

State of South Dakota

EIGHTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2014

264V0721

HOUSE BILL NO. 1195

Introduced by: Representatives Feickert, Cronin, Parsley, Peterson, and Schrempp and
Senators Frerichs, Buhl O'Donnell, and Welke

1 FOR AN ACT ENTITLED, An Act to revise the membership requirements and election
2 procedures for members of the South Dakota Wheat Commission.

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

4 Section 1. That § 38-10-3 be amended to read as follows:

5 38-10-3. There is hereby established a wheat commission for the utilization, research, and
6 market development of wheat grown in South Dakota. The commission shall be composed of
7 five members who shall be participating growers. ~~The members of the commission shall be~~
8 ~~appointed by the Governor. Nominations for appointments shall be submitted to the Governor~~
9 ~~by wheat producers of the state.~~

10 ~~—The terms of members begin on October thirty-first of the calendar year in which the~~
11 ~~Governor appoints the member, unless otherwise designated by the Governor. The appointee's~~
12 ~~term is for three years and expires on October thirtieth in the third year of appointment.~~

13 ~~—Any member's term ending June 30, 2013, or thereafter is extended to October thirtieth in~~
14 ~~the year the term is to expire. The directors shall be elected by participating growers.~~

15 Section 2. That chapter 38-10 be amended by adding thereto a NEW SECTION to read as



1 follows:

2 One director shall be elected from each district. The five districts shall have populations as
3 nearly equal as is practicable, based on the number of participating growers in each county.
4 Counties shall be made whole in each of the districts. A redistricting shall be made by the
5 commission in 2014 and 2020, and every twelve years after 2020. Elections for commissioners
6 shall take place the subsequent year following redistricting. During the transition interval, the
7 commissioners shall retain their seat until the elections are held and the elected commissioners
8 are sworn in.

9 Section 3. That chapter 38-10 be amended by adding thereto a NEW SECTION to read as
10 follows:

11 In any election held pursuant to this chapter, the candidate receiving the highest number of
12 votes in the district shall be elected. Commissioner terms are for three years, and no director of
13 the commission may serve for more than four complete terms.

14 The terms of office for the initial directors shall be determined by lot. Two of the initial
15 directors may serve no more than two consecutive terms, two of the initial directors may serve
16 no more than three consecutive terms, and one initial director may serve no more than four
17 consecutive terms. Directors shall take office on March first of the year of the election.

18 Section 4. That chapter 38-10 be amended by adding thereto a NEW SECTION to read as
19 follows:

20 An election shall be held in each district in which a director's term is to expire. The election
21 date and time shall be determined by the commission but shall be between January first to
22 February fifteenth, inclusive, closest to the pending vacancy's expiration date. The election shall
23 be by official ballot, which shall be made available at the polling location. The commission shall
24 designate at least one polling location in each county within the district. The principal polling

1 location in the county shall be at the county office of the Cooperative Extension Service of
2 South Dakota State University, if available, or at a place specified by the commission. If only
3 one candidate is nominated in a district, no election is required in the district, and the
4 commission shall declare the nominee as elected and shall provide the nominee with a certificate
5 of election pursuant to the subsequent section.

6 Section 5. That chapter 38-10 be amended by adding thereto a NEW SECTION to read as
7 follows:

8 After election of the initial directors, the commission shall administer subsequent elections
9 for commissioners with the assistance of the executive director. The commission shall appoint
10 in each county of the district a committee of three persons to serve as election judges. If the
11 commission is unable to appoint a full committee of election judges, the executive director shall
12 appoint the judges. One of the election judges shall be the South Dakota State University
13 Cooperative Extension Service agent, or acting agent, for the county, if available. The election
14 judges are responsible for ballot security and count and shall deliver the ballots, the election
15 results, and a completed certification of election form to the commission office or a designated
16 representative. The election judges are also responsible for certifying that all who vote are
17 eligible voters according to section 7 of this Act.

18 Section 6. That chapter 38-10 be amended by adding thereto a NEW SECTION to read as
19 follows:

20 The commission shall canvass the results of the election within fifteen days after
21 certification and shall declare elected the person receiving the highest number of votes for each
22 office. The commission shall provide a certificate of election to each person declared elected.

