

State of South Dakota

NINETY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 2019

922B0489

SENATE BILL NO. 83

Introduced by: Senators Schoenbeck and Youngberg and Representatives Reed, Bartels, and York

1 FOR AN ACT ENTITLED, An Act to revise provisions regarding meetings and records of rural
2 electric cooperatives.

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

4 Section 1. That § 1-25-1 be amended to read:

5 1-25-1. The official meetings of the state, its any political subdivisions subdivision of the
6 state, and any public body of the state or its political subdivisions, and any rural electric
7 cooperative in the state are open to the public, or for a cooperative, any member of the
8 cooperative, unless a specific law is cited by the state, ~~the political subdivision, or the public~~
9 ~~body, or cooperative~~ to close the official meeting to the public. For ~~the~~ purposes of this section,
10 a political subdivision or a public body ~~of a political subdivision~~ means any association,
11 authority, board, commission, committee, council, task force, school district, county, city, town,
12 township, or other agency ~~of the state~~ that is created or appointed by statute, ordinance, or
13 resolution and is vested with the authority to exercise any sovereign power derived from state
14 law. For purposes of this section, a rural electric cooperative means an entity organized under
15 chapter 47-21 that provides retail or wholesale electric service. For ~~the~~ purposes of this section,



1 an official meeting is any meeting of ~~with~~ a quorum of a ~~public body~~ at which official business
2 ~~of that public body~~ is discussed or decided; or public policy is formulated, whether ~~in person~~
3 in-person or by means of teleconference in accordance with this section.

4 ~~It is not an official meeting of one political subdivision or public body if its members~~ If
5 members of a political subdivision, public body, or rural electric cooperative attend an official
6 meeting of another subdivision, body, or cooperative to provide information or attend the
7 ~~official meeting of another political subdivision or public body for which the notice~~
8 ~~requirements of § 1-25-1.1 have been met~~ otherwise, the members are not conducting an official
9 meeting of that subdivision, body, or cooperative.

10 Any official meeting may be conducted by teleconference as defined in § 1-25-1.2 or 47-21-
11 10. A teleconference may be used to conduct a hearing or take final disposition regarding an
12 administrative rule ~~pursuant to~~ in accordance with § 1-26-4. A member is ~~deemed present at the~~
13 official meeting conducted by teleconference if the member answers present to the roll call
14 ~~conducted by teleconference for the purpose~~ purposes of determining a quorum. Each vote at
15 an official meeting ~~held~~ conducted by teleconference shall be taken by roll call.

16 If the state, a political subdivision, ~~or a public body,~~ or a rural electric cooperative conducts
17 an official meeting by teleconference, the state, ~~the~~ political subdivision, ~~or public body,~~ or
18 cooperative shall provide at least one or more places location at which the public or members
19 of the cooperative may listen ~~to~~ and participate in the ~~teleconference~~ meeting. For any official
20 meeting ~~held,~~ other than an executive or closed meeting, conducted by teleconference, ~~which~~
21 ~~has~~ with less than a quorum of the members ~~of the public body participating in the meeting who~~
22 ~~are present at the location open to the~~ provided for the public, arrangements shall be provided
23 for the subdivision, public body, or cooperative shall provide for the public to listen to the
24 meeting via telephone or internet. ~~The requirement to provide one or more places for the public~~

1 ~~to listen to the teleconference does not apply to an executive or closed meeting.~~

2 The chair of ~~the public body~~ shall reserve at every official meeting ~~by the public body~~ a
3 period for public comment, limited at the chair's discretion, but not so limited as to provide for
4 no public comment.

5 If a quorum of township supervisors, road district trustees, or trustees for a municipality of
6 the third class ~~meet~~ meets solely for purposes of implementing ~~previously publicly-adopted~~
7 policy adopted at a previous official meeting, carrying out ministerial functions of that township,
8 district, or municipality, or undertaking ~~a factual~~ an investigation of conditions related to public
9 safety, the meeting is not subject to the provisions of this chapter.

10 A violation of this section is a Class 2 misdemeanor.

11 Section 2. That § 1-25-1.1 be amended to read:

12 1-25-1.1. All public bodies, ~~except other than~~ the state and each ~~state~~ board, commission,
13 or department of the state as provided in § 1-25-1.3, and rural electric cooperatives shall provide
14 public notice, with proposed agenda, that is visible, readable, and accessible for at least ~~an~~
15 ~~entire, continuous~~ twenty-four hours immediately preceding any official meeting, by posting a
16 copy of the notice, visible to the public, at the principal office of the public body or cooperative
17 holding the meeting. The ~~proposed~~ agenda shall include the date, time, and location of the
18 official meeting. The notice shall also be posted on the public body's website, if any, upon
19 dissemination of the notice, ~~if such a website exists~~.

20 For any special or rescheduled meeting, the information in the notice shall be delivered ~~in~~
21 ~~person~~ in-person, by mail, by email, or by telephone, to members of the local news media who
22 have requested notice. For any special or rescheduled meeting, ~~each~~ the public body or rural
23 electric cooperative shall also comply with the public notice provisions of this section for a
24 regular meeting to the extent that circumstances permit.

