

# State of South Dakota

NINETY-SECOND SESSION  
LEGISLATIVE ASSEMBLY, 2017

400Y0138

HOUSE ENGROSSED NO. **HB 1034** - 2/2/2017

Introduced by: The Committee on Local Government at the request of the State Board of  
Elections

1 FOR AN ACT ENTITLED, An Act to establish certain fees for receiving electronic files of  
2 petitions, to revise certain provisions concerning filing petitions and other documents, and  
3 to revise certain provisions concerning elections and voting.

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

5 Section 1. That § 1-8-10 be amended to read:

6 1-8-10. The secretary of state shall charge the following fees for services performed in the  
7 Office of the Secretary of State and shall collect the fees in advance:

8 (1) For making a copy or transcript of any record, instrument, or paper on file in the  
9 office, two dollars per page;

10 (2) For filing and safekeeping of any instrument or paper required by law to be filed  
11 ~~only~~, ten dollars; except the oath of office of members of the Legislature and  
12 legislative officers, employees and governmental officers, employees and agencies,  
13 ~~there is~~ no fee;

14 (3) For each commission, requisition, passport, or other document, signed by the  
15 Governor and attested by the secretary of state, under the great seal of the state,



1           except commissions issued for executive appointment and extraditions, and making  
2           the proper record for the same, five dollars;

3       (4)   For filing the application, bond, and issuing commission of a notary public, thirty  
4           dollars;

5       (5)   For official certificate, attestation, and impression of the great seal, twenty-five  
6           dollars;

7       (6)   For filing or recording any other instrument or document, ten dollars; ~~and~~

8       (7)   For a certified copy of any document, instrument, or paper on file in the office, two  
9           dollars per page and fifteen dollars for the certificate and affixing the seal; and

10      (8)   If the document is a petition and the request is for an electronic file the following fees  
11           shall be:

12           (a)   Nominating petition for a legislative candidate or special district candidate,  
13                 fifteen dollars;

14           (b)   Nominating petition for a statewide candidate, fifty dollars;

15           (c)   Petitions for statewide ballot measure, fifty dollars; and

16           (d)   Petitions for new party formation, fifty dollars.

17      Section 2. That § 1-8-14 be amended to read:

18      1-8-14. The secretary of state may establish and maintain a secure and interactive website  
19      where all documents required to be filed with or maintained by the Office of the Secretary of  
20      State may be filed, processed, and obtained by interested parties. Any document required to be  
21      filed ~~with the Office of the Secretary of State may~~ shall be filed electronically in a medium  
22      permitted by the secretary of state. The State Board of Elections shall promulgate rules, pursuant  
23      to chapter 1-26, to establish the procedure and methodology for filing documents.

24      Section 3. That chapter 12-1 be amended by adding a NEW SECTION to read:

1 No petition submitted may be made available to the public until the validation process has  
2 been completed and the office where that petition was submitted has filed or rejected the  
3 petition.

4 Section 4. That § 12-13-23 be amended to read:

5 12-13-23. The secretary of state shall distribute public information on any constitutional  
6 amendment, initiated, or referred measure submitted to the electors for approval. The secretary  
7 of state shall compile the public information by ~~printing a statement in support of the~~  
8 ~~constitutional amendment, initiated, or referred measure written by its proponents, if any can~~  
9 ~~be identified, and a statement against the constitutional amendment, initiated, or referred~~  
10 ~~measure written by its opponents, if any can be identified. The secretary of state is not~~  
11 ~~responsible for the contents, objectivity, or accuracy of the statements written by the proponents~~  
12 ~~and opponents~~ providing the attorney general's title, explanation, and a clear and simple  
13 recitation of the effect of a "Yes" or "No" vote; number of pages and sections in the proposed  
14 or referred language; and, if applicable, a prison or jail population cost estimate and fiscal note.  
15 The name, telephone number, mailing address, and email address of each petition sponsor and,  
16 if available to the secretary of state, the same information for the opposing party, shall also be  
17 included in the public information.

18 Section 5. That § 12-18-27 be amended to read:

19 12-18-27. No person may ~~show a~~ publicize an official ballot after it is marked to any person  
20 in such a way as to reveal the contents of the official ballot, or the name of any candidate for  
21 whom the person has marked a vote. ~~Nor may any~~ No person may solicit ~~the a~~ voter to show the  
22 voter's official ballot. Immediately after marking the official ballot the voter shall ~~fold and refold~~  
23 deposit the official ballot in the ballot box, if necessary, leaving the official stamp exposed.

24 Section 6. That § 12-19-2 be amended to read:

1       12-19-2. An absentee voter desiring to vote by mail may apply to the person in charge of the  
2 election for an absentee ballot. The application or request shall be made in writing ~~and be,~~  
3 signed by the applicant, and shall ~~state~~ contain the applicant's voter registration address. The  
4 application or request shall contain an oath verifying the validity of the information ~~contained~~  
5 in the application or request. The oath shall be administered by a notary public or other officer  
6 authorized by ~~statute~~ this state to administer an oath or administered by an out-of-state notary  
7 public. If the application or request does not contain an oath, the application or request shall be  
8 accompanied by a copy of the voter's identification card as required by § 12-18-6.1. The copy  
9 of the voter's identification card shall be maintained by the person in charge of the election  
10 pursuant to § 12-20-31. However, the voter's identification card is not available for public  
11 inspection. The application or request may be used to obtain an absentee ballot for all elections  
12 in that calendar year conducted by the jurisdiction receiving the application or request if so  
13 indicated. The ballot shall be sent to the voter's residence, as shown in the voter registration file  
14 or any temporary residence address designated in writing by the voter, at the time of applying  
15 for the absentee ballot. If the application or request is from a voter identified as being covered  
16 by the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff-1) as of  
17 January 1, 2010, the voter may designate on the application for the ballot to be sent  
18 electronically pursuant to this section through the system provided by the Office of the Secretary  
19 of State. The person in charge of the election shall stamp the application with the date it was  
20 received. The person in charge of the election shall preserve a record of the name, mailing  
21 address, and voting precinct of each applicant and, except as provided by § 12-19-45, deliver  
22 a copy of the record to the superintendent of the election board of the home precinct of the  
23 applicant.

