



## 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 petition pursuant to § 9-4-4.5, fix a date for holding a special election, to be on a Tuesday not less than thirty nor more than fifty days from the date of the order of the governing body. If a petition is filed on or after January first prior to the ~~annual~~ regular municipal election and within sufficient time to comply with the provisions of § 9-13-14, the question ~~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, inclusive, and §§ 9-20-16 and 9-20-17, and ~~shall~~ must be under the charge of the 11 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~~ contiguous municipalities, ~~as fixed and~~ called by resolution ~~shall~~, must be noticed, held, 15 conducted, and canvassed, ~~as provided for a special or annual~~ regular municipal election 16 ~~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.~~

1    **Section 6. That § 9-7-3 be AMENDED:**

2            **9-7-3.** ~~The members~~A member of the board of trustees ~~shall hold~~holds office for  
3            ~~three~~a term of three years and until ~~their successors are~~the member's successor is  
4            elected and qualified. A vacancy on the board must be filled as provided in § 9-13-14.1 or  
5            9-13-14.2. ~~A board of trustees may, by resolution, increase the length of terms from three~~  
6            ~~to four years for the purpose of conducting the regular municipal election only in even-~~  
7            ~~numbered years, as provided in section 18 of this Act.~~

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

12    **Section 7. That § 9-8-2 be AMENDED:**

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

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

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

27           **9-8-4.** The common council consists of the mayor elected at large and two  
28           aldermen elected from and by the voters of each ward of the municipality. The term of  
29           office ~~for each alderman~~ is two years, unless a municipality adopts an ordinance  
30           establishing the term of office to be three, four, or five years.

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

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

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

9       **Section 9. That § 9-8-7 be AMENDED:**

10           **9-8-7.** At the first regular meeting after the annual ~~the regular municipal~~ election  
11       ~~in each year held pursuant to § 9-13-1 or section 18 of this Act, and after the qualification~~  
12       of the newly elected aldermen, the council shall elect from among its members a president  
13       and vice president, who shall hold their respective offices for one year or until a president  
14       and vice president are elected the following year, whichever is later. In a year when there  
15       is no ~~annual regular~~ election, the council shall elect from among its members a president  
16       and vice president at the first regular meeting that occurs no more than one year after  
17       the president and vice president were last elected from among the council's members.

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

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

27       **Section 10. That § 9-9-3 be AMENDED:**

28           **9-9-3.** The term of office of the mayor and commissioners is not less than two or  
29       more than five years, as determined by ordinance, except that at the first election after  
30       the adoption of the commission form of government, the mayor's term must be for five  
31       years and the commissioners must be elected for staggered terms. If the number of  
32       commissioners is four, one must be elected for one year, one for two years, one for three  
33       years, and one for four years. If the number of commissioners is two, one must be elected

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

5 **Section 11. That § 9-9-8 be AMENDED:**

6 **9-9-8.** If the mayor is unable to perform the duties of office ~~by reason because~~ of  
7 a temporary absence or temporary incapacitation, the board must, by a majority vote of  
8 all the commissioners, appoint one of its members to act as mayor until the temporary  
9 absence or temporary incapacitation ends.

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

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

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

25 **Section 12. That § 9-10-1 be AMENDED:**

26 **9-10-1.** If a petition signed by fifteen percent of the registered voters of any  
27 municipality, as determined by the total number of registered voters at the last preceding  
28 general election, is presented requesting that an election be called to vote on the question  
29 of employing a city manager, the governing body must call an election to be held within  
30 fifty days from the date of the filing of the petition with the municipal finance officer. At  
31 that election, the question must be submitted to the voters. No petition is valid if filed  
32 more than six months after the circulation start date declared on the petition forms. If the  
33 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.

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

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

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

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

14           **9-13-14.** Every special election authorized by law, except as provided in §§ 6-8B-  
15           4 and 9-13-14.2, ~~shall~~ must be held upon the same notice, ~~and~~ at the same polling places,  
16           ~~and~~ be conducted, returned, and canvassed, and the result declared, as provided herein  
17           for ~~the annual~~ a regular municipal election.

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

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

21           **9-13-14.1.** Except as otherwise provided in this section, if a vacancy exists on a  
22           municipal governing body, the remaining members must appoint a replacement to serve  
23           until the next ~~annual~~ regular municipal election. The governing body may call a special  
24           election to fill the vacancy for the remainder of the unexpired term, as provided in § 9-  
25           13-14.2.

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

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

29           **9-13-14.2.** The governing body of any municipality may, by ordinance enacted  
30           prior to the vacancy, require that any vacancy on the governing body or in the office of  
31           the mayor is to be filled by a special election called for that purpose to be conducted as

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

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

- 5 (1) A vacancy on the governing body exists, that the;
- 6 (2) The vacancy will be filled by special election, the;
- 7 (3) The date of the election, and the time and;
- 8 (4) The deadline for filing a nominating petition; and
- 9 (5) The place where nominating petitions may be filed for the office.

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

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

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

21 **9-13-16.** Except as otherwise provided, each ward ~~shall constitute~~ constitutes an  
22 election precinct. ~~Whenever~~ If the number of legal voters in any ward ~~shall exceed~~ is  
23 greater than five hundred, the governing body may, by ordinance, divide ~~such the~~ ward  
24 into two or more precincts ~~by ordinance~~. ~~Whenever~~,

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

31 Except as provided in §§ 12-14-1 to 12-14-4, inclusive, ~~such wards and precincts~~  
32 ~~shall be~~ the precincts established pursuant to this section must be the election precincts  
33 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 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.~~