



2023 South Dakota Legislature

House Bill 1201

Introduced by: **Representative May**

1 **An Act to provide for the election of State Brand Board members.**

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

3 **Section 1. That chapter 40-18 be amended with a NEW SECTION:**

4 The State Brand Board consists of five members.

5 Any term expiring after December 31, 2023, must be filled by means of an election,
6 as provided for in sections 2 to 7, inclusive, of this Act.

7 **Section 2. That chapter 40-18 be amended with a NEW SECTION:**

8 No later than October first, prior to the expiration of a State Brand Board member's
9 term of office, the board shall call for the nomination of qualified candidates to fill the
10 office. The board shall disseminate information regarding the nomination process and the
11 election by, at a minimum, posting the information on its website and social media, in
12 livestock publications, and at livestock auction markets.

13 **Section 3. That chapter 40-18 be amended with a NEW SECTION:**

14 A person is deemed eligible to be nominated for membership on the State Brand
15 Board if the person verifies, on a nominating petition, that the person:

16 (1) Is at least eighteen years of age;

17 (2) Resides in the livestock ownership inspection area, as established in chapter 40-
18 20;

19 (3) Holds at least one brand registered with the board; and

20 (4) Derives the major portion of the person's income from the livestock business.

21 **Section 4. That chapter 40-18 be amended with a NEW SECTION:**

1 The State Brand Board shall, in consultation with the secretary of state, create
2 nominating petitions for use in accordance with the board elections.

3 The board shall forward blank nominating petitions to any person, upon request,
4 and shall make blank petitions available on its website.

5 Each nominating petition must be:

6 (1) Signed by the candidate;

7 (2) Signed by five other persons who meet the qualifications set forth in section 3 of
8 this Act; and

9 (3) Submitted to the board before 5:00 p.m. on October twentieth.

10 **Section 5. That chapter 40-18 be amended with a NEW SECTION:**

11 No later than November first, the board shall prepare a ballot containing the names
12 of all qualified candidates who were properly nominated and mail the ballot to each person
13 in whose name a brand is registered, at the address listed in the records of the board,
14 together with:

15 (1) A stamped, self-addressed envelope, for the return of the completed ballot;

16 (2) Information regarding the deadline for returning the ballot;

17 (3) Information regarding the time and place at which ballots are to be tabulated; and

18 (4) Information regarding opportunities to observe the tabulations.

19 **Section 6. That chapter 40-18 be amended with a NEW SECTION:**

20 In order to be tabulated, the original ballot must be returned to the Department of
21 Agriculture and Natural Resources, before 5:00 p.m. on the first Monday in December.
22 Beginning at 9:00 a.m., on the first Tuesday in December, the department shall open and
23 tabulate all ballots received prior to the deadline and announce the outcome of the vote.
24 Any interested person is permitted to be present and observe the tabulation.

25 **Section 7. That chapter 40-18 be amended with a NEW SECTION:**

26 All costs of holding a State Brand Board election are the responsibility of the board.

27 **Section 8. That § 40-18-3 be AMENDED:**

28 ~~40-18-3. Appointments to the board shall be made for terms of~~The term of office
29 for each member of the State Brand Board is three years expiring and begins on the first
30 Monday in January in each year. In case of vacancy prior to expiration of a term,

1 ~~appointment shall be made. If at any time during a member's term the member ceases~~
2 ~~to possess any of the qualifications set forth in section 3 of this Act, or if the office becomes~~
3 ~~vacant for any other reason, the board, by majority vote, shall appoint another qualified~~
4 ~~individual to serve~~ for the balance of the unexpired term ~~only. However, the initial~~
5 ~~appointments to be made pursuant to SL 2004, ch 259 shall be made for staggered terms~~
6 ~~of one, two, two, three, and three years.~~

7 **Section 9. That § 40-18-6 be AMENDED:**

8 **40-18-6.** The State Brand Board is attached to the Department of Agriculture and
9 Natural Resources for reporting purposes. The board retains all of its prescribed functions,
10 including administrative functions.

11 The board shall maintain an office in Pierre.

12 **Section 10. That § 40-18-8 be AMENDED:**

13 **40-18-8.** The State Brand Board shall appoint a staff director, who serves at the
14 pleasure of the board.

15 The staff director shall keep:

16 (1) Keep a record of all proceedings, transactions, communications, and official acts of
17 the board, ~~shall be;~~

18 (2) Serve as the custodian of all records of the board ~~and shall perform such other~~
19 ~~duties as the board may require. The staff director shall call a meeting;~~

20 (3) Call meetings of the board at the direction of the president, ~~or upon the written~~
21 ~~request of three or more members of the board; and~~

22 (4) Perform other duties as assigned by the board.

23 **Section 11. That § 40-18-1 be REPEALED:**

24 ~~The State Brand Board shall consist of five members appointed by the Governor~~
25 ~~and confirmed by the Senate. Statewide nonprofit agricultural organizations or other~~
26 ~~interested persons, may submit nominations to the Governor.~~

27 **Section 12. That § 40-18-1.1 be REPEALED:**

28 ~~The board is attached to the Department of Agriculture and Natural Resources for~~
29 ~~reporting purposes. It shall retain all its prescribed functions including administrative~~
30 ~~functions. The board shall appoint a staff director to serve at its pleasure.~~

1 **Section 13. That § 40-18-2 be REPEALED:**

2 ~~At least three of the five members of the board shall be persons who derive the~~
3 ~~major portion of their income from the livestock business and who are owners of brands~~
4 ~~duly recorded with the board. At least three of the five members of the board shall reside~~
5 ~~in the livestock ownership inspection areas. No appointed member may act as a member~~
6 ~~of the board while holding an elective or appointive state or federal office. No more than~~
7 ~~three of the members shall be of any one political party.~~

8 **Section 14.** Sections 11 and 13 of this Act are effective on December 31, 2023.