

State of South Dakota

NINETY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 2019

751B0672

SENATE STATE AFFAIRS

ENGROSSED NO. **HB 1094** - 2/27/2019

This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsor.

Introduced by: Representative Hansen and Senator Stalzer

1 FOR AN ACT ENTITLED, An Act to revise certain programs regarding transparency of the
2 petition circulation process.

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

4 Section 1. That § 2-1-1.3 be amended to read:

5 2-1-1.3. Terms used in this chapter mean:

- 6 (1) "Petition circulator," ~~the same as the term is defined under § 12-1-3~~ a person who is
7 a resident of this state for at least thirty days prior to registration as a petition
8 circulator, is at least eighteen years of age, and who circulates, for pay or as a
9 volunteer, petitions or solicits petition signatures from members of the public for the
10 purpose of placing ballot measures on any statewide election ballot;
- 11 (2) "Petition sponsor," any person who proposes the placement of a statewide ballot
12 measure on the ballot;
- 13 (3) "Ballot measure," any measure placed on a statewide ballot in accordance with §§ 2-
14 1-1.1, 2-1-1.2, or 2-1-3.1;



1 (4) "Paid circulator," any person who receives money or anything of value to be a
2 petition circulator;

3 (5) "Volunteer circulator" any person who does not receive money or anything of value
4 to be a petition circulator.

5 Section 2. That § 2-1-1.4 be repealed.

6 ~~2-1-1.4. A sworn affidavit filed with the secretary of state pursuant to § 2-1-1.1, 2-1-1.2, or~~
7 ~~2-1-3.1 shall include information attesting to residency as defined in § 12-1-4 of each petition~~
8 ~~circulator. The following information shall be included in the affidavit:~~

9 ~~(1) Current state in which the petition circulator is licensed to drive, driver license~~
10 ~~number, and expiration date;~~

11 ~~(2) Current state of voter registration;~~

12 ~~(3) Length of time at current physical street address and previous two addresses, and~~
13 ~~whether the prior addresses were located in South Dakota;~~

14 ~~(4) A sworn statement by the petition circulator indicating the circulator's intention to~~
15 ~~stay in the state after the petition circulation deadline;~~

16 ~~(5) Any other information relevant to indicate residency, including a library card or~~
17 ~~utility bill;~~

18 ~~(6) Whether the petition circulator pays in-state tuition at any public postsecondary~~
19 ~~educational institution, if applicable; and~~

20 ~~(7) Whether the petition circulator obtains any resident hunting or resident fishing~~
21 ~~license of any kind, if applicable.~~

22 ~~The information included in the affidavit are factors in determining residency but are not~~
23 ~~determinative. The contents under this section of any affidavit filed with the secretary of state~~
24 ~~shall be held confidential by the secretary of state, and the secretary of state may release the~~

1 ~~contents only to an interested person for purposes of § 2-1-18 and to the attorney general.~~
2 ~~Failure to substantially comply with the provisions of this section shall disqualify the petitions~~
3 ~~from a petition circulator not in substantial compliance with this section from being considered.~~

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

5 Prior to circulation of any petition for a ballot measure, a petition circulator shall submit an
6 application to the secretary of state, obtain a circulator identification number, and be included
7 in a directory of registered petition circulators. For each ballot measure on which a petition
8 circulator seeks to circulate a petition, the petition circulator shall certify the circulator's name,
9 that the circulator is at least eighteen years of age, physical address of current residence, physical
10 address of prior residence if current residence is less than one year, email address, phone
11 number, state of issuance for driver license, state of voter registration, occupation, the ballot
12 question committee supporting the ballot measure, whether the petition circulator will be
13 volunteer or paid, and whether the petition circulator is a registered sex offender. The
14 certification under this section shall be submitted to the office of the secretary of state. If any
15 statement included in the petition circulator's certification is determined to be false, any
16 signatures collected by the petition circulator are void and may not be counted. Petition sponsors
17 shall provide a list to the secretary of state of any person acting as a petition circulator for the
18 sponsor's ballot measure, whether the petition circulator is paid or volunteer and, if paid, the rate
19 of compensation.

