

State of South Dakota

NINETY-SECOND SESSION
LEGISLATIVE ASSEMBLY, 2017

400Y0138

SENATE ENGROSSED NO. **HB 1034** - 3/7/2017

Introduced by: The Committee on Local Government at the request of the State Board of
Elections

1 FOR AN ACT ENTITLED, An Act to establish certain fees for receiving electronic files of
2 petitions, to revise certain provisions concerning filing petitions and other documents, and
3 to revise certain provisions concerning elections and voting.

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

5 Section 1. That § 1-8-10 be amended to read:

6 1-8-10. The secretary of state shall charge the following fees for services performed in the
7 Office of the Secretary of State and shall collect the fees in advance:

- 8 (1) For making a copy or transcript of any record, instrument, or paper on file in the
9 office, two dollars per page;
- 10 (2) For filing and safekeeping of any instrument or paper required by law to be filed
11 ~~only~~, ten dollars; except the oath of office of members of the Legislature and
12 legislative officers, employees and governmental officers, employees and agencies,
13 ~~there is~~ no fee;
- 14 (3) For each commission, requisition, passport, or other document, signed by the
15 Governor and attested by the secretary of state, under the great seal of the state,



1 except commissions issued for executive appointment and extraditions, and making
2 the proper record for the same, five dollars;

3 (4) For filing the application, bond, and issuing commission of a notary public, thirty
4 dollars;

5 (5) For official certificate, attestation, and impression of the great seal, twenty-five
6 dollars;

7 (6) For filing or recording any other instrument or document, ten dollars; ~~and~~

8 (7) For a certified copy of any document, instrument, or paper on file in the office, two
9 dollars per page and fifteen dollars for the certificate and affixing the seal; and

10 (8) If the document is a petition and the request is for an electronic file the following fees
11 shall be:

12 (a) Nominating petition for a legislative candidate or special district candidate,
13 fifteen dollars;

14 (b) Nominating petition for a statewide candidate, fifty dollars;

15 (c) Petitions for statewide ballot measure, fifty dollars; and

16 (d) Petitions for new party formation, fifty dollars.

17 Section 2. That § 1-8-14 be amended to read:

18 1-8-14. The secretary of state may establish and maintain a secure and interactive website
19 where all documents required to be filed with or maintained by the Office of the Secretary of
20 State may be filed, processed, and obtained by interested parties. Any document required to be
21 filed ~~with the Office of the Secretary of State may~~ shall be filed ~~electronically~~ in a medium
22 permitted by the secretary of state. The secretary of state shall promulgate rules, pursuant to
23 chapter 1-26, to establish the procedure and methodology for filing documents.

24 Section 3. That chapter 12-1 be amended by adding a NEW SECTION to read:

1 No petition submitted may be made available to the public until the validation process has
2 been completed and the office where that petition was submitted has filed or rejected the
3 petition.

4 Section 4. That § 12-18-27 be amended to read:

5 12-18-27. No person may ~~show a~~ publicize an official ballot after it is marked to any person
6 in such a way as to reveal the contents of the official ballot, or the name of any candidate for
7 whom the person has marked a vote. ~~Nor may any~~ No person may solicit ~~the a~~ voter to show the
8 voter's official ballot. Immediately after marking the official ballot the voter shall ~~fold and refold~~
9 deposit the official ballot in the ballot box, if necessary, leaving the official stamp exposed.

10 Section 5. That § 12-19-2 be amended to read:

11 12-19-2. An absentee voter desiring to vote by mail may apply to the person in charge of the
12 election for an absentee ballot. The application or request shall be made in writing ~~and be~~,
13 signed by the applicant, and shall ~~state~~ contain the applicant's voter registration address. The
14 application or request shall contain an oath verifying the validity of the information ~~contained~~
15 in the application or request. The oath shall be administered by a notary public or other officer
16 authorized by ~~statute~~ this state to administer an oath or administered by an out-of-state notary
17 public. If the application or request does not contain an oath, the application or request shall be
18 accompanied by a copy of the voter's identification card as required by § 12-18-6.1. The copy
19 of the voter's identification card shall be maintained by the person in charge of the election
20 pursuant to § 12-20-31. However, the voter's identification card is not available for public
21 inspection. The application or request may be used to obtain an absentee ballot for all elections
22 in that calendar year conducted by the jurisdiction receiving the application or request if so
23 indicated. The ballot shall be sent to the voter's residence, as shown in the voter registration file
24 or any temporary residence address designated in writing by the voter, at the time of applying

1 for the absentee ballot. If the application or request is from a voter identified as being covered
2 by the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff-1) as of
3 January 1, 2010, the voter may designate on the application for the ballot to be sent
4 electronically pursuant to this section through the system provided by the Office of the Secretary
5 of State. The person in charge of the election shall stamp the application with the date it was
6 received. The person in charge of the election shall preserve a record of the name, mailing
7 address, and voting precinct of each applicant and, except as provided by § 12-19-45, deliver
8 a copy of the record to the superintendent of the election board of the home precinct of the
9 applicant.

