

# State of South Dakota

SEVENTY-FOURTH SESSION  
LEGISLATIVE ASSEMBLY, 1999

159C0269

## HOUSE BILL NO. 1015

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

1 FOR AN ACT ENTITLED, An Act to revise certain election procedures for the formation of  
2 certain special districts and the election of directors, managers, or trustees.

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

4 Section 1. That chapter 6-16 be amended by adding thereto a NEW SECTION to read as  
5 follows:

6 A landowner for the purposes of chapter 6-16 means any person who owns property, as  
7 defined pursuant to § 10-4-2 or 10-9-1, within the special district and is listed as an owner of the  
8 property by the register of deeds. A partnership, association, cooperative, trust, limited liability  
9 company, or corporation may by resolution appoint one person to vote in a special district  
10 election on behalf of the partnership, association, cooperative, trust, limited liability company,  
11 or corporation. A person who has purchased property under a contract for deed which is of  
12 record in the office of the register of deeds in the county where the real property is situated is  
13 entitled to vote in the special district election and the seller of the property under a recorded  
14 contract for deed may not vote. No person, partnership, association, cooperative, trust, limited  
15 liability company, or corporation may vote more than once in any special district election.

16 Section 2. That chapter 6-16 be amended by adding thereto a NEW SECTION to read as

1 follows:

2 Sections 3 to 6, inclusive, of this Act apply to elections of the board of directors, managers,  
3 or trustees for certain special districts. The special districts covered are county road, ambulance,  
4 rural fire protection, watershed, and water project districts.

5 Section 3. That chapter 6-16 be amended by adding thereto a NEW SECTION to read as  
6 follows:

7 Each special district shall conduct an election during the annual meeting to replace any  
8 director, manager, or trustee whose term has expired. The district clerk or secretary is designated  
9 as the person in charge of the election and shall conduct the election on behalf of the district. The  
10 notice of election shall be published pursuant to the time frames established in § 6-16-4.  
11 However, the notice for a water project district shall include information on any project reserve  
12 fund established by the water project district pursuant to § 46A-18-57.1.

13 Section 4. That chapter 6-16 be amended by adding thereto a NEW SECTION to read as  
14 follows:

15 The district president or chair shall call the landowners present at the annual meeting to  
16 order. The person in charge of the election shall select and appoint three landowners of the  
17 district to serve as election judges, who shall be duly sworn and shall conduct the district's  
18 election. The voters in attendance at the annual meeting shall nominate each person to be elected.

19 Section 5. That chapter 6-16 be amended by adding thereto a NEW SECTION to read as  
20 follows:

21 An election judge shall keep a poll list by entering the name of each person who votes. A  
22 single ballot shall be distributed to each voter upon which votes may be cast for each office to  
23 be elected. Each voter shall fold the ballot to conceal the contents and deliver the ballot to an  
24 election judge. The election judge shall deposit the ballot in a box provided for that purpose.

25 Section 6. That chapter 6-16 be amended by adding thereto a NEW SECTION to read as

1 follows:

2 At the close of the election, the election judges shall publicly count the votes. After the  
3 counting is commenced, the counting shall continue without adjournment or interruption until  
4 completed. The count shall be conducted according to the procedures for the tabulation of paper  
5 ballots as provided in the general election procedures in chapter 12-20. The person who has the  
6 highest number of votes for any office is elected. If two or more persons have an equal and the  
7 highest number of votes for any office, the election judges shall at once publicly determine by lot  
8 which person is elected. After the count has been completed, the secretary shall enter a statement  
9 of the result in the minutes and publicly read the results at the meeting. The reading shall be  
10 deemed notice of the result of the election.

