

# State of South Dakota

NINETY-FOURTH SESSION  
LEGISLATIVE ASSEMBLY, 2019

751B0672

## SENATE ENGROSSED NO. **HB 1094** - 3/4/2019

**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;
- 15 (4) "Paid circulator," any person who receives money or anything of value to be a



1           petition circulator;

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

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 That § 2-1-1.4 be repealed.

5   ~~— 2-1-1.4. A sworn affidavit filed with the secretary of state pursuant to § 2-1-1.1, 2-1-1.2, or~~  
6   ~~2-1-3.1 shall include information attesting to residency as defined in § 12-1-4 of each petition~~  
7   ~~circulator. The following information shall be included in the affidavit:~~

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

10   ~~— (2) — Current state of voter registration;~~

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

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

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

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

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

21   ~~— The information included in the affidavit are factors in determining residency but are not~~  
22   ~~determinative. The contents under this section of any affidavit filed with the secretary of state~~  
23   ~~shall be held confidential by the secretary of state, and the secretary of state may release the~~  
24   ~~contents only to an interested person for purposes of § 2-1-18 and to the attorney general.~~

1 ~~Failure to substantially comply with the provisions of this section shall disqualify the petitions~~  
2 ~~from a petition circulator not in substantial compliance with this section from being considered.~~

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

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

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

23 A petition circulator and petition sponsor shall update any information required under this  
24 section with the secretary of state not more than seven days of any change.

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

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

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

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

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

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

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

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

20 A person shall wear the badge issued under section 6 of this Act which shall be visible at  
21 all times while acting as a petition circulator. The badge shall contain the words "petition  
22 circulator," and include the identity of the ballot question committee on behalf of which the  
23 petition circulator is registered, the circulator identification number, and a designation as either  
24 "paid" or "volunteer." The badge may not state the name of the petition circulator. A person is

1 guilty of a Class 2 misdemeanor if the person acts as a petition circulator without wearing a  
2 badge issued under section 6 of this Act.

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

4 2-1-1.1. The petition as it is to be circulated for an initiated amendment to the Constitution  
5 shall be filed with the secretary of state prior to circulation for signatures and shall:

6 (1) Contain the full text of the initiated amendment;

7 (2) Contain the date of the general election at which the initiated amendment is to be  
8 submitted;

9 (3) Contain the title and explanation as prepared by the attorney general;

10 (4) Be accompanied by a notarized affidavit form signed by each person who is a petition  
11 sponsor that includes the name and address of each petition sponsor; and

12 (5) Be accompanied by a statement of organization as provided in § 12-27-6.

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

22 For any initiated amendment petition, no signature may be obtained more than twenty-four  
23 months preceding the general election that was designated at the time of filing of the full text.  
24 The initiated amendment petition shall be filed with the secretary of state at least one year before

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

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

8 2-1-1.2. The petition as it is to be circulated for an initiated measure shall be filed with the  
9 secretary of state prior to circulation for signatures and shall:

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

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

1 measure petition the circulator circulates.

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

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

12 2-1-3.1. The petition as it is to be circulated for a referred law shall be filed with the  
13 secretary of state prior to circulation for signatures and shall:

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

20 The petition shall be filed with the secretary of state within ninety days after the  
21 adjournment of the Legislature which passed the referred law. A sworn affidavit, signed by at  
22 least two-thirds of the petition sponsors, ~~containing information required for each petition~~  
23 ~~circulator as required under § 2-1-1.4~~ and stating that the documents filed constitute the entire  
24 petition and to the best of the knowledge of the sponsors contains a sufficient number of

1 signatures shall also be filed with the secretary of state. The form of the petition and affidavit  
2 shall be prescribed by the State Board of Elections.

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

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