



2020 South Dakota Legislature

House Bill 1177

HOUSE EDUCATION ENGROSSED

Introduced by: **Representative Post**

1 **An Act to require that school district elections occur in conjunction with the general**
 2 **election.**

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

4 **Section 1.** That § 12-1-2 be AMENDED:

5 **12-1-2. Applicability of title.**

6 The provisions of this title apply to township, municipal, school board, and other
 7 subdivision elections, unless otherwise provided by the statutes specifically governing
 8 ~~their~~ those elections or this title.

9 **Section 2.** That § 12-1-11 be AMENDED:

10 **12-1-11. Costs of election--Exception for local elections.**

11 Except as may be otherwise provided by law, in any election in which all voters of
 12 a county participate, the costs relating to the election shall be paid by the county from
 13 funds appropriated therefor. In all other elections costs therefor shall be paid from funds
 14 appropriated by the governing board of municipalities, school districts, and other political
 15 subdivisions requiring an election for their own purposes. Costs relating to a combined
 16 municipal and school board election, conducted before January 1, 2024, may be shared
 17 under the provisions of §§ 9-13-1.1 and 13-7-10.1.

18 **Section 3.** That § 12-16-11 be AMENDED:

19 **12-16-11. Separate nonpolitical ballot--Judiciary--School board.**

20 At each general election when judicial officers are elected, there ~~shall~~ must be a
 21 separate ballot entitled "nonpolitical judiciary ballot" which ~~shall~~ must be prescribed by
 22 the State Board of Elections.

1 At each general election when members of a school board are elected, there must
2 be a separate ballot entitled "nonpolitical school board ballot," which must be prescribed
3 by the State Board of Elections.

4 **Section 4.** That § 13-6-62 be AMENDED:

5 **13-6-62. New school district--Election of board--Notices and declarations of**
6 **candidacy--Costs.**

7 If under ~~the provisions of~~ this chapter a new school district entity is created, the
8 voters shall elect a ~~new school~~ board to govern ~~such school~~ the new district ~~as hereinafter~~
9 provided.

10 The ~~county~~ auditor of the county having jurisdiction shall conduct the election
11 under the ~~existing~~ statutory provisions for conducting ~~annual~~ board elections in school
12 districts. The ~~county~~ auditor shall perform the duties specified for the business manager
13 ~~as provided in chapter 13-7, as amended~~ and shall ~~also give the~~ provide notice ~~of~~
14 regarding the number of ~~school~~ board vacancies and the residency requirements for ~~school~~
15 board membership, as may be set forth in the plan approved by the voters.

16 The ~~A~~ declaration of candidacy shall must be filed ~~in the office with the auditor of~~
17 the county auditor, ~~and the date of,~~

18 The election may be fixed on or before the first Monday in May shall take place on
19 the date fixed for the next general election.

20 ~~Costs~~ The cost of conducting the election shall must be paid by the ~~new school~~
21 district county.

22 **Section 5.** That § 13-6-64 be AMENDED:

23 **13-6-64. New school district--Board members--Assumption of office.**

24 The ~~school~~ board members of a ~~newly created~~ new school district ~~elected on or~~
25 ~~before the first Monday in May~~ shall qualify and assume office ~~as soon as can be~~
26 ~~conveniently done but not before~~ on the first Monday in January of the year in which the
27 district will become operational. ~~They, or as soon thereafter as practicable.~~

28 The members shall organize the board as provided in chapter 13-8 and may
29 ~~immediately~~ contract for services and supplies to be furnished to the newly created new
30 school district ~~for the fiscal year beginning July first of the year following the election and~~
31 ~~organization of such board. However, provided that if a new~~ the new district does not
32 become operational, the contracts are void.

1 The board shall meet as often as ~~it deems~~ necessary before the new district
 2 becomes operational, ~~and its.~~ Any expenses shall constitute a legal claim incurred by the
 3 board under §§ 13-8-37 and 13-8-38, constitute a legal claim to be paid by the ~~new~~ district
 4 when it becomes operational.

5 ~~The school boards~~ board of each existing districts ~~district~~ reorganized into ~~newly~~
 6 ~~created districts shall~~ the new district may continue to operate until the ~~end of the current~~
 7 ~~fiscal year~~ new board becomes operational. Notwithstanding any other law, the terms of
 8 office for members of a board created under this section must be four years and must be
 9 staggered so as to accommodate the provisions of § 13-8-2.

