

State of South Dakota

SEVENTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2002

744H0489

HOUSE BILL NO. 1165

Introduced by: Representatives Napoli, Juhnke, and Madsen and Senators Apa, Greenfield, Kleven, and Madden

1 FOR AN ACT ENTITLED, An Act to permit more time to file 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 as follows:

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~~ provides for an election or
7 hearing on an improvement or assessment; or which ~~call~~ calls for bids which take effect upon the
8 passage and publication thereof, ~~every~~ each resolution or ordinance passed by a board shall take
9 effect on the ~~twentieth~~ twenty-fifth day after its completed publication unless suspended by
10 operation of a referendum.

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

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



1 Section 3. That § 7-18A-29 be amended to read as follows:

2 7-18A-29. Upon the adoption of an ordinance in revision by the board, the auditor shall
3 publish a notice, once each week for two successive weeks, that an ordinance in revision was
4 adopted. ~~Twenty~~ Twenty-five days after the completed publication of the notice, unless the
5 referendum ~~shall have~~ has been invoked, ~~such~~ the ordinance shall become effective without
6 publication in a newspaper. The board shall publish the revised ordinances in book form.

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

8 9-4-4.5. The required number of voters residing in the combined area of the municipality and
9 special annexation precinct may file within ~~twenty~~ twenty-five days after the publication of the
10 annexation resolution a petition with the municipal finance officer, requiring the submission of
11 the annexation resolution to a vote of the voters of the combined area of the municipality and
12 special annexation precinct for its rejection or approval.

13 Section 5. That § 9-19-7 be amended to read as follows:

14 9-19-7. The title of ~~all ordinances~~ each ordinance shall be read twice with at least five days
15 intervening between the first and second reading. The ordinance shall be signed by the mayor or
16 acting mayor or president of the Board of Trustees, filed with the auditor or clerk, and published
17 once except that an ordinance incorporating and adopting comprehensive regulations or a code
18 promulgated, approved, and published by a recognized and established national organization
19 prescribing building, electrical, plumbing, safety, fire, health, or milk regulations need not be
20 published in a newspaper, ~~but~~ However, upon adoption of such an ordinance the auditor or clerk
21 shall publish a notice of the fact of adoption once a week for two successive weeks in the official
22 newspaper, and ~~twenty~~ twenty-five days after the completed publication of ~~such~~ the notice,
23 unless the referendum ~~shall have~~ has been invoked, ~~such~~ the ordinance shall become effective.

24 Section 6. That § 9-19-13 be amended to read as follows:

1 9-19-13. Except ~~such resolutions or ordinances as may be~~ any resolution or ordinance
2 necessary for the immediate preservation of the public peace, health, or safety, or support of the
3 municipal government and its existing public institutions, or which ~~provide~~ provides for an
4 election or for hearing on an improvement; or assessment or which ~~call~~ calls for bids; which take
5 effect upon the passage and publication thereof, ~~every~~ each resolution or ordinance passed by
6 the governing body shall take effect on the ~~twentieth~~ twenty-fifth day after its publication unless
7 suspended by operation of a referendum.

8 Section 7. That § 9-19-17 be amended to read as follows:

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

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

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

18 9-20-6. The required number of voters residing in any municipality may file within ~~twenty~~
19 twenty-five days after the publication of any ordinance or resolution subject to referendum a
20 petition with the auditor or clerk, requiring the submission of ~~any such~~ the ordinance or
21 resolution to a vote of the voters of the municipality for its rejection or approval. If filed on the
22 ~~twentieth~~ twenty-fifth day after publication, ~~such petitions~~ the petition shall be filed no later than
23 normal closing hours of the city hall or city auditor's office ~~on said twentieth day~~.

24 Section 9. That § 9-39-4.1 be amended to read as follows:

1 9-39-4.1. A municipal corporation, which operates its own electric distribution system,
2 whether or not a member of a municipal power agency, may by resolution of its city council and
3 utility board, if any, enter into ~~a contract or~~ contracts with one or more municipal power
4 agencies for the purchase, sale, exchange, or transmission of electric energy extending for ~~such~~
5 a term of years and with such provisions for the charges made thereunder in the contract as
6 determined in the authorizing resolution or resolutions. ~~Every~~ Each resolution adopted in
7 accordance with this section shall be published in the official newspaper of the first or second
8 class municipality. No action may be brought and no defense may be interposed in an action
9 brought more than ~~twenty~~ twenty-five days after publication of the resolution, placing at issue
10 the validity of any provision of the resolution or the power of the municipality to make any
11 contract or incur any obligation authorized thereby. The provisions of §§ 9-39-36 to 9-39-39,
12 inclusive, ~~shall do not apply to the resolutions or contracts~~ any resolution or contract made
13 pursuant to this section.

