



2024 South Dakota Legislature

Senate Bill 182

Introduced by: **Senator Wheeler**

1 **An Act to repeal and revise certain provisions regarding the petition circulation**
 2 **process to comply with federal court decisions.**

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

4 **Section 1. That § 2-1-1.1 be AMENDED:**

5 **2-1-1.1.** A petition as it is to be circulated for an initiated amendment to the
 6 Constitution must be filed with the secretary of state, including an electronic copy of the
 7 petition, prior to circulation for signatures and at least one year before the next general
 8 election at which the initiated amendment is proposed to be submitted to the voters. The
 9 petition filing must:

- 10 (1) Contain the full text of the initiated amendment in fourteen-point font;
- 11 (2) Contain the date of the general election at which the initiated amendment 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
 15 petition 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 Each petition circulator shall provide to each person who signs the petition a ~~form~~
 18 circulator handout containing the title and explanation of the initiated amendment to the
 19 Constitution as prepared by the attorney general; any fiscal note prepared pursuant to
 20 § 2-9-30; the name, phone number, and email address of each petition sponsor; and a
 21 statement whether the petition circulator is a volunteer or paid ~~petition~~ circulator and, if
 22 a paid circulator, the amount the circulator is being paid. ~~The form must be approved by~~
 23 ~~the secretary of state prior to circulation.~~ The secretary of state shall approve the circulator
 24 handout for each initiated amendment to the Constitution before the petition is
 25 circulated. ~~The petition form, as prescribed by the State Board of Elections, must include~~
 26 ~~the paid circulator identification number within the verification of any paid circulator.~~

1 For any initiated amendment petition, no signature may be obtained more than
 2 twenty-four months preceding the general election that was designated at the time of
 3 filing of the full text. A sworn affidavit, signed by at least two-thirds of the petition
 4 sponsors, stating that the documents filed constitute the entire petition and to the best of
 5 the knowledge of the sponsors contains a sufficient number of signatures ~~shall~~, must also
 6 be filed with the secretary of state. The initiated amendment petition signatures must be
 7 filed with the secretary of state by the first Tuesday in May of a general election year for
 8 the initiated amendment to qualify for submission to the voters at the next general
 9 election. The State Board of Elections shall prescribe the form of the affidavit and the
 10 petition otherwise, including petition size and petition font size for ballot measure
 11 language not prescribed in this section, ~~and the affidavit must be prescribed by the State~~
 12 ~~Board of Elections.~~

13 **Section 2. That § 2-1-1.2 be AMENDED:**

14 **2-1-1.2.** A petition as it is to be circulated for an initiated measure must be filed
 15 with the secretary of state, including an electronic copy of the petition, prior to circulation
 16 for signatures and at least one year before the next general election at which the initiated
 17 measure is proposed to be submitted to the voters. The petition filing must:

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

25 Each petition circulator shall provide to each person who signs the petition a ~~form~~
 26 circulator handout containing the title and explanation of the initiated measure as
 27 prepared by the attorney general; any fiscal note prepared pursuant to § 2-9-30; the
 28 name, phone number, and email address of each petition sponsor; and a statement
 29 whether the petition circulator is a volunteer or paid ~~petition~~ circulator and, if a paid
 30 circulator, the amount the circulator is being paid. ~~The form must be approved by the~~
 31 secretary of state prior to circulation. The secretary of state shall approve the circulator
 32 handout for each initiated measure before the petition is circulated. The petition form, as
 33 prescribed by the State Board of Elections, must include the paid circulator identification
 34 number within the verification of any paid circulator.

1 For any initiated measure petition, no signature may be obtained more than
 2 twenty-four months preceding the general election that was designated at the time of
 3 filing of the full text. A sworn affidavit, signed by at least two-thirds of the petition
 4 sponsors, stating that the documents filed constitute the entire petition and to the best of
 5 the knowledge of the sponsors contains a sufficient number of signatures, must also be
 6 filed with the secretary of state. The initiated measure petition signatures must be filed
 7 with the secretary of state by the first Tuesday in May of a general election year for the
 8 initiated measure to qualify for submission to the voters at the next general election. The
 9 State Board of Elections shall prescribe the form of the affidavit and the petition otherwise,
 10 including petition size and petition font size for ballot measure language not prescribed in
 11 this section, ~~and the affidavit must be prescribed by the State Board of Elections.~~

12 **Section 3. That § 2-1-1.3 be AMENDED:**

- 13 **2-1-1.3.** Terms used in this chapter mean:
- 14 (1) "Circulates," either:
- 15 (a) Physically presents or otherwise makes available a ballot measure petition
 16 to another person for that person's signature; or
- 17 (b) Solicits from another person, personally and in the presence of such other
 18 person, a signature on a ballot measure petition, while acting in concert
 19 with another person who simultaneously physically presents or otherwise
 20 makes available the ballot measure petition;
- 21 (2) ~~"Petition circulator," a person who is a resident of this state for at least thirty days~~
 22 ~~prior to acting as a petition circulator, is at least eighteen years of age, and who,~~
 23 ~~for pay or as a volunteer, circulates petitions for the purpose of placing ballot~~
 24 ~~measures on any statewide election ballot~~ the same as the term is defined under
 25 § 12-1-3;
- 26 (3) "Petition sponsor," any person who proposes the placement of a statewide ballot
 27 measure on the ballot;
- 28 (4) "Ballot measure," any measure placed on a statewide ballot in accordance with
 29 § 2-1-1.1, 2-1-1.2, or 2-1-3.1;
- 30 (5) "Paid circulator," any person who receives money or anything of value as
 31 consideration, in whole or in part, for acting as a petition circulator;
- 32 (6) "Volunteer circulator," any person who does not receive money or anything of value
 33 as consideration, in whole or in part, for acting as a petition circulator.