10 **Section 6.** That § 13-6-84.3 be AMENDED:

11 **13-6-84.3. Exchange of land--Submission of question to voters--**
 12 **Implementation.**

13 Within thirty days ~~of after~~ the last ~~date of the~~ public hearing, pursuant to § 13-6-
 14 84.2, five percent of the voters residing within a school district may petition the ~~school~~
 15 ~~board of the district~~ to refer the resolutions to an election. ~~The school district board~~ shall
 16 submit the question at the next ~~annual~~ election provided for in § 13-7-10. ~~The Passage of~~
 17 ~~the question shall be deemed to have passed or failed by~~ requires a simple majority of
 18 those voting. Upon passage, ~~the school boards~~ board of each affected district shall ~~submit~~
 19 forward the resolution to the board of county commissioners having jurisdiction for
 20 implementation pursuant to § 13-6-87.

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

22 **13-7-5. Notice of vacancies on school board--Publication--Newly created**
 23 **school districts.**

24 Between the fifteenth day and the thirtieth day of the month three months
 25 preceding the election, ~~except in the case of the joint election as provided in § 13-7-10.1,~~
 26 the business manager of each school district shall publish once each week for two
 27 consecutive weeks in the official newspaper, a notice setting forth the vacancies ~~which~~
 28 that will occur by termination of the terms of the elective or appointive school board
 29 members. ~~However,~~ if

30 If the vacancies set forth in the notice exist within ~~a new school~~ the board of a
 31 newly created school district ~~entity~~ pursuant to § 13-6-62, the ~~county~~ auditor of the county
 32 having jurisdiction over the election shall publish the notice once each week for two
 33 consecutive weeks at least one month preceding the election.

1 The notice ~~shall also~~ must state the time and place where nominating petitions for
2 ~~school board membership~~ may be filed for the board vacancies.

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

4 **13-7-6. Candidate nominating petition--Formal declaration--Contents,**
5 **circulation, and verification.**

6 No candidate for elective school board membership may be nominated unless such
7 person is a resident voter of the school district and unless a nominating petition has been
8 filed on such person's behalf with the business manager of the school district. The
9 nominating petition shall be filed no later than five p.m. on the Friday thirty-nine days
10 before the date of the election. The petition is considered filed if it is mailed by registered
11 mail by five p.m. on the Friday thirty-nine days before the election. Beginning in 2024,
12 the nominating petition required by this section must be filed with the auditor of the county
13 in which the school district is headquartered, no later than the first Tuesday in August,
14 and no later than five p.m. central time.

15 A formal declaration of a candidate shall be signed by the candidate before the
16 circulation of the petition. The petition shall be signed by not less than twenty voters of
17 the school district or if the school district is divided into school board representation areas,
18 the petition shall be signed by not less than twenty voters who reside within the school
19 board representation area. No petition may be circulated until ten weeks prior to the
20 election. There shall be added by either the signer or the circulator the signer's place of
21 residence and date of signing. The petition shall be verified under oath by the person
22 circulating it. The filing of the nominating petition shall constitute nomination and will
23 entitle the candidate to have the candidate's name placed on the ballot for the term the
24 candidate specifies on the petition only upon verification signed by the business manager
25 that the nominating petition contains the minimum number of signatures and that the
26 candidate is a resident voter.

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

28 **13-7-6.1. Option to adopt campaign finance laws.**

29 The board of a school district ~~governing body~~ may, by ~~ordinance or resolution,~~
30 adopt the provisions of chapter 12-27.

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

1 **13-7-10. School district elections--Date--Hours--Procedures.**

2 ~~The annual election for school districts shall be held between the second Tuesday~~
3 ~~in April and the third Tuesday in June. Unless otherwise exempted by law, each school~~
4 ~~district shall hold an election between the hours of seven a.m. and seven p.m. of the day~~
5 ~~of the election. The school board shall select the date of the election by resolution no later~~
6 ~~than the first regular meeting after January first of each year, on the first Tuesday after~~
7 ~~the first Monday in November of each even-numbered year, beginning in November 2024.~~
8 Voter registration, absentee voting, and procedures used in counting ballots ~~shall be~~ must
9 be conducted in accordance with ~~Title~~ title 12, except as specifically provided in this
10 ~~chapter 13-7.~~

11 **Section 11.** That § 13-7-11 be AMENDED:

12 **13-7-11. Voting precincts and polling places--Recommendations to county**
13 **auditor.**

14 The number and place of voting precincts shall be determined by the school board.
15 Beginning with the general election in November 2024, the board of the school
16 district may provide recommendations to the auditor of the county. The auditor shall
17 determine the number and location of voting precincts in order to coordinate
18 arrangements with requirements for the general election.

