



2021 South Dakota Legislature
Senate Bill 86
ENROLLED

AN ACT

ENTITLED An Act to revise certain requirements regarding the review of initiated amendments to the Constitution and to declare an emergency.

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

Section 1. That § 12-13-25 be AMENDED.

12-13-25. Review and comment--Legislative Research Council--Opinion.

The sponsors of each initiated measure or initiated amendment to the Constitution shall submit a copy of each version of the initiated measure or initiated amendment to the Constitution to the director of the Legislative Research Council for review and comment not more than six months before it may be circulated for signatures under § 2-1-1.1 or 2-1-1.2. The director shall review each version of the submitted initiated measure or initiated amendment to the Constitution to determine if the requirements of § 12-13-24 are satisfied and if the initiated measure or initiated amendment to the Constitution may have any impact on revenues, expenditures, or fiscal liability of the state or its agencies and subdivisions. Unless as otherwise provided under § 12-13-25.2, not more than fifteen workdays following receipt of an initiated measure or initiated amendment to the Constitution, the director shall provide written comments on the initiated measure or initiated amendment to the Constitution to the sponsors of the initiated measure or initiated amendment, the attorney general, and the secretary of state for the purpose of assisting the sponsors in complying with § 12-13-24. The director's written comments under this section shall include assistance regarding the substantive content of the initiated measure or initiated amendment in order to minimize any conflict with existing law and to ensure the measure's or amendment's effective administration. If the sponsors submit an initiated amendment to the Constitution, the director shall provide, with the written comments, a written opinion to the sponsors, the attorney general, and the secretary of state as to whether the initiated amendment embraces only one subject under S.D. Const., Art. XXIII, § 1 and whether it is an amendment under S.D. Const., Art. XXIII,

§ 1 or a revision under S.D. Const., Art. XXIII, § 2. The sponsors may, but are not required to, amend the initiated measure or initiated amendment to the Constitution to comply with the director's comments.

Section 2. That § 12-13-26 be AMENDED.

**12-13-26. Unreviewed initiatives or initiated amendments unacceptable--
Uncertified initiated amendments unacceptable.**

The secretary of state may not accept any initiative or initiated amendment to the Constitution unless such initiative or initiated amendment to the Constitution has been submitted to the director of the Legislative Research Council and the director has reviewed and commented on such initiative or initiated amendment to the Constitution, and unless the attorney general has filed the title and explanation of the initiative or initiated amendment to the Constitution with the secretary of state. The secretary of state may not accept any initiated amendment to the Constitution that is not certified pursuant to § 12-13-26.1.

Section 3. That a NEW SECTION be added:

**12-13-26.1. Initiated amendment--Written certification by secretary of
state--Resubmission.**

Upon receiving a proposed initiated amendment to the Constitution, the secretary of state shall provide written certification to the sponsors, the attorney general, and the director of the Legislative Research Council that the initiated amendment embraces only one subject and is an amendment to the Constitution under S.D. Const., Art. XXIII, § 1. The secretary of state shall publish on the secretary of state's website notice of this certification not more than fifteen working days following receipt of the initiated amendment to the Constitution.

The secretary of state may not certify the initiated amendment to the Constitution if it embraces more than one subject in violation of S.D. Const., Art. XXIII, § 1. The secretary of state may not certify the initiated amendment to the Constitution if it is a revision under S.D. Const., Art. XXIII, § 2. If the secretary of state determines that the initiated amendment to the Constitution embraces more than one subject or is a revision, the secretary of state shall provide written notice to the sponsors explaining the reason the initiated amendment to the Constitution is not certified not more than fifteen working days following receipt of the initiated amendment to the Constitution. The sponsors may amend the initiated amendment to the Constitution in accordance with the secretary of

state's explanation and resubmit the amended initiated amendment to the Constitution to the director of the Legislative Research Council for review under § 12-13-25.

Section 4. That a NEW SECTION be added:

12-13-26.2. Action to challenge the secretary of state's decision--Time limits--Promulgation of rules.

If the secretary of state does not certify an initiated amendment to the Constitution pursuant to § 12-13-26.1, the sponsor may directly appeal the secretary of state's decision to the Supreme Court within fifteen days after receiving notice from the secretary of state.

Any interested party may directly appeal the secretary of state's certification of an initiated amendment to the Constitution pursuant to § 12-13-26.1 to the Supreme Court within fifteen days of the secretary of state publishing notice of certification on the secretary of state's website.

The Supreme Court shall promulgate rules, pursuant to chapter 16-3, defining the procedures for an appeal taken under this section.

Section 5. Whereas, this Act is necessary for the support of the state government and its existing public institutions, an emergency is hereby declared to exist, and this Act shall be in full force and effect from and after its passage and approval.

An Act to revise certain requirements regarding the review of initiated amendments to the Constitution and to declare an emergency.

I certify that the attached Act originated in the:

Received at this Executive Office this ____ day of _____,

Senate as Bill No. 86

2021 at _____ M.

Secretary of the Senate

By _____
for the Governor

President of the Senate

The attached Act is hereby approved this _____ day of _____, A.D., 2021

Attest:

Secretary of the Senate

Governor

STATE OF SOUTH DAKOTA,

ss.

Office of the Secretary of State

Speaker of the House

Attest:

Filed _____, 2021
at _____ o'clock __ M.

Chief Clerk

Secretary of State

Senate Bill No. 86
File No. _____
Chapter No. _____

By _____
Asst. Secretary of State