

South Dakota Retirement System Board of Trustees
Notice of Public Hearing to Adopt Rules

A public hearing will be held at the View Thirty-four, 4251 E. Highway 34, Pierre, South Dakota, on September 7, 2016, at 9:00 a.m. CDT, to consider the promulgation of:

South Dakota Retirement System Board of Trustees' proposed rules §§ 62:01:05:01, 62:01:05:03, 62:01:05:03.01, 62:01:05:06 to 62:01:05:10, inclusive, 62:01:05:12, 62:01:05:13, 62:01:05:15, and 62:01:09:03.

The effect of the rules relating to the election of members to the Board of Trustees is to allow the use of a third party to conduct the election and the use of electronic balloting. The effect of the final rule is to eliminate the requirement that a single member provide certification when purchasing a supplemental pension benefit.

The reasons for promulgating the proposed rules are to provide alternative methods for conducting elections of the trustees and to delete a provision that was made obsolete by legislation in 2016.

Persons interested in presenting data, opinions, and arguments for or against the proposed rule additions may do so by appearing in person at the hearing or by sending them to the South Dakota Retirement System, P.O. Box 1098, Pierre, South Dakota 57501-1098. Material sent by mail must reach the South Dakota Retirement System by August 31, 2016, to be considered.

After the hearing, the Board of Trustees will consider all written and oral comments the Board receives on the proposed rule changes. The Board of Trustees may modify or amend a proposed rule at that time to include or exclude matters that are described in this notice.

Notice is further given to individuals with disabilities that this hearing is being held in a physically-accessible place. Please notify the South Dakota Retirement System at least 48 hours before the public hearing if you have special needs for which special arrangements must be made. The telephone number for making special arrangements is (605) 773-3731.

Copies of the proposed rules may be obtained without charge from the
South Dakota Retirement System
222 E. Capitol Avenue
P.O. Box 1098
Pierre, South Dakota 57501-1098

CHAPTER 62:01:05

ELECTION OF BOARD OF TRUSTEES

Section

- 62:01:05:01 Election of trustees.
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- 62:01:05:01.05 Candidate from two represented groups.
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- 62:01:05:03 Procedure for nomination -- Filing of member petition.
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- 62:01:05:04 Repealed.
- 62:01:05:05 Validity of nominating petition.
- 62:01:05:05.01 Special election newsletter -- Circulation -- Candidate biographies.
- 62:01:05:06 Preparation of ballots.
- 62:01:05:07 Mailing of ballots.
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- 62:01:05:09 ~~Validity of employer ballot~~ Repealed.
- 62:01:05:09.01 No write-in candidates.
- 62:01:05:10 Issuance of new ballot.
- 62:01:05:11 Repealed.
- 62:01:05:12 Counting of ballots -- Void ballots.

- 62:01:05:13 Results of election.
- 62:01:05:14 Contest of election.
- 62:01:05:15 Storage of ballots.
- 62:01:05:16 Repealed.
- 62:01:05:17 Procedure when designated day falls on weekend or holiday.

62:01:05:01. Election of trustees. The board shall hold an election of trustees annually. The executive director may designate a third party to conduct the election. Any such third party shall keep all information it obtains from any source confidential, and any employee, agent, or representative of that third party is prohibited from disclosing that information to anyone other than the executive director.

The ballots for the election are due on May 25. Each represented group that has a trustee whose term expires June 30 is entitled to elect a trustee. The board shall announce the results of the election each year at its first meeting following the ballot due date.

For the purposes of this chapter, the term, ballot, is a printed or electronic method of voting.

Source: 3 SDR 13, effective August 25, 1976; transferred from § 47:07:05:01, effective July 1, 1979; 6 SDR 87, effective March 2, 1980; 7 SDR 56, effective December 14, 1980; 9 SDR 81, 9 SDR 124, effective July 1, 1983; 10 SDR 58, effective December 11, 1983; 15 SDR 139, effective March 22, 1989; 20 SDR 109, effective January 19, 1994; 31 SDR 191, effective May 22, 2005; 36 SDR 21, effective August 17, 2009.

General Authority: SDCL 3-12-58.

Law Implemented: SDCL 3-12-49.

62:01:05:03. Procedure for nomination -- Filing of member petition. A justice, judge, or magistrate judge who is a candidate for nomination for trustee shall file one or more petitions containing, in all, at least five valid signatures of members of the candidate's represented member group. Each other member candidate for nomination for trustee shall file one or more petitions containing, in all, at least 20 valid signatures of members of the candidate's represented group. In addition to the required signatures, each petition shall contain the name, address, and ~~last four digits of the social security number of the member candidate~~ and a declaration of candidacy signed by the candidate. Each nominating petition must be in the possession of the office of the executive director by 5:00 p.m. Central Time on February 23.

