

State of South Dakota

SEVENTY-SIXTH SESSION
LEGISLATIVE ASSEMBLY, 2001

336E0720

HOUSE BILL NO. 1193

Introduced by: Representatives Peterson (Bill) and Clark and Senator Staggers

1 FOR AN ACT ENTITLED, An Act to provide procedures for initiating proposals for
2 cooperation or consolidation as authorized by Constitutional Amendment B as agreed to by
3 the voters of South Dakota during the 2000 general election.

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

5 Section 1. Terms used in this Act mean:

- 6 (1) "Governing body," the board of commissioners, the common council, the executive
7 board, or other name by which a local government entity is controlled, concerned, or
8 affected;
- 9 (2) "Local government entity," the State of South Dakota, county, municipality, or
10 special governmental district authorized by the laws of South Dakota or any of the
11 states that border South Dakota;
- 12 (3) "Person in charge of an election" or "person charged with the conduct of an election,"
13 the county auditor in all cases except local elections for a municipality, school district,
14 township, or other political subdivision, in which case it is the officer having the
15 position comparable to the auditor in that unit of government if not specifically

1 designated by law;

2 (4) "Publish" or "publication," publication in the official newspaper of the local
3 government entities concerned or affected; or if no official newspaper is available,
4 publication in a legal newspaper published in the local government entity, if any; or,
5 if no legal newspaper is published within the local entity, publication in any legal
6 newspaper that serves the local government entity;

7 (5) "Resolution of cooperation or consolidation" or "resolution," any initiated measure
8 made for the purpose of initiating, effecting, or carrying out an intention to cooperate
9 in providing services or functions, or combining services or functions between local
10 governmental entities.

11 Section 2. The right to propose a resolution of cooperation or consolidation to the
12 government of a local government entity rests with the registered voters of the local government
13 entity. Any resolution proposed under this chapter shall be referred to a vote of the registered
14 voters of the local government entity by the filing, with the entity's person in charge of an
15 election, of a petition signed by a number of voters equivalent to fifteen percent of those voting
16 in the last preceding gubernatorial election in the local government entity. A petition to propose
17 a resolution shall be filed with the person in charge of an election of each of the affected local
18 government entities before an election may occur.

19 Section 3. No initiated resolution of cooperation may become operative unless approved by
20 a majority of the votes cast for and against the resolution in each of the affected local
21 government entities. If so approved, the resolution takes effect one hundred eighty days after the
22 election or other date as specifically stated in the resolution or within one hundred eighty days
23 as the affected local government entities may agree.

24 Section 4. An initiated resolution may propose combining or consolidating any local

1 government functions including those that may be necessary for the immediate preservation of
2 the public peace, health, or safety or for the support of any government or existing public
3 institutions.

4 Section 5. The State Board of Elections shall promulgate rules pursuant to chapter 1-26
5 prescribing the format for a resolution of cooperation or consolidation petition and its
6 verification.

7 Section 6. The signer or circulator of the petition may add the signer's place of residence and
8 the date of signing. The signer's post office box number may be given in lieu of a street address
9 if the signer lives within a municipality of the second or third class. A date may be written in full
10 or may be written using standard abbreviations, including numerals. No signature on a petition
11 is valid if signed more than one year before the filing of the petitions.

12 Section 7. Each person who has circulated a petition shall, before filing the petition, sign an
13 affidavit, under oath, verifying that the person circulated the petition and that either the person
14 circulating the petition or the signer added the signer's place of residence and date of signing. If
15 multiple sheets of paper are necessary to obtain the required number of signatures, each sheet
16 shall be self-contained and separately verified by the circulator.

17 Section 8. When a petition to initiate a resolution is filed with a person in charge of an
18 election, that person shall present it to the local government entity governing board at its next
19 regular or special meeting. The local person in charge of an election shall certify that the
20 minimum number of signatures required pursuant to section 2 of this Act have been filed.

21 The board shall submit the resolution to a vote in the manner prescribed for a referendum
22 within one hundred twenty days after filing in all affected local government entities. The board
23 shall cooperate with the local government entity governing board of each affected jurisdiction
24 to establish a simultaneous election day for the resolution. However, if the petition is filed within

1 four months before the primary, general, or special statewide election, the ordinance or
2 resolution may be submitted at the primary, general, or special statewide election if time allows
3 for the resolution to be included on the ballot.

4 Section 9. If the local government entities cannot reach an agreement on sharing costs, each
5 local government entity is responsible for its costs for the election. If there are any shared costs
6 between the local government entities, they shall be paid in proportional shares based on the
7 number of registered voters in each of the affected jurisdictions.

8 Section 10. The person in charge of an election shall have ballots printed for the vote upon
9 the resolution and have them distributed as other official ballots are distributed. All questions to
10 be voted upon at the same election may be submitted upon the same ballot.

11 Section 11. The person in charge of an election shall preserve all petitions requesting a
12 resolution for at least two years. The petitions are open to public inspection upon reasonable
13 request.

14 Section 12. No question contained in an initiated resolution may be voted upon again within
15 one year from the date of the election thereon.

16 Section 13. A local government entity governing board may propose and adopt a resolution
17 under this Act and directly present it to the people for a vote as allowed under this Act without
18 the resorting to the petition process.

19 Section 14. The court shall take judicial notice of the existence of all local government
20 entities organized under the general laws of this state and of any change of organization
21 authorized thereby.

22 Section 15. Any petition filed pursuant to this Act may be made up and signed and shall be
23 liberally construed as provided by the statute governing an initiative law.