10 Section 6. That § 12-19-9.1 be amended to read:

11 12-19-9.1. If there is any nursing facility, assisted living center, or hospital, as defined in
12 § 34-12-1.1, within any county from which there might reasonably be expected to be five or
13 more absentee applications, the county auditor shall notify the person in charge of that facility
14 and the chair of the county central committee of each party and any other person who has filed
15 a request to be notified of the date and time at which representatives of the auditor's office will
16 be present to assist the residents of that facility to vote, utilizing the absentee procedure. Any
17 political party, independent candidate, and nonpolitical candidate may assign a person to
18 accompany the auditor's representatives. At the date and time announced, the auditor's
19 representative ~~and the representatives of the parties, independent candidates, and nonpolitical~~
20 ~~candidates~~ shall deliver ballots to and assist all persons at that facility who desire such
21 assistance and who have applied for absentee ballots. This section applies only to a general
22 election.

23 If a person in charge of an election conducts absentee voting at a nursing facility, assisted
24 living center, or hospital as defined in § 34-12-1.1, the voter shall complete a combined absentee

1 ballot application/return envelope and the identification and affidavit requirements provided in
2 § 12-19-2.1 are waived.

3 Section 7. That § 12-1-3 be amended to read:

4 12-1-3. Terms used in this title mean:

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

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

8 (3) "Election officials," state and local officials charged with the duty of conducting
9 elections and the canvass of returns;

10 (4) "Elector," a person qualified to register as a voter, whether or not the person is
11 registered;

12 (4A) "Electronic pollbook," an electronic system containing both the registration list and
13 pollbook;

14 (5) "General election," the vote required to be taken in each voting precinct of the state
15 on the first Tuesday after the first Monday in November of each even-numbered year;

16 (5A) "Paid circulator," any person who receives money or anything of value for collecting
17 signatures for a petition;

18 (6) "Party office," an office of a political party organization as distinct from a public
19 office;

20 (7) "Person in charge of an election," or "person charged with the conduct of an
21 election," the county auditor in all cases except local elections for a municipality,
22 school district, township, or other political subdivision, in which case it is the officer
23 having the position comparable to the auditor in that unit of government if not
24 specifically designated by law;

- 1 (8) "Petition," a form prescribed by the State Board of Elections, which contains the
2 question or candidacy being petitioned, the declaration of candidacy if required and
3 the verification of the circulator. If multiple sheets of paper are necessary to obtain
4 the required number of signatures, each sheet shall be self-contained and separately
5 verified by the circulator;
- 6 (9) "Petition circulator," a resident of the State of South Dakota who is at least eighteen
7 years of age who circulates nominating petitions or other petitions for the purpose of
8 placing candidates or issues on any election ballot;
- 9 (10) "Political party," a party whose candidate for ~~Governor~~ any statewide office at the
10 last preceding general election ~~at which a Governor was elected~~ received at least two
11 and one-half percent of the total votes cast for ~~Governor~~ that statewide office;
- 12 (10A) "Pollbook" or "poll list," a list containing in numerical order the names of all persons
13 voting at the election and type of ballot voted;
- 14 (10B) "Polling place," a designated place voters may go to vote;
- 15 (11) "Primary" or "primary election," an election held at which candidates are nominated
16 for public office;
- 17 (12) "Public office," an elected position in government;
- 18 (12A) "Registration list," a list of eligible voters;
- 19 (13) "Registered mail," does not include certified mail;
- 20 (14) "Registration officials," the county auditor and deputies and other persons authorized
21 to assist in registration pursuant to chapter 12-4;
- 22 (14A) "Vote center," a polling place when the precinct has been defined as the entire
23 jurisdiction and an electronic pollbook is utilized;
- 24 (15) "Voter," a person duly registered to vote or one who is performing the act of voting;

1 (16) "Independent (IND)" or "no party affiliation (NPA)," any voter who writes
2 independent, I, Ind, the field is blank, no party affiliation, no party, no choice,
3 nonpartisan, or line crossed off in the choice of party field on the voter registration
4 form;

5 (17) "Independent candidate," notwithstanding the definition of independent as stated in
6 this chapter, any registered voter regardless of party affiliation who declares to be an
7 independent candidate for public office pursuant to this chapter;

8 (18) "Other," any voter who writes a political party not recognized in South Dakota in the
9 choice of party field on the voter registration form.

