

AN ACT

ENTITLED, An Act to revise certain organizational and administrative procedures for consumers power districts.

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

Section 1. That § 49-35-7 be amended to read as follows:

49-35-7. The petition for the organization of a consumers power district shall be addressed to the secretary of state and shall state in substance that it is the intent and purpose of the petitioners to create such a district under the provisions of this chapter subject to approval by the registered voters of the proposed district. The petition shall be circulated by an elector or electors of the proposed district and shall state and contain:

- (1) The name of the proposed district, which name shall contain the words, consumers power district;
- (2) A description of or map or diagram of the proposed district. The name of any municipality shall be a sufficient description of the boundaries thereof;
- (3) A general description of the nature of the business which the proposed district intends to engage in, and the location and method of operation of any proposed power plants, systems and facilities stated in general terms only;
- (4) The location of the principal place of business of the proposed district;
- (5) A statement that the proposed district does not have the power to levy taxes nor to issue general obligation bonds;
- (6) A statement that none of the individual members or patrons of the district or any of their property shall ever be liable in any manner for any obligation of the district;
- (7) A statement that the district shall always operate on public service, nonprofit principles for the general purposes of providing equality of distribution of electric energy to all the people and areas entitled to its benefits at the lowest obtainable cost so far as practicable

under the provisions of this chapter. Plant extension, improvements, maintenance, or operation reserves are not considered as profit;

- (8) The names and addresses of the members of the board of directors of the district (not less than five nor more than twenty-one unless the district comprises or proposes to operate in more than fifty counties in the state, in which case the number may not be less than seven), who shall serve until their successors are elected and qualified. In the petition the directors named shall be divided as nearly as possible into three equal groups, the members of the first group to hold office until their successors elected at the first general state election thereafter have qualified, the members of the second group to hold office until their successors elected at the second general state election thereafter have qualified, and the members of the third group to hold office until their successors elected at the third general state election thereafter shall have qualified. The group to which each proposed director belongs shall be designated in the petition;
- (9) If the proposed district is a municipality, a statement that the entire municipality is included within the proposed district.

Section 2. That § 49-35-8 be amended to read as follows:

49-35-8. The petition for the organization of a consumers power district shall be signed by five percent of the qualified electors of the proposed district. The number of votes cast for Governor at the general election within the boundaries of the proposed district next preceding the filing of the petition shall be the basis for determining the required number of signatures to the petition. Each petition signer shall also provide the signers printed name, residence address, county of voter registration, and date of signing. To each sheet for petitioners' signatures shall be attached a full and correct copy of the petition.

Section 3. That § 49-35-9 be amended to read as follows:

49-35-9. Every sheet of every petition for the organization of a consumers power district

containing signatures shall have upon it and below the signatures a circulator's verification as required by subdivision 12-1-3(8).

Section 4. That § 49-35-10 be amended to read as follows:

49-35-10. After the petition has been filed in the Office of the Secretary of State, if the secretary of state finds that the petition conforms to law and contains the required number of valid signatures, the secretary of state shall file the petition and issue a certificate of filing of the petition to the county auditor of any counties in which the proposed district lies or the municipal finance officer if the proposed district is confined to one municipality.

Section 5. That § 49-35-11 be repealed.

Section 6. That § 49-35-12 be repealed.

Section 7. That § 49-35-13 be repealed.

Section 8. That § 49-35-14 be repealed.

Section 9. That § 49-35-15 be amended to read as follows:

49-35-15. Upon the receipt of the certificate of filing by any county auditor or municipal finance officer receiving the same from the secretary of state, the question shall be submitted to the electors of the proposed district at the next election. The manner of conducting and voting at elections for the formation of such districts under this chapter, opening and closing of polls, keeping poll lists, canvassing the votes, declaring the result, and certifying the returns shall be the same as provided by the general election laws of this state governing the election of county or municipal officers, as the case may be, except as otherwise provided in this chapter.

Section 10. That § 49-35-16 be amended to read as follows:

49-35-16. Within ten days after the canvass of the vote at an election pursuant to § 49-35-15, each county auditor or municipal finance officer shall certify and return to the secretary of state the number of votes cast at such election in favor of and against the question submitted. If a majority of the electors voting on the question at the election vote in favor of the question submitted, the

secretary of state shall file and record the results of the election and thereupon the district under its designated name constitutes a body politic and corporate.

Section 11. That § 49-35-17 be amended to read as follows:

49-35-17. A petition for the annexation of additional territory to an existing district may be filed by registered voters of the area to be annexed. Petitions for the consolidation of two or more existing districts shall be filed by registered voters of each existing district. These petitions shall be filed with the secretary of state, specifying the territory to be annexed or the districts to be consolidated, in accordance with the provisions of §§ 49-35-7 to 49-35-9, inclusive. Upon the filing of such petition, the secretary of state shall follow the procedures of § 49-35-10, and an election shall be held pursuant to the provisions of this chapter. If the majority of the electors of such additional territory or in each of the districts to be consolidated, as the case may be, voting thereon shall vote in favor of such annexation or consolidation, the county auditor or municipal finance officer, as the case may be, shall file the results of such election in the principal places of business of the existing districts involved.

