

AN ACT

ENTITLED, An Act to clarify provisions dealing with the initiative process.

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

Section 1. That § 12-13-25 be amended to read as follows:

12-13-25. The sponsors of each initiative or initiated amendment to the Constitution shall submit a copy of the initiative or initiated amendment to the Constitution to the director of the Legislative Research Council for review and comment before it may be circulated for signatures. The director shall review each submitted initiative or initiated amendment to the Constitution to determine if the requirements of § 12-13-24 are satisfied. Within fifteen days of receipt of an initiative or initiated amendment to the Constitution, the director shall provide written comments on the initiative or initiated amendment to the Constitution to the sponsors of the initiative or initiated amendment, the attorney general, and the secretary of state for the purpose of assisting the sponsors in complying with § 12-13-24. The sponsors may, but are not required to, amend the initiative or initiated amendment to the Constitution to comply with the director's comments.

Section 2. That chapter 12-13 be amended by adding thereto a NEW SECTION to read as follows:

Following receipt of the written comments of the director of the Legislative Research Council, the sponsors shall submit a copy of the initiative or initiated amendment to the Constitution in final form, to the attorney general. The attorney general shall prepare an attorney general's statement which consists of a title and explanation. The title shall be a concise statement of the subject of the proposed initiative or initiated amendment to the Constitution. The explanation shall be an objective, clear, and simple summary to educate the voters of the purpose and effect of the proposed initiated measure or initiated amendment to the Constitution. The attorney general shall include a description of the legal consequences of the proposed amendment or initiated measure, including the likely

exposure of the state to liability if the proposed amendment or initiated measure is adopted. The explanation may not exceed two hundred words in length. The attorney general shall file the title and explanation with the secretary of state and shall provide a copy to the sponsors within sixty days of receipt of the initiative or initiated amendment to the Constitution.

If the petition is filed as set forth in § 2-1-2, the attorney general shall deliver to the secretary of state before the third Tuesday in May a simple recitation of a "Yes" or "No" vote. On the printed ballots, the title shall be followed by the explanation and the explanation shall be followed by the recitation.

Section 3. That § 12-13-26 be amended to read as follows:

12-13-26. The secretary of state may not accept any initiative or initiated amendment to the Constitution unless such initiative or initiated amendment to the Constitution has been submitted to the director of the Legislative Research Council and the director has reviewed and commented on such initiative or initiated amendment to the Constitution, and unless the attorney general has filed the title and explanation of the initiative or initiated amendment to the Constitution with the secretary of state.

Section 4. That § 12-13-9.2 be amended to read as follows:

12-13-9.2. If the proponents or opponents of a proposed amendment to the Constitution, initiated measure, or referred measure believe that the attorney general's statement does not satisfy the requirements of § 12-13-9 or section 2 of this Act, they shall, within seven days of delivery of the statement to the secretary of state, file an action in circuit court challenging the adequacy of the statement. The action takes precedence over other cases in circuit court and a final order shall be filed within fifteen days of the commencement of the action. Any party appealing the circuit court order to the Supreme Court shall file a notice of appeal within five days of the date of the circuit court order.

Section 5. That § 2-1-6.2 be amended to read as follows:

