

# State of South Dakota

NINETY-FOURTH SESSION  
LEGISLATIVE ASSEMBLY, 2019

291B0035

## HOUSE BILL NO. 1115

Introduced by: Representatives Frye-Mueller, Goodwin, Gosch, Hammock, Howard, Jensen (Kevin), Latterell, Livermont, Marty, Pischke, and Randolph and Senators DiSanto, Jensen (Phil), Nelson, and Russell

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding local referendums.

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

3 Section 1. That § 7-18A-8 be amended to read:

4 7-18A-8. Except ~~such resolutions or ordinances as may be~~ any resolution or ordinance  
5 necessary for the immediate preservation of the public peace, health, or safety, or support of the  
6 county government and its existing public institutions; ~~which provide~~ that provides for an  
7 election or hearing on an improvement or assessment; or ~~which call~~ that calls for bids ~~which that~~  
8 take effect upon the passage and publication ~~thereof, every~~ of the resolution or ordinance, each  
9 resolution or ordinance passed by a board shall take effect on the ~~twentieth~~ thirty-fifth day after  
10 its completed publication unless suspended by operation of a referendum.

11 Section 2. That § 7-18A-16 be amended to read:

12 7-18A-16. A petition to refer an ordinance or resolution subject to referendum may be filed  
13 with the auditor within ~~twenty~~ thirty-five days after its publication. The filing of ~~such a~~ the  
14 petition shall require the submission of ~~any such~~ the ordinance or resolution to a vote of the



1 qualified voters of the county for its rejection or approval.

2 Section 3. That § 7-18A-29 be amended to read:

3 7-18A-29. Upon the adoption of an ordinance in revision by the board, the auditor shall  
4 publish a notice, once each week for two successive weeks, that an ordinance in revision was  
5 adopted. ~~Twenty~~Thirty-five days after the completed publication of the notice, unless the  
6 referendum ~~shall have~~ has been invoked, ~~such the ordinance shall become~~ becomes effective  
7 without publication in a newspaper. The board shall publish the revised ordinances in book  
8 form.

9 Section 4. That § 9-4-4.5 be amended to read:

10 9-4-4.5. The required number of voters residing in the combined area of the municipality  
11 and special annexation precinct may file within ~~twenty~~ thirty-five days after the publication of  
12 the annexation resolution a petition with the municipal finance officer, requiring the submission  
13 of the annexation resolution to a vote of the voters of the combined area of the municipality and  
14 special annexation precinct for ~~its~~ the resolution's rejection or approval.

15 Section 5. That § 9-19-7 be amended to read:

16 9-19-7. The title of ~~all ordinances~~ each ordinance shall be read twice with at least five days  
17 intervening between the first and second reading. The ordinance shall be signed by the mayor  
18 or acting mayor or president of the Board of Trustees, filed with the auditor or clerk, and  
19 published once ~~except that~~. However, an ordinance incorporating and adopting comprehensive  
20 regulations or a code promulgated, approved, and published by a recognized and established  
21 national organization prescribing building, electrical, plumbing, safety, fire, health, or milk  
22 regulations need not be published in a newspaper, ~~but upon~~. Upon adoption of such an  
23 ordinance the auditor or clerk shall publish a notice of the fact of adoption once a week for two  
24 successive weeks in the official newspaper, ~~and twenty~~ thirty-five days after the completed

1 publication of ~~such~~ the notice, unless the referendum ~~shall have~~ has been invoked, ~~such~~ the  
2 ordinance ~~shall become~~ becomes effective.

3 Section 6. That § 9-19-13 be amended to read:

4 9-19-13. Except ~~such resolutions or ordinances as may be~~ any resolution or ordinance  
5 necessary for the immediate preservation of the public peace, health, or safety, or support of the  
6 municipal government and its existing public institutions, or ~~which provide~~ that provides for an  
7 election or for hearing on an improvement or assessment or ~~which call~~ that calls for bids, ~~which~~  
8 that take effect upon the passage and publication ~~thereof, every of the resolution or ordinance,~~  
9 each resolution or ordinance passed by the governing body shall take effect on the ~~twentieth~~  
10 thirty-fifth day after its publication unless suspended by operation of a referendum.

11 Section 7. That § 9-19-17 be amended to read:

12 9-19-17. Upon the adoption of an ordinance ~~which~~ that revises the ordinances of the  
13 municipality by the governing body, the auditor or clerk shall publish a notice of the adoption  
14 of the revised ordinances once in the official newspaper. ~~Twenty~~ Thirty-five days after the  
15 completed publication of the notice, unless the referendum is invoked, the ordinance ~~shall~~  
16 ~~become~~ becomes effective without publication in a newspaper.

