



*South Dakota Secretary of State*  
SHANTEL KREBS

Minutes  
Board of Elections Meeting  
January 5, 2015

The Board of Elections convened on January 5, 2015, via conference call with public space available in Pierre in Suite 204 of the State Capitol Building at 500 E. Capitol, Pierre, SD 57501.

Secretary of State Krebs called the meeting to order at 11:00 a.m. (Central time).

Board members present: Secretary Shantel Krebs (in person at Suite 204); All others present via conference call: Dick Casey, Pam Lynde, Mitch LaFleur, Linda Lea Viken, Cindy Brugman and Drew Duncan.

Board members absent: none

Others present (in person at Suite 204): Kea Warne, Deputy Secretary of State of Election Services, Tom Deadrick, Deputy Secretary of State of Business Services, Jason Williams, Public Information Officer, Christine Lehrkamp, State Election Coordinator and Brandon Johnson, HAVA Coordinator.

Others present (via conference call): Sandy Hook, SD Advocacy Services and Shelly Pfaff, SD Coalition of Citizens with Disabilities.

Secretary Krebs declared that a quorum was present.

Secretary Krebs asked for a motion to approve the December 17, 2014 minutes. Board members asked to defer this item to the end of the meeting so they would have time to review them.

Review of proposed legislation at 11:05 a.m.

The first item discussed was proposed language changes to SDCL 12-6-4. Secretary Krebs began to review changes that had been approved at the December 17 meeting. Duncan requested to remove language pertaining to a candidate mailing their petition in by registered mail. Secretary Krebs reminded the Board that they tabled the discussion to remove the registered mail option at the previous meeting.

Motion by Duncan, second by Viken to remove from the table the discussion regarding removing “registered mail” language.

Ayes: Dick Casey, Pam Lynde, Mitch LaFleur, Linda Lea Viken, Cindy Brugman and Drew Duncan.

Nays: Secretary Krebs.

Motion carried.

Discussion: Secretary Krebs reviewed the proposal from the December 17 meeting that outlined a date certain for submitting a petition. The words “filed” vs. “received” were also discussed. Duncan would like to see the option for candidates to file petitions electronically. LaFleur suggested that the Secretary of State’s Office ask South Dakota Legislative Research Council (SD LRC) to update language and work to make other codes consistent with those changes. Lynde also discussed taking out the registered mail language. Secretary Krebs clarified that if a petition were to be mailed first class and it’s not received until after the deadline then it’s considered not received. The boards answer was yes.

Motion by Duncan, second by Lynde to remove language of “by registered mail” from all statutes that apply as long as there is a date certain listed in the statute.

Ayes: Dick Casey, Pam Lynde, Mitch LaFleur, Linda Lea Viken, Cindy Brugman, Drew Duncan and Secretary Krebs.

Nays: None

Motion carried.

There was some discussion about adding language to ARSD 05:02:08:00.01 (2a) detailing that the signers signature must be original which would coincide with language in 05:02:08:00 (4). No motion. Secretary of State staff will review and report back to the Board.

Motion by Viken , second by Casey to strike “a” and insert “the original” in 12-6-4 sentence “...,unless, a the original petition has been filed on that person’s behalf not prior to...” and to strike “filed or file” and insert “received in Office of Secretary of State” in 12-6-4 and throughout all other statutes that would apply to remain consistent.

Ayes: Dick Casey, Pam Lynde, Mitch LaFleur, Linda Lea Viken, Cindy Brugman, Drew Duncan and Secretary Krebs.

Nays: None

Motion carried.

Secretary of State staff will work with LRC to make appropriate language changes throughout.

Motion by Viken, second by Drew to strike “filed” and insert “received” and striking “registered mail.”

Ayes: Dick Casey, Pam Lynde, Mitch LaFleur, Linda Lea Viken, Cindy Brugman, Drew Duncan and Secretary Krebs.

Nays: None

Motion carried.

SDCL 2-11-3 was discussed. The Federal Move Act states that absentee voting needs to begin no later than 45 days prior to the election. In order to comply, auditors need to have adequate time to prepare ballots and the current statute doesn't allow for that.

Discussion.

Motion by Viken, second by LaFleur to change received date of petitions from 45 days to 65 days.

Ayes: Dick Casey, Pam Lynde, Mitch LaFleur, Linda Lea Viken, Cindy Brugman, Drew Duncan and Secretary Krebs.

Nays: None

Motion carried.

Neither the Secretary of State staff nor the Board had any additional changes to the proposed changes to SDCL 12-6-4.1 and 12-6-8 as approved at the December 17, 2014 meeting.

Motion by Viken, second by Casey to remove "at 8:00 a.m." from SDCL 12-7-1 to remain consistent with other statutes.

Ayes: Dick Casey, Pam Lynde, Mitch LaFleur, Linda Lea Viken, Cindy Brugman, Drew Duncan and Secretary Krebs.

Nays: None

Motion carried.

Since the December 17 meeting, Secretary of State staff consulted with the SD Attorney General's office and have proposed language for SDCL 12-7-1 detailing the withdrawal process. Discussion.

