

State of South Dakota

NINETY-SECOND SESSION
LEGISLATIVE ASSEMBLY, 2017

580Y0231

SENATE STATE AFFAIRS ENGROSSED NO. **SB 77** - 2/3/2017

Introduced by: Senators Otten (Ernie), Nelson, Rusch, Russell, and Stalzer and
Representatives Haggar, Haugaard, Otten (Herman), and Tieszen

1 FOR AN ACT ENTITLED, An Act to provide for a fiscal note for any initiated measure,
2 initiated amendment to the Constitution, or referred law that would have a fiscal impact on
3 the state.

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

5 Section 1. That the code be amended by adding a NEW SECTION to read:

6 If the Legislative Research Council determines in its review and comment under § 12-13-25
7 that any initiated measure or initiated amendment to the Constitution may have an impact on
8 revenues, expenditures, or fiscal liability of the state or its agencies and subdivisions, the
9 sponsor of the initiated measure or initiated amendment to the Constitution shall request a fiscal
10 note from the Legislative Research Council. If the Legislative Research Council determines any
11 initiated measure or initiated amendment to the Constitution may have a fiscal impact, the
12 petition and petition circulator shall provide notice of all cost estimates and fiscal notes prepared
13 pursuant to § 2-1-1.1, 2-1-1.2 or 2-1-3.1 to any person who signs the petition that the initiated
14 measure, initiated amendment to the Constitution, or referred law may have an impact on



1 revenues, expenditures, or fiscal liability of the state or its agencies and subdivisions. The
2 director of the Legislative Research Council shall prepare the fiscal note for a ballot initiative
3 or referred law. The director shall provide the sponsor of the ballot initiative or referred law
4 with the fiscal note, if applicable, prior to the petitions for the ballot initiative or referred law
5 being submitted and approved by the secretary of state before the sponsor can begin circulating.
6 The fiscal note may not exceed fifty words. The director shall file a fiscal note for a ballot
7 initiative with the sponsor and the secretary of state within sixty days of the receipt of the
8 sponsor's drafted ballot language. If a fiscal note was prepared for a bill that is being referred,
9 the director shall submit the summary to the secretary of state within five days of the secretary
10 of state's request of the summary.

11 Section 2. That the code be amended by adding a NEW SECTION to read:

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

18 Section 3. That § 12-13-25 be amended to read:

19 12-13-25. The sponsors of each initiative or initiated amendment to the Constitution shall
20 submit a copy of the initiative or initiated amendment to the Constitution to the director of the
21 Legislative Research Council for review and comment before it may be circulated for signatures.
22 The director shall review each submitted initiative or initiated amendment to the Constitution
23 to determine if the requirements of § 12-13-24 are satisfied and if the initiative or initiated
24 amendment to the Constitution may have any impact on revenues, expenditures, or fiscal

1 liability of the state or its agencies and subdivisions. Within fifteen days of receipt of an
2 initiative or initiated amendment to the Constitution, the director shall provide written
3 comments on the initiative or initiated amendment to the Constitution to the sponsors of the
4 initiative or initiated amendment, the attorney general, and the secretary of state for the purpose
5 of assisting the sponsors in complying with § 12-13-24. The sponsors may, but are not required
6 to, amend the initiative or initiated amendment to the Constitution to comply with the director's
7 comments.

8 Section 4. That § 12-13-9 be amended to read:

9 12-13-9. Before the third Tuesday in May, the attorney general shall deliver to the secretary
10 of state an attorney general's statement for each amendment to the Constitution proposed by the
11 Legislature, and any referred ~~measure~~ law from an odd year. The attorney general's statement
12 for each referred ~~measure~~ law from an even year shall be delivered to the secretary of state
13 before the second Tuesday in July. The attorney general's statement shall be written by the
14 attorney general and shall consist of a title, an explanation, and a clear and simple recitation of
15 the effect of a "Yes" or "No" vote. The title shall be a concise statement of the subject of the
16 proposed amendment to the Constitution or referred ~~measure authored by the attorney general~~
17 law. The explanation shall be an objective, clear, and simple summary to educate the voters of
18 the purpose and effect of the proposed amendment to the Constitution or the referred law. The
19 attorney general shall include a description of the legal consequences of the proposed
20 amendment to the Constitution or the referred law, including the likely exposure of the state to
21 liability if the proposed amendment to the Constitution or the referred law is adopted. The
22 explanation may not exceed two hundred words in length. On the printed ballots, the title shall
23 be followed by the explanation and the explanation shall be followed, if applicable, by ~~the fiscal~~
24 ~~impact statement~~ any cost estimate prepared pursuant to § 2-1-20 or fiscal note prepared

1 pursuant to section 2 of this Act and then followed by the recitation.