11 Section 7. That § 6-16-2 be amended to read as follows:

12 6-16-2. The application for organization shall be a petition verified by one or more  
13 circulators by affidavit stating that each affiant personally witnessed the signatures on the petition  
14 and believe the signatures to be genuine. The petition shall be signed by at least twenty-five  
15 percent of the landowners within the proposed district ~~who are also registered voters within the~~  
16 ~~district~~. If the proposed district is in two or more counties, a petition shall be filed in each county  
17 and each petition shall be signed by at least ~~twenty~~ twenty-five percent of the landowners within  
18 the proposed district ~~who are also registered voters within the proposed district~~ in that county.  
19 The petition shall be accompanied by a deposit covering the estimated costs as determined by  
20 the county auditor of the public notices and the conduct of the election for the formation of the  
21 district.

22 Section 8. That § 6-16-4 be amended to read as follows:

23 6-16-4. The county auditor shall publish the notice ~~of the voter registration deadline at least~~  
24 ~~once each week for two consecutive weeks, the last publication to be not less than twenty-five~~  
25 ~~nor more than thirty days prior to the election. The auditor shall publish notices of election at~~

1 least once each week for two consecutive weeks, the last publication to be not less than four nor  
2 more than ten days before the election.

3 Section 9. That § 6-16-6 be amended to read as follows:

4 6-16-6. A person who is a landowner in the proposed district ~~and is registered to vote in the~~  
5 ~~proposed district~~ may vote in the elections provided for in § 6-16-5. However, the qualifications  
6 of a voter for irrigation district elections are provided in chapter 46A-4. ~~Absentee voting is~~  
7 ~~allowed~~ A person who is a landowner in the proposed district may vote absentee pursuant to  
8 chapter 12-19 for the election on the question of formation of the special district.

9 Section 10. That § 6-16-7 be amended to read as follows:

10 6-16-7. If there is a conflict regarding who has a right to vote in the election pursuant to §§  
11 6-16-4 to 6-16-6 and sections 1 to 6, inclusive, of this Act, the judges of election shall settle the  
12 conflict by referring to the official records of the register of deeds ~~and county auditor~~ in each  
13 county where these official records are held.

14 Section 11. That § 31-12A-3 be amended to read as follows:

15 31-12A-3. Any landowner who owns land lying within the limits of the territory proposed  
16 to be organized into a district may file a petition with the board of county commissioners asking  
17 that a road district be organized to function in the territory described in the petition. The petition  
18 shall set forth:

- 19 (1) The proposed name of the district;
- 20 (2) That there is need for road work in the territory described in the petition;
- 21 (3) A description of the territory proposed to be organized as a district; and
- 22 (4) A request ~~that the board of county commissioners define the boundaries for the~~  
23 ~~district;~~ that a referendum be held within the territory ~~so defined~~ on the question of  
24 the creation of a road district in the territory; ~~and that the board determine that such~~  
25 ~~a district be created.~~

1 Section 12. That § 31-12A-13 be repealed.

2 ~~31-12A-13. The board of county commissioners is authorized to expend funds of the county,~~  
3 ~~in the manner and to the extent permitted by law for other county expenditures, in the payment~~  
4 ~~of necessary costs of preparation of petitions, surveys, maps, and applications submitted under~~  
5 ~~the provisions of this chapter, and of the holding of elections on the incorporation of road~~  
6 ~~districts hereunder. The county board is also authorized to accept and expend any funds~~  
7 ~~appropriated to the State Department of Transportation and allocated by that department to the~~  
8 ~~county for these purposes.~~

9 Section 13. That § 31-12A-15 be amended to read as follows:

10 31-12A-15. ~~In every~~ Each road district shall hold ~~an annual election of officers shall be held~~  
11 meeting on the first Tuesday after the anniversary date of the first election ~~at such place in the~~  
12 ~~district as the board of trustees shall designate. Such election shall be conducted according to~~  
13 ~~chapter 9-13.~~

