



2025 South Dakota Legislature

House Bill 1130

Introduced by: **Representative** Mortenson

1 **An Act to provide permissible dates for municipal and school district elections.**

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

3 **Section 1. That § 9-13-1 be AMENDED:**

4 **9-13-1.** In each municipality an ~~annual election for the election of officers shall~~
 5 must be held each year on the second Tuesday of April of each year first Tuesday after
 6 the first Monday in June or the first Tuesday after the first Monday in November, at a place
 7 in each ward of the municipality ~~as designated by the governing body shall designate. If~~
 8 ~~the governing body of the municipality chooses a different election day as provided in this~~
 9 ~~chapter, the~~ of the municipality. The governing body shall establish such the date of the
 10 annual election ~~day~~ by January fourteenth of the election year. The polls at the election
 11 ~~shall~~ must be kept open continuously from seven a.m. until seven p.m.

12 **Section 2. That § 9-13-1.1 be AMENDED:**

13 **9-13-1.1.** Any other provision of this chapter notwithstanding, ~~the members of~~
 14 the governing body of a municipality may, in odd-numbered years, choose to hold a
 15 general municipal election in conjunction with a regular school district election. The
 16 combined election ~~is subject to approval by the governing body of the school district. The~~
 17 ~~combined election shall be held on the regular date set for either the general municipal~~
 18 ~~election or the school district election and all dates associated with either election pursuant~~
 19 ~~to chapters 9-13 and 13-7 shall be adjusted accordingly~~ must be approved by the board
 20 of the school district and must be held on the first Tuesday after the first Monday in June
 21 or the first Tuesday after the first Monday in November.

22 Expenses and governmental responsibilities of a combined election ~~shall~~ must be
 23 shared in a manner agreed upon by the governing ~~bodies~~ body of the municipality and the
 24 board of the school district. ~~All other governmental responsibilities associated with holding~~

1 ~~elections under the provisions of chapters 9-13 and 13-7 shall be shared as agreed upon~~
2 ~~by the governing bodies.~~

3 **Section 3. That § 9-13-5 be AMENDED:**

4 **9-13-5.** No election ~~shall~~ may be held in any municipality, or ward thereof, ~~wherein~~
5 ~~there is no if:~~

6 (1) The number of nominating petitions filed for each vacant position to be filled does
7 not exceed the number of vacancies; and

8 (2) No other question is to be submitted to the voters ~~or wherein there are no opposing~~
9 ~~candidates for any office; in case there are no opposing candidates the.~~

10 The auditor or clerk shall issue certificates of election to the unopposed nominees,
11 if any, in the same manner as to successful candidates after election.

12 **Section 4. That § 9-13-6 be AMENDED:**

13 **9-13-6.** The finance officer of the municipality shall have a notice published in the
14 official newspaper of the municipality setting forth the vacancies ~~which that~~ will occur by
15 termination of the terms of office of elective officers. The notice shall must also state the
16 time and place where nominating petitions may be filed for ~~such the~~ offices. The notice
17 shall must be published once each week for two consecutive weeks between the fifteenth
18 day of January, and the thirtieth day of January the month six months before the election.

19 **Section 5. That § 9-13-6.1 be AMENDED:**

20 **9-13-6.1.** If more than one commissioner or alderman is to be elected for a like
21 term, the governing body ~~before October first in the year preceding the election~~ may, at
22 least six months before the election, approve an ordinance designating requiring that
23 candidates shall run for a specific position ~~such as "A" and "B" with each position~~
24 representing one of the incumbent seats.

25 **Section 6. That § 9-13-7 be AMENDED:**

26 **9-13-7.** No candidate for elective municipal office may be nominated unless the
27 candidate files a nominating petition ~~is filed~~ with the finance officer no later than five p.m.
28 ~~on the last Friday in February preceding~~ on the Tuesday seventy days before the day date
29 of the election. The A petition shall be is considered filed if it is mailed by registered mail
30 by five p.m. on the last Friday in February before the election. The petition shall contain

1 ~~the name, residence address, and mailing address of the candidate and the office for which~~
2 ~~the candidate is nominated and shall~~ day to file a petition. The petition must be on the
3 form prescribed by the State Board of Elections. ~~The signer's and must contain:~~

- 4 (1) The name of the candidate;
5 (2) The candidate's residential address;
6 (3) The candidate's mailing address, if applicable; and
7 (4) The office the candidate seeks.

