



2026 South Dakota Legislature

House Bill 1030

Introduced by: **Representative Kull**

1 **An Act to amend provisions pertaining to the timing of municipal elections.**

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

3 **Section 1. That § 9-4-4.7 be AMENDED:**

4 **9-4-4.7.** The governing body shall within ten days after the presentation of a
 5 petition pursuant to § 9-4-4.5, fix a date for holding a special election, to be on a Tuesday
 6 not less than thirty nor more than fifty days from the date of the order of the governing
 7 body. If a petition is filed on or after January first prior to the ~~annual~~ regular municipal
 8 election and within sufficient time to comply with the provisions of § 9-13-14, the question
 9 ~~shall~~ must be submitted at that ~~annual municipal~~ election. ~~The~~

10 A special election ~~shall~~ must be conducted pursuant to §§ 9-20-12 to 9-20-14,
 11 inclusive, and §§ 9-20-16 and 9-20-17, and ~~shall~~ must be under the charge of the
 12 municipal finance officer.

13 **Section 2. That § 9-5-3 be AMENDED:**

14 **9-5-3.** ~~Such elections~~ An election on the proposition of consolidating ~~such~~
 15 contiguous municipalities, ~~as fixed and~~ called by resolution ~~shall~~ must be noticed, held,
 16 conducted, and canvassed, ~~as provided for a special or annual regular municipal election~~
 17 ~~as the case be~~ set pursuant to § 9-13-1 or section 18 of this Act, as applicable.

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

19 **9-5-5.** After the resolutions proposing the plan for annexation ~~shall take~~ take
 20 effect, the municipality to be annexed ~~shall~~ must, by resolution, submit the question of
 21 annexation to the voters of ~~such the~~ municipality, ~~at a special election called for that~~
 22 purpose ~~fixing the date thereof and held pursuant to § 9-13-14, or at the next annual~~
 23 regular municipal election set pursuant to § 9-13-1 or section 18 of this Act, provided that

1 any ~~such~~ election ~~shall~~ must be held within sixty days after the ~~said~~ resolutions proposing
2 the plan for annexation ~~shall~~ take effect.

3 **Section 4. That § 9-5-7 be AMENDED:**

4 **9-5-7.** If a majority of the votes cast in the election held in the municipality
5 ~~desiring~~ to be annexed are in favor of annexation, the governing body of the municipality
6 ~~shall so declare by resolution. A~~ must adopt a resolution to publish the result of the
7 election. Within ten days after the election, the financial officer of the municipality to be
8 annexed shall file a certified copy of the whole proceedings for the annexation ~~shall be~~
9 ~~filed within ten days after the election with the auditor~~ financial officer of the municipality
10 to which the annexation is to be made.

11 Upon the filing of the certified copy ~~as provided in this section,~~ the governing body
12 of the municipality to which annexation is to be made shall, by resolution, submit the
13 question of annexation to the voters of the municipality at a special election called for that
14 purpose ~~fixing. The resolution must fix~~ the date ~~thereof of the election to be~~ within sixty
15 days after the filing of the certified copy of the proceedings, as provided in this section. If
16 the filing is on or after January first prior to the annual certified copy of the proceedings
17 is filed within the ninety days prior to a regular municipal election and within sufficient
18 time to comply with the provisions of ~~§ 9-13-14~~ chapter 9-13, the question ~~shall must~~ be
19 submitted at that ~~annual municipal~~ election.

20 **Section 5. That § 9-6-10 be AMENDED:**

21 **9-6-10.** If the governing body of a municipality with a population of less than one
22 thousand at the time of filing is presented with a petition for dissolution signed by fifteen
23 percent of the registered voters of the municipality, based upon the total number of
24 registered voters at the last preceding general election, the governing body ~~shall~~ must call
25 a special election to determine whether the municipality must be dissolved, by giving fifty
26 days' published notice ~~to determine whether the municipality must be dissolved.~~

27 A signature on the petition is not valid if signed more than six months prior to the
28 filing of the petition. If any petition is presented on or after January first prior to the ~~annual~~
29 regular municipal election and within sufficient time to comply with the provisions of
30 chapter 9-13, the question of dissolution must be submitted at that ~~annual municipal~~
31 election.

