municipality of the first or second class ~~having that has~~ more than one ward, a nominating
16 petition ~~shall~~ must be signed by the ~~greater~~ lesser of five percent of the registered voters
17 of the ward based on the number of registered voters recorded by the county auditor on
18 the second Tuesday in January of the year of the election. ~~No petition need be signed by~~
19 ~~more than, or~~ fifty voters.

20 In municipalities of the third class, if the candidate is to be ~~voted for by the voters~~
21 elected at large, the nominating petition ~~shall~~ must be signed by ~~not less than~~ at least
22 three registered voters of the municipality. If the candidate is to be ~~voted for by the voters~~
23 ~~of~~ elected for a ward of a municipality ~~having that has~~ more than one ward, the nominating
24 petition ~~shall~~ must be signed by ~~not less than~~ at least three registered voters of the ward.
25 A ~~petition signer~~ registered voter in a municipality of the third class ~~is not restricted in the~~
26 ~~number of petitions which the person may sign~~ more than one petition.

27 No nominating petition may be circulated until ~~on or after~~ the last Friday in January
28 ~~before the election~~ January first for a June election or June first for a November election.

29 **Section 7. That § 9-13-14.1 be AMENDED:**

30 **9-13-14.1.** If a vacancy exists on a municipal governing body, the remaining
31 members shall appoint a replacement to serve until the next annual municipal election, or
32 the vacancy may be filled by special election for the remainder of the unexpired term, as
33 provided in § 9-13-14.2. In the aldermanic form of municipal government, the

1 ~~appointment shall~~ replacement must be a person from the same ward of the municipality.
2 ~~If electing a person to fill the remainder of the unexpired term at an annual municipal~~
3 ~~election, the vacancy shall have occurred prior to the publication required by § 9-13-6.~~

4 **Section 8. That § 9-13-25 be AMENDED:**

5 **9-13-25.** In any municipality, the person having the highest number of votes for
6 any office ~~shall~~ must be declared elected. ~~However, the~~

7 The governing board of any municipality may, on or before the first of October in
8 the year at least six months but not more than twelve months preceding the election,
9 approve an ordinance requiring a runoff election to be conducted pursuant to §§ 9-13-
10 26.1 and 9-13-27.1.

11 **Section 9. That § 9-13-31 be AMENDED:**

12 **9-13-31.** The governing body shall, within ten days of presentation, order and fix
13 a date for holding a special election, to be on a Tuesday, not less than thirty nor more
14 than fifty days from the date of the order ~~of the governing body~~. If a petition is filed ~~after~~
15 ~~December thirty first before~~ within six months of the annual municipal election and within
16 sufficient time to comply with the provisions of § 9-13-14, the question of a successor
17 ~~shall~~ must be submitted at that annual election.

18 The governing body shall ~~have~~ publish a notice of election ~~published~~ in the same
19 manner as provided in § 9-13-13.

20 **Section 10. That § 9-13-37 be AMENDED:**

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

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

7 **Section 11. That chapter 9-13 be amended with a NEW SECTION:**

8 If a municipality schedules its annual election on the first Tuesday after the first
9 Monday in November, the municipality shall provide that each office holder whose term
10 was to expire earlier that year shall continue to serve until the office holder or another
11 candidate for the office is duly elected and qualified.

12 **Section 12. That § 13-7-6 be AMENDED:**

13 **13-7-6.** No candidate for elective school board membership may be nominated
14 unless ~~such person~~ the candidate is a resident voter of the school district and unless a
15 nominating petition has been filed on ~~such~~ the person's behalf with the business manager
16 of the school district. The nominating petition ~~shall~~ must be filed no later than five p.m.
17 on the ~~Friday thirty nine days before the date of the election~~ last Tuesday in March for a
18 June election or the last Tuesday of August for a November election. The petition is
19 considered filed if it is mailed by registered mail by five p.m. on the ~~Friday thirty nine~~
20 ~~days before the election~~ last day to file a petition.

21 A formal declaration of a candidate ~~shall~~ must be signed by the candidate before
22 the circulation of the petition. The petition ~~shall~~ must be signed by ~~not less than~~ at least
23 twenty voters of the school district ~~or if~~. If the school district is divided into school board
24 representation areas, the petition ~~shall~~ must be signed by ~~not less than~~ at least twenty
25 voters who reside within the school board representation area. No petition may be
26 circulated until ~~ten weeks prior to the election~~ January first for a June election or June first
27 for a November election.

28 ~~There shall be added by either the~~ The signer or the circulator shall add the
29 signer's place of residence and date of signing. The petition ~~shall~~ must be verified under
30 oath by the person circulating it. ~~The filing of the nominating~~ A filed petition ~~shall~~
31 constitute constitutes nomination ~~and will entitle the candidate to have the candidate's~~
32 ~~name placed on the ballot for the term the candidate specifies on the petition only upon~~

1 ~~verification signed by~~ after the business manager verifies that ~~the nominating petition~~
2 ~~contains:~~

3 (1) The nominating petition contains the minimum number of signatures; ~~and that the~~

4 (2) The candidate is a resident voter.