8 If an individual who signs a petition lives within a second-class or third-class
9 municipality, the individual may give the individual's post office box number ~~may be given~~
10 ~~in lieu of a street address if the signer lives within a municipality of the second or third~~
11 ~~class.~~

12 The finance officer may only accept a nominating ~~petitions that are~~ petition that is
13 on the prescribed form and ~~were~~ was circulated and submitted pursuant to the provisions
14 ~~in chapters 9-13 of this chapter and chapter 12-6. Upon verification signed by the~~
15 ~~municipal finance officer or clerk~~ The municipal finance officer or clerk shall verify by
16 signature that the nominating petition contains the minimum number of signatures of
17 registered voters within ~~either the municipality or ward, or both,~~ and that the candidate
18 is a registered voter within ~~either the municipality or ward, or both,~~ Upon verification, the
19 filing of ~~the~~ a nominating petition constitutes nomination.

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

21 **9-13-9.** ~~In municipalities of the first and second class, if the~~ If a candidate is to be
22 ~~voted for by the voters~~ elected at large in a first-class or second-class municipality, a
23 nominating petition ~~shall~~ must be signed by five percent of the registered voters of the
24 municipality based on the number of registered voters recorded by the county auditor on
25 the second Tuesday in January of the year of the election. ~~No petition need be signed by~~
26 ~~more than~~ of the month five months before the election, or fifty voters, whichever is less.

27 If the candidate is to be ~~voted for by the voters of~~ elected for a ward of a first-class
28 or second-class municipality ~~of the first or second class having~~ that has more than one
29 ward, a nominating petition ~~shall~~ must be signed by five percent of the registered voters
30 of the ward based on the number of registered voters recorded by the county auditor on
31 the second Tuesday in January of the year of the election. ~~No petition need be signed by~~
32 ~~more than~~ of the month five months before the election, or fifty voters, whichever is less.

33 ~~In municipalities of the third class, if the~~ If a candidate is to be ~~voted for by the~~
34 ~~voters~~ elected at large in a third-class municipality, the nominating petition ~~shall~~ must be

signed by not less than three registered voters of the municipality. If the candidate is to be ~~voted for by the voters of~~ elected for a ward of a third-class municipality having more than one ward, the nominating petition ~~shall~~ must be signed by not less than three registered voters of the ward. A ~~petition signer~~ registered voter in a municipality of the third class ~~is not restricted in the number of petitions which the person may sign~~ more than one petition.

~~No~~ A nominating petition may ~~not~~ be circulated ~~until on or after the last Friday in January~~ more than four months before the election.

Section 8. That § 9-13-14.1 be AMENDED:

9-13-14.1. ~~If~~ Except as otherwise provided in this section, if a vacancy exists on a municipal governing body, the remaining members ~~shall~~ must appoint a replacement to serve until the next annual municipal election, ~~or the vacancy may be filled by special election.~~ The governing body may call a special election to fill the vacancy for the remainder of the unexpired term, as provided in § 9-13-14.2. In the aldermanic form of municipal government, the ~~appointment shall be a person~~ replacement must be an individual from the same ward of the municipality. ~~If electing a person to fill the remainder of the unexpired term at an annual municipal election, the vacancy shall have occurred prior to the publication required by § 9-13-6.~~

Section 9. That § 9-13-25 be AMENDED:

9-13-25. In any municipality, ~~Except as otherwise provided in this section, the person having the highest number of votes for any municipal office shall be declared is elected. However, the~~

The governing board body of any municipality may, on or before the first of October in the year preceding, approve an ordinance requiring by ordinance enacted at least six months before the election, require a runoff election to be conducted pursuant to §§ 9-13-26.1 and 9-13-27.1.