1 **Section 4. That § 2-1-3.1 be AMENDED:**

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

- 4 (1) Contain the title of the referred law;
5 (2) Contain the effective date of the referred law;
6 (3) Contain the date of the general election at which the referred law is to be
7 submitted;
8 (4) Be accompanied by a notarized form signed by each person who is a petition
9 sponsor that includes the names and addresses of the each petition ~~sponsors~~
10 sponsor; and
11 (5) Be accompanied by a statement of organization as provided in § 12-27-6.

12 The petition ~~shall~~ must be filed with the secretary of state within ninety days after
13 the adjournment of the Legislature ~~which~~ that passed the referred law. A sworn affidavit,
14 signed by at least two-thirds of the petition sponsors, stating that the documents filed
15 constitute the entire petition and to the best of the knowledge of the sponsors contains a
16 sufficient number of signatures ~~shall~~, must also be filed with the secretary of state. The
17 State Board of Elections shall prescribe the form of the petition and affidavit ~~shall be~~
18 ~~prescribed by the State Board of Elections.~~

19 The petition circulator shall provide to each person who signs the petition a ~~form~~
20 circulator handout containing the title of the referred law; any fiscal note or summary of
21 a fiscal note obtained pursuant to § 2-9-32; the name, phone number, and email address
22 of each petition sponsor; a statement whether the petition circulator is a volunteer or paid
23 ~~petition~~ circulator and, if a paid circulator, the amount the circulator is being paid. ~~The~~
24 ~~form shall be approved by the secretary of state prior to circulation.~~ The secretary of state
25 shall approve the circulator handout for each referred law before the petition is circulated.
26 ~~The petition form, as prescribed by the State Board of Elections, shall include the paid~~
27 ~~circulator identification number within the verification of any paid circulator.~~

28 **Section 5. That § 12-27-47.1 be AMENDED:**

29 **12-27-47.1.** Any resident of South Dakota may report a violation of § 12-27-12,
30 12-27-16(1), ~~12-27-18.2~~, or 12-27-19 to the secretary of state, who shall investigate the
31 alleged violation and determine whether a violation occurred. In addition to any criminal
32 penalty imposed under § 12-27-12, 12-27-16(1), or 12-27-19, the court may impose on
33 any person, committee, or entity found in violation of § 12-27-12, 12-27-16(1) or 12-27-

1 19 a civil penalty of five thousand dollars per violation to be deposited in the state general
2 fund.

3 **Section 6. That § 2-1-1.5 be REPEALED:**

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

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

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

25 **Section 7. That § 2-1-1.6 be REPEALED:**

26 ~~The secretary of state shall develop and maintain a directory, available upon~~
27 ~~request and payment of reasonable fees, that contains information provided by each paid~~
28 ~~circulator under § 2-1-1.5. Providing a copy of the application submitted under § 2-1-1.5,~~
29 ~~together with any update to the information contained in the application, is sufficient to~~
30 ~~fulfill the requirements of this section. Any information contained in the directory shall be~~
31 ~~a public record for purposes of chapter 1-25.~~

32 **Section 8. That § 2-1-1.7 be REPEALED:**

1 A paid circulator who registers under ~~§ 2-1-1.5~~ shall pay to the secretary of state
 2 a registration fee for each ballot question committee represented by the paid circulator.
 3 The registration fee for a paid circulator is twenty dollars. The registration fee shall be
 4 deposited in the state general fund.

5 **Section 9. That § 2-1-1.8 be REPEALED:**

6 Following receipt of any application under ~~§ 2-1-1.5~~ and a registration fee under
 7 ~~§ 2-1-1.7~~, if any, the secretary of state shall issue the paid circulator a circulator
 8 identification number and badge that contains the information required under ~~§ 2-1-1.9~~.

9 **Section 10. That § 2-1-1.9 be REPEALED:**

10 A person shall wear the badge issued under ~~§ 2-1-1.8~~ which shall be visible at all
 11 times while acting as a paid circulator. The badge shall contain the words "paid petition
 12 circulator." The badge may not state the name of the petition circulator. A person is guilty
 13 of a Class 2 misdemeanor if the person acts as a paid circulator without wearing a badge
 14 issued under ~~§ 2-1-1.8~~.

15 **Section 11. That § 12-27-18.2 be REPEALED:**

16 Any contribution to a statewide ballot question committee by a person who is not
 17 a resident of the state at the time of the contribution, a political committee that is
 18 organized outside South Dakota, or an entity that is not filed as an entity with the
 19 secretary of state for the four years preceding such contribution is prohibited. If a
 20 statewide ballot question committee accepts a contribution prohibited by this section, the
 21 secretary of state shall impose a civil penalty equal to two hundred percent of the
 22 prohibited contribution after notice and opportunity to be heard pursuant to chapter 1-26.
 23 Any civil penalty collected pursuant to this section shall be deposited into the state general
 24 fund.