23 Section 7. That chapter 38-10 be amended by adding thereto a NEW SECTION to read as
24 follows:

1 To be eligible to vote in a district election, a participating grower shall sign a participating
2 grower affidavit at the time of voting. A husband and wife, a landlord and tenant, and a
3 landowner and purchaser under a contract for deed which is of record in the office of the register
4 of deeds in the county where the real property is situated are each entitled to vote for
5 commissioner, if they meet the requirements of § 38-10-4. No individual, landlord, tenant,
6 partnership, limited liability company, corporation, cooperative, association, or fiduciary may
7 cast more than one vote per election even if operations are carried on in more than one
8 commission district. A participating grower may vote only in the commission district in which
9 the grower resides. A partnership, limited liability company, corporation, cooperative, or
10 association resides in the commission district where its principal place of business is located.
11 A partnership, limited liability company, corporation, cooperative, or association shall attach
12 a written authorization to the participating grower affidavit which indicates that the person
13 casting the vote has been authorized to do so.

14 Section 8. That chapter 38-10 be amended by adding thereto a NEW SECTION to read as
15 follows:

16 If voting at the designated time and place would cause a hardship on any eligible voter, the
17 commission shall allow for absentee voting on forms, and in a manner, prescribed in rule by the
18 commission. Absentee ballots shall be returned either to the commission office no later than five
19 calendar days prior to the day of the election or to the polling location before the close of the
20 polls. The commission shall ensure that any absentee ballot it has received within the deadline
21 specified in this section is delivered to the appropriate polling place before the close of the polls.
22 No absentee ballot that is received at the polling place after the close of the polls may be
23 counted in the election results.

24 Section 9. That chapter 38-10 be amended by adding thereto a NEW SECTION to read as

1 follows:

2 Notice of subsequent elections for commissioners of the commission in a district shall be
3 given by the commission by publication in a newspaper of general circulation in the district and
4 in any other reasonable manner as may be determined by the commission. More than one notice
5 may be published, but at least one notice shall be published at least seven days, but no more than
6 twenty-one days before the election. Any notice shall set forth the period of time for voting,
7 voting places, provision for absentee balloting, and such other information as the commission
8 deems necessary.

9 Section 10. That chapter 38-10 be amended by adding thereto a NEW SECTION to read as
10 follows:

11 The commission shall publish at least once, in at least one newspaper of general circulation
12 in each commission district in which a commissioner is to be elected, a notice of the pending
13 expiration of the commissioner's term. The notice shall be published at least twenty-one days,
14 but no more than forty days, before the deadline for filing nominating petitions. The notice shall
15 specify how nominating petition forms may be obtained, the time and place for filing
16 nominating petitions, and the time and place of the election.

17 Section 11. That § 38-10-5 be amended to read as follows:

18 ~~38-10-5. With the exception of the ex officio members, the Governor shall appoint a~~
19 ~~commission to be known as the South Dakota Wheat Utilization, Research and Market~~
20 ~~Development Commission. The commission may appoint, advise, direct, and supervise an~~
21 ~~executive director of the Wheat Utilization, Research and Market Development Commission.~~

22 Section 12. That § 38-10-6 be repealed.

23 ~~— 38-10-6. Two of the five members of the wheat commission referred to in §§ 38-10-4 and~~
24 ~~38-10-5 shall be residents of and having farming operations in that area of the State of South~~

1 ~~Dakota west of the Missouri River; two of the members shall be residents of and having farming~~
2 ~~operations in that area of the State of South Dakota east of the Missouri River; and one member~~
3 ~~shall be selected as a member at large from the State of South Dakota. Members shall be~~
4 ~~selected with regard to representation of wheat classes and production in the state.~~

5 Section 13. That § 38-10-7 be amended to read as follows:

6 38-10-7. ~~As the terms of office of appointees to the wheat commission expire, their~~
7 ~~successors shall be appointed by the Governor for a term of three years. Each member shall hold~~
8 ~~office until their successors are appointed and qualified. A member appointed to fill a vacancy~~
9 ~~occurring before the expiration of the term of a member separated from the commission for any~~
10 ~~cause, shall be appointed for the remainder of the term of the member whose office has been so~~
11 ~~vacated. No member may serve for more than four consecutive terms. If a commissioner ceases~~
12 ~~to be a participating grower, dies, or resigns from office before the expiration of the~~
13 ~~commissioner's term, the commission shall appoint, subject to approval by the executive~~
14 ~~director, a participating grower from the district for the balance of the unexpired term.~~

15 Section 14. That § 38-10-8 be amended to read as follows:

16 38-10-8. A member of the wheat commission ~~shall~~ may be removable removed by the
17 ~~Governor~~ commission for cause. In addition to all other causes, that a member ceases to be a
18 resident of the state, live in the district from which ~~he~~ the member was appointed, or be actually
19 engaged in growing wheat in the state ~~shall be~~ are deemed sufficient cause for removal from
20 office.