

# State of South Dakota

SEVENTY-SEVENTH SESSION  
LEGISLATIVE ASSEMBLY, 2002

474H0079

## HOUSE BILL NO. 1008

Introduced by: The Committee on Local Government at the request of the Secretary of State

1 FOR AN ACT ENTITLED, An Act to revise certain election provisions and terminology.

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

3 Section 1. That § 7-18A-19 be amended to read as follows:

4 7-18A-19. A special election shall be held within sixty days after the filing of a petition under  
5 § 7-18A-15. However, if the petition is filed within three months prior to ~~the~~ a primary-or,  
6 general, or statewide special election, the ordinance or resolution may be submitted at the  
7 primary-or, general, or statewide special election.

8 Section 2. That § 9-20-1 be amended to read as follows:

9 9-20-1. The ~~right to~~ registered voters of any municipality may propose ordinances and  
10 resolutions for the government of ~~any the~~ municipality shall rest with any if the petition is signed  
11 by at least five percent of the registered voters ~~thereof, such in the~~ municipality. The percentage  
12 ~~to shall~~ shall be based ~~upon on~~ on the ~~whole~~ number of voters of ~~said the~~ the municipality as determined by  
13 the ~~"precinct registration lists" or the "district registration lists" prepared by the~~ county auditor  
14 from the master registration ~~list in conformity to law~~ file of registered voters in the municipality  
15 as of the time of the filing of the petition mentioned in § 9-20-2.



1 Section 3. That § 9-20-8 be amended to read as follows:

2 9-20-8. The referendum petition shall be signed by at least five percent of the ~~legal~~ registered  
3 voters ~~residing~~ in the municipality. The percentage shall be based on the ~~whole~~ number of voters  
4 of the municipality as determined by the ~~precinct registration lists or the district registration lists~~  
5 ~~prepared by the county auditor from the master registration list in conformity to law~~ file as of the  
6 time of the filing of the petition. The signer or circulator shall add the signer's residence address,  
7 county of voter registration, and date of signing. The signer's post office box number may be  
8 given in lieu of a street address if the signer lives within a municipality of the second or third  
9 class.

10 Section 4. That § 12-1-9 be amended to read as follows:

11 12-1-9. The State Board of Elections shall promulgate rules, pursuant to chapter 1-26,  
12 concerning:

- 13 (1) Forms for voter registration and voter ~~list~~ file maintenance;
- 14 (2) Forms and color of ballots;
- 15 (3) Forms for notices;
- 16 (4) The uniformity of election procedures;
- 17 (5) The operation of the State Board of Elections;
- 18 (6) The procedure to accept a petition and verify petition signatures;
- 19 (7) Petition forms;
- 20 (8) Envelopes for absentee voting;
- 21 (9) Instructions to voters and absentee voters; and
- 22 (10) Recounts.

23 Section 5. That § 12-4-5 be amended to read as follows:

24 12-4-5. The county auditor shall enter ~~on~~ in the master registration list ~~and include in precinct~~

1 ~~registration lists~~ file the names of all eligible persons who have had their completed applications  
2 for registration and mail registration cards received by any county auditor or any local, state, or  
3 federal agency responsible for conducting voter registration under this chapter not later than 5:00  
4 p.m. fifteen days preceding the election. However, any completed mail registration card mailed  
5 to the appropriate county auditor and postmarked not less than thirty days preceding an election  
6 shall be added to the registration ~~list~~ file. Voter registrations completed at any local, state, or  
7 federal agency during any given week commencing on Tuesday through the following Monday  
8 shall be sent to the appropriate county auditors no later than the following Wednesday. The State  
9 Board of Elections may promulgate rules, pursuant to chapter 1-26, for the alternative  
10 transmission of voter registration information by computer from the agency to the secretary of  
11 state. The name of any voter who has registered to vote by 5:00 p.m. fifteen days preceding the  
12 secondary election shall be added to the ~~list~~ file used for the secondary election.