32 ~~The vote upon the question of dissolution must be by ballot and cast in the manner~~
33 ~~provided in chapter 9-13.~~

Section 6. That § 9-7-3 be AMENDED:

9-7-3. ~~The members~~ A member of the board of trustees ~~shall hold~~ holds office for ~~three~~ a term of three years and until ~~their successors are the member's successor is~~ elected and qualified. A vacancy on the board must be filled as provided in § 9-13-14.1 or 9-13-14.2. A board of trustees may, by resolution, increase the length of terms from three to four years for the purpose of conducting the regular municipal election only in even-numbered years, as provided in section 18 of this Act.

For purposes of staggering terms, when a municipality is organized, the trustees must be elected for terms of one, two, and three years ~~respectively~~ at the first ~~annual~~ regular election. At subsequent elections each trustee must be elected for a term of three years.

Section 7. That § 9-8-2 be AMENDED:

9-8-2. If there is a vacancy from any cause in the office of the mayor, the vacancy must be filled by ~~appointment by~~ a motion supported by a majority vote of all the aldermen⁷. The motion must be made at a meeting of the aldermen held as soon as practicable after the vacancy occurs, to serve. The individual appointed as the mayor serves until the office is filled by election for the unexpired term at the next ~~annual~~ municipal regular election or by special election as provided in § 9-13-14.2. A special election may not be held if the vacancy in the office of the mayor occurs within the twelve months preceding the regular election for the office of the mayor. Until the vacancy is filled, the powers and duties of the mayor are executed by the mayor pro tempore, as provided in § 9-8-13.

A resignation by the mayor must be in writing and must specify the effective date of the resignation. A temporary absence or temporary incapacitation of the mayor is not a vacancy in the office of the mayor.

Section 8. That § 9-8-4 be AMENDED:

9-8-4. The common council consists of the mayor elected at large and two aldermen elected from and by the voters of each ward of the municipality. The term of office for each alderman is two years, unless a municipality adopts an ordinance establishing the term of office to be three, four, or five years.

Except as otherwise provided in § 9-8-2, 9-13-14.1, or 9-13-14.2, the mayor and aldermen hold office until their successors are elected and qualified. ~~At the first election~~

~~of aldermen, If the municipality adopts an ordinance establishing the term of office to be three, four, or five years, the council shall, by ordinance, stagger the initial terms of the alderman in each ward to provide prior to the first election of aldermen, so that two the aldermen from the same ward are not up for reelection in the same year. A person at the same election. An individual may hold the office of alderman for more than one term. The~~
A vacancy in the office of an alderman is filled as provided in § 9-13-14.1 or 9-13-14.2.

A resignation by an alderman must be in writing and must specify the effective date of the resignation.

Section 9. That § 9-8-7 be AMENDED:

9-8-7. At the first regular meeting after ~~the annual~~ the regular municipal election ~~in each year held pursuant to § 9-13-1 or section 18 of this Act, and after~~ the qualification of the newly elected aldermen, the council shall elect from among its members a president and vice president, who shall hold their respective offices for one year or until a president and vice president are elected the following year, whichever is later. In a year when there is no ~~annual~~ regular election, the council shall elect from among its members a president and vice president at the first regular meeting that occurs no more than one year after the president and vice president were last elected from among the council's members.

If an emergency prevents the first regular meeting from occurring, the election must take place at either the next regular meeting or a special meeting. If there is a vacancy in the office of the president, the council must elect a president from among its members at the first regular or special meeting that occurs after the vacancy occurred.

If there is a vacancy in the office of the vice president, the council must elect a vice president from among its members at the first regular or special meeting that occurs after the vacancy occurred. If the vacancy in the office of the vice president occurs during a meeting, the council may choose to elect a vice president from among its members during the same meeting.

Section 10. That § 9-9-3 be AMENDED:

9-9-3. The term of office of the mayor and commissioners is not less than two or more than five years, as determined by ordinance, except that at the first election after the adoption of the commission form of government, the mayor's term must be for five years and the commissioners must be elected for staggered terms. If the number of commissioners is four, one must be elected for one year, one for two years, one for three years, and one for four years. If the number of commissioners is two, one must be elected

for two years and one for four years. At the ~~annual~~ regular municipal election preceding the expiration of the term of office of the mayor or any commissioner, a successor must be elected for a term of not less than two or more than five years, as determined by ordinance.

