

State of South Dakota

EIGHTY-SIXTH SESSION
LEGISLATIVE ASSEMBLY, 2011

840S0153

SENATE LOCAL GOVERNMENT ENGROSSED NO. **HB 1044** - 3/2/2011

Introduced by: Representatives Jones, Blake, Bolin, Boomgarden, Gibson, and Nelson
(Stace) and Senators Hundstad and Frerichs

1 FOR AN ACT ENTITLED, An Act to revise certain water project district voter eligibility
2 provisions.

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

4 Section 1. That § 6-16-2 be amended to read as follows:

5 6-16-2. The application for organization shall be a petition verified by one or more
6 circulators by affidavit stating that each affiant personally witnessed the signatures on the
7 petition and believe the signatures to be genuine. ~~The~~ Except as provided in this section, the
8 petition shall be signed by at least twenty-five percent of the registered voters within the
9 proposed district. If the proposed district is in two or more counties, a petition shall be filed in
10 each county and each petition shall be signed by at least twenty-five percent of the registered
11 voters within the proposed district in that county. The petition shall be accompanied by a deposit
12 covering the estimated costs as determined by the county auditor of the public notices and the
13 conduct of the election for the formation of the district. If the district to be formed is a road
14 district that contains no registered voters, the petition shall be signed by at least twenty-five



1 percent of the landowners. If the district to be formed is a water project district, any petition
2 required by this section shall be signed by qualified voters of the proposed district, as defined
3 in § 46A-18-2.1 and section 4 of this Act, in the appropriate county.

4 Section 2. That § 6-16-6 be amended to read as follows:

5 6-16-6. Any person who is registered to vote and resides in the proposed district may vote
6 in the elections provided for in § 6-16-5. However, the qualifications of a voter for irrigation
7 district elections are as provided in chapter 46A-4, and the qualifications of a voter for water
8 project district elections are as provided in § 46A-18-2.1 and section 4 of this Act. Absentee
9 voting is allowed pursuant to chapter 12-19 for the election on the question of formation of the
10 special district or any other question to be voted on by the eligible voters of the district. If the
11 district to be formed is a road district that contains no registered voters, voter eligibility is based
12 solely on landowners. For the purpose of this section, a person resides in a proposed district if
13 the person actually lives in the proposed district for at least thirty days in the last year.

14 Section 3. That § 46A-18-2.1 be amended to read as follows:

15 46A-18-2.1. Except as provided in section 4 of this Act, and except as otherwise provided
16 in this chapter, no person may vote in any election held pursuant to this chapter unless the
17 person is a qualified voter of the water project district. A qualified voter of the district is a
18 person who is a registered voter and a resident of the district. If the election is conducted based
19 on director divisions, no person may vote in the election unless the person is a qualified voter
20 of the person's respective director division. A qualified voter of a director division is a person
21 who is a registered voter and a resident of the director division.

22 Section 4. That chapter 46A-18 be amended by adding thereto a NEW SECTION to read
23 as follows:

24 If fewer than one hundred fifty persons reside within the boundaries of an existing water

1 project district on July 1, 2011, the board of directors of the district may, by a resolution adopted
2 not later than July 1, 2014, specify that a qualified voter of the district or director division is an
3 owner of real property located within the district or director division, rather than a registered
4 voter and resident of the district or director division.

5 For purposes of this section, the term, owner of real property, includes any person listed as
6 the owner of real property in the records in the office of the register of deeds of the county in
7 which the property is located. If real property is sold under a contract for deed that is of record
8 in the office of the register of deeds, the purchaser of the real property, as named in the contract
9 for deed, is treated as the owner. A landowner or joint landowners who own a tract of land
10 within the district are entitled to one vote collectively. The vote of any person who is a minor
11 or a protected person as defined by § 29A-5-102, may be cast by the parent, conservator, or legal
12 representative of the minor or protected person.