Source: 3 SDR 13, effective August 25, 1976; transferred from § 47:07:05:03, effective July 1, 1979; 6 SDR 87, effective March 2, 1980; 7 SDR 56, effective December 14, 1980; 9 SDR 81, 9 SDR 124, effective July 1, 1983; 10 SDR 58, effective December 11, 1983; 15 SDR 139, effective March 22, 1989; 24 SDR 160, effective May 24, 1998; 31 SDR 191, effective May 22, 2005; SL 2016, ch 31, § 69, effective July 1, 2016.

General Authority: SDCL 3-12-58.

Law Implemented: SDCL 3-12-49.

62:01:05:03.01. Procedure for nomination – Filing of employer petition. Each employer candidate for nomination for trustee shall file one or more petitions containing, in all, at least 20 valid signatures of members of the candidate's represented group. In addition to the required signatures, each petition shall contain the name, address, and represented employer group of the candidate and a declaration of candidacy signed by the candidate. Each nominating

petition must be in the possession of the office of the executive director by 5:00 p.m. Central Time on February 23.

Source: 24 SDR 160, effective May 24, 1998; SL 2016, ch 31, § 70, effective July 1, 2016.

General Authority: SDCL 3-12-58.

Law Implemented: SDCL 3-12-49.

62:01:05:06. Preparation of ballots. ~~The executive director shall prepare separate~~ Separate ballots shall be prepared for each represented group entitled to vote in the election. Each ballot shall contain the appropriate designation of the represented group and the names, in alphabetical order, and the addresses municipality associated with the address of ~~the candidates~~ each candidate. No ballot ~~shall~~ may be prepared if there are less than two candidates who have filed valid nominating petitions to represent a represented group.

Source: 3 SDR 13, effective August 25, 1976; transferred from § 47:07:05:06, effective July 1, 1979; 6 SDR 87, effective March 2, 1980; 9 SDR 81, 9 SDR 124, effective July 1, 1983; SL 2016, ch 31, § 71, effective July 1, 2016.

General Authority: SDCL 3-12-58.

Law Implemented: SDCL 3-12-49.

62:01:05:07. Mailing of ballots. ~~The executive director shall mail before~~ Before May 1 the applicable ballot shall be mailed to each member entitled to vote in the election and to each employer entitled to vote in the election.

Source: 3 SDR 13, effective August 25, 1976; transferred from § 47:07:05:07, effective July 1, 1979; 6 SDR 87, effective March 2, 1980; 9 SDR 81, 9 SDR 124, effective July 1, 1983; 10 SDR 58, effective December 11, 1983; 15 SDR 139, effective March 22, 1989; 20 SDR 109, effective January 19, 1994; SL 2016, ch 31, § 72, effective July 1, 2016.

General Authority: SDCL 3-12-58.

Law Implemented: SDCL 3-12-49.

62:01:05:08. Validity of member ballot. To be valid, a member ballot must be in the possession of the office of the executive director or, if the election is being conducted by a third party, in the possession of the third party, by 5:00 p.m. Central Time on May 25. The A printed ballot may be returned enclosed in an envelope.

Source: 3 SDR 13, effective August 25, 1976; transferred from § 47:07:05:08, effective July 1, 1979; 6 SDR 87, effective March 2, 1980; 7 SDR 56, effective December 14, 1980; 9 SDR 81, 9 SDR 124, effective July 1, 1983; 20 SDR 109, effective January 19, 1994; 31 SDR 191, effective May 22, 2005; 36 SDR 21, effective August 17, 2009; SL 2016, ch 31, § 73, effective July 1, 2016.

General Authority: SDCL 3-12-58.

Law Implemented: SDCL 3-12-49.

62:01:05:09. Validity of employer ballot. ~~To be valid, an employer ballot must be signed by the presiding officer of the governing board or commission of the employer and in the possession of the office of the executive director by 5:00 p.m. on May 25. The ballot may be returned enclosed in an envelope.~~ Repealed.

Source: 3 SDR 13, effective August 25, 1976; transferred from § 47:07:05:09, effective July 1, 1979; 6 SDR 87, effective March 2, 1980; 9 SDR 81, 9 SDR 124, effective July 1, 1983; 20 SDR 109, effective January 19, 1994; 31 SDR 191, effective May 22, 2005; 36 SDR 21, effective August 17, 2009; SL 2016, ch 31, § 74, effective July 1, 2016.