2-1-6.2. The petition as it is to be circulated for any initiative or initiated constitutional amendment shall contain the full text of the measure, the date of the general election at which the initiated law or initiated constitutional amendment is to be submitted, and the title and explanation as prepared by the attorney general, accompanied by the names and addresses of the petition sponsors and shall be filed with the secretary of state prior to circulation for signatures. The circulator shall provide to each person who signs the petition a copy of the explanation as prepared by the attorney general. The petition as it is to be circulated for a referred law shall contain the title of the referred law, the effective date of the referred law, and the date of the general election at which the referred law is to be submitted. The petition shall be accompanied by the names and addresses of the petition sponsors and shall be filed with the secretary of state prior to circulation for signatures. The signer's post office box number may be given in lieu of a street address if the signer lives within a municipality of the second or third class. The form of the petitions shall be prescribed by the State Board of Elections. For any initiated measure or initiated constitutional amendment petition, no signatures may be obtained more than twenty-four months preceding the general election that was designated at the time of filing of the full text. An initiative petition and an initiated constitutional amendment petition shall be filed with the secretary of state by the date set forth in § 2-1-2 or 2-1-2.1, as applicable. All sections of any petition filed under this chapter shall be filed with the secretary of state simultaneously together with a sworn affidavit on forms promulgated by the State Board of Elections, signed by two-thirds of the sponsors stating that the documents filed constitute the entire petition and to the best of their knowledge contain a sufficient number of signatures.

Section 6. That § 2-1-6.3 be repealed.

Section 7. That § 2-1-7 be amended to read as follows:

2-1-7. Every petition proposing a measure shall be signed in person by the petitioners.

Section 8. That § 2-1-2 be amended to read as follows:

2-1-2. The petition shall be filed in the Office of the Secretary of State by the first Tuesday in November of the year prior to a general election year for submission to the electors at the next general election.

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

A petition of the voters proposing an initiated measure may be withdrawn not later than one hundred twenty days prior to the next general election, if not less than two-thirds of the named sponsors file with the secretary of state, in writing, their request for withdrawal of the question from the ballot. The secretary of state shall attach to the petitions on file the request for withdrawal and shall take no other action thereon.

Section 10. That § 12-13-9 be amended to read as follows:

12-13-9. Before the third Tuesday in May, the attorney general shall deliver to the secretary of state an attorney general's statement for each amendment to the Constitution proposed by the Legislature, and any referred measure from an odd year. The attorney general's statement for each referred measure from an even year shall be delivered to the secretary of state before the second Tuesday in July. The attorney general's statement shall be written by the attorney general and shall consist of a title, an explanation, and a clear and simple recitation of the effect of a "Yes" or "No" vote. The title shall be a concise statement of the subject of the proposed amendment or referred measure authored by the attorney general. The explanation shall be an objective, clear, and simple summary to educate the voters of the purpose and effect of the proposed amendment to the Constitution or the referred law. The attorney general shall include a description of the legal consequences of the proposed amendment or the referred law, including the likely exposure of the state to liability if the proposed amendment or the referred law is adopted. The explanation may not

exceed two hundred words in length. On the printed ballots, the title shall be followed by the explanation and the explanation shall be followed by the recitation.

Section 11. This Act is effective July 1, 2010. The provisions of this Act do not apply to any initiative petition or initiated constitutional amendment petition filed with the secretary of state for the 2010 general election.

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I certify that the attached Act  
originated in the

HOUSE as Bill No. 1184

\_\_\_\_\_  
Chief Clerk  
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\_\_\_\_\_  
Speaker of the House

Attest:

\_\_\_\_\_  
Chief Clerk

\_\_\_\_\_  
President of the Senate

Attest:

\_\_\_\_\_  
Secretary of the Senate

House Bill No. 1184

File No. \_\_\_\_\_

Chapter No. \_\_\_\_\_

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Received at this Executive Office  
this \_\_\_\_\_ day of \_\_\_\_\_ ,

20\_\_\_\_ at \_\_\_\_\_ M.

By \_\_\_\_\_  
for the Governor  
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The attached Act is hereby  
approved this \_\_\_\_\_ day of  
\_\_\_\_\_, A.D., 20\_\_\_\_

\_\_\_\_\_  
Governor  
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STATE OF SOUTH DAKOTA,  
ss.  
Office of the Secretary of State

Filed \_\_\_\_\_, 20\_\_\_\_  
at \_\_\_\_\_ o'clock \_\_ M.

\_\_\_\_\_  
Secretary of State

By \_\_\_\_\_  
Asst. Secretary of State