Section 11. That § 9-9-8 be AMENDED:

9-9-8. If the mayor is unable to perform the duties of office ~~by reason~~ because of a temporary absence or temporary incapacitation, the board must, by a majority vote of all the commissioners, appoint one of its members to act as mayor until the temporary absence or temporary incapacitation ends.

The appointed commissioner's official designation is mayor pro tempore. The mayor pro tempore is invested with all the powers and shall perform all the duties of the mayor during the mayor's temporary absence or temporary incapacitation. ~~The mayor pro tempore has only one vote as a commissioner and is not entitled to vote as mayor pro tempore.~~ The temporary absence or temporary incapacitation of the mayor is not a vacancy in the office of the mayor.

If the office of the mayor is vacated, the board of commissioners must, by a majority vote of all commissioners, appoint one of its commissioners as acting mayor. The acting mayor is invested with all the powers and shall perform all the duties of the mayor, until the vacancy is filled by election for the unexpired term at the next ~~annual~~ regular election or by special election as provided in § 9-13-14.2. A special election may not be held if the vacancy in the office of the mayor occurs within the twelve months preceding the regular election for the office of the mayor.

~~The acting mayor~~ A commissioner serving as acting mayor or mayor pro tempore has only one vote as a commissioner and is not entitled to vote as acting mayor.

Section 12. That § 9-10-1 be AMENDED:

9-10-1. If a petition signed by fifteen percent of the registered voters of any municipality, as determined by the total number of registered voters at the last preceding general election, is presented requesting that an election be called to vote on the question of employing a city manager, the governing body must call an election to be held within fifty days from the date of the filing of the petition with the municipal finance officer. At that election, the question must be submitted to the voters. No petition is valid if filed more than six months after the circulation start date declared on the petition forms. If the petition is filed on or after January first prior to the ~~annual~~ regular municipal election and

1 within sufficient time to comply with the provisions of chapter 9-13, the question ~~may~~
2 must be submitted at that ~~annual municipal~~ election.

3 The election must be held upon the same notice and conducted in the same manner
4 as ~~other a regular~~ municipal elections election. The vote must be by ballot, in the form
5 and cast in the manner provided by chapter 9-13.

6 **Section 13. That § 9-10-5 be AMENDED:**

7 **9-10-5.** In all commission-governed municipalities employing a city manager, the
8 number of at-large commissioners is nine, each ~~with a three year term of office~~ elected
9 to a term of three years, or four years if the commission has chosen to hold the regular
10 municipal election only in even-numbered years, pursuant to section 18 of this Act.

11 At the first election, nine commissioners must be elected, three to serve until the
12 next ~~annual~~ regular election, three to serve until the second ~~annual~~ regular election
13 thereafter, and three to serve until the third ~~annual~~ regular election thereafter. If the
14 commission has chosen to hold the regular municipal election only in even-numbered
15 years, pursuant to section 18 of this Act, five commissioners are elected to serve a term
16 of two years and four commissioners are elected to serve a term of four years. At each
17 ~~annual~~ regular municipal election thereafter, three at-large commissioners must be
18 elected for a term of three or four years each, as applicable.

19 **Section 14. That § 9-10-6 be AMENDED:**

20 **9-10-6.** Within sixty days after an election directing the employment of a city
21 manager in any commission-governed municipality, a special election must be called and
22 held to elect the nine at-large commissioners. A plurality vote in the election of
23 commissioners is sufficient to elect the commissioners.

24 The commissioners shall qualify as provided by law and organize by electing a
25 commissioner to act as mayor until the first regular meeting of the board of commissioners
26 in the month following the first ~~annual~~ regular election of commissioners. At the first
27 regular meeting in the month following the ~~annual~~ first election, the commissioners shall
28 elect a commissioner to act as mayor for a term of one year.

29 **Section 15. That § 9-11-6 be AMENDED:**

30 **9-11-6.** If a petition signed by fifteen percent of the registered voters of any
31 municipality, as determined by the total number of registered voters at the last preceding

1 general election, is presented to the governing body, requesting that an election be called
2 for the purpose of voting upon a question of change of form of government or upon a
3 question of the number of wards, commissioners, or trustees, the governing body must
4 call an election that must be held within fifty days from the date of the filing of the petition
5 with the municipal finance officer. At that election, the question of the change of form of
6 government or the number of wards, commissioners, or trustees, or both, must be
7 submitted to the voters. No petition is valid if filed more than six months after the
8 circulation start date declared on the petition forms. If the petition is filed on or after
9 January first prior to the ~~annual~~ regular municipal election and within sufficient time to
10 comply with the provisions of chapter 9-13, the question ~~may~~ must be submitted at that
11 ~~annual municipal~~ election.