1 A violation of this section is a Class 2 misdemeanor.

2 Section 3. That § 47-21-10 be amended to read:

3 47-21-10. The business of a cooperative shall be managed by a board of ~~not less~~ no fewer
4 than five directors, ~~each of whom shall be a member~~ who are members of the cooperative or of
5 another cooperative or corporation, ~~which that~~ is a member thereof of the cooperative. If the
6 member is an entity other than a natural person, the cooperative may provide in its bylaws for
7 the election of a representative of the entity to qualify as a director. The bylaws shall prescribe
8 the number of directors, their qualifications, other than those prescribed in this chapter, the
9 manner of holding meetings of the board of directors and of electing successors to directors who
10 ~~shall resign, die, or vacate the board or are~~ otherwise be incapable of acting performing the
11 duties of director. The bylaws may ~~also~~ provide for the removal of directors ~~from office~~ and for
12 the election of ~~their~~ successors.

13 ~~Unless restricted by the articles of incorporation or bylaws, members~~ Members of the board
14 of directors or any committee designated by the board of directors may participate in a meeting
15 of ~~such~~ the board or committee by means of teleconference or similar communications
16 equipment ~~which allows all persons participating in the meeting to hear each other at the same~~
17 ~~time in accordance with § 1-25-1~~. Participation by a board or committee member in a
18 teleconference constitutes presence ~~in person~~ in-person at a meeting. Any official meeting of
19 the board of directors shall be open to members of the cooperative in accordance with chapter
20 1-25.

21 Section 4. That § 47-21-53 be amended to read:

22 47-21-53. ~~An annual meeting of the~~ The members of a cooperative shall ~~be held~~ hold an
23 annual meeting at such the time and place ~~as shall be~~ provided by the bylaws and in accordance
24 with chapter 1-25.

1 Section 5. That § 47-21-54 be amended to read:

2 47-21-54. ~~Special meetings of the members of a cooperative may be called by the~~ The
3 ~~president, by the board of directors, by any three directors, or by not no~~ no less than ten ~~percentum~~
4 percent of the members of a cooperative may call a special meeting of the cooperative. shall be
5 conducted in accordance with chapter 1-25.

6 Section 6. That § 47-21-55 be amended to read:

7 47-21-55. Except as otherwise provided in this chapter, written or printed notice stating the
8 time and place of each meeting of the members of a cooperative, and, ~~in the case of a~~ for any
9 special meeting, ~~the any purpose or purposes~~ for which the meeting is called, shall be given
10 provided to each member, either personally or by mail and in accordance with chapter 1-25, not
11 less than ten days nor more than twenty-five days before the date of the meeting, ~~unless the~~
12 ~~constitution requires a different notice in respect of one or more of the purposes of the meeting~~
13 ~~in which case only the notice required by the constitution shall be given.~~ If notice under this
14 section is mailed, ~~such the~~ notice shall be deemed to be given provided when deposited in the
15 United States mail with postage prepaid and addressed to the member at ~~his~~ the member's
16 address as it appears on the records of the cooperative.

17 Section 7. That § 47-21-56 be amended to read:

18 47-21-56. Unless the bylaws prescribe the presence of a greater percentage or number of the
19 members for a quorum, a quorum for the transaction of business at ~~all meetings~~ any meeting of
20 the members of a cooperative having ~~not no~~ no more than one thousand members; shall be five
21 percent of all members; ~~present in person, and of~~ for a cooperative having more than one
22 thousand members, a quorum shall be fifty members; ~~present in person.~~ If less than a quorum
23 is present at any meeting, a majority of those members present ~~in person~~ may adjourn the
24 meeting from time to time without further notice. The sufficiency or requirement of a quorum

1 for the transaction of business at a district meeting of members shall be established in the
2 bylaws. ~~However, the~~ The quorum may not be less than ~~five~~ fifteen members.

3 Section 8. That § 1-27-1 be amended to read:

4 1-27-1. Except as otherwise ~~expressly~~ provided by ~~statute~~ law, all citizens of this state, and
5 all other persons interested in the examination of ~~the any public records~~ record, as defined in
6 § 1-27-1.1, ~~are hereby fully empowered and authorized to~~ may examine ~~such~~ the public record,
7 and may make memoranda and abstracts ~~therefrom~~ from the public record, during ~~the hours the~~
8 ~~respective offices are open for the ordinary transaction of~~ normal business hours and, unless
9 otherwise prohibited by federal copyright law ~~otherwise provides~~, obtain copies of the public
10 ~~records in accordance with this chapter~~ record.

11 Each government entity ~~or, rural electric cooperative, and~~ elected or appointed government
12 official shall, during normal business hours, make available to the public for inspection and
13 copying ~~in the manner set forth in~~ in accordance with this chapter all public records held by that
14 entity ~~or, cooperative, or~~ official.

15 Section 9. That § 1-27-1.1 be amended to read:

16 1-27-1.1. Unless ~~any other statute, ordinance, or rule expressly provides that particular~~
17 ~~information or records may not be made public~~ otherwise prohibited by law, public records
18 include all records and documents, regardless of physical form, of or belonging to this state, any
19 county, rural electric cooperative, municipality, political subdivision, or tax-supported district
20 in this state, or any agency, branch, department, board, bureau, commission, council, subunit,
21 or committee ~~of any of the foregoing~~. Data ~~which~~ that is a public record in its original form
22 remains a public record when maintained in any other form. For the purposes of §§ 1-27-1 to
23 1-27-1.15, inclusive, a tax-supported district includes any business improvement district created
24 ~~pursuant to~~ in accordance with chapter 9-55.

1 Section 10. That § 47-21-58 be repealed.

2 ~~—47-21-58. Any person entitled to notice of a meeting may waive such notice in writing either~~
3 ~~before or after such meeting. If any such person shall attend such meeting, such attendance shall~~
4 ~~constitute a waiver of notice of such meeting, unless such person participates therein solely to~~
5 ~~object to the transaction of any business because the meeting has not been legally called or~~
6 ~~convened.~~