



2022 South Dakota Legislature

House Bill 1300

SENATE LOCAL GOVERNMENT ENGROSSED

Introduced by: **Representative** Mortenson

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

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

2 **9-13-5.** No election ~~shall~~ may be held in any municipality, or ward thereof, ~~wherein~~
3 ~~there is if~~ no question is to be submitted to the voters or ~~wherein there are if~~ no opposing
4 candidates for any office; ~~in case there are no opposing candidates the~~ are on the ballot.
5 The auditor or clerk shall issue certificates of election to the unopposed nominees, if any,
6 in the same manner as to successful candidates after election.

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

8 **9-13-6.1.** If more than one commissioner or alderman is to be elected for a like
9 term, the governing body ~~before October first in the year preceding the election~~ may, at
10 least six months but not more than twelve months preceding the election, approve an
11 ordinance designating that candidates ~~shall~~ run for a specific position ~~such as "A" and "B"~~
12 ~~with each position~~ representing one of the incumbent seats.

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

14 **9-13-7.** No candidate for elective municipal office may be nominated unless a
15 nominating petition is filed with the finance officer no later than five p.m. on the last ~~Friday~~
16 ~~in February preceding the day of~~ Tuesday in March for a June election, or the last Tuesday
17 in August for a November election. ~~The~~ A petition ~~shall be~~ is considered filed if it is mailed
18 by registered mail by five p.m. on the last ~~Friday in February before the election day to~~
19 file a petition. The petition ~~shall~~ must contain the name, residence address, and mailing
20 address of the candidate, and the office for which the candidate is nominated ~~and shall~~
21 The petition must be on the form prescribed by the State Board of Elections.

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

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

30 A filed petition constitutes nomination after the municipal finance officer or clerk
31 verifies that:

- 1 (1) The petition contains the minimum number of signatures required by § 9-13-9;
 2 and
 3 (2) The candidate is a registered voter within the municipality or ward for which the
 4 candidate is pursuing elective office.

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

6 **9-13-9.** In municipalities of the first and second class, if the candidate is to be
 7 ~~voted for by the voters~~ elected at large, a nominating petition ~~shall~~ must be signed by the
 8 lesser of five percent of the registered voters of the municipality based on the number of
 9 registered voters recorded by the county auditor on the second Tuesday in January of the
 10 year of the election. ~~No petition need be signed by more than, or~~ fifty voters.

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

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

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

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

27 **9-13-14.1.** If a vacancy exists on a municipal governing body, the remaining
 28 members shall appoint a replacement to serve until the next annual municipal election, or
 29 the vacancy may be filled by special election for the remainder of the unexpired term, ~~as~~
 30 provided in § 9-13-14.2. In the aldermanic form of municipal government, the
 31 ~~appointment shall~~ replacement must be a person from the same ward of the municipality.
 32 ~~If electing a person to fill the remainder of the unexpired term at an annual municipal~~
 33 ~~election, the vacancy shall have occurred prior to the publication required by § 9-13-6.~~

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

2 **9-13-25.** In any municipality, the person having the highest number of votes for
3 any office ~~shall~~ must be declared elected. ~~However, the~~

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

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

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

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

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

18 **9-13-37.** Any other provision of this chapter notwithstanding, ~~the members of the~~
19 governing body of a municipality may choose to hold a municipal election in conjunction
20 with the regular June primary election or the regular November general election. The
21 combined election is subject to approval by the county commissions of the counties in
22 which the municipality is located. Expenses of a combined election ~~shall~~ must be shared
23 in a manner agreed upon by the governing body of the municipality and the county
24 commissions involved. All other governmental responsibilities associated with holding
25 elections under the provisions of chapters 9-13 and ~~Title title~~ 12 shall must be shared as
26 agreed upon by the governing bodies. ~~The finance officer shall publish the notice required~~
27 ~~in § 9-13-6 between February fifteenth and March first.~~ No nominating petition may be
28 circulated for signatures until March January first for a June election or until June first for
29 a November election. Nominating petitions ~~shall~~ must be filed under the provisions of § 9-
30 13-7 by the last Tuesday in March for a June election or the last Tuesday in August for a
31 November election. The finance officer shall certify to the appropriate county auditor the
32 candidate names and ballot language to be voted on by the first Thursday after the last

1 Tuesday in March for a June election or the first Thursday after the last Tuesday in August
2 for a November election.

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

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

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

9 **13-7-6.** No candidate for elective school board membership may be nominated
10 unless ~~such person~~ the candidate is a resident voter of the school district and unless a
11 nominating petition has been filed on ~~such~~ the person's behalf with the business manager
12 of the school district. The nominating petition ~~shall~~ must be filed no later than five p.m.
13 on the ~~Friday thirty nine days before the date of the election~~ last Tuesday in March for a
14 June election or the last Tuesday of August for a November election. The petition is
15 considered filed if it is mailed by registered mail by five p.m. on the ~~Friday thirty nine~~
16 ~~days before the election~~ last day to file a petition.