13 Section 6. That § 12-4-8.2 be amended to read as follows:

14 12-4-8.2. Any voter whose name appears ~~on~~ in the master registration ~~list~~ file who makes  
15 written application to the county auditor for a duplicate acknowledgment notice, who has not  
16 received one or who has lost it, may receive a true copy of the card on file.

17 Section 7. That § 12-4-10 be amended to read as follows:

18 12-4-10. The county auditor shall provide from the "master registration ~~list~~" file a separate  
19 list of the names and addresses of all registered voters in each voting precinct as established  
20 pursuant to chapter 12-14, § 9-13-16, or 13-7-11 in the county ~~of which he is the auditor,~~ which  
21 shall be known as the "precinct registration list." ~~Such~~ The list for any voting precinct shall be  
22 designed so that each name can be distinctly marked whenever the registrant ~~has presented~~  
23 presents himself or herself for voting and ~~must~~ shall contain a space in which may be recorded  
24 the record of any challenge, affidavit, or other information as may be required. ~~The entries~~ Each

1 entry shall be made by the precinct superintendent or precinct deputies when the voter presents  
2 himself or herself for voting.

3 Section 8. That § 12-4-11 be amended to read as follows:

4 12-4-11. ~~When~~ If the boundaries of any election precinct ~~shall be~~ are changed, the county  
5 auditor shall immediately change ~~his~~ the registration ~~lists so as~~ file to correctly show the names  
6 and the other relevant voting information required upon registration of the voters who are  
7 residents ~~therein~~ of the election precinct.

8 Section 9. That § 12-4-12 be amended to read as follows:

9 12-4-12. ~~New registrants~~ Any new registrant previously registered elsewhere shall be  
10 required to sign an authorization which shall be forwarded by the registration official to the  
11 auditor of the county of former registration, or other appropriate registration official, who shall  
12 remove the registrant's name from the registration ~~lists~~ file.

13 Section 10. That § 12-4-19 be amended to read as follows:

14 12-4-19. The name of any voter ~~on~~ in the active registration ~~list~~ file who has failed to vote,  
15 has not updated the voter's registration information, and has not replied to a confirmation mailing  
16 at least once during the last preceding four consecutive years shall be sent a nonforwardable  
17 return-if-undeliverable address verification request or the name of the voter may be submitted  
18 to a national change of address licensee of the United States Postal Service to determine if the  
19 voter's address has changed. If the request is undeliverable or the national change of address  
20 licensee indicates that the voter's address has changed, then a confirmation mailing prescribed  
21 by the State Board of Elections shall be sent. This determination shall be made by each county  
22 auditor between January first and November fifteenth of each odd-numbered year.

23 Section 11. That § 12-4-19.2 be amended to read as follows:

24 12-4-19.2. If the card is not returned to the county auditor within the stated time limit or is

1 undeliverable, the county auditor shall move the voter to an inactive registration ~~list~~ file.

2 Section 12. That § 12-4-19.4 be amended to read as follows:

3 12-4-19.4. If a voter placed ~~on~~ in the inactive registration ~~list~~ file does not vote by the second  
4 general election following the confirmation mailing, the registration shall be canceled. This  
5 determination shall be made between January first and November fifteenth of every  
6 odd-numbered year.

7 Section 13. That § 12-4-19.5 be repealed.

8 ~~12-4-19.5. Prior to the cancellation of a voter's registration as provided in § 12-4-19.4, a~~  
9 ~~confirmation mailing shall be sent to the voter. If it is returned as undeliverable, the voter's name~~  
10 ~~may be removed from the inactive registration list. This section applies to any voter who is on~~  
11 ~~the inactive list on January 1, 1999.~~

12 Section 14. That § 12-4-34 be amended to read as follows:

13 12-4-34. If a statute refers to registered voters, it does not include those ~~on~~ in the inactive  
14 registration ~~list~~ file unless specifically included.