Section 10. That § 9-13-31 be AMENDED:

9-13-31. The governing body shall, within ten days of presentation, order and fix a the date for holding a special election, ~~to be on a Tuesday not less than between~~ thirty ~~nor more than and~~ fifty days from the date of the order of the governing body. If a petition is filed ~~after December thirty-first before~~ within six months of the annual municipal election

and within sufficient time to comply with the provisions of § 9-13-14, the question of a successor ~~shall~~ must be submitted at that annual election.

The governing body shall ~~have~~ publish a notice of election ~~published~~ in the same manner as provided in § 9-13-13.

Section 11. That § 9-13-37 be AMENDED:

9-13-37. Any other provision of this chapter notwithstanding, ~~the members of the governing body of a municipality may choose to~~ shall, in even-numbered years, hold a the general municipal election in conjunction with the regular June primary election. ~~The combined election is subject to approval by the county commissions of the counties in which the municipality is located. Expenses or the regular November general election. The expenses and governmental responsibilities of a combined election shall~~ must be shared in a manner agreed upon by the governing body of the municipality and the board of county commissions commissioners involved. ~~All other governmental responsibilities associated with holding elections under the provisions of chapters 9-13 and Title 12 shall be shared as agreed upon by the governing bodies. The finance officer shall publish the notice required in § 9-13-6 between February fifteenth and March first.~~

~~No~~ A nominating petition may ~~not~~ be circulated for signatures ~~until March first. Nominating petitions shall more than four months before the election. A nominating petition must~~ be filed under the provisions of § 9-13-7 ~~by the last Tuesday in March at least seventy days before the election.~~ The finance officer shall certify to the appropriate county auditor the candidate names and ballot language to be voted on by the ~~first Thursday after the last Tuesday in March~~ sixty-eight days before the election.

Section 12. That a NEW SECTION be added to chapter 9-13:

If a municipality schedules an annual election on the first Tuesday after the first Monday in November, each office holder whose term was to expire earlier in that year shall have the term extended until the office holder or another candidate for the office is duly elected and qualified.

If a municipality schedules an annual election on the first Tuesday after the first Monday in June to elect an office that was previously elected in November, the office holder who was elected in November must be entitled to complete the term of office to which the office holder was elected.

Section 13. That § 13-7-5 be AMENDED:

1 **13-7-5.** Between the fifteenth day and the thirtieth day of the month ~~three months~~
2 ~~preceding six months before~~ the election, except in the case of the joint election as
3 provided in § 13-7-10.1, the business manager of each school district shall publish once
4 each week for two consecutive weeks in the official newspaper, a notice setting forth the
5 vacancies ~~which that~~ will occur by termination of the terms of the elective or appointive
6 school board members. ~~However, if~~

7 If the vacancies set forth in the notice exist within a new school board of a newly
8 created school district ~~entity~~ pursuant to § 13-6-62, the county auditor of the county
9 having jurisdiction over the election ~~shall~~ must publish the notice once each week for two
10 consecutive weeks at least one month preceding the election. The notice ~~shall~~ must also
11 state the time and place where nominating petitions for school board membership may be
12 filed ~~for the vacancies.~~

13 **Section 14. That § 13-7-6 be AMENDED:**

14 **13-7-6.** No candidate for elective school board membership may be nominated
15 unless ~~such person~~ the candidate is a resident voter of the school district and unless the
16 candidate files a nominating petition ~~has been filed on such person's behalf~~ with the
17 business manager of the school district. The candidate must file the nominating petition
18 ~~shall be filed~~ no later than five p.m. on the ~~Friday thirty-nine~~ Tuesday seventy days before
19 the date of the election. The petition is considered timely filed if ~~it the petition~~ is mailed
20 by registered mail by five p.m. on the ~~Friday thirty-nine~~ Tuesday seventy days before the
21 date of the election. ~~A~~

22 The candidate shall sign a formal declaration ~~of a candidate shall be signed by the~~
23 candidate of candidacy before the circulation of the petition. The petition ~~shall~~ must be
24 signed by ~~not less than~~ at least twenty voters of the school district or if the school district
25 is divided into school board representation areas, the petition ~~shall~~ must be signed by ~~not~~
26 ~~less than~~ at least twenty voters who reside within the school board representation area.
27 ~~No~~ A nominating petition may not be circulated ~~until ten weeks prior to~~ more than four
28 months before the election. ~~There shall be added by either the signer~~