14 Section 10. That § 9-43-73 be amended to read as follows:

15 9-43-73. No injunction restraining the making of any local improvement under the provisions
16 of this chapter may be issued after the letting of the contract therefor. No action or proceedings
17 ~~shall~~ may be commenced or maintained in any court attacking the validity of the proceedings for
18 special assessments up to and including the approval of the assessment roll or questioning the
19 amount of ~~such~~ the assessment unless ~~such~~ action is commenced within ~~twenty~~ twenty-five days
20 after the publication of the resolution approving the assessment roll and notice that assessments
21 are due and payable as provided in § 9-43-25. ~~Provided that~~ However, not later than ten days
22 after the filing of the assessment roll in the city treasurer's office, the city treasurer shall mail, to
23 the owner of each lot assessed as shown on the assessment roll, a notice stating that the
24 assessment roll is approved and assessments may be prepaid, without interest as provided in

1 § 9-43-27, at the city treasurer's office on or before thirty days after the date the roll was
2 delivered to the city treasurer. The notice shall include the description of the property as shown
3 on the assessment roll, the total number of installments, and the total amount of the assessment.
4 Immediately upon the mailing, the treasurer shall prepare a certificate certifying the mailing by
5 ~~him~~. The certificate shall be attached to the copy filed in the office of the treasurer.

6 Section 11. That § 9-51-44 be amended to read as follows:

7 9-51-44. After ~~twenty~~ twenty-five days from the adoption and publication of ~~such a~~
8 resolution of necessity, unless the referendum ~~be is~~ invoked or unless a written protest ~~shall have~~
9 has been filed with the auditor or clerk signed by the owners constituting a majority of the area
10 of the real property subject to assessment, the governing body ~~shall have power to~~ may cause
11 such improvement to be made, to contract therefor, and to levy and collect special assessments
12 therefor as provided in chapter 9-43.

13 Section 12. That § 9-53-12 be amended to read as follows:

14 9-53-12. After ~~twenty~~ twenty-five days from the adoption and publication of ~~such a~~
15 resolution of necessity, unless the referendum ~~be is~~ invoked or unless a written protest ~~shall have~~
16 has been filed with the auditor or clerk signed by the owners of more than fifty-five percent of
17 the total tax-assessed valuation of the property subject to assessment, the governing body ~~shall~~
18 ~~have the power to~~ may acquire property by lease, gift, or purchase, ~~to~~ cause such improvement
19 to be made, ~~to enter into a~~ enter into a contract therefor, and ~~to~~ levy and collect special assessments ~~therefor~~
20 ~~as provided by~~ pursuant to chapter 9-43.

21 Section 13. That § 11-2-21 be amended to read as follows:

22 11-2-21. The action of the board on the plan shall be filed with the county auditor. A notice
23 of fact of the adoption shall be published once in a legal newspaper of the county and take effect
24 on the ~~twentieth~~ twenty-fifth day after its publication unless the referendum is invoked. Any

1 notice of fact of adoption published under the provisions of this chapter shall contain a
2 notification that the public may inspect the entire comprehensive plan at the office of the county
3 auditor during regular business hours.

4 If such a zoning or subdivision ordinance is adopted, the ordinance is subject to the
5 provisions of § 7-18A-5 as a comprehensive regulation unless the referendum is invoked.

6 Section 14. That § 11-2-30 be amended to read as follows:

7 11-2-30. After the hearing, the board shall by resolution or ordinance, as appropriate, either
8 adopt or reject the amendment, supplement, change, modification, or repeal. If adopted, the
9 board shall publish a notice of the fact of adoption once in a legal newspaper of ~~such~~ the county
10 and take effect on the ~~twentieth~~ twenty-fifth day after its publication. The provisions of
11 § 11-2-22 are applicable to this section.

12 Section 15. That § 11-6-18.2 be amended to read as follows:

13 11-6-18.2. A summary of the action of the city council shall be prepared by the city planning
14 commission, reviewed by the city attorney, and published once in a legal newspaper of the
15 municipality and take effect on the ~~twentieth~~ twenty-fifth day after its publication. Any summary
16 published under the provisions of this chapter shall contain a notification that the public may
17 inspect the entire comprehensive plan or any part, adjunct, amendment, or additions thereto at
18 the office of the city auditor or clerk during regular business hours.

19 Section 16. That § 13-26-10 be amended to read as follows:

20 13-26-10. A petition to refer a school board decision may be filed with the business manager
21 of the school district within ~~twenty~~ twenty-five days after its publication. The filing of the
22 petition shall require the submission of the decision to a vote of the qualified voters of the school
23 district for its rejection or approval.