12 The election must be held upon the same notice and conducted ~~in the same manner~~
13 ~~as other municipal elections~~ pursuant to chapter 9-13.

14 **Section 16. That § 9-11-9 be AMENDED:**

15 **9-11-9.** If the question of whether to change the form of government or number
16 of commissioners, wards, or trustees is approved in an election pursuant to § 9-11-6, at
17 the next ~~annual~~ regular municipal election or at a special election called by the governing
18 board and held pursuant to § 9-13-14, elected officials must be chosen under the changed
19 form of government.

20 If the question is approved by the voters of the municipality at a regular municipal
21 election, the governing body of the municipality must hold a special election that meets
22 the requirements of § 9-13-14, within ninety days of the canvass of the election at which
23 the question of the change was decided, for the purpose of choosing elected officials under
24 the changed form of government.

25 **Section 17. That § 9-13-1 be AMENDED:**

26 **9-13-1.** ~~In~~ Except as otherwise provided in section 18 of this Act, each municipality
27 must hold an election of officers ~~must be held~~ each year on the first Tuesday after the first
28 Monday in June or the first Tuesday after the first Monday in November, at a place in each
29 ward of the municipality designated by the governing body of the municipality. The
30 governing body shall establish the date of the ~~annual~~ annual election by January
31 fourteenth of the election year. The polls at the election must be kept open continuously
32 from seven a.m. until seven p.m.

Section 18. That a NEW SECTION be added to chapter 9-13:

The governing body of a municipality may, by ordinance, choose to hold the regular municipal election only in even-numbered years. If the governing body adopts an ordinance to hold the regular municipal election only in even-numbered years, the governing body must designate the number of vacancies and the number of years, not exceeding four years, for each vacancy so that all succeeding elections have, insofar as practicable, the same number of vacancies to be filled.

If the governing body of the municipality adopts an ordinance to hold the regular municipal election only in even-numbered years, the governing body shall extend the term of any office holder whose term was set to expire in an odd-numbered year, and the office holder shall serve as a member of the governing body until the office holder or another candidate for the office is duly elected and qualified.

Section 19. That § 9-13-14 be AMENDED:

9-13-14. Every special election authorized by law, except as provided in §§ 6-8B-4 and 9-13-14.2, ~~shall~~ must be held upon the same notice, ~~and~~ and at the same polling places, ~~and~~ and be conducted, returned, and canvassed, and the result declared, ~~as provided herein for the annual~~ a regular municipal election.

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

Section 20. That § 9-13-14.1 be AMENDED:

9-13-14.1. Except as otherwise provided in this section, if a vacancy exists on a municipal governing body, the remaining members must appoint a replacement to serve until the next ~~annual~~ regular municipal election. The governing body may call a special election to fill the vacancy for the remainder of the unexpired term, as provided in § 9-13-14.2.

In the aldermanic form of municipal government, the replacement must be an individual from the same ward of the municipality.

Section 21. That § 9-13-14.2 be AMENDED:

9-13-14.2. The governing body of any municipality may, by ordinance enacted prior to the vacancy, require that any vacancy on the governing body or in the office of the mayor is to be filled by a special election called for that purpose to be conducted as

provided in § 9-13-14 and this section. ~~No~~ A special election may not be held less than ninety days before ~~the annual~~ a regular municipal election.

The finance officer of the municipality shall publish a notice in the official newspaper of the municipality, designated pursuant to § 9-12-6, stating that ~~a:~~

(1) A vacancy on the governing body exists, ~~that the;~~

(2) The vacancy will is to be filled by special election, ~~the;~~

(3) The date of the election, ~~and the time and;~~

(4) The deadline for filing a nominating petition; and

(5) The place where nominating petitions may be filed ~~for the office.~~

The notice ~~shall~~ must be published once each week for two consecutive weeks, beginning at least sixty days before the date of the special election.

