

South Dakota Codified Law
Title 6 Local Government Generally
Chapter 16 Special Districts

6-16-1. Elections--Special districts--Board of directors. Sections 6-16-1 to 6-16-7, inclusive, apply to elections for the formation of certain special districts and for the initial election of the board of directors or trustees for these districts. The special districts covered are: county road, ambulance, rural fire protection, sanitary, irrigation, watershed, and water project districts.

Source: SL 1998, ch 36, § 1.

6-16-2. Petition--Number of signatories--Deposit for costs. The application for organization shall be a petition verified by one or more circulators by affidavit stating that each affiant personally witnessed the signatures on the petition and believe the signatures to be genuine. Except as provided in this section, the petition shall be signed by at least twenty-five percent of the registered voters within the proposed district. If the proposed district is in two or more counties, a petition shall be filed in each county and each petition shall be signed by at least twenty-five percent of the registered voters within the proposed district in that county. The petition shall be accompanied by a deposit covering the estimated costs as determined by the county auditor of the public notices and the conduct of the election for the formation of the district. If the district to be formed is a road district that contains no registered voters, the petition shall be signed by at least twenty-five percent of the landowners. If the district to be formed is a water project district, any petition required by this section shall be signed by qualified voters of the proposed district, as defined in §§ 46A-18-2.1 and 46A-18-2.2, in the appropriate county.

Source: SL 1998, ch 36, § 2; SL 1999, ch 151, § 10; SL 2000, ch 32, § 1; SL 2011, ch 35, § 1.

6-16-3. Formation of new district. If the proposed district is in two or more counties, each county auditor and board of county commissioners shall cooperate to perform the requirements of §§ 6-16-1 to 6-16-7, inclusive, and the chapter specific to the formation of that district in setting the date for and conducting the election of the proposed district.

Source: SL 1998, ch 36, § 3.

6-16-4. Notification of deadline. The county auditor shall publish the notice of the voter registration deadline at least once each week for two consecutive weeks, the last publication to be not less than twenty-four nor more than thirty days prior to the election. The auditor shall publish notices of election at least once each week for two consecutive weeks, the last publication to be not less than four nor more than ten days before the election in at least one legal newspaper of general circulation in the proposed district.

Source: SL 1998, ch 36, § 4; SL 2000, ch 32, § 2; SL 2008, ch 35, § 1, eff. Feb. 27, 2008.

6-16-5. Election on question of incorporation in districts containing less than one thousand voters--Election of directors or trustees. If the proposed district contains less than one thousand eligible voters as defined in § 6-16-6, the county auditor shall set a date, time, and location for a meeting to be held within the district to conduct an election on the question of formation of the special district. The date may not be more than sixty days after the appropriate board declares that the application for incorporation is valid. The auditor shall appoint three judges of election, one of whom shall serve as the superintendent, to conduct the election. The vote upon the question of incorporation shall be by ballot which conforms to a ballot for a statewide question except that the

statement required to be printed on the ballot shall be prepared by the state's attorney. After the vote is cast and counted, the judges shall prepare a certification showing the whole number of ballots cast, together with the number voting for and the number voting against incorporation, and shall return the certification to the county auditor. If a majority, or if it is a water project district at least sixty percent, of the votes cast on the question of formation is in favor, an election shall be conducted by those present at the same meeting to elect the initial board of directors or trustees.

Source: SL 1998, ch 36, § 5; SL 2006, ch 29, § 3; SL 2008, ch 35, § 2, eff. Feb. 27, 2008; SL 2010, ch 74, § 2.

6-16-5.1. Election on question of incorporation in districts containing one thousand or more voters. If the proposed district contains one thousand or more eligible voters as defined in § 6-16-6, the county auditor shall set a date for an election to be held within the district on the question of formation of the special district. The date may not be more than sixty days after the appropriate board declares that the application for incorporation is valid. The election shall be conducted pursuant to Title 12. The vote upon the question of incorporation shall be by ballot which conforms to a ballot for a statewide question except that the statement required to be printed on the ballot shall be prepared by the state's attorney. The election shall be canvassed by the county commission.

Source: SL 2008, ch 35, § 4, eff. Feb. 27, 2008.

6-16-5.2. Election of directors or trustees in districts containing one thousand or more voters. If a majority, or if it is a water project district at least sixty percent, of the votes cast in an election conducted pursuant to § 6-16-5.1 is in favor on the question of formation of the special district, an election shall be conducted by the county auditor within sixty days after the official canvass to elect the initial board of directors or trustees. The election shall be conducted pursuant to Title 12. The county auditor shall publish a notice of vacancy no later than fifty days prior to the election. Circulation of nominating petitions may begin upon completion of the official canvass of the election to form the district. Nominating petitions shall be filed with the county auditor by 5:00 p.m. at least thirty days before the election. The nominating petitions shall contain signatures of at least twenty-five registered voters in the district. Absentee ballots shall be made available to the voters no later than twenty days before the date of election. The election shall be canvassed by the county commission.

Source: SL 2008, ch 35, § 5, eff. Feb. 27, 2008; SL 2010, ch 74, § 3.

6-16-6. Voter eligibility. Any person who is registered to vote and resides in the proposed district may vote in the elections provided for in § 6-16-5. However, the qualifications of a voter for irrigation district elections are as provided in chapter 46A-4, and the qualifications of a voter for water project district elections are as provided in §§ 46A-18-2.1 and 46A-18-2.2. Absentee voting is allowed pursuant to chapter 12-19 for the election on the question of formation of the special district or any other question to be voted on by the eligible voters of the district. If the district to be formed is a road district that contains no registered voters, voter eligibility is based solely on landowners. For the purpose of this section, a person resides in a proposed district if the person actually lives in the proposed district for at least thirty days in the last year.

Source: SL 1998, ch 36, § 6; SL 1999, ch 151, § 11; SL 2000, ch 32, § 3; SL 2011, ch 35, § 2.

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6-16-7. Voting rights--Conflict. If there is a conflict regarding who has a right to vote in the election pursuant to §§ 6-16-4 to 6-16-6, inclusive, the judges of election shall settle the conflict by referring to the official records of the county auditor in each county where these official records are held.

Source: SL 1998, ch 36, § 7; SL 2000, ch 32, § 10.

6-16-8. Promulgation of rules. The State Board of Elections may promulgate rules pursuant to chapter 1-26 concerning:

1. The petition form for the formation of a special district;
2. The notice of election; and
3. The nominating petition.

The petition form and notice of election shall include a description of the proposed district boundaries.

Source: SL 1998, ch 36, § 8; SL 2008, ch 35, § 3, eff. Feb. 27, 2008.