14 Section 14. That § 31-12A-17 be amended to read as follows:

15 31-12A-17. ~~The trustees~~ Each trustee to be elected at the initial election; shall be nominated  
16 by the voters in attendance at the meeting in which the organizational election is held. ~~Any~~  
17 ~~trustee to be elected at subsequent elections, shall be nominated by filing with the district clerk~~  
18 ~~not less than fifteen days before any subsequent election, certificates of nomination for the offices~~  
19 ~~of trustee. The certificates shall be in writing and shall contain the name of the candidate,~~  
20 ~~residence, business address, and the office for which the candidate is named, and shall be signed~~  
21 ~~by at least five percent of the qualified voters.~~

22 Section 15. That § 34-11A-28 be amended to read as follows:

23 34-11A-28. The boundaries of any ambulance district organized under the provisions of this  
24 chapter may be changed in the manner prescribed by §§ 34-11A-4 to ~~34-11A-10~~ 34-11A-8,  
25 ~~inclusive, but.~~ However, the ~~changes~~ change of boundaries of ~~any such a~~ district may not impair

1 or affect ~~its~~ the district's organization or ~~its~~ right in or to property; nor may ~~it~~ the change of  
2 boundaries impair, affect, or discharge any contract, obligation, lien, or change for or upon which  
3 ~~it might~~ the district may be liable had ~~such~~ the change of boundaries not been made.

4 Section 16. That § 34-11A-29 be amended to read as follows:

5 34-11A-29. A regular meeting of the ~~registered voters who are residing within the boundaries~~  
6 landowners of a district shall be held in the first quarter of each calendar year and special  
7 meetings may be called by the board of directors at any time. ~~Notice thereof shall be given by the~~  
8 The secretary-treasurer shall give notice of a special meeting by one publication in a legal  
9 newspaper of general circulation in each county in which ~~such~~ the district is situated. The  
10 meeting shall be held not less than seven days nor more than fourteen days after the date of  
11 publication of ~~such~~ the notice.

12 Section 17. That § 34-31A-43 be amended to read as follows:

13 34-31A-43. A regular meeting of the ~~electors who are owners of any interest in real property~~  
14 ~~assessed for taxation~~ landowners in the district ~~and who are residing within the boundaries of a~~  
15 ~~district~~ shall be held in the first quarter of each calendar year and special meetings may be called  
16 by the board of directors at any time. ~~Notice thereof shall be given by the~~ The secretary-treasurer  
17 shall give notice of a special meeting by one publication in a legal newspaper of general  
18 circulation in each county in which ~~such~~ the district is situated. The meeting shall be held not less  
19 than seven days nor more than fourteen days after the date of publication of ~~such~~ the notice.

20 Section 18. That § 34A-5-18 be amended to read as follows:

21 34A-5-18. The board of trustees shall give notice of the election provided for in § 34A-5-17  
22 pursuant to ~~§ 34A-5-8~~ § 6-16-4, and the question shall be submitted to the voters on a separate  
23 ballot and be so stated as to enable each voter to vote for or against the proposed question.

24 Section 19. That § 46A-14-8 be amended to read as follows:

25 46A-14-8. The initiating petition shall contain the following:

- 1 (1) The name of the proposed district;
- 2 (2) That there is need in the interest of the public health, safety, and welfare for creation
- 3 of a district to accomplish improvements in the watershed;
- 4 (3) A statement in general terms setting forth the purposes of the contemplated
- 5 improvements, the territory to be included in the district; and all proposed
- 6 subdivisions thereof, if any, of the district;
- 7 (4) The number ~~and names~~ of managers; ~~which shall be three or five members, to be~~
- 8 ~~appointed as first managers of the proposed district, and who shall act for a period of~~
- 9 ~~one year or until the first annual meeting. They.~~ Each manager shall be ~~owners of own~~
- 10 land located in the proposed district but ~~none shall~~ may not be a public officer of the
- 11 state or federal government;
- 12 (5) A list of landowners and the total acreage of land owned by each within the proposed
- 13 district;
- 14 (6) A map of the proposed district and the ownership of all land in the proposed district,
- 15 except the outline only of the jurisdiction of the authorized officials of municipalities
- 16 included need be shown; and
- 17 (7) The location of the official place of business of the proposed district;
- 18 ~~(8) A request for the organization of the district as proposed and appointment of the first~~
- 19 ~~managers.~~

