



2023 South Dakota Legislature

House Bill 1140

Introduced by: **Representative** Mortenson

1 **An Act to require the secretary of state to determine if a legislatively proposed**
 2 **constitutional amendment complies with the single subject requirement and**
 3 **is not a constitutional revision.**

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

5 **Section 1. That § 12-13-26.1 be AMENDED:**

6 **12-13-26.1.** Upon receiving a ~~proposed~~ initiated proposal for an amendment to
 7 the Constitution, whether initiated by petition or proposed by a joint resolution of the
 8 Legislature, the secretary of state shall determine if the proposal embraces more than one
 9 subject in violation of S.D. Const., Art. XXIII, § 1, and if it is a revision under S.D. Const.,
 10 Art. XXIII, § 2.

11 If the secretary of state determines that the proposal complies with the single
 12 subject requirement and is not a revision, the secretary of state shall provide written
 13 certification to the sponsors, the attorney general, and the director of the Legislative
 14 Research Council that the ~~initiated amendment~~ proposal embraces only one subject and
 15 is would be an amendment to the Constitution under S.D. Const., Art. XXIII, § 1, if
 16 approved by the voters. The secretary of state shall publish on the secretary of state's
 17 website notice of this certification not more than fifteen working days following receipt of
 18 the ~~initiated amendment to the Constitution~~ proposal.

19 The secretary of state may not certify the ~~initiated amendment to the Constitution~~
 20 proposal if it embraces more than one subject in violation of S.D. Const., Art. XXIII, § 1.
 21 The secretary of state may not certify the ~~initiated amendment to the Constitution~~
 22 proposal if it is a revision under S.D. Const., Art. XXIII, § 2. If the secretary of state
 23 determines that the ~~initiated amendment to the Constitution~~ proposal embraces more than
 24 one subject or is a revision, the secretary of state shall provide written notice to the
 25 sponsors explaining the reason the ~~initiated amendment to the Constitution~~ proposal is
 26 not certified, not more than fifteen working days following receipt of the ~~initiated~~

1 ~~amendment to the Constitution proposal~~. The sponsors of an initiated amendment may
2 amend the initiated amendment to the Constitution in accordance with the secretary of
3 state's explanation and resubmit the amended initiated amendment to the Constitution to
4 the director of the Legislative Research Council for review under § 12-13-25. For purposes
5 of this section and section 2 of this Act, the sponsors of a constitutional amendment
6 proposed by a joint resolution of the Legislature are the presiding officers of the Legislature
7 acting jointly.

8 **Section 2. That § 12-13-26.2 be AMENDED:**

9 **12-13-26.2.** If the secretary of state does not certify ~~an initiated~~ a proposal for
10 an amendment to the Constitution pursuant to § 12-13-26.1, the sponsor may directly
11 appeal the secretary of state's decision to the Supreme Court within fifteen days after
12 receiving notice from the secretary of state.

13 Any interested party may directly appeal the secretary of state's certification of ~~an~~
14 a proposal for an initiated amendment to the Constitution pursuant to § 12-13-26.1 to the
15 Supreme Court within fifteen days of the secretary of state publishing notice of certification
16 on the secretary of state's website. Any other appeal, challenge, or claim that an
17 amendment embraces more than one subject or is a revision made after such period is
18 time-barred and void.

19 The Supreme Court shall promulgate rules, pursuant to chapter 16-3, defining the
20 procedures for an appeal taken under this section.
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