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

20 **13-7-13. Ballots and election supplies--Form and content of ballots--**
21 **Absentee ballots.**

22 The business manager of the school district shall provide proper ballots, pollbooks,
23 voting booths, and necessary supplies as required by law to the proper election officials
24 on election day. The ballots shall be as prescribed by the State Board of Elections. The
25 quantity of ballots provided shall be at least ten percent more than the number of voters
26 at the last comparable election. No party affiliation may appear on the ballot and the
27 names of the candidates for the respective vacancies shall be printed on the ballot. Each
28 candidate's position on the ballot shall be chosen by lot by the business manager and each
29 candidate may be present or represented when the position on the ballot is being
30 determined. The ballots for school elections shall be available for absentee voting no later
31 than fifteen days prior to election day, except that beginning with the general election in
32 November 2024, the provisions governing absentee voting for school elections, including
33 the availability of ballots, must be identical to those set forth in chapter 12-19.

1 **Section 13.** That a NEW SECTION be added:

2 **13-7-19.5. Recounts.**

3 Notwithstanding the manner in which a school board election recount is requested
 4 and conducted under §§ 13-7-19.1 through 13-7-19.4, beginning with the general election
 5 in November 2024, the provisions governing school board election recounts must be
 6 identical to those set forth in chapter 12-21.

7 **Section 14.** That § 13-7-30 be AMENDED:

8 **13-7-30. School district elections--Information in minutes.**

9 ~~For the most recent annual~~ each school district election conducted in ~~each school~~
 10 ~~district as provided in~~ accordance with § 13-7-10, ~~each school the~~ board shall ~~provide in~~
 11 ~~the school board~~ publish in the minutes the following information:

- 12 (1) The number of registered voters of the school district on the date voter registration
 13 ~~closes~~ closed;
- 14 (2) The number of registered voters of the school district who voted in the election;
 15 and
- 16 (3) The percentage of registered voters of the school district who voted in the election;
 17 and
- 18 (4) ~~If the election was held in conjunction with a regular municipal election as provided~~
 19 ~~in § 13-7-10.1 or with the regular June primary as provided in § 13-7-10.3.~~

20 ~~If the annual an~~ an election was not conducted because there was neither a contested
 21 vacancy on the ~~school board~~ nor ~~any a~~ a question submitted to the voters, the ~~school board~~
 22 shall ~~provide~~ publish that information in the ~~school board~~ minutes.

23 **Section 15.** That § 13-8-2 be AMENDED:

24 **13-8-2. Board of a school district--Membership--Terms of office.**

25 ~~There shall be a school board consisting~~ The board of a school district consists of
 26 five, seven, or nine members ~~whose terms shall be from~~.

27 Except as otherwise provided in this section, the term of office for a member of the
 28 board is one to three years initially, and three years thereafter; ~~provided that each school~~
 29 ~~board~~.

30 Each member shall be ~~is~~ entitled to complete the term of office to which ~~he the~~ the
 31 member was elected, except in the case of a school district's dissolution.

1 The term of office for a member of the board elected during 2021 continues until
 2 the election scheduled in November 2024.

3 The term of office for a member of the board elected during 2022 continues until
 4 the election scheduled in November 2026.

5 The term of office for a member of the board elected during 2023 continues until
 6 the election scheduled in November 2024 or until the election scheduled in November
 7 2026, as specified by the board.

8 Thereafter, the term of office for a member of the board is four years.

9 **Section 16.** That § 13-8-3 be AMENDED:

10 **13-8-3. Board membership--Representation areas--Petition--Resolution.**

11 The voters of ~~any~~a school district may increase the number of board members to
 12 seven or to nine, or establish or discontinue ~~school~~board representation areas, if approved
 13 by a majority ~~vote of all voters of those~~ voting at an election called and held as hereinafter
 14 provided for in this section.

15 If a petition signed by ~~ten percent of the registered voters of any~~a school district,
 16 ~~based upon the total number of~~ equal in number to at least ten percent of those registered
 17 ~~voters to vote at the last preceding general election,~~ is presented to the board requesting
 18 that an election be called ~~for the purpose of voting to vote~~ upon the question of ~~the change~~
 19 of changing the number of board members, or ~~the establishment or discontinuation of~~
 20 ~~school~~ upon the question of establishing or discontinuing board representation areas, the
 21 board shall call an election.

22 The ~~school~~board may, by resolution, call for an election ~~for the purpose of voting~~
 23 upon the question of ~~the change of~~ changing the number of board members, or ~~the~~
 24 ~~establishment or discontinuation of school~~ establishing or discontinuing board
 25 representation areas.

26 ~~The question shall be submitted~~ Except as otherwise provided in this section, the
 27 board shall submit the question to the voters at an election to be held ~~not less~~ no fewer
 28 than forty-five nor more than sixty days ~~from the date of the filing of such~~after:

29 (1) The date on which the petition is filed with the business manager; or

30 (2) The date on which the resolution is passed by the board.

31 ~~If such a~~ the petition is filed ~~less~~ or the resolution is passed with fewer than one
 32 hundred twenty days ~~prior to~~ until the next annual election, the ~~question shall be~~
 33 ~~submitted~~ board shall submit the question to the voters at the annual election. Such

1 Beginning in 2024, if the petition is filed or the resolution is passed with fewer than
 2 one hundred twenty days until the next general election, the board shall submit the
 3 question to the voters at the general election.