29 An individual who signs a petition or the petition circulator ~~the signer's~~ shall write
30 the individual's place of residence and date of signing. The petition ~~shall be verified~~
31 circulator must verify the petition under oath ~~by the person circulating it.~~

32 The business manager shall verify by signature that the candidate is a resident
33 voter of the school district and that the nominating petition contains the minimum number
34 of signatures. Upon verification by the business manager, the filing of the nominating

petition ~~shall constitute~~ constitutes nomination and ~~will entitle~~ entitles the candidate to have the candidate's name placed on the ballot for the term the candidate specifies on the petition ~~only upon verification signed by the business manager that the nominating petition contains the minimum number of signatures and that the candidate is a resident voter.~~

Section 15. That § 13-7-9 be AMENDED:

13-7-9. ~~In school districts if only one nominating petition is filed for each board vacancy to be filled and if there are no~~ No election may be held in a school district if:

(1) The number of nominating petitions filed for each vacant position to be filled does not exceed the number of vacancies; and

(2) No other questions are to be submitted to the voters, ~~there shall be no election and the notices and publication provided in § 13-7-8 will not be necessary, but the~~

The business manager shall issue certificates of election to the unopposed nominees in the same manner as to successful candidates after election.

Section 16. That § 13-7-10 be AMENDED:

13-7-10. ~~The regular election for school districts shall be held between the second Tuesday in April and the third Tuesday in June Unless otherwise exempted by law, each school district must hold an annual election on the first Tuesday after the first Monday in June or the first Tuesday after the first Monday in November, between the hours of seven a.m. and seven p.m. of the day of the election. The school board shall select the date of the election by resolution no later than the first regular meeting after January first of each year. Voter registration, absentee voting, and procedures used in counting ballots shall~~ must be in accordance with ~~Title title~~ title 12, except as ~~specifically~~ otherwise provided in ~~this chapter 13-7.~~

Section 17. That § 13-7-10.1 be AMENDED:

13-7-10.1. ~~The members of the governing body board~~ board of a school district may, in odd-numbered years, choose to hold a ~~general~~ school district election in conjunction with a regular municipal election. The combined election ~~is subject to approval must be approved~~ by the governing body of the municipality. The combined election ~~shall must~~ be held on the ~~regular date set for either the school district election or the general municipal election~~ first Tuesday after the first Monday in June or the first Tuesday after the first

Monday in November. ~~Expenses~~ The expenses and governmental responsibilities of a combined election ~~shall must~~ be shared in a manner agreed upon by the governing ~~bodies~~ body of the municipality and the board of the school district. ~~All other governmental responsibilities associated with holding elections under the provisions of chapters 9-13 and 13-7 shall be shared as agreed upon by the governing bodies.~~

Section 18. That § 13-7-10.3 be AMENDED:

13-7-10.3. Any other provision of this chapter notwithstanding, the ~~school board~~ may choose to hold board of a school district shall, in even-numbered years, hold the school board election in conjunction with the regular June primary election. The combined election is subject to approval by the county commissions of the counties in which the school district is located or the regular November general election. Expenses of a combined election ~~shall must~~ be shared in a manner agreed upon by the school board and the boards of county commissions commissioners involved. All other governmental responsibilities associated with holding elections under the provisions of ~~chapter 13-7 and Title 12 shall title 12 and this chapter must~~ be shared as agreed upon by the ~~governing bodies~~ board of the school district and the boards of county commissioners involved. The school election official shall certify to the appropriate county ~~auditor~~ auditors the candidate names and ballot language to be voted on by the ~~first Thursday after the last Tuesday in March sixty-eight days before the election.~~

Section 19. That a NEW SECTION be added to chapter 13-7:

If the board of a school district schedules an annual election on the first Tuesday after the first Monday in November, each office holder whose term was to expire earlier in that year shall have the term extended until the office holder or another candidate for the office is duly elected and qualified.