20 An application submitted under this section may be filed by electronic transmission in
21 accordance with methods approved by the secretary of state. To be timely filed, any application
22 received by electronic transmission shall be legible when received by the means it was
23 delivered.

24 A petition circulator and petition sponsor shall update any information required under this

1 section with the secretary of state not more than seven days of any change.

2 Section 4. That chapter 2-1 be amended by adding a NEW SECTION to read:

3 The secretary of state shall develop and maintain a directory, to be made available on the
4 website maintained by the Office of the Secretary of State, that contains information provided
5 by each petition circulator under section 3 of this Act and classifies each petition circulator as
6 paid or volunteer. Providing a copy of the application submitted under section 3 of this Act,
7 together with any update to the information contained in the application, is sufficient to fulfill
8 the requirements of this section. Any information contained in the directory shall be a public
9 record for purposes of chapter 1-25.

10 Section 5. That chapter 2-1 be amended by adding a NEW SECTION to read:

11 A paid petition circulator who registers under section 3 of this Act shall pay to the secretary
12 of state a registration fee for each ballot question committee represented by the petition
13 circulator. The registration fee for a paid circulator is twenty dollars. The registration fee shall
14 be deposited in the state general fund.

15 The fee under this section does not apply to any volunteer circulator.

16 Section 6. That chapter 2-1 be amended by adding a NEW SECTION to read:

17 Following receipt of any application under section 3 of this Act and a registration fee under
18 section 5 of this Act, if any, the secretary of state shall issue the petition circulator a circulator
19 identification number and badge that contains the information required under section 7 of this
20 Act.

21 Section 7. That chapter 2-1 be amended by adding a NEW SECTION to read:

22 A person shall wear the badge issued under section 6 of this Act which shall be visible at
23 all times while acting as a petition circulator. The badge shall contain the words "petition
24 circulator," and include the identity of the ballot question committee on behalf of which the

1 petition circulator is registered, the circulator identification number, and a designation as either
2 "paid" or "volunteer." The badge may not state the name of the petition circulator. A person is
3 guilty of a Class 2 misdemeanor if the person acts as a petition circulator without wearing a
4 badge issued under section 6 of this Act.

5 Section 8. That § 2-1-1.1 be amended to read:

6 2-1-1.1. The petition as it is to be circulated for an initiated amendment to the Constitution
7 shall be filed with the secretary of state prior to circulation for signatures and shall:

- 8 (1) Contain the full text of the initiated amendment;
- 9 (2) Contain the date of the general election at which the initiated amendment is to be
10 submitted;
- 11 (3) Contain the title and explanation as prepared by the attorney general;
- 12 (4) Be accompanied by a notarized affidavit form signed by each person who is a petition
13 sponsor that includes the name and address of each petition sponsor; and
- 14 (5) Be accompanied by a statement of organization as provided in § 12-27-6.

15 The petition circulator shall provide to each person who signs the petition a form containing
16 the title and explanation of the initiated amendment to the Constitution as prepared by the
17 attorney general; any fiscal note prepared pursuant to § 2-9-30; the name, phone number, and
18 email address of each petition sponsor; ~~the name, phone number, and email address of the~~
19 ~~petition circulator~~; and a statement whether the petition circulator is a volunteer or paid ~~petition~~
20 circulator and, if a paid circulator, the amount the circulator is being paid; and the petition
21 circulator's circulator identification number. The form shall be approved by the secretary of state
22 prior to circulation. The petition circulator's circulator identification number shall be printed on
23 each signature page of a ballot measure petition the circulator circulates.

24 For any initiated amendment petition, no signature may be obtained more than twenty-four

1 months preceding the general election that was designated at the time of filing of the full text.
2 The initiated amendment petition shall be filed with the secretary of state at least one year before
3 the next general election. A sworn affidavit, signed by at least two-thirds of the petition
4 sponsors, ~~containing information required for each petition circulator as required under § 2-1-~~
5 ~~1.4 and~~ stating that the documents filed constitute the entire petition and to the best of the
6 knowledge of the sponsors contains a sufficient number of signatures shall also be filed with the
7 secretary of state. The form of the petition, including petition size and petition font size, and the
8 affidavit shall be prescribed by the State Board of Elections.