10 Section 8. That chapter 2-1 be amended by adding a NEW SECTION to read:

11 The director of the Legislative Research Council shall prepare a fiscal note, if applicable,
12 for an initiated measure, initiated amendment to the Constitution, or referred law. The fiscal
13 note shall include an estimate of the impact on revenues, expenditures, or fiscal liability of the
14 state or its agencies and subdivisions by the provisions of the initiated measure or initiated
15 amendment to the Constitution. The fiscal note may not exceed fifty words. The director shall
16 file the fiscal note, if applicable, with the sponsor and the secretary of state within sixty days of
17 the receipt of an initiated measure, initiated amendment to the Constitution, or referred law.

18 Section 9. That Section 3 of the enrolled version of HB 1037 as previously enacted by the
19 Ninety-Second Session Legislative Assembly, 2017, be amended to read:

20 Section 3. That § 12-6-7 be amended to read:

21 12-6-7. A nominating petition may be composed of several sheets, each sheet shall have
22 identical headings printed at the top. ~~A nominating petition for any election~~ and shall be a self-
23 contained sheet of paper. The petition for party office or political public office shall be signed
24 by not less than one percent of the voters who voted for that party's gubernatorial candidate at

1 the last gubernatorial election in the county, part of the county, district, or state electing a
2 candidate to fill the office. If a county uses vote centers and does not print ballots by precinct,
3 signature requirements for both partisan and independent candidates are:

- 4 (1) Fifty signatures for a legislative candidate whose district either in whole or in part
5 includes that county;
- 6 (2) Thirty signatures for a county candidate;
- 7 (3) Fifteen signatures for county commissioner district candidates;
- 8 (4) Five signatures for a new party legislative candidate whose district either in whole
9 or in part includes that county;
- 10 (5) Five signatures for a new party county candidate; or
- 11 (6) Three signatures for a new party county commissioner district candidate.

12 Section 10. That Section 7 of the enrolled version of HB 1037 as previously enacted by the
13 Ninety-Second Session Legislative Assembly, 2017, be amended to read:

14 Section 7. That § 12-7-1 be amended to read:

15 12-7-1. Any candidate for nonjudicial public office, except as provided in § 12-7-7 ~~or office~~
16 ~~in the State Legislature, county political public office, and county party office as provided in~~
17 ~~section 9 of this Act~~, who is not nominated by a primary election may be nominated by filing
18 a certificate of nomination with the secretary of state or county auditor as prescribed by § 12-6-
19 4, after December thirty-first and by the last Tuesday of April at 5:00 p.m. local time before the
20 election. A certificate of nomination shall be executed as provided in chapter 12-6. If the
21 certificate of nomination is mailed by registered mail by the last Tuesday of April at 5:00 p.m.
22 local time before the election, it is timely submitted. The certificate of nomination shall be
23 signed by registered voters within the district or political subdivision in and for which the
24 officers are to be elected. The number of signatures required may not be less than one percent

1 of the total combined vote cast for Governor at the last certified gubernatorial election within
2 the district or political subdivision. The State Board of Elections shall promulgate rules,
3 pursuant to chapter 1-26, prescribing the forms for the certificate of nomination.

4 Section 11. That § 12-13-23 be amended to read:

5 12-13-23. The secretary of state shall distribute public information on any constitutional
6 amendment, initiated, or referred measure submitted to the electors for approval. The secretary
7 of state shall compile the public information by printing a statement in support of the
8 constitutional amendment, initiated, or referred measure written by its proponents, if any can
9 be identified, and a statement against the constitutional amendment, initiated, or referred
10 measure written by its opponents, if any can be identified. The secretary of state is not
11 responsible for the contents, objectivity, or accuracy of the statements written by the proponents
12 and opponents. The pamphlet shall also include the attorney general's title, explanation, and a
13 clear and simple recitation of the effect of a "Yes" or "No" vote; number of pages and sections
14 in the proposed or referred language; and, if applicable, a prison or jail population cost estimate
15 and fiscal note.