Motion by Casey, second by Lynde to approve additional language and removal of the phrase "before it is" and replacing it with the phrase "prior to being." (The sentence would read: The candidate and the candidate's selection for lieutenant governor or vice president shall sign the certification before it is prior to being filed.)

Ayes: Dick Casey, Pam Lynde, Mitch LaFleur, Linda Lea Viken, Cindy Brugman, Drew Duncan and Secretary Krebs.

Nays: None

Motion carried.

Neither the Secretary of State staff nor the Board had any additional changes to the proposed changes to SDCL 12-5-3.8 as approved at the December 17, 2014 meeting.

Motion by Casey, second by Brugman to add "5:00 p.m." after the word "by" in SDCL 12-5-3.14. (The sentence would read: Any candidate, committee, or group supporting a candidate in any presidential primary, shall, by 5:00 p.m., the last...). Discussion.

Ayes: Dick Casey, Pam Lynde, Mitch LaFleur, Linda Lea Viken, Cindy Brugman, Drew Duncan and Secretary Krebs.

Nays: None

Motion carried.

Motion by Brugman, second by Lynde to strike “file” and insert “submit to” throughout SDCL 23-3-43.1 and also insert “5:00 p.m.” after “by” in the first sentence. Discussion. Ayes: Dick Casey, Pam Lynde, Mitch LaFleur, Linda Lea Viken, Cindy Brugman, Drew Duncan and Secretary Krebs.

Nays: None

Motion carried.

Motion by Viken, second by Casey to strike “filing with” and insert “submitting to” in SDCL 12-5-1. Discussion.

Ayes: Dick Casey, Pam Lynde, Mitch LaFleur, Linda Lea Viken, Cindy Brugman, Drew Duncan and Secretary Krebs.

Nays: None

Motion carried.

Neither the Secretary of State staff nor the Board had any additional changes to the proposed changes to SDCL 12-6-8.1 and 12-5-4 as approved at the December 17, 2014 meeting.

There was discussion of the addition of language to SDCL 12-1-13. The SD AG’s office approved the language but UJS has not been consulted.

Motion by LaFleur, second by Casey to remove the following sentence from the new language: This action takes precedence over other cases in circuit court.

Ayes: Dick Casey, Mitch LaFleur and Drew Duncan.

Nays: Pam Lynde, Linda Lea Viken, Cindy Brugman and Secretary Krebs.

Motion failed.

Casey asked that the Secretary of State staff consult the Chief Justice on that sentence and Secretary Krebs stated that SD LRC will review it also. They will also ask SD LRC to review wording of “as set forth above within thirty days...” to make sure it parallels new language.

Discussion and review of draft legislation that SD LRC prepared for the SOS (400W0317) which adds four new sections to SDCL 12-1. Duncan asked if the last sentence contained in lines 9 and 10 should be removed? Consensus was yes and Casey remarked that the Secretary of State needs clear direction and it’s up to the Courts to exercise discretion if this were challenged. LaFleur asked if registered voters have to be of a particular party as this statute doesn’t state that. Secretary of State staff stated yes and this is covered in other statutes and in South Dakota Administrative Rules.

Motion by Viken, second by Casey to approve the entire draft legislation (400W0317) with a change to page 2, line 11 and 15, deleting “as the case may be” and inserting “as applicable.”

Ayes: Dick Casey, Pam Lynde, Mitch LaFleur, Linda Lea Viken, Cindy Brugman and Secretary Krebs.

Nays: Drew Duncan

Motion carried.

Neither the Secretary of State staff nor the Board had any additional changes to the proposed changes to SDCL 12-1-14 as approved at the December 17, 2014 meeting.

Discussion of SDCL 12-27-22 took place.

Motion by Casey, second by LaFleur to change the word "filed" in all places and insert "submitted to" (or appropriate grammar).

Ayes: Dick Casey, Pam Lynde, Mitch LaFleur, Drew Duncan, Cindy Brugman and Secretary Krebs.

Nays: Linda Lea Viken

Motion carried.

Secretary Krebs entertained any public comments. There were none.

Motion by Lynde, second by LaFleur to approve the minutes from the December 17, 2014 meeting.

Ayes: Pam Lynde, Mitch LaFleur, Cindy Brugman and Secretary Krebs.

Nays: Linda Lea Viken.

Abstain: Dick Casey and Drew Duncan.

Secretary Krebs thanked the Board for their work. She assured the Board that Secretary of State staff will work with SD LRC to make language changes to all statutes, including city, county and school election and petition challenge statutes. She also noted that the Governor's office asked the Secretary of State to review statutes regarding the process to change the name of a County. The proposal would be that the name change takes effect the July following the election and that the Legislature be removed completely from the process.

Seeing no further items to discuss, motion made by Viken, second by Duncan to adjourn.

Ayes: Dick Casey, Pam Lynde, Mitch LaFleur, Linda Lea Viken, Cindy Brugman, Drew Duncan and Secretary Krebs.

Nays: None

Motion carried.

The Board adjourned at 1:04 p.m.

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Shantel Krebs, Secretary of State

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Christine Lehrkamp, Recorder