

# State of South Dakota

NINETY-THIRD SESSION  
LEGISLATIVE ASSEMBLY, 2018

157Z0329

## HOUSE BILL NO. 1304

Introduced by: Representatives Mickelson, Bartels, Goodwin, Gosch, Heinemann, Jensen (Kevin), Lake, Peterson (Kent), Qualm, Stevens, and Willadsen and Senators Curd, Maher, Novstrup, Otten (Ernie), and Partridge

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding challenges to petition  
2 signatures and to declare an emergency.

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

4 Section 1. That § 2-1-17.1 be amended to read:

5 2-1-17.1. ~~Within~~ Not more than thirty days after a statewide petition for an initiated  
6 ~~constitutional amendment to the Constitution~~, initiated measure, or ~~referendum~~ referred law has  
7 been validated and filed, any interested person who has researched the signatures contained on  
8 the petition may submit ~~an~~ a sworn affidavit to the Office of Secretary of State to challenge the  
9 petition. The sworn affidavit shall include ~~an itemized listing of~~ each specific deficiency in  
10 ~~question. Any challenge to the following items is prohibited under this challenge process~~ other  
11 than the following:

- 12 (1) Signer does not live at address listed on the petition;  
13 (2) Circulator does not live at address listed on the petition;  
14 (3) Circulator listed a residence address in South Dakota but is not a South Dakota



1 resident;

2 (4) Circulator did not witness the signers;

3 (5) Signatures not included in the random sample; and

4 (6) Petition that was originally rejected.

5 Any challenge by the same person or party in interest shall be included in one sworn  
6 affidavit.

7 The original ~~signed~~ sworn affidavit shall be received by the Office of Secretary of State by  
8 5:00 p.m. central time on the ~~deadline~~ date. If the sworn affidavit challenges any ~~item~~ deficiency  
9 ~~that is prohibited by under~~ this section, ~~only~~ that ~~line-item~~ deficiency shall ~~summarily~~ be  
10 rejected. A challenge to a ~~line-item~~ deficiency is not a challenge to the petition as a whole.

11 ~~The secretary of state's decision regarding a challenge~~ No deficiency may ~~not~~ be challenged  
12 a second time with the secretary of state; ~~but~~. The secretary of state's decision regarding a  
13 challenge under this section may be appealed to the circuit court of Hughes County. ~~If a~~ Any  
14 ~~person fails to~~ who does not challenge a petition pursuant to this section, ~~it does not deny that~~  
15 ~~person any other legal remedy to challenge the filing of an initiative or referendum petition in~~  
16 ~~circuit court. A challenge to a petition in circuit court may include items prohibited in this~~  
17 section may bring a challenge pursuant to § 2-1-18.

18 Section 2. That § 2-1-18 be amended to read:

19 2-1-18. Nothing in §§ 2-1-15 to 2-1-18, inclusive, prohibits any interested person who has  
20 researched the signatures contained on a validated petition from challenging in circuit court the  
21 validity of ~~signatures~~ any signature, the veracity of the petition circulator's attestation, or any  
22 other information required on a petition by statute or administrative rule. ~~A challenge to a~~  
23 ~~petition in circuit court may include items, including any deficiency that is prohibited in from~~  
24 challenge under § 2-1-17.1. The results of the process of signature verification by the Office of

1 the Secretary of State under chapter 2-1 shall be presumed valid as applied to all signatures for  
2 purposes of considering any additional ground for disqualifying petition signatures, including  
3 any ground listed in subdivisions 2-1-17.1(1) to 2-1-17.1(4), inclusive, and cumulating total  
4 valid signatures to determine the results of an appeal under § 2-1-17.1. The summons and  
5 complaint for a challenge under this section shall be served on each petition sponsor as a party  
6 defending the validated petition being challenged. Any appearance by the attorney general at a  
7 challenge under this section shall be limited to the process of signature verification by the Office  
8 of the Secretary of State under chapter 2-1.

9 Section 3. That chapter 2-1 be amended by adding a NEW SECTION to read:

10 For any challenge of a validated petition under § 2-1-18 that is successful, the person who  
11 challenged the petition may recover from the Office of the Secretary of State fifty percent of  
12 reasonable and ordinary legal costs incurred during the successful challenge.

13 Section 4. Whereas, this Act is necessary for the support of the state government and its  
14 existing public institutions, an emergency is hereby declared to exist, and this Act shall be in  
15 full force and effect from and after its passage and approval.