20 Section 20. That § 46A-14-38 be amended to read as follows:

21 46A-14-38. ~~Candidates shall file their written applications with the secretary of the board of~~  
22 ~~managers, at least thirty days before elections. All managers and candidates~~ Each manager and  
23 candidate shall be landowners of own land in the district. ~~Landowners residing within or outside~~  
24 ~~the district may vote in person, or by absentee ballot.~~

25 Section 21. That § 46A-18-4 be amended to read as follows:

1 46A-18-4. The petition established pursuant to § 46A-18-2 shall contain:

- 2 (1) The name of the proposed district;
- 3 (2) The object and purpose of the water project and works proposed to be constructed  
4 or acquired, together with a general description of the nature, location, and method  
5 of operation of the proposed works or program of activities;
- 6 (3) A legal description of the lands constituting the proposed district and the ~~names~~ name  
7 of any ~~municipalities~~ municipality included partly or wholly within the boundaries of  
8 the proposed district;
- 9 (4) The location of the principal place of business of the proposed district; and
- 10 (5) The number of members of the board of directors of the proposed district, which  
11 number may not be less than three nor more than seven, and a statement as to ~~whether~~  
12 if the directors shall be elected at large or shall be elected by director divisions, ~~the~~  
13 ~~names and addresses of the members who shall serve as directors until their~~  
14 ~~successors are elected and qualified as provided in this chapter, and, if director~~  
15 ~~divisions are provided for, the respective divisions that the directors are to represent.~~  
16 The persons named in the petition as directors. Each director shall be a qualified  
17 ~~voters~~ voter of the district and, if director divisions are provided for, shall be a  
18 ~~qualified voters~~ voter of the respective ~~divisions~~ division ~~the directors are~~ director is  
19 to represent.

20 Section 22. That § 46A-18-21 be amended to read as follows:

21 46A-18-21. The initial district directors ~~named in the petition for formation, upon~~  
22 ~~establishment of the district by the Board of Water and Natural Resources,~~ shall assume the  
23 duties of ~~their offices~~ office and serve until ~~their~~ successors are duly elected and qualified.

24 Section 23. That § 46A-18-23 be amended to read as follows:

25 46A-18-23. Prior to May first of each year, on dates established by the directors, an annual

1 meeting of the district shall be held during which the ~~voters~~ landowners shall elect, ~~by ballot,~~  
2 ~~under the direction of the secretary of the district,~~ directors to replace those the directors whose  
3 terms have expired. Each director shall own land in the district. Newly elected directors shall  
4 assume office at the time of ~~their~~ election.

5 Section 24. That § 46A-18-24 be repealed.

6 ~~—46A-18-24. The water project district directors shall publish a notice once each week for~~  
7 ~~three consecutive weeks immediately prior to the annual election and meeting stating the time,~~  
8 ~~place and purpose of the election and meeting, the names of the director candidates and the~~  
9 ~~director division that each candidate is to represent in a legal newspaper of general circulation~~  
10 ~~in each county that has land situated within the district. The notice shall also include information~~  
11 ~~on any project reserve fund established by the district, as provided in § 46A-18-57.1.~~

12 Section 25. That § 46A-18-25 be repealed.

13 ~~—46A-18-25. Nominations of director candidates to be elected at the annual election shall be~~  
14 ~~by nominating petition signed by at least twenty-five qualified voters or ten percent of the~~  
15 ~~qualified voters, whichever is less, in the district, if the directors are elected at large, or signed~~  
16 ~~by at least ten qualified voters or ten percent of the qualified voters, whichever is less, in the~~  
17 ~~director division if the directors are elected by division. The petitions shall be in a form~~  
18 ~~prescribed by the state board of elections and shall be filed with the secretary of the district at~~  
19 ~~least thirty days prior to the election.~~