

State of South Dakota

NINETY-THIRD SESSION LEGISLATIVE ASSEMBLY, 2018

157Z0329

HOUSE ENGROSSED NO. **HB 1304** - 2/13/2018

Introduced by: Representatives Mickelson, Bartels, Goodwin, Gosch, Heinemann, Jensen (Kevin), Lake, Peterson (Kent), Qualm, Stevens, and Willadsen and Senators Curd, Maher, Novstrup, Otten (Ernie), and Partridge

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding challenges to petition
2 signatures.

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

4 Section 1. That § 2-1-17.1 be amended to read:

5 2-1-17.1. ~~Within~~ Not more than thirty days after a statewide petition for an initiated
6 ~~constitutional amendment to the Constitution~~, initiated measure, or ~~referendum~~ referred law has
7 been validated and filed, any interested person who has researched the signatures contained on
8 the petition may submit ~~an~~ a sworn affidavit to the Office of Secretary of State to challenge the
9 petition. The sworn affidavit shall include ~~an itemized listing of~~ each specific deficiency in
10 ~~question. Any challenge to the following items is prohibited under this challenge process other~~
11 than the following:

- 12 (1) Signer does not live at address listed on the petition;
13 (2) Circulator does not live at address listed on the petition;
14 (3) Circulator listed a residence address in South Dakota but is not a South Dakota



1 resident;

2 (4) Circulator did not witness the signers;

3 (5) Signatures not included in the random sample; and

4 (6) Petition that was originally rejected.

5 Any challenge by the same person or party in interest shall be included in one sworn
6 affidavit.

7 The original ~~signed~~ sworn affidavit shall be received by the Office of Secretary of State by
8 5:00 p.m. central time on the ~~deadline~~ date. If the sworn affidavit challenges any ~~item~~ deficiency
9 ~~that is prohibited by~~ under this section, ~~only~~ that ~~line-item~~ deficiency shall ~~summarily~~ be
10 rejected. A challenge to a ~~line-item~~ deficiency is not a challenge to the petition as a whole.

11 ~~The secretary of state's decision regarding a challenge~~ No deficiency may ~~not~~ be challenged
12 a second time with the secretary of state; ~~but~~. The secretary of state's decision regarding a
13 challenge under this section may be appealed to the circuit court of Hughes County. ~~If a~~ Any
14 ~~person fails to~~ who does not challenge a petition pursuant to this section, ~~it does not deny that~~
15 ~~person any other legal remedy to challenge the filing of an initiative or referendum petition in~~
16 ~~circuit court. A challenge to a petition in circuit court may include items prohibited in this~~
17 ~~section~~ may bring a challenge pursuant to § 2-1-18.

18 Section 2. That § 2-1-18 be amended to read:

19 2-1-18. Nothing in §§ 2-1-15 to 2-1-18, inclusive, prohibits any interested person who has
20 researched the signatures contained on a validated petition from challenging in circuit court the
21 validity of ~~signatures~~ any signature, the veracity of the petition circulator's attestation, or any
22 other information required on a petition by statute or administrative rule. ~~A challenge to a~~
23 ~~petition in circuit court may include items, including any deficiency that is prohibited in from~~
24 challenge under § 2-1-17.1. The results of the process of signature verification by the Office of

1 the Secretary of State under chapter 2-1 shall be presumed valid as applied to all signatures for
2 purposes of considering any additional ground for disqualifying petition signatures, including
3 any ground listed in subdivisions 2-1-17.1(1) to 2-1-17.1(4), inclusive, and cumulating total
4 valid signatures to determine the results of an appeal under § 2-1-17.1. The summons and
5 complaint for a challenge under this section shall be served on each petition sponsor as a party
6 defending the validated petition being challenged. Any appearance by the attorney general at a
7 challenge under this section shall be limited to the process of signature verification by the Office
8 of the Secretary of State under chapter 2-1.