

2023 South Dakota Legislature

House Bill 1123**AMENDMENT 1123B
FOR THE INTRODUCED BILL**

1 **An Act to authorize school boards to modify the length of terms for members to**
2 **allow for holding joint elections.**

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

4 **Section 1. That § 13-8-2 be AMENDED:**

5 **13-8-2.** ~~There shall be a~~ school board ~~consisting~~ consists of five, seven, or nine
6 members whose terms ~~shall be~~ are from one to three years initially, and three years
7 thereafter; provided that each school board member ~~shall be~~ is entitled to complete the
8 term of office to which ~~he~~ the member was elected. A school board may, by resolution,
9 increase the length of terms from three to four years or decrease the length of terms from
10 three to two years for the purpose of holding joint elections pursuant to § ~~13-7-10.1~~ 13-
11 7-10.3. Terms may not be increased or decreased unless the school board conducts a
12 public hearing thereon, after having given notice of the hearing by publication at least
13 twice in its official newspaper at least ten days before the hearing. At the hearing, the
14 board may approve the resolution or may refer the matter to the voters of the district.

15 **Section 2. That § 13-8-4 be AMENDED:**

16 **13-8-4.** If at an election held pursuant to § 13-8-3 an increase in the number of
17 board members is authorized, the school board ~~is empowered to~~ must designate the
18 number of vacancies and the number of years, not to exceed three years, ~~or four years if~~
19 authorized pursuant to § 13-8-2, in each vacancy, so that all succeeding ~~annual~~ regular
20 elections ~~will have, insofar as practicable, the same number of vacancies to be filled.~~

21 The procedure for decreasing the number of board members ~~shall be~~ is the same
22 as for increasing the number of board members, and the board ~~is similarly empowered to~~
23 shall designate the vacancies and terms not to exceed three years, ~~or four years if~~
24 authorized pursuant to § 13-8-2; provided, that each school board member ~~shall be~~ is
25 entitled to complete the term of office to which ~~he~~ the member was elected.

1 **Section 3. That chapter 13-7 be amended with a NEW SECTION:**

2 A school board resolution to increase school board terms to four years ~~or to~~
3 ~~decrease school board terms to two years~~, pursuant to § 13-8-2, is subject to a
4 referendum if five percent of the registered voters of the school district, based upon the
5 total number of registered voters in the school district at the last preceding general
6 election, petition, within twenty days after the resolution is enacted, to have the question
7 of approval or disapproval of the resolution to increase ~~or decrease~~ term limits placed
8 upon the ballot at the next scheduled election or at a special election called for that
9 purpose. The business manager shall give notice that the question will be on the ballot at
10 the next scheduled election or at a special election called for that purpose as provided by
11 law for school elections and prepare official ballots according to the provisions of this title.

12 **Section 4. That chapter 13-7 be amended with a NEW SECTION:**

13 If a resolution to increase a school board term to four years is approved, pursuant
14 to § 13-8-2, the school board must designate the number of vacancies and the number of
15 years, not exceeding four years, for each vacancy so that all succeeding elections have,
16 insofar as practicable, the same number of vacancies to be filled.

17 If a resolution to decrease the length of a school board term from three to two
18 years is approved pursuant to § 13-8-2, each member of the school board must be elected
19 at the regularly scheduled election.

20 **Section 5. That chapter 13-7 be amended with a NEW SECTION:**

21 If a school board has, by resolution, increased the length of terms from three to
22 four years ~~or decreased the length of terms from three to two years~~ for the purpose of
23 holding joint elections pursuant to § ~~13-7-10.1~~ 13-7-10.3, the school board may decrease
24 the length of terms from four years to three ~~or increase the length of terms from two to~~
25 three years using the same procedure as ~~for increasing the length of terms used when~~
26 altering the length of terms for the purpose of holding joint elections pursuant to § 13-7-
27 10.3, provided that each school board member is entitled to complete the term of office
28 to which the member was elected. The school board is empowered to designate the
29 number of vacancies and the number of the years, not to exceed three years, in each
30 vacancy so that all succeeding regular elections have, insofar as practicable, the same
31 number of vacancies to be filled.

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

2 **13-6-62.** If under the provisions of this chapter a new school district entity is
3 created, the voters shall elect a new school board to govern ~~such the~~ school district as
4 hereinafter provided. The county auditor of the county having jurisdiction shall conduct
5 the election under the existing statutory provisions for conducting ~~annual~~ regular elections
6 in school districts. The county auditor shall perform the duties specified for the business
7 manager as provided in chapter 13-7, as amended and shall also give the notice of the
8 number of school board vacancies and residency requirements for school board
9 membership as may be set forth in the plan approved by the voters. The declaration of
10 candidacy shall be filed in the office of the county auditor, and the date of election may
11 be fixed on or before the first Monday in May. Costs of conducting the election shall be
12 paid by the new school district.

13 **Section 7. That § 13-6-84.3 be AMENDED:**

14 **13-6-84.3.** Within thirty days of the last date of the public hearing, pursuant to
15 § 13-6-84.2, five percent of the voters residing within a school district may petition the
16 school board to refer the resolutions to an election. The school district shall submit the
17 question at the next ~~annual~~ regular election provided in § 13-7-10. The question shall be
18 deemed to have passed or failed by a simple majority of those voting. Upon passage, the
19 school boards shall submit the resolution to the county commissioners for implementation
20 pursuant to § 13-6-87.

21 **Section 8. That § 13-7-10 be AMENDED:**

22 **13-7-10.** The ~~annual~~ regular election for school districts shall be held between the
23 second Tuesday in April and the third Tuesday in June between the hours of seven a.m.
24 and seven p.m. of the day of the election. The school board shall select the date of the
25 election by resolution no later than the first regular meeting after January first of each
26 year. Voter registration, absentee voting, and procedures used in counting ballots shall be
27 in accordance with Title 12 except as specifically provided in chapter 13-7.

28 **Section 9. That § 13-7-30 be AMENDED:**

29 **13-7-30.** For the most recent ~~annual~~ regular school election conducted in each
30 school district as provided in § 13-7-10, each school board shall provide in the school
31 board minutes the following information:

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

8 If the ~~annual~~ regular election was not conducted because there was neither a
9 contested vacancy on the school board nor any question submitted to the voters, the
10 school board shall provide that information in the school board minutes.

11 **Section 10. That § 13-8-3 be AMENDED:**

12 **13-8-3.** The voters of any school district may increase the number of board
13 members to seven or to nine, or establish or discontinue school board representation
14 areas, by a majority vote of all voters voting at an election called and held as hereinafter
15 provided. If a petition signed by ten percent of the registered voters of any school district,
16 based upon the total number of registered voters at the last preceding general election,
17 is presented to the board requesting that an election be called for the purpose of voting
18 upon the question of the change of number of board members, or the establishment or
19 discontinuation of school board representation areas, the board shall call an election. The
20 school board may, by resolution, call for an election for the purpose of voting upon the
21 question of the change of number of board members, or the establishment or
22 discontinuation of school board representation areas. The question shall be submitted to
23 the voters at an election to be held not less than forty-five nor more than sixty days from
24 the date of the filing of ~~such~~ the petition with the business manager. If ~~such~~ a petition is
25 filed less than one hundred twenty days prior to the next ~~annual~~ regular election, the
26 question ~~shall~~ must be submitted at the ~~annual~~ regular election. ~~Such~~ The election ~~shall~~
27 must be held upon the same notice and conducted in the same manner as provided by
28 chapter 13-7. Any increase or decrease in the number of board members ~~shall~~ must be
29 implemented at the next succeeding ~~annual~~ regular election.