5 **Section 13. That § 13-7-9 be AMENDED:**

6 **13-7-9.** ~~In school districts if~~ No election may be held if only one nominating
7 petition is filed for each board vacancy ~~to be filled~~ and if there are no other questions are
8 to be submitted to the voters, ~~there shall be no election and the notices and publication~~
9 ~~provided in § 13-7-8 will not be necessary, but the.~~ The business manager shall issue
10 certificates of election to the nominees in the same manner as to successful candidates
11 after election.

12 **Section 14. That § 13-7-10 be AMENDED:**

13 **13-7-10.** The annual election for school districts shall be held ~~between the second~~
14 ~~Tuesday in April and the third Tuesday in June~~ Unless otherwise exempted by law, each
15 school district shall hold an annual election on the first Tuesday after the first Monday in
16 June or the first Tuesday after the first Monday in November, between the hours of seven
17 a.m. and seven p.m. ~~of the day of the election.~~ The school board shall select the date of
18 the election by resolution no later than the first regular meeting after January first of each
19 year. Voter registration, absentee voting, and procedures used in counting ballots ~~shall~~
20 must be conducted in accordance with ~~Title~~ title 12, ~~except as specifically otherwise~~
21 provided in this chapter ~~13-7~~.

22 **Section 15. That § 13-7-10.1 be AMENDED:**

23 **13-7-10.1.** ~~The members of the governing body~~ board of a school district may
24 choose to hold a ~~general~~ school district election in conjunction with a regular municipal
25 election. The combined election is subject to approval by the governing body of the
26 municipality. The combined election ~~shall~~ must be held on the ~~regular date set for either~~
27 ~~the school district election or the general municipal election~~ first Tuesday after the first
28 Monday in June or the first Tuesday after the first Monday in November. Expenses of a
29 combined election ~~shall~~ must be shared in a manner agreed upon by the governing ~~bodies~~
30 body of the municipality and the board of the school district. All other governmental
31 responsibilities associated with holding elections under the provisions of chapters 9-13

1 and 13-7-~~shall~~ must be shared as agreed upon by the governing ~~bodies~~ body and the
2 board.

3 **Section 16. That § 13-7-10.3 be AMENDED:**

4 **13-7-10.3.** Any other provision of this chapter notwithstanding, the ~~school~~ board
5 of a school district may choose to hold the school board election in conjunction with the
6 regular June primary election or the regular November general election. The combined
7 election is subject to approval by the county commissions of the counties in which the
8 school district is located. Expenses of a combined election ~~shall~~ must be shared in a
9 manner agreed upon by the ~~school~~ board and the county commissions involved. All other
10 governmental responsibilities associated with holding elections under the provisions of
11 chapter 13-7 and ~~Title~~ title 12 ~~shall~~ must be shared as agreed upon by the ~~governing~~
12 ~~bodies~~ board and the county commissions involved. The school election official shall certify
13 to the appropriate county auditor the candidate names and ballot language to be voted
14 on by the first Thursday after the last Tuesday in March for a June election or the first
15 Thursday after the last Tuesday in August for a November election.

16 **Section 17. That chapter 13-7 be amended with a NEW SECTION:**

17 If a school board schedules its annual election on the first Tuesday after the first
18 Monday in November, the board shall provide that each office holder whose term was to
19 expire earlier that year shall continue to serve until the office holder or another candidate
20 for the office is duly elected and qualified.

21 **Section 18. That § 13-8-14 be AMENDED:**

22 **13-8-14.** ~~The~~ Any person newly elected ~~members of~~ to the ~~school~~ board of a school
23 district shall qualify and assume membership at the annual meeting of the ~~school~~ board
24 in July, or as otherwise designated by the board, and any person appointed ~~members to~~
25 the board shall qualify and assume office at the next meeting following such appointment,
26 by taking and subscribing to an oath or affirmation to support the laws and Constitution
27 of the United States and the State of South Dakota and to faithfully perform the duties of
28 ~~school board membership~~ the office, and by filing a bond if required by law ~~and having it~~
29 approved.

30 **Section 19. That § 9-13-1.2 be REPEALED:**

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

4 **Section 20. That § 9-13-6 be REPEALED:**

5 ~~The finance officer of the municipality shall have a notice published in the official~~
6 ~~newspaper of the municipality setting forth the vacancies which will occur by termination~~
7 ~~of the terms of office of elective officers. The notice shall also state the time and place~~
8 ~~where nominating petitions may be filed for such offices. The notice shall be published~~
9 ~~once each week for two consecutive weeks between the fifteenth day of January and the~~
10 ~~thirtieth day of January.~~

11 **Section 21. That § 9-13-40 be REPEALED:**

12 ~~Any other provision of this chapter notwithstanding, the members of the governing~~
13 ~~body of a municipality may choose to hold a municipal election on the first Tuesday after~~
14 ~~the first Monday in June. The finance officer shall publish the notice required in § 9-13-6~~
15 ~~between February fifteenth and March first. No nominating petition may be circulated for~~
16 ~~signature until March first. Nominating petitions shall be filed under the provisions of § 9-~~
17 ~~13-7 by the last Tuesday in March. All other governmental responsibilities associated with~~
18 ~~holding elections under the provisions of chapter 9-13 shall be met by the municipality.~~

19 **Section 22. That § 13-7-5 be REPEALED:**

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

31 **Section 23. That § 13-7-10.2 be REPEALED:**

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

19 **Section 24. That § 13-7-10.4 be REPEALED:**

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

25 **Section 25. This Act is effective on January 1, 2025.**