4 ~~An election shall be held upon the same notice and under this section must be~~
 5 ~~conducted in the same manner as provided by~~ accordance with chapter 13-7.

6 Any increase ~~or decrease~~ in the number of board members ~~shall be implemented~~
 7 is effective at the next succeeding annual election.

8 Any decrease in the number of board members is effective at the expiration of the
 9 respective terms.

10 **Section 17.** That § 13-8-4 be AMENDED:

11 **13-8-4. Board membership--Increase--Decrease--Procedure.**

12 If at an election held pursuant to § 13-8-3 an increase in the number of board
 13 members is authorized, the ~~school board is empowered to~~ of the district may designate
 14 the number of vacancies and the number of years, ~~not to exceed three years,~~ in each
 15 ~~vacancy term,~~ so that all succeeding annual elections will have, insofar as practicable, the
 16 ~~same a similar~~ number of vacancies to be filled.

17 The procedure for decreasing the number of board members ~~shall be~~ is the same
 18 as for increasing the number of board members, ~~and the.~~ The board is similarly
 19 ~~empowered to~~ may designate the vacancies and ~~terms not to exceed three years;~~
 20 ~~provided, that each school~~ the number of years in each term, so that all succeeding
 21 elections will have, insofar as practicable a similar number of vacancies to be filled.

22 A member of the board member shall be is entitled to complete the term of office
 23 to which ~~he~~ the member was elected.

24 **Section 18.** That § 13-8-10 be AMENDED:

25 **13-8-10. Meetings--Dates--Election of president and vice president.**

26 The board shall hold the annual meeting ~~shall be held~~ on the second Monday of
 27 July, unless otherwise designated by the board at the prior regular meeting.

28 Beginning in 2024, the board shall hold the annual meeting on the second Monday
 29 of December, unless otherwise designated by the board at the prior regular meeting

30 ~~Regular~~ The board shall hold regular meetings shall be on the second Monday of
 31 each month, unless otherwise designated by the board at the annual meeting.

32 At the annual meeting, the ~~school board shall organize by the election of~~ elect a
 33 president and a vice president from among its ~~membership,~~ and such officers ~~members.~~

1 ~~The president and vice president shall serve until the next annual meeting. The board shall~~
 2 ~~designate the depository or depositories as provided in § 13-16-15, and the custodians of~~
 3 ~~all accounts; and designate the legal newspaper to be used for publishing all official~~
 4 ~~notices and proceedings. A majority of the members of the school board constitutes a~~
 5 ~~quorum for the purpose of conducting business. Any board action may be taken if it is~~
 6 ~~approved by the majority of the members voting.~~

7 Special meetings may be held upon call of called by the president ~~or in the~~
 8 ~~president's absence by,~~ by the vice-president in the president's absence, or by a majority
 9 of the board members. ~~Notice of such~~ The business manager shall provide to each board
 10 member oral or written notice of a special meeting shall be given by the business manager
 11 ~~to the board members either orally or in writing in sufficient time to permit their~~ the
 12 member's presence.

13 **Section 19.** That a NEW SECTION be added:

14 **13-8-10.01. Quorum.**

15 A majority of the board constitutes a quorum for the purpose of transacting
 16 business. Any action may be taken by the board, if approved by a majority of the members
 17 voting on the question.

18 **Section 20.** That a NEW SECTION be added:

19 **13-8-10.02. Official newspaper--Annual designation.**

20 The board of each school district shall annually designate an official newspaper to
 21 be used for the publication of notices and proceedings.

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

23 **13-8-14. Assumption of office by newly elected or appointed members--**

24 **Oath and bond.**

25 ~~The~~ Each individual newly elected ~~members of the school~~ to the board of a school
 26 district shall qualify and assume membership at the annual meeting of the school board
 27 in July, and.

28 Each individual newly appointed members to the board shall assume membership
 29 at the next first meeting following such the appointment, by taking and subscribing to.

30 Each individual newly elected or newly appointed to the board shall take an oath
 31 or affirmation to support the laws and Constitution of the United States and the State of

1 ~~South Dakota and this state~~, to faithfully perform the duties of ~~school a board membership~~
2 ~~member, and by filing a bond~~ if required by law, file a bond and ~~having it have the bond~~
3 approved.

4 **Section 22.** That §§ 13-6-63, 13-7-10.1, 13-7-10.2, 13-7-10.3, and 13-7-10.4 be
5 REPEALED.

6 **Section 23.** Sections 13-7-5, 13-7-10, and 13-7-30 of this Act are effective on January 1,
7 2024. Section 22 of this Act is effective on June 30, 2023.