Section 12. That § 49-35-18 be repealed.

Section 13. That § 49-35-19 be repealed.

Section 14. That § 49-35-20 be repealed.

Section 15. That § 49-35-21 be repealed.

Section 16. That § 49-35-22 be repealed.

Section 17. That § 49-35-23 be repealed.

Section 18. That § 49-35-24 be repealed.

Section 19. That § 49-35-25 be repealed.

Section 20. That § 49-35-26 be repealed.

Section 21. That § 49-35-27 be amended to read as follows:

49-35-27. Any district may amend its petition to provide for a change in its name or change in the location of its principal place of business and may reduce or increase the number of members of its

board of directors. No elimination or detachment, increase, enlargement, annexation, or consolidation of the territory of a district, or change in its principal place of business, its name or the number of members of its board of directors, may occur unless authorized by the directors of the district involved. The amendment shall be filed forthwith in the Office of the Secretary of State.

Section 22. That § 49-35-28 be repealed.

Section 23. That § 49-35-29 be repealed.

Section 24. That § 49-35-30 be amended to read as follows:

49-35-30. The proposed amendment is effective and in full force immediately upon the issuance of a certificate of amendment by the secretary of state. Thereupon the district, as in the case of the original district, is a public corporation and political subdivision, and shall operate and function accordingly in the reduced and subdivided area, or the increased and enlarged area, under the terms, powers, privileges, and conditions of chapters 49-35 to 49-40, inclusive.

Section 25. That § 49-36-18 be amended to read as follows:

49-36-18. No officer, employee, or member of the board of directors of a consumers power district may be interested, directly or indirectly, either by himself or herself, or by agent, in any contract to which the district, or anyone for its benefit, is a party, and any such officer, employee or director who shall have such an interest shall be subject to removal from office therefor by the board, subject to review of such action by the circuit court for the county in which the district maintains its principal place of business. Such interest in any contract by an officer, employee, or director shall void the obligation thereof on the part of the district.

This section does not apply to any contract of the district for the purchase or sale of power, energy, or any other products or services between the district and any political subdivision or public corporation, another consumers power district, or nonprofit cooperative financed in whole or in part by the Rural Electrification Administration or any other federal agency.

Section 26. That § 49-37-3 be repealed.

Section 27. That § 49-38-1 be amended to read as follows:

49-38-1. The board of directors of a consumers power district shall keep accurate minutes of their meetings and accurate records and books of account, conforming to approved methods of bookkeeping, clearly setting out and reflecting the entire operation, management and business of the district. The books and records shall be kept at the principal place of business of the district or at other regularly maintained place or places of business of the district as designated by the board of directors, with due regard to the convenience of the district and its customers in the several localities or divisions served or from which the information is thus gathered or obtained. The books and records of the district shall at reasonable business hours be open to public inspection.

This section does not apply to information provided to the district by any other entity, or to information as to pricing of power between the district and any other entity. Such information is available to the auditor general.

Section 28. That § 49-38-5 be repealed.

Section 29. That § 49-38-7 be amended to read as follows:

49-38-7. Money of a consumers power district shall be paid out or expended only upon the authorization or approval of the board of directors, and by check, draft, warrant, electronic payment, or other instrument in writing, signed by the treasurer, assistant treasurer, or such other officer, employee, or agent of the district who is authorized by the treasurer to sign in the treasurer's behalf. However, the authorization shall be in writing and filed with the secretary of the district.

Section 30. That § 49-40-7 be amended to read as follows:

49-40-7. The governing body of a consumers power district may never lease nor alienate the franchises, plant, or physical equipment of the district to any private person, firm, association, or corporation except a political subdivision or public corporation, another consumers power district, or nonprofit cooperative financed in whole or in part by the Rural Electrification Administration or any other federal agency for operating, or for any other purpose.

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I certify that the attached Act
originated in the

HOUSE as Bill No. 1195

Chief Clerk

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Speaker of the House

Attest:

Chief Clerk

President of the Senate

Attest:

Secretary of the Senate

House Bill No. 1195

File No. _____

Chapter No. _____

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Received at this Executive Office
this ____ day of _____ ,

19__ at ____ M.

By _____
for the Governor

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The attached Act is hereby
approved this _____ day of
_____, A.D., 19__

Governor

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STATE OF SOUTH DAKOTA,
SS.
Office of the Secretary of State

Filed _____, 19__
at _____ o'clock __ M.

Secretary of State

By _____
Asst. Secretary of State