

State of South Dakota

NINETY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 2019

255B0776

SENATE BILL NO. 170

Introduced by: Senators DiSanto, Jensen (Phil), Nelson, and Russell and Representatives Frye-Mueller, Goodwin, Hammock, Howard, and Mulally

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding local referendums.

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

3 Section 1. That § 7-18A-8 be amended to read:

4 7-18A-8. Except ~~such resolutions or ordinances as may be~~ any resolution or ordinance
5 necessary for the immediate preservation of the public peace, health, or safety, or support of the
6 county government and its existing public institutions; ~~which provide~~ that provides for an
7 election or hearing on an improvement or assessment; or ~~which call~~ that calls for bids ~~which that~~
8 take effect upon the passage and publication ~~thereof, every~~ of the resolution or ordinance, each
9 resolution or ordinance passed by a board shall take effect on the ~~twentieth~~ thirty-fifth day after
10 its completed publication unless suspended by operation of a referendum.

11 Section 2. That § 7-18A-16 be amended to read:

12 7-18A-16. A petition to refer an ordinance or resolution subject to referendum may be filed
13 with the auditor within ~~twenty~~ thirty-five days after its publication. The filing of ~~such a~~ the
14 petition shall require the submission of ~~any such~~ the ordinance or resolution to a vote of the
15 qualified voters of the county for its rejection or approval.



1 Section 3. That § 7-18A-29 be amended to read:

2 7-18A-29. Upon the adoption of an ordinance in revision by the board, the auditor shall
3 publish a notice, once each week for two successive weeks, that an ordinance in revision was
4 adopted. ~~Twenty~~Thirty-five days after the completed publication of the notice, unless the
5 referendum ~~shall have~~ has been invoked, ~~such the ordinance shall become~~ becomes effective
6 without publication in a newspaper. The board shall publish the revised ordinances in book
7 form.

8 Section 4. That § 9-4-4.5 be amended to read:

9 9-4-4.5. The required number of voters residing in the combined area of the municipality
10 and special annexation precinct may file within ~~twenty~~ thirty-five days after the publication of
11 the annexation resolution a petition with the municipal finance officer, requiring the submission
12 of the annexation resolution to a vote of the voters of the combined area of the municipality and
13 special annexation precinct for ~~its~~ the resolution's rejection or approval.

14 Section 5. That § 9-19-7 be amended to read:

15 9-19-7. The title of ~~all ordinances~~ each ordinance shall be read twice with at least five days
16 intervening between the first and second reading. The ordinance shall be signed by the mayor
17 or acting mayor or president of the Board of Trustees, filed with the auditor or clerk, and
18 published once ~~except that~~. However, an ordinance incorporating and adopting comprehensive
19 regulations or a code promulgated, approved, and published by a recognized and established
20 national organization prescribing building, electrical, plumbing, safety, fire, health, or milk
21 regulations need not be published in a newspaper, ~~but upon~~. Upon adoption of such an
22 ordinance the auditor or clerk shall publish a notice of the fact of adoption once a week for two
23 successive weeks in the official newspaper, ~~and twenty~~ thirty-five days after the completed
24 publication of ~~such the~~ notice, unless the referendum ~~shall have~~ has been invoked, ~~such the~~

1 ordinance ~~shall become~~ becomes effective.

2 Section 6. That § 9-19-13 be amended to read:

3 9-19-13. Except ~~such resolutions or ordinances as may be~~ any resolution or ordinance
4 necessary for the immediate preservation of the public peace, health, or safety, or support of the
5 municipal government and its existing public institutions, or ~~which provide~~ that provides for an
6 election or for hearing on an improvement or assessment or ~~which call~~ that calls for bids, ~~which~~
7 that take effect upon the passage and publication thereof, ~~every of the resolution or ordinance,~~
8 each resolution or ordinance passed by the governing body shall take effect on the ~~twentieth~~
9 thirty-fifth day after its publication unless suspended by operation of a referendum.

10 Section 7. That § 9-19-17 be amended to read:

11 9-19-17. Upon the adoption of an ordinance ~~which~~ that revises the ordinances of the
12 municipality by the governing body, the auditor or clerk shall publish a notice of the adoption
13 of the revised ordinances once in the official newspaper. ~~Twenty~~ Thirty-five days after the
14 completed publication of the notice, unless the referendum is invoked, the ordinance ~~shall~~
15 ~~become~~ becomes effective without publication in a newspaper.

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

19 Section 8. That § 9-20-6 be amended to read:

20 9-20-6. The required number of voters residing in any municipality may file within ~~twenty~~
21 thirty-five days after the publication of any ordinance or resolution subject to referendum a
22 petition with the auditor or clerk, requiring the submission of ~~any such~~ the ordinance or
23 resolution to a vote of the voters of the municipality for its rejection or approval. If filed on the
24 ~~twentieth~~ thirty-fifth day after publication, ~~such~~ the petitions shall be filed no later than normal

1 closing hours of the city hall or city auditor's office ~~on said twentieth day.~~

2 Section 9. That § 9-39-4.1 be amended to read:

3 9-39-4.1. A municipal corporation, ~~which~~ that operates its own electric distribution system,
4 whether or not a member of a municipal power agency, may by resolution of its city council and
5 utility board, if any, enter into a contract ~~or contracts~~ with one or more municipal power
6 agencies for the purchase, sale, exchange, or transmission of electric energy extending for ~~such~~
7 a term of years and with ~~such~~ provisions for the charges made ~~thereunder~~ in the contract as
8 determined in the authorizing resolution or resolutions. ~~Every~~ Each resolution adopted in
9 accordance with this section shall be published in the official newspaper of the first or second
10 class municipality. No action may be brought and no defense may be interposed in an action
11 brought more than ~~twenty~~ thirty-five days after publication of the resolution, placing at issue the
12 validity of any provision of the resolution or the power of the municipality to make any contract
13 or incur any obligation authorized thereby. The provisions of §§ 9-39-36 to 9-39-39, inclusive,
14 ~~shall do not apply to the resolutions or contracts~~ any resolution or contract made pursuant to this
15 section.

16 Section 10. That § 11-2-21 be amended to read:

17 11-2-21. The action of the board on the plan shall be filed with the county auditor. A notice
18 of fact of the adoption shall be published once in a legal newspaper of the county ~~and take~~. The
19 plan takes effect on the ~~twentieth~~ fortieth day after ~~its~~ publication of the plan's adoption unless
20 the referendum is invoked. Any notice of fact of adoption published under the provisions of this
21 chapter shall contain a notification that the public may inspect the entire comprehensive plan
22 at the office of the county auditor during regular business hours.

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

1 Section 11. That § 11-2-30 be amended to read:

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

10 Section 12. That § 11-2-47.1 be amended to read:

11 11-2-47.1. The board's decision to incorporate the special zoning area may be referred to a
12 vote of the qualified voters of the proposed special zoning area pursuant to §§ 7-18A-17 to 7-
13 18A-24, inclusive. The qualified voters of the proposed special zoning area may refer the
14 decision within ~~twenty~~ fortieth days after ~~its~~ the decision's publication by filing a petition signed
15 by five percent of the registered voters in the special zoning area, based upon the total number
16 of registered voters at the last preceding general election. The filing of a valid petition requires
17 the submission of the decision to incorporate the special zoning area to a vote of the qualified
18 voters of the proposed special zoning area for ~~its~~ the decision's rejection or approval. The
19 effective date of the incorporation of the special zoning area on which a referendum is to be held
20 shall be suspended by the filing of a referendum petition until the referendum process is
21 completed.