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

24 ~~There shall be added by either the~~ The signer or the circulator shall add the
25 signer's place of residence and date of signing. The petition ~~shall~~ must be verified under
26 oath by the person circulating it. ~~The filing of the nominating~~ A filed petition ~~shall~~
27 constitute ~~constitutes~~ nomination ~~and will entitle the candidate to have the candidate's~~
28 ~~name placed on the ballot for the term the candidate specifies on the petition only upon~~
29 ~~verification signed by~~ after the business manager verifies that ~~the nominating petition~~
30 ~~contains:~~

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

32 (2) The candidate is a resident voter.

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

2 **13-7-9.** ~~In school districts if~~ No election may be held if only one nominating
3 petition is filed for each board vacancy ~~to be filled and if there are~~ no other questions are
4 to be submitted to the voters, ~~there shall be no election and the notices and publication~~
5 ~~provided in § 13-7-8 will not be necessary, but the.~~ The business manager shall issue
6 certificates of election to the nominees in the same manner as to successful candidates
7 after election.

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

9 **13-7-10.** ~~The annual election for school districts shall be held between the second~~
10 ~~Tuesday in April and the third Tuesday in June~~ Unless otherwise exempted by law, each
11 school district shall hold an annual election on the first Tuesday after the first Monday in
12 June or the first Tuesday after the first Monday in November, between the hours of seven
13 a.m. and seven p.m. ~~of the day of the election.~~ The school board shall select the date of
14 the election by resolution no later than the first regular meeting after January first of each
15 year. Voter registration, absentee voting, and procedures used in counting ballots ~~shall~~
16 must be conducted in accordance with ~~Title~~ title 12, ~~except as specifically otherwise~~
17 provided in this chapter ~~13-7~~.

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

19 **13-7-10.1.** ~~The members of the governing body~~ board of a school district may
20 choose to hold a ~~general~~ school district election in conjunction with a regular municipal
21 election. The combined election is subject to approval by the governing body of the
22 municipality. The combined election ~~shall~~ must be held on the ~~regular date set for either~~
23 ~~the school district election or the general municipal election~~ first Tuesday after the first
24 Monday in June or the first Tuesday after the first Monday in November. Expenses of a
25 combined election ~~shall~~ must be shared in a manner agreed upon by the governing ~~bodies~~
26 body of the municipality and the board of the school district. All other governmental
27 responsibilities associated with holding elections under the provisions of chapters 9-13
28 and 13-7 ~~shall~~ must be shared as agreed upon by the governing ~~bodies~~ body and the
29 board.

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

1 **13-7-10.3.** Any other provision of this chapter notwithstanding, the ~~school~~ board
2 of a school district may choose to hold the school board election in conjunction with the
3 regular June primary election or the regular November general election. The combined
4 election is subject to approval by the county commissions of the counties in which the
5 school district is located. Expenses of a combined election ~~shall~~ must be shared in a
6 manner agreed upon by the ~~school~~ board and the county commissions involved. All other
7 governmental responsibilities associated with holding elections under the provisions of
8 chapter 13-7 and ~~Title title~~ 12 shall must be shared as agreed upon by the ~~governing~~
9 ~~bodies~~ board and the county commissions involved. The school election official shall certify
10 to the appropriate county auditor the candidate names and ballot language to be voted
11 on by the first Thursday after the last Tuesday in March for a June election or the first
12 Thursday after the last Tuesday in August for a November election.

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

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

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

19 **13-8-14.** ~~The~~ Any person newly elected ~~members of~~ to the ~~school~~ board of a school
20 district shall qualify and assume membership at the annual meeting of the ~~school~~ board
21 in July, or as otherwise designated by the board, and any person appointed ~~members to~~
22 the board shall qualify and assume office at the next meeting following such appointment,
23 by taking and subscribing to an oath or affirmation to support the laws and Constitution
24 of the United States and the State of South Dakota and to faithfully perform the duties of
25 ~~school board membership~~ the office, and by filing a bond if required by law ~~and having it~~
26 approved.

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

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

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

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

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

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

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

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

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

28 ~~If the joint election provided for in § 13-7-10.1 is held on the second Tuesday in~~
29 ~~April, no candidate for elective school board membership may be nominated unless the~~
30 ~~candidate is a resident voter of the school district and unless a nominating petition has~~
31 ~~been filed on the candidate's behalf with the business manager of the school district no~~

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

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

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

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

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