15 Section 15. That § 12-14-1 be amended to read as follows:

16 12-14-1. The board of county commissioners shall by resolution provide for election  
17 precincts throughout its county and shall designate polling places within such precincts. The  
18 board shall establish new election precincts ~~when~~ if required by the provisions of this chapter and  
19 may by resolution change the boundaries of election precincts already established. ~~The precincts~~  
20 ~~and polling places shall be the same for all elections except where election by ward or a boundary~~  
21 ~~other than a precinct is required for the purposes of a local election and would be inconsistent~~  
22 ~~therewith. In such event, the governing board may establish its precincts for the purposes of its~~  
23 ~~elections. The county auditor shall keep~~ be able to provide separate lists of voters living within  
24 the boundaries of ~~the~~ each municipality ~~and outside the boundaries for the purpose of municipal~~

1 ~~and school elections, ward, school district, and any other special voting district.~~

2 Section 16. That § 12-18-7.2 be amended to read as follows:

3 12-18-7.2. If any person attempting to vote in any election claims to be registered or any  
4 person attempting to vote in any election claims to be ~~on~~ in the inactive registration ~~list~~ file but  
5 does not possess an acknowledgment notice and the person's name does not appear in the  
6 registration list of the precinct, the person may vote if one of the members of the precinct  
7 election board first confirms by telephone or other means with the county auditor or a deputy  
8 auditor that the name was erroneously omitted from the list, and an emergency voting card, in  
9 duplicate, in the form prescribed by the State Board of Elections is signed by the applicant and  
10 each member of the precinct election board. The original emergency voting card shall be retained  
11 by the precinct superintendent as part of the precinct superintendent's permanent records, and  
12 the duplicate shall be given to the voter. In a primary election, the party affiliation of any voter  
13 using the emergency voting procedure of this section shall be designated on the emergency  
14 voting card.

15 Section 17. That § 12-19-1.1 be amended to read as follows:

16 12-19-1.1. A voter ~~on~~ in the inactive registration ~~list~~ file meeting the criteria in § 12-19-1  
17 may vote absentee by completing the affirmation required in § 12-18-7.4.

18 Section 18. That § 12-19-2 be amended to read as follows:

19 12-19-2. An absentee voter desiring to vote by mail may apply to the person in charge of the  
20 election for an absentee ballot. The application or request shall be made in writing and be signed  
21 by the applicant and state ~~his voting precinct,~~ the applicant's place of voting residence and the  
22 reason for which the ballot is requested. The application or request may be used to obtain an  
23 absentee ballot for all ~~primary and general~~ elections in that calendar year conducted by the  
24 jurisdiction receiving the application or request if so indicated. The ballot shall be sent to the

1 voter's residence, as shown ~~on~~ in the voter registration ~~list~~ file or any temporary residence  
2 address designated in writing by the voter, at the time of applying for the absentee ballot. The  
3 State Board of Elections shall promulgate rules, pursuant to chapter 1-26, to prescribe a form  
4 which delineates the reasons for an absentee ballot request and allows the voter to indicate the  
5 proper reason for the request. The person in charge of the election shall stamp the application  
6 with the date it was received ~~in his office~~. The application may be made by letter or upon ~~blanks~~  
7 ~~furnished by the person in charge of the election~~ any form containing the required information  
8 or upon any form prescribed by the State Board of Elections or the postcard form referred to in  
9 § 12-4-8.1, executed by persons authorized in accordance with the Uniformed and Overseas  
10 Citizens Absentee Voting Act (UOCAVA) (42 U.S.C. § 1973ff). The person in charge of the  
11 election shall preserve a record of the name, post office address, and voting precinct of each  
12 applicant and, except as provided by § 12-19-45, ~~send each written application by registered mail~~  
13 ~~or~~ deliver the ~~same~~ record to the superintendent of the election board of the home precinct of  
14 the applicant.

15 Section 19. That § 12-19-3 be amended to read as follows:

16 12-19-3. Upon receiving an application for absentee ballots, the person in charge of an  
17 election shall, within forty-eight hours, or if ballots are not then on hand, then within forty-eight  
18 hours after receipt of the ballots, after confirming from the master registration ~~list~~ file that the  
19 applicant is registered as a voter pursuant to chapter 12-4, enclose one of each of the official  
20 ballots, a set of instructions on absentee balloting, and an unsealed return envelope. All of the  
21 enclosures shall be sealed in an envelope addressed to the applicant at the place stated in the  
22 application.