If the board of a school district schedules an annual election on the first Tuesday after the first Monday in June to elect an office that was previously elected in November, the office holder who was elected in November must be entitled to complete the term of office to which the office holder was elected.

Section 20. That § 13-8-14 be AMENDED:

13-8-14. ~~The~~ Any individual newly elected ~~members of the school to the board of a school district~~ shall qualify and assume membership at the ~~annual~~ first meeting of the

1 school board ~~in July, and following the canvas of the votes.~~ An individual appointed
2 ~~members to the board of a school district shall qualify and assume membership at the~~
3 next meeting following ~~such the individual's appointment, by taking and subscribing.~~

4 Any individual elected or appointed to the board of a school district must take and
5 subscribe to an oath or affirmation to support the laws and Constitution of the United
6 States and the State of South Dakota this state and to faithfully perform the duties of
7 school board membership and by filing. An individual elected or appointed to the board of
8 a school district must file a bond if required by law and having it and must have the bond
9 approved.

10 **Section 21. That § 9-13-1.2 be REPEALED.**

11 ~~If the joint election provided for in §§ 9-13-1.1 and 13-7-10.1 is scheduled for a~~
12 ~~date other than the second Tuesday in April, all dates associated with the election are~~
13 ~~those provided in chapter 13-7.~~

14 **Section 22. That § 9-13-40 be REPEALED.**

15 ~~Any other provision of this chapter notwithstanding, the members of the governing~~
16 ~~body of a municipality may choose to hold a municipal election on the first Tuesday after~~
17 ~~the first Monday in June. The finance officer shall publish the notice required in § 9-13-6~~
18 ~~between February fifteenth and March first. No nominating petition may be circulated for~~
19 ~~signature until March first. Nominating petitions shall be filed under the provisions of § 9-~~
20 ~~13-7 by the last Tuesday in March. All other governmental responsibilities associated with~~
21 ~~holding elections under the provisions of chapter 9-13 shall be met by the municipality.~~

22 **Section 23. That § 13-7-10.2 be REPEALED.**

23 ~~If the joint election provided for in § 13-7-10.1 is held on the second Tuesday in~~
24 ~~April, no candidate for elective school board membership may be nominated unless the~~
25 ~~candidate is a resident voter of the school district and unless a nominating petition has~~
26 ~~been filed on the candidate's behalf with the business manager of the school district no~~
27 ~~later than the last Friday in February at five p.m. prior to the date of the election. If the~~
28 ~~petition is mailed by registered mail by the last Friday in February at five p.m. before the~~
29 ~~election, it shall be considered filed. A formal declaration of a candidate shall be signed by~~
30 ~~the candidate before the circulation of the petition. The petition shall be signed by not less~~
31 ~~than twenty voters of the school district. No petition may be circulated until the last Friday~~

1 ~~in January before the election. There shall be added by either the signer or the circulator~~
2 ~~the signer's place of residence and date of signing. The petition shall be verified under~~
3 ~~oath by the person circulating the petition. The filing of the nominating petition shall~~
4 ~~constitute nomination and will entitle the candidate to have the candidate's name placed~~
5 ~~on the ballot for the term the candidate specifies on the petition only upon verification~~
6 ~~signed by the business manager that the nominating petition contains the minimum~~
7 ~~number of signatures and that the candidate is a resident voter.~~

8 ~~Publication of the notice of the election provided for in § 13-7-10.1 shall be in~~
9 ~~accordance with § 13-7-8.~~

10 **Section 24. That § 13-7-10.4 be REPEALED.**

11 ~~For any school board election held on the first Tuesday after the first Monday in~~
12 ~~June, the deadlines in this section apply. The school's election official shall publish the~~
13 ~~notice provided in § 13-7-5 between February fifteenth and March first. No nominating~~
14 ~~petition may be circulated for signatures until March first. Nominating petitions shall be~~
15 ~~filed under the provisions of § 13-7-6 by the last Tuesday in March.~~

16 **Section 25. This Act is effective beginning January 1, 2026.**