9 Section 9. That § 2-1-1.2 be amended to read:

10 2-1-1.2. The petition as it is to be circulated for an initiated measure shall be filed with the
11 secretary of state prior to circulation for signatures and shall:

- 12 (1) Contain the full text of the initiated measure;
- 13 (2) Contain the date of the general election at which the initiated measure is to be
14 submitted;
- 15 (3) Contain the title and explanation as prepared by the attorney general;
- 16 (4) Be accompanied by a notarized affidavit form signed by each person who is a petition
17 sponsor that includes the name and address of each petition sponsor; and
- 18 (5) Be accompanied by a statement of organization as provided in § 12-27-6.

19 The petition circulator shall provide to each person who signs the petition a form containing
20 the title and explanation of the initiated measure as prepared by the attorney general; any fiscal
21 note prepared pursuant to § 2-9-30; the name, phone number, and email address of each petition
22 sponsor; ~~the name, phone number, and email address of the petition circulator;~~ and a statement
23 whether the petition circulator is a volunteer or paid ~~petition~~ circulator and, if a paid circulator,
24 the amount the circulator is being paid; and the petition circulator's circulator identification

1 number. The form shall be approved by the secretary of state prior to circulation. The petition
2 circulator's circulator identification number shall be printed on each signature page of a ballot
3 measure petition the circulator circulates.

4 For any initiated measure petition, no signature may be obtained more than twenty-four
5 months preceding the general election that was designated at the time of filing of the full text.
6 The initiated measure petition shall be filed with the secretary of state at least one year before
7 the next general election. A sworn affidavit, signed by at least two-thirds of the petition
8 sponsors, ~~containing information required for each petition circulator as required under § 2-1-~~
9 ~~1.4 and~~ stating that the documents filed constitute the entire petition and to the best of the
10 knowledge of the sponsors contains a sufficient number of signatures shall also be filed with the
11 secretary of state. The form of the petition, including petition size and petition font size, and the
12 affidavit shall be prescribed by the State Board of Elections.

13 Section 10. That § 2-1-3.1 be amended to read:

14 2-1-3.1. The petition as it is to be circulated for a referred law shall be filed with the
15 secretary of state prior to circulation for signatures and shall:

- 16 (1) Contain the title of the referred law;
- 17 (2) Contain the effective date of the referred law;
- 18 (3) Contain the date of the general election at which the referred law is to be submitted;
- 19 (4) Be accompanied by a notarized form that includes the names and addresses of the
20 petition sponsors; and
- 21 (5) Be accompanied by a statement of organization as provided in § 12-27-6.

22 The petition shall be filed with the secretary of state within ninety days after the
23 adjournment of the Legislature which passed the referred law. A sworn affidavit, signed by at
24 least two-thirds of the petition sponsors, ~~containing information required for each petition~~

1 ~~circulator as required under § 2-1-1.4~~ and stating that the documents filed constitute the entire
2 petition and to the best of the knowledge of the sponsors contains a sufficient number of
3 signatures shall also be filed with the secretary of state. The form of the petition and affidavit
4 shall be prescribed by the State Board of Elections.

5 The petition circulator shall provide to each person who signs the petition a form containing
6 the title of the referred law; any fiscal note or summary of a fiscal note obtained pursuant to § 2-
7 9-32; the name, phone number, and email address of each petition sponsor; ~~the name, phone~~
8 ~~number, and email address of the petition circulator;~~ and a statement whether the petition
9 circulator is a volunteer or paid ~~petition~~ circulator and, if a paid circulator, the amount the
10 circulator is being paid; and the petition circulator's circulator identification number. The form
11 shall be approved by the secretary of state prior to circulation. The petition circulator's circulator
12 identification number shall be printed on each signature page of a ballot measure petition the
13 circulator circulates.

14 Section 11. This Act is effective on July 1, 2020.