~~**General Authority:** SDCL 3-12-58.~~

~~——**Law Implemented:** SDCL 3-12-49.~~

62:01:05:09.01. No write-in candidates. ~~The board may not recognize~~ No write-in candidates may be recognized.

Source: 6 SDR 87, effective March 2, 1980; 9 SDR 81, 9 SDR 124, effective July 1, 1983; 20 SDR 109, effective January 19, 1994.

General Authority: 3-12-58.

Law Implemented: 3-12-49.

62:01:05:10. Issuance of new ballot. ~~The executive director may issue a second ballot to a voter only with approval of the internal auditing manager, who has sole control over all replacement ballots. The internal auditing manager may approve the issuance of a Δ replacement ballot may only be issued to a voter upon receipt of an affidavit from the member or employer eligible to vote that certifies that an original ballot was not received or the original ballot was lost or misplaced and not previously returned to the system.~~

Source: 3 SDR 13, effective August 25, 1976; transferred from § 47:07:05:10, effective July 1, 1979; 6 SDR 87, effective March 2, 1980; 9 SDR 81, 9 SDR 124, effective July 1, 1983;

15 SDR 139, effective March 22, 1989; 20 SDR 109, effective January 19, 1994; SL 2016, ch 31, § 75, effective July 1, 2016.

General Authority: SDCL 3-12-58.

Law Implemented: SDCL 3-12-49.

62:01:05:12. Counting of ballots -- Void ballots. ~~No~~ The ballots shall be counted no later than the final business day in May, ~~the board of trustees, a committee of board members, or system staff appointed by the chair shall count the official ballots.~~ For each vacancy to be filled, the candidate receiving the highest number of votes is elected.

Any ballot from which it is impossible to determine the ~~member's~~ voter's choice is void and may not be counted. However, if the ~~member's~~ voter's mark on a ballot is sufficiently plain to determine the ~~member's~~ voter's intention, ~~the board, committee, or staff shall count the vote shall be counted.~~ This section shall be construed liberally ~~by the board, committee, or staff~~ to assure that each ~~member's~~ vote is counted. ~~The board, committee, or staff shall place any void ballot in a~~ Any void ballot file shall be maintained separately from the other ballots.

Source: 3 SDR 13, effective August 25, 1976; transferred from § 47:07:05:12, effective July 1, 1979; 6 SDR 87, effective March 2, 1980; 9 SDR 81, 9 SDR 124, effective July 1, 1983; 20 SDR 109, effective January 19, 1994; 31 SDR 191, effective May 22, 2005; 32 SDR 203, effective June 5, 2006; 36 SDR 21, effective August 17, 2009.

General Authority: SDCL 3-12-58.

Law Implemented: SDCL 3-12-49.

62:01:05:13. Results of election. The board ~~shall confirm its count or the canvassers' report and~~ shall certify the results of the election at the first board meeting after ballot counting pursuant to § 62:01:05:12 is completed. However, the executive director shall notify all the candidates and the members of the board of the tentative election results within three business days after the ballot counting is completed. If no election is required, the board shall declare the nominee elected.

Source: 3 SDR 13, effective August 25, 1976; transferred from § 47:07:05:13, effective July 1, 1979; 6 SDR 87, effective March 2, 1980; 9 SDR 81, 9 SDR 124, effective July 1, 1983; 20 SDR 109, effective January 19, 1994; 31 SDR 191, effective May 22, 2005; SL 2016, ch 31, § 76, effective July 1, 2016.

General Authority: SDCL 3-12-58.

Law Implemented: SDCL 3-12-49.

62:01:05:15. Storage of ballots. ~~The executive director shall keep all ballots cast in a safe place in the office of the executive director~~ Any ballots received shall be kept secure before the ballots are counted. The executive director shall hold the counted printed ballots in the office of the executive director or electronic ballot results, or both, shall be kept for at least 45 days after the election results are announced or until a contest is finally decided.

Source: 3 SDR 13, effective August 25, 1976; transferred from § 47:07:05:15, effective July 1, 1979; 6 SDR 87, effective March 2, 1980; 9 SDR 81, 9 SDR 124, effective July 1, 1983; 20 SDR 109, effective January 19, 1994; SL 2016, ch 31, § 78, effective July 1, 2016.

General Authority: SDCL 3-12-58.

Law Implemented: SDCL 3-12-49.

62:01:09:03. Proof of participant's marital status. A participant who is married at the time that the participant contracts for a supplemental pension benefit shall provide a copy of the participant's marriage license to the system. ~~A participant who is not married at the time of contract shall certify the participant's single marital status to the system.~~

Source: 34 SDR 297, effective June 2, 2008.

General Authority: SDCL 3-12-58.

Law Implemented: SDCL 3-12-192.