



2020 South Dakota Legislature

Senate Bill 180

HOUSE LOCAL GOVERNMENT ENGROSSED

Introduced by: **Senator Stalzer**

1 **An Act to repeal and revise certain provisions regarding the petition circulation**
 2 **process.**

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

4 **Section 1.** That section 1 of chapter 14 of the 2019 Session Laws be REPEALED.

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

6 **2-1-1.3. Definitions.**

7 Terms used in this chapter mean:

8 (1) "Circulates," either:

9 (a) Physically presents or otherwise makes available a ballot measure petition
 10 to another person for that person's signature; or

11 (b) Solicits from another person, personally and in the presence of such other
 12 person, a signature on a ballot measure petition, while acting in concert
 13 with another person who simultaneously physically presents or otherwise
 14 makes available the ballot measure petition;

15 (2) "Petition circulator," ~~the same as the term is defined under § 12-1-3~~ a person who
 16 is a resident of this state for at least thirty days prior to acting as a petition
 17 circulator, is at least eighteen years of age, and who, for pay or as a volunteer,
 18 circulates petitions for the purpose of placing ballot measures on any statewide
 19 election ballot;

20 ~~(2)~~(3) "Petition sponsor," any person who proposes the placement of a statewide ballot
 21 measure on the ballot;

22 (4) "Ballot measure," any measure placed on a statewide ballot in accordance with § 2-
 23 1-1.1, 2-1-1.2, or 2-1-3.1;

24 (5) "Paid circulator," any person who receives money or anything of value as
 25 consideration, in whole or in part, for acting as a petition circulator;

1 (6) "Volunteer circulator," any person who does not receive money or anything of value
 2 as consideration, in whole or in part, for acting as a petition circulator.

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

4 **2-1-1.5. (Text of section effective July 1, 2020) Paid circulators--Application**
 5 **for registration--Process--Certification requirements.**

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

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

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

30 **Section 4.** That § 2-1-1.6 be AMENDED:

31 **2-1-1.6. (Text of section effective July 1, 2020) Paid circulators--Directory.**

32 The secretary of state shall develop and maintain a directory, available upon
 33 request and payment of reasonable fees, that contains information provided by each

1 ~~petition-paid~~ circulator under § 2-1-1.5 and classifies each petition circulator as paid or
2 volunteer. Providing a copy of the application submitted under § 2-1-1.5, together with
3 any update to the information contained in the application, is sufficient to fulfill the
4 requirements of this section. Any information contained in the directory shall be a public
5 record for purposes of chapter 1-25.

6 **Section 5.** That § 2-1-1.7 be AMENDED:

7 **2-1-1.7. (Text of section effective July 1, 2020) Registration fees.**

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

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

13 **Section 6.** That § 2-1-1.8 be AMENDED:

14 **2-1-1.8. (Text of section effective July 1, 2020) Identification number and**
15 **badge.**

16 Following receipt of any application under § 2-1-1.5 and a registration fee under
17 § 2-1-1.7, if any, the secretary of state shall issue the ~~petition-paid~~ circulator a circulator
18 identification number and badge that contains the information required under § 2-1-1.9.

19 **Section 7.** That § 2-1-1.9 be AMENDED:

20 **2-1-1.9. (Text of section effective July 1, 2020) Paid circulator badge--**
21 **Requirement--Violation as misdemeanor.**

22 A person shall wear the badge issued under § 2-1-1.8 which shall be visible at all
23 times while acting as a ~~petition-paid~~ circulator. The badge shall contain the words "paid
24 petition circulator," and include the identity of the ballot question committee on behalf of
25 which the ~~petition~~ circulator is registered, the circulator identification number, and a
26 designation as either "paid" or "volunteer." The badge may not state the name of the
27 petition circulator. A person is guilty of a Class 2 misdemeanor if the person acts as a
28 ~~petition-paid~~ circulator without wearing a badge issued under § 2-1-1.8.

29 **Section 8.** That section 8 of chapter 14 of the 2019 Session Laws be REPEALED.

30 **Section 9.** That § 2-1-1.1 be AMENDED:

1 **2-1-1.1. Initiated constitutional amendment--Petition--Contents--**
 2 **Signatures and filing.**

3 The petition as it is to be circulated for an initiated amendment to the Constitution
 4 shall be filed with the secretary of state prior to circulation for signatures and shall:

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

12 ~~The Each~~ petition circulator shall provide to each person who signs the petition a form
 13 containing the title and explanation of the initiated amendment to the Constitution as
 14 prepared by the attorney general; any fiscal note prepared pursuant to § 2-9-30; the
 15 name, phone number, and email address of each petition sponsor; ~~the name, phone~~
 16 ~~number, and email address of the petition circulator;~~ and a statement whether the petition
 17 circulator is a volunteer or paid petition circulator and, if a paid circulator, the amount the
 18 circulator is being paid. The form shall be approved by the secretary of state prior to
 19 circulation. The petition form, as prescribed by the State Board of Elections, shall include
 20 the paid circulator identification number within the verification of any paid circulator.

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

31 **Section 10.** That section 9 of chapter 14 of the 2019 Session Laws be REPEALED.

32 **Section 11.** That § 2-1-1.2 be AMENDED:

1 **2-1-1.2. Initiated measure--Petition--Contents--Signatures and filing.**

2 The petition as it is to be circulated for an initiated measure shall be filed with the
3 secretary of state prior to circulation for signatures and shall:

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

11 ~~The Each~~ petition circulator shall provide to each person who signs the petition a form
12 containing the title and explanation of the initiated measure as prepared by the attorney
13 general; any fiscal note prepared pursuant to § 2-9-30; the name, phone number, and
14 email address of each petition sponsor; ~~the name, phone number, and email address of~~
15 ~~the petition circulator; and~~ a statement whether the petition circulator is a volunteer or
16 paid petition circulator and, if a paid circulator, the amount the circulator is being paid.
17 The form shall be approved by the secretary of state prior to circulation. The petition form,
18 as prescribed by the State Board of Elections, shall include the paid circulator identification
19 number within the verification of any paid circulator.

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

30 **Section 12.** That section 10 of chapter 14 of the 2019 Session Laws be REPEALED.

31 **Section 13.** That § 2-1-3.1 be AMENDED:

1 **2-1-3.1. Referred law--Petition--Contents--Signatures and filing.**

2 The petition as it is to be circulated for a referred law shall be filed with the
3 secretary of state prior to circulation for signatures and shall:

- 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 submitted;
7 (4) Be accompanied by a notarized form that includes the names and addresses of the
8 petition sponsors; and
9 (5) Be accompanied by a statement of organization as provided in § 12-27-6.

10 The petition shall be filed with the secretary of state within ninety days after the
11 adjournment of the Legislature which passed the referred law. A sworn affidavit, signed
12 by at least two-thirds of the petition sponsors, ~~containing information required for each~~
13 ~~petition circulator as required under § 2-1-1.4 and~~ stating that the documents filed
14 constitute the entire petition and to the best of the knowledge of the sponsors contains a
15 sufficient number of signatures shall also be filed with the secretary of state. The form of
16 the petition and affidavit shall be prescribed by the State Board of Elections.

17 The petition circulator shall provide to each person who signs the petition a form
18 containing the title of the referred law; any fiscal note or summary of a fiscal note obtained
19 pursuant to § 2-9-32; 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
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 shall be approved by
23 the secretary of state prior to circulation. The petition form, as prescribed by the State
24 Board of Elections, shall include the paid circulator identification number within the
25 verification of any paid circulator.