24       Section 7. That § 12-19-9.1 be amended to read:

1       12-19-9.1. If there is any nursing facility, assisted living center, or hospital, as defined in  
2       § 34-12-1.1, within any county from which there might reasonably be expected to be five or  
3       more absentee applications, the county auditor shall notify the person in charge of that facility  
4       and the chair of the county central committee of each party and any other person who has filed  
5       a request to be notified of the date and time at which representatives of the auditor's office will  
6       be present to assist the residents of that facility to vote, utilizing the absentee procedure. Any  
7       political party, independent candidate, and nonpolitical candidate may assign a person to  
8       accompany the auditor's representatives. At the date and time announced, the auditor's  
9       representative ~~and the representatives of the parties, independent candidates, and nonpolitical~~  
10      ~~candidates~~ shall deliver ballots to and assist all persons at that facility who desire such  
11      assistance and who have applied for absentee ballots. This section applies only to a general  
12      election.

13       If a person in charge of an election conducts absentee voting at a nursing facility, assisted  
14      living center, or hospital as defined in § 34-12-1.1, the voter shall complete a combined absentee  
15      ballot application/return envelope and the identification and affidavit requirements provided in  
16      § 12-19-2.1 are waived.

17       Section 8. That § 12-1-3 be amended to read:

18       12-1-3. Terms used in this title mean:

- 19       (1) "Candidate," a person whose name is on the ballot or who is entitled to be on the  
20       ballot to be voted upon for nomination or election at any election;
- 21       (2) "Election," any election held under the laws of this state;
- 22       (3) "Election officials," state and local officials charged with the duty of conducting  
23       elections and the canvass of returns;
- 24       (4) "Elector," a person qualified to register as a voter, whether or not the person is

- 1 registered;
- 2 (4A) "Electronic pollbook," an electronic system containing both the registration list and  
3 pollbook;
- 4 (5) "General election," the vote required to be taken in each voting precinct of the state  
5 on the first Tuesday after the first Monday in November of each even-numbered year;
- 6 (5A) "Paid circulator," any person who receives money or anything of value for collecting  
7 signatures for a petition;
- 8 (6) "Party office," an office of a political party organization as distinct from a public  
9 office;
- 10 (7) "Person in charge of an election," or "person charged with the conduct of an  
11 election," the county auditor in all cases except local elections for a municipality,  
12 school district, township, or other political subdivision, in which case it is the officer  
13 having the position comparable to the auditor in that unit of government if not  
14 specifically designated by law;
- 15 (8) "Petition," a form prescribed by the State Board of Elections, which contains the  
16 question or candidacy being petitioned, the declaration of candidacy if required and  
17 the verification of the circulator. If multiple sheets of paper are necessary to obtain  
18 the required number of signatures, each sheet shall be self-contained and separately  
19 verified by the circulator;
- 20 (9) "Petition circulator," a resident of the State of South Dakota who is at least eighteen  
21 years of age who circulates nominating petitions or other petitions for the purpose of  
22 placing candidates or issues on any election ballot;
- 23 (10) "Political party," a party whose candidate for ~~Governor~~ any statewide office at the  
24 last preceding general election ~~at which a Governor was elected~~ received at least two

1 and one-half percent of the total votes cast for ~~Governor~~ that statewide office;

2 (10A) "Pollbook" or "poll list," a list containing in numerical order the names of all persons  
3 voting at the election and type of ballot voted;

4 (10B) "Polling place," a designated place voters may go to vote;

5 (11) "Primary" or "primary election," an election held at which candidates are nominated  
6 for public office;

7 (12) "Public office," an elected position in government;

8 (12A) "Registration list," a list of eligible voters;

9 (13) "Registered mail," does not include certified mail;

10 (14) "Registration officials," the county auditor and deputies and other persons authorized  
11 to assist in registration pursuant to chapter 12-4;

12 (14A) "Vote center," a polling place when the precinct has been defined as the entire  
13 jurisdiction and an electronic pollbook is utilized;

14 (15) "Voter," a person duly registered to vote or one who is performing the act of voting;

15 (16) "Independent (IND)" or "no party affiliation (NPA)," any voter who writes  
16 independent, I, Ind, the field is blank, no party affiliation, no party, no choice,  
17 nonpartisan, or line crossed off in the choice of party field on the voter registration  
18 form;

19 (17) "Independent candidate," notwithstanding the definition of independent as stated in  
20 this chapter, any registered voter regardless of party affiliation who declares to be an  
21 independent candidate for public office pursuant to this chapter;

22 (18) "Other," any voter who writes a political party not recognized in South Dakota in the  
23 choice of party field on the voter registration form.

24 Section 9. That chapter 2-1 be amended by adding a NEW SECTION to read:

1       The director of the Legislative Research Council shall prepare a fiscal note, if applicable,  
2       for an initiated measure, initiated amendment to the Constitution, or referred law. The fiscal  
3       note shall include an estimate of the impact on revenues, expenditures, or fiscal liability of the  
4       state or its agencies and subdivisions by the provisions of the initiated measure or initiated  
5       amendment to the Constitution. The fiscal note may not exceed fifty words. The director shall  
6       file the fiscal note, if applicable, with the sponsor and the secretary of state within sixty days of  
7       the receipt of an initiated measure, initiated amendment to the Constitution, or referred law.