



2024 South Dakota Legislature

House Bill 1182

Introduced by: **Representative Chaffee**

1 **An Act to revise provisions pertaining to the observation of the conduct of an**
 2 **election.**

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

4 **Section 1. That § 12-1-3 be AMENDED:**

5 **12-1-3.** Terms used in this title mean:

6 (1) "Ballot question," any initiated measure, initiated constitutional amendment, or
 7 referred law submitted to voters at an election;

8 (2) "Ballot question committee," a person or entity that raises, collects, or disburses
 9 contributions as a proponent or opponent for the placement on the ballot of one or
 10 more ballot questions or for the adoption or defeat of one or more ballot questions
 11 at an election;

12 (3) "Candidate," a person whose name is on the ballot or who is entitled to be on the
 13 ballot to be voted upon for nomination or election at any election;

14 ~~(2)~~(4) "Election," any election held under the laws of this state;

15 ~~(3)~~(5) "Election officials," state and local officials charged with the duty of conducting
 16 elections and the canvass of returns;

17 ~~(4)~~(6) "Elector," a person qualified to register as a voter, whether or not the person is
 18 registered;

19 ~~(5)~~(7) "Electronic pollbook," an electronic system containing both the registration list and
 20 pollbook;

21 ~~(6)~~(8) "General election," the vote required to be taken in each voting precinct of the
 22 state on the first Tuesday after the first Monday in November of each even-
 23 numbered year;

24 ~~(7)~~(9) "Paid circulator," any person who receives money or anything of value for collecting
 25 signatures for a petition;

- 1 ~~(8)~~(10) "Party office," an office of a political party organization as distinct from a public
2 office;
- 3 ~~(9)~~(11) "Person in charge of an election," or "person charged with the conduct of an
4 election," the county auditor in all cases except local elections for a municipality,
5 school district, township, or other political subdivision, in which case it is the officer
6 having the position comparable to the auditor in that unit of government if not
7 specifically designated by law;
- 8 ~~(10)~~(12) "Petition," a form prescribed by the State Board of Elections, which contains
9 the question or candidacy being petitioned, the declaration of candidacy if required
10 and the verification of the circulator. If multiple sheets of paper are necessary to
11 obtain the required number of signatures, each sheet shall be self-contained and
12 separately verified by the circulator;
- 13 ~~(11)~~(13) "Petition circulator," a resident of the State of South Dakota as defined under
14 § 12-1-4, who is at least eighteen years of age who circulates nominating petitions
15 or other petitions for the purpose of placing candidates or issues on any election
16 ballot;
- 17 ~~(12)~~(14) "Political party," beginning with the 2014 general election and each general
18 election thereafter, a party whose candidate for any statewide office received at
19 least two and one-half percent of the total votes cast for that statewide office in
20 either of the two previous general election cycles;
- 21 ~~(13)~~(15) "Pollbook" or "poll list," a list containing in numerical order the names of all
22 persons voting at the election and type of ballot voted;
- 23 ~~(14)~~(16) "Polling place," a designated place voters may go to vote;
- 24 ~~(15)~~(17) "Poll watcher," a person chosen to observe the conduct of an election by a
25 candidate, political party, or ballot question committee;
- 26 (18) "Primary" or "primary election," an election held at which candidates are nominated
27 for public office;
- 28 ~~(16)~~(19) "Public office," an elected position in government;
- 29 ~~(17)~~(20) "Registration list," a list of eligible voters;
- 30 ~~(18)~~(21) "Registered mail," does not include certified mail;
- 31 ~~(19)~~(22) "Registration officials," the county auditor and deputies and other persons
32 authorized to assist in registration pursuant to chapter 12-4;
- 33 ~~(20)~~(23) "Vote center," a polling place when the precinct has been defined as the entire
34 jurisdiction and an electronic pollbook is utilized;

1 ~~(21)~~(24) "Voter," a person duly registered to vote or one who is performing the act of
2 voting;

3 ~~(22)~~(25) "Independent (IND)" or "no party affiliation (NPA)," any currently registered
4 voter who writes independent, I, Ind, no party affiliation, no party, no choice,
5 nonpartisan, or line crossed off in the choice of party field on the voter registration
6 form and any individual who is not currently registered to vote who leaves the
7 choice of party field blank on the voter registration form;

8 ~~(23)~~(26) "Independent candidate," notwithstanding the definition of independent as
9 stated in this chapter, any registered voter regardless of party affiliation who
10 declares to be an independent candidate for public office pursuant to this chapter;

11 ~~(24)~~(27) "Other," any voter who writes a political party not recognized in South Dakota
12 in the choice of party field on the voter registration form.

13 **Section 2. That § 12-18-9 be AMENDED:**

14 ~~12-18-9. Any person, except a candidate who is on the ballot being voted on at~~
15 ~~that polling place, may be present at any polling place for the purpose of observing the~~
16 ~~voting process. Any person may be present to observe the counting process. A candidate~~
17 ~~who is on the ballot being voted on at a polling place may only be present to cast the~~
18 ~~candidate's vote during voting hours. A number of poll watchers shall be permitted for~~
19 ~~each candidate at a primary election or political party and independent candidate at a~~
20 ~~general election pursuant to § 12-18-8.1. Each polling place shall be arranged in a manner~~
21 ~~that permits each poll watcher to be positioned in a location where the poll watcher can~~
22 ~~plainly see and hear what is done within the polling place.~~

23 At a primary, general, or special election, any candidate, party, or ballot question
24 committee may have poll watchers present at a polling place for the purpose of observing
25 the voting and counting process. A candidate who is on the ballot being voted on may not
26 serve as a poll watcher and may only be present at a polling place to cast the candidate's
27 vote during voting hours.

28 A poll watcher present at a polling place shall remain in a designated observation
29 area at all times while acting as a poll watcher. The observation area must be less than
30 six feet away from, but may not be closer than three feet to, the table at which voters
31 announce their name and address to be issued a ballot. The observation area must also
32 permit any poll watcher to see and hear all public aspects of the voting process.

33 A violation of this section by either a poll watcher or a poll worker is a Class 2
34 misdemeanor.

1 **Section 3. That chapter 12-20 be amended with a NEW SECTION:**

2 The process of sorting, validating, and counting ballots must be open to poll
3 watchers for the purpose of observing the process. A poll watcher shall remain in a
4 designated observation area at all times while acting as poll watchers. The observation
5 area must be less than six feet away from, but may not be closer than three feet to, the
6 place where the sorting, validating, or counting of ballots takes place. The observation
7 area must also be positioned to permit any poll watcher to see and hear all public aspects
8 of the sorting, validating, or counting process. The State Board of Elections shall
9 promulgate rules, pursuant to chapter 1-26, setting the number of poll watchers allowed
10 during the sorting, validating, or counting of ballots.

11 A violation of this section by either a poll watcher or a poll worker is a Class 2
12 misdemeanor.

13 **Section 4. That chapter 12-21 be amended with a NEW SECTION:**

14 A meeting of a recount board pursuant to this chapter must be open to the public.
15 Members of the general public shall keep a reasonable distance from the ballots.

16 A violation of this section is a Class 2 misdemeanor.