17 The governing body may publish the revised ordinances in book form. The auditor or clerk  
18 shall furnish a free copy of the book or the revised ordinances to the circuit clerk of court and  
19 the county law library of each county in which the municipality is situated.

20 Section 8. That § 9-20-6 be amended to read:

21 9-20-6. The required number of voters residing in any municipality may file within ~~twenty~~  
22 thirty-five days after the publication of any ordinance or resolution subject to referendum a  
23 petition with the auditor or clerk, requiring the submission of ~~any such~~ the ordinance or  
24 resolution to a vote of the voters of the municipality for its rejection or approval. If filed on the

1 ~~twentieth~~ thirty-fifth day after publication, ~~such~~ the petitions shall be filed no later than normal  
2 closing hours of the city hall or city auditor's office ~~on said twentieth day.~~

3 Section 9. That § 9-39-4.1 be amended to read:

4 9-39-4.1. A municipal corporation, ~~which~~ that operates its own electric distribution system,  
5 whether or not a member of a municipal power agency, may by resolution of its city council and  
6 utility board, if any, enter into a contract ~~or contracts~~ with one or more municipal power  
7 agencies for the purchase, sale, exchange, or transmission of electric energy extending for ~~such~~  
8 a term of years and with ~~such~~ provisions for the charges made ~~thereunder~~ in the contract as  
9 determined in the authorizing resolution or resolutions. ~~Every~~ Each resolution adopted in  
10 accordance with this section shall be published in the official newspaper of the first or second  
11 class municipality. No action may be brought and no defense may be interposed in an action  
12 brought more than ~~twenty~~ thirty-five days after publication of the resolution, placing at issue the  
13 validity of any provision of the resolution or the power of the municipality to make any contract  
14 or incur any obligation authorized thereby. The provisions of §§ 9-39-36 to 9-39-39, inclusive,  
15 ~~shall do not apply to the resolutions or contracts~~ any resolution or contract made pursuant to this  
16 section.

17 Section 10. That § 11-2-21 be amended to read:

18 11-2-21. The action of the board on the plan shall be filed with the county auditor. A notice  
19 of fact of the adoption shall be published once in a legal newspaper of the county ~~and take~~. The  
20 plan takes effect on the ~~twentieth~~ fiftieth day after ~~its~~ publication of the plan's adoption unless  
21 the referendum is invoked. Any notice of fact of adoption published under the provisions of this  
22 chapter shall contain a notification that the public may inspect the entire comprehensive plan  
23 at the office of the county auditor during regular business hours.

24 If ~~such a~~ the zoning or subdivision ordinance is adopted, the ordinance is subject to the

1 provisions of § 7-18A-5 as a comprehensive regulation unless the referendum is invoked.

2 Section 11. That § 11-2-30 be amended to read:

3 11-2-30. After the hearing, the board shall by resolution or ordinance, as appropriate, either  
4 adopt or reject the amendment, supplement, change, modification, or repeal, with or without  
5 changes. Consideration of any changes to the proposed amendment, supplement, change,  
6 modification, or repeal may only be done if the time and place of the hearing is published at  
7 least ten days in advance in a legal newspaper of the county. If adopted, the board shall publish  
8 a notice of the fact of adoption once in a legal newspaper of the county ~~and take~~. The adoption  
9 takes effect on the ~~twentieth~~ fiftieth day after publication. The provisions of § 11-2-22 are  
10 applicable to this section.

11 Section 12. That § 11-2-47.1 be amended to read:

12 11-2-47.1. The board's decision to incorporate the special zoning area may be referred to a  
13 vote of the qualified voters of the proposed special zoning area pursuant to §§ 7-18A-17 to 7-  
14 18A-24, inclusive. The qualified voters of the proposed special zoning area may refer the  
15 decision within ~~twenty~~ fifty days after ~~its~~ the decision's publication by filing a petition signed  
16 by five percent of the registered voters in the special zoning area, based upon the total number  
17 of registered voters at the last preceding general election. The filing of a valid petition requires  
18 the submission of the decision to incorporate the special zoning area to a vote of the qualified  
19 voters of the proposed special zoning area for ~~its~~ the decision's rejection or approval. The  
20 effective date of the incorporation of the special zoning area on which a referendum is to be held  
21 shall be suspended by the filing of a referendum petition until the referendum process is  
22 completed.