2 Section 5. That § 12-13-25.1 be amended to read:

3 12-13-25.1. Following receipt of the written comments of the director of the Legislative
4 Research Council, the sponsors shall submit a copy of the proposed initiative or initiated
5 amendment to the Constitution in final form, to the attorney general. The attorney general shall
6 prepare an attorney general's statement ~~which~~ that consists of a title and explanation. The title
7 shall be a concise statement of the subject of the proposed initiative or initiated amendment to
8 the Constitution. The explanation shall be an objective, clear, and simple summary to educate
9 the voters of the purpose and effect of the proposed ~~initiated measure~~ initiative or initiated
10 amendment to the Constitution. The attorney general shall include a description of the legal
11 consequences of the proposed initiative or initiated amendment ~~or initiated measure~~ to the
12 Constitution, including the likely exposure of the state to liability if the proposed initiative or
13 initiated amendment ~~or initiated measure~~ to the Constitution is adopted. The explanation may
14 not exceed two hundred words in length. The attorney general shall file the title and explanation
15 with the secretary of state and shall provide a copy to the sponsors within sixty days of receipt
16 of the proposed initiative or initiated amendment to the Constitution.

17 If the petition is filed as set forth in §§ 2-1-1.1 and 2-1-1.2, the attorney general shall deliver
18 to the secretary of state before the third Tuesday in May a simple recitation of a "Yes" or "No"
19 vote. On the printed ballots, the title shall be followed by the explanation and the explanation
20 shall be followed, if applicable, by ~~the prison or jail population~~ any cost estimate prepared
21 pursuant to § 2-1-20 or fiscal note prepared pursuant to section 2 of this Act, and then followed
22 by the recitation.

23 Section 6. That § 2-1-1.1 be amended to read:

24 2-1-1.1. The petition as it is to be circulated for an initiated constitutional amendment shall

be filed with the secretary of state prior to circulation for signatures and shall:

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

The petition circulator shall provide to each person who signs the petition a form containing the title and explanation of the initiated constitutional amendment as prepared by the attorney general; any fiscal note prepared; the name, phone number, and email address of each petition sponsor; and a statement whether the petition circulator is a volunteer or paid petition circulator and, if a paid circulator, the amount the circulator is being paid. The form shall be approved by the secretary of state prior to circulation.

For any initiated constitutional amendment petition, no signature may be obtained more than twenty-four months preceding the general election that was designated at the time of filing of the full text. The initiated constitutional amendment petition shall be filed with the secretary of state at least one year before the next general election. A notarized affidavit form, signed by at least two-thirds of the petition sponsors, stating that the documents filed constitute the entire petition and to the best of the knowledge of the sponsors contains a sufficient number of signatures shall also be filed with the secretary of state. The form of the petition and affidavit shall be prescribed by the State Board of Elections.

Section 7. That § 2-1-1.2 be amended to read:

2-1-1.2. The petition as it is to be circulated for an initiated measure shall be filed with the

secretary of state prior to circulation for signatures and shall:

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

The petition circulator shall provide to each person who signs the petition a form containing the title and explanation of the initiated measure as prepared by the attorney general; any fiscal note prepared; the name, phone number, and email address of each petition sponsor; and a statement whether the petition circulator is a volunteer or paid petition circulator and, if a paid circulator, the amount the circulator is being paid. The form shall be approved by the secretary of state prior to circulation.

For any initiated measure petition, no signature may be obtained more than twenty-four months preceding the general election that was designated at the time of filing of the full text. The initiated measure petition shall be filed with the secretary of state at least one year before the next general election. A notarized affidavit form, signed by at least two-thirds of the petition sponsors, stating that the documents filed constitute the entire petition and to the best of the knowledge of the sponsors contains a sufficient number of signatures shall also be filed with the secretary of state. The form of the petition and affidavit shall be prescribed by the State Board of Elections.

Section 8. That § 2-1-3.1 be amended to read:

2-1-3.1. The petition as it is to be circulated for a referred law shall be filed with the

1 secretary of state prior to circulation for signatures and shall:

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

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

14 The petition circulator shall provide to each person who signs the petition a form containing
15 the title of the referred law; any fiscal note prepared; the name, phone number, and email
16 address of each petition sponsor; and a statement whether the petition circulator is a volunteer
17 or paid petition circulator and, if a paid circulator, the amount the circulator is being paid. The
18 form shall be approved by the secretary of state prior to circulation.