Nominating petitions for the vacancy ~~shall~~ must be prepared and filed as provided in § 9-13-7. A candidate may not be circulated circulate a nominating petition more than sixty days before the date of the special election, and ~~shall be filed~~ file the petition with the finance officer at least thirty days before the date of the special election. The number of signers required for a nominating petition ~~shall be~~ is calculated as provided in § 9-13-9. If a nominating petition is filed before the second Tuesday in January, the prior year's calculation of registered voters ~~shall~~ must be used. A notice of the special election ~~shall~~ must be published as provided in §§ 9-13-13 and 9-13-14.

Section 22. That § 9-13-16 be AMENDED:

9-13-16. Except as otherwise provided, each ward ~~shall constitute~~ constitutes an election precinct. ~~Whenever~~ If the number of ~~legal~~ voters in any ward ~~shall exceed~~ is greater than five hundred, the governing body may, by ordinance, divide ~~such the~~ ward into two or more precincts ~~by ordinance~~. ~~Whenever,~~

If the number of ~~legal~~ voters in any two or more contiguous wards ~~shall not~~ does not exceed three hundred fifty, as determined by the last ~~annual~~ regular election, the governing body may ~~consolidate by ordinance such two or more,~~ by ordinance, consolidate the wards into one precinct for voting purposes. ~~Such ordinances shall be passed. An ordinance adopted pursuant to this section must be adopted~~ and take effect before the time of giving notice of election.

Except as provided in §§ 12-14-1 to 12-14-4, inclusive, ~~such wards and precincts shall be~~ the precincts established pursuant to this section must be the election precincts for all state and county elections.

1 **Section 23. That § 9-13-16.2 be AMENDED:**

2 **9-13-16.2.** Notwithstanding the redistricting provided in § 9-13-16, the term of
3 office of any member of the governing body whose term of office extends beyond the next
4 ~~annual regular municipal~~ election is not affected, ~~and the. The~~ governing body, ~~as part of~~
5 ~~the redistricting process,~~ shall, by ordinance, ~~designate the wards to be represented by~~
6 ~~such members. Such council members may or may not~~ designate the district the member is to represent.
7 A member designated pursuant to this section is not required to be residents a resident
8 of the district they are the member is designated to represent.

9 Each ward for which representation is not provided ~~by such designation shall~~
10 pursuant to this section must, at the next ensuing annual election, elect a council member,
11 ~~the whose~~ term of office ~~to be~~ is determined as provided in § 9-8-4.

12 **Section 24. That § 9-13-31 be AMENDED:**

13 **9-13-31.** The governing body shall, within ten days of presentation, order and fix
14 the date for holding a special election on a Tuesday between thirty and fifty days from the
15 date of the order. If a petition is filed within six months of the ~~annual~~ next regular
16 municipal election and within sufficient time to comply with the provisions of § 9-13-14,
17 the question of a successor must be submitted at that ~~annual~~ election.

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

20 **Section 25. That § 9-13-41 be AMENDED:**

21 **9-13-41.** If a municipality schedules ~~an annual~~ a regular election on the first
22 Tuesday after the first Monday in November, the term of office for each office holder whose
23 term was to expire earlier in that year ~~shall~~ must have the term extended until the office
24 holder or another candidate for the office is duly elected and qualified.

25 If a municipality schedules ~~an annual~~ a regular election on the first Tuesday after
26 the first Monday in June to elect an office that was previously elected in November, the
27 office holder who was elected in November ~~must be~~ is entitled to complete the term of
28 office to which the office holder was elected.

29 **Section 26. That § 9-20-11 be AMENDED:**

30 **9-20-11.** ~~The~~ Within ten days of the presentation of a petition pursuant to § 9-20-
31 6, the governing body shall, ~~upon the presentation of a petition pursuant to § 9-20-6,~~

1 submit the question to the electors at ~~the next annual~~ a special election to be held on a
2 Tuesday no sooner than sixty nor later than ninety days from the date of the order of the
3 governing body. If the petition is presented before the next regular municipal election or
4 the next general election, ~~whichever is earlier~~ and within sufficient time to comply with
5 the provisions of § 9-13-14, the question may be submitted at that election.

6 Pending the election, the governing body may not take ~~no~~ any action with respect
7 to the subject matter of the petition that would alter or preempt the effect of the proposed
8 petition. ~~However, the governing body may expedite the date of the election by ordering,~~
9 ~~within ten days of receiving the petition, a special election to be held on a Tuesday not~~
10 ~~less than thirty days from the date of the order of the governing body.~~