

LEGISLATURE OF NEBRASKA
ONE HUNDRED NINTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 604

Introduced by Storm, 23; DeKay, 40; Lonowski, 33.

Read first time January 22, 2025

Committee: Government, Military and Veterans Affairs

- 1 A BILL FOR AN ACT relating to initiative and referendum measures; to
- 2 amend sections 32-1405 and 32-1412, Revised Statutes Cumulative
- 3 Supplement, 2024; to provide duties; to change provisions relating
- 4 to suits brought regarding initiative and referendum petitions; to
- 5 harmonize provisions; and to repeal the original sections.
- 6 Be it enacted by the people of the State of Nebraska,

1 **Section 1.** Section 32-1405, Revised Statutes Cumulative Supplement,
2 2024, is amended to read:

3 32-1405 (1) Prior to obtaining any signatures on an initiative or
4 referendum petition, a statement of the object of the petition and the
5 text of the measure shall be filed with the Secretary of State together
6 with a sworn statement containing the names and street addresses of every
7 person, corporation, or association sponsoring the petition. Sponsors of
8 the petition may be added or removed with the unanimous written consent
9 of the original sponsor or sponsors at any time prior to or on the day
10 the petition is filed for verification with the Secretary of State.

11 (2) Upon receipt of the filing, the Secretary of State shall
12 transmit the text of the proposed measure to the Revisor of Statutes. The
13 Revisor of Statutes shall review the proposed measure and suggest changes
14 as to form and draftsmanship. The revisor shall complete the review
15 within ten business days after receipt from the Secretary of State. The
16 Secretary of State shall provide the results of the review and suggested
17 changes to the sponsor but shall otherwise keep the proposed measure, the
18 review, and the sworn statement confidential for five days after receipt
19 of the review by the sponsor. The Secretary of State shall then maintain
20 the proposed measure, the opinion, and the sworn statement as public
21 information and as a part of the official record of the initiative. The
22 sponsor may make any changes recommended by the Revisor of Statutes and
23 shall submit final language to the Secretary of State. If the final
24 language is addressing a subject that is substantially different in form
25 or substance from the initial filing or the changes recommended by the
26 Revisor of Statutes, the Secretary of State shall reject it.

27 (3) The Secretary of State shall prepare the form of the petition
28 from the final language filed by the sponsor and shall provide a copy of
29 the form of the petition to the sponsor within five business days after
30 receipt of the final language of the proposed measure. The sponsor shall
31 print the petitions to be circulated from the forms provided. Prior to

1 circulation, the sponsor shall file a sample copy of the petition to be
2 circulated with the Secretary of State.

3 (4) Upon receipt of the sample copy of the petition, the Secretary
4 of State shall post on the Secretary of State's website the text of the
5 measure and notice that the measure is in circulation. The text and
6 notice shall remain posted until the deadline for filing petitions.

7 **Sec. 2.** Section 32-1412, Revised Statutes Cumulative Supplement,
8 2024, is amended to read:

9 32-1412 (1) If the Secretary of State refuses to place on the ballot
10 any measure proposed by an initiative petition presented or which may be
11 presented at least four months preceding the date of the election at
12 which the proposed law or constitutional amendment is to be voted upon or
13 a referendum petition presented or which may be presented within ninety
14 days after the Legislature enacting the law to which the petition applies
15 adjourns sine die or for a period longer than ninety days, any resident
16 may apply, within ten days after the announcement of such refusal, to the
17 district court of Lancaster County for a writ of mandamus. If the
18 Secretary of State's refusal to place the measure on the ballot is based
19 on any legal insufficiency other than an insufficiency of signatures
20 pursuant to Article III, section 2, of the Constitution of Nebraska, the
21 Secretary of State shall announce his or her refusal on the same date as
22 posting the notice of circulation pursuant to subsection (4) of section
23 32-1405 and shall state the reason for his or her refusal in the
24 announcement. The Secretary of State's failure to state the reason for
25 his or her refusal in the announcement shall be considered a waiver of
26 those defenses. If it is decided by the court that such petition is
27 legally sufficient, the Secretary of State shall order the issue placed
28 upon the ballot at the next general election.

29 (2)(a) {2} On a showing that an initiative or referendum petition is
30 not legally sufficient, the court, on the application of any resident,
31 may (i) enjoin the Secretary of State and all other officers from

1 certifying or printing on the official ballot for the next general
2 election the ballot title and number of such measure or (ii) declare the
3 measure legally removed from the ballot if preventing the certification
4 or printing of the measure on the ballot is no longer practicable. If a
5 suit is filed against the Secretary of State seeking to enjoin him or her
6 from placing the measure on the official ballot or to have the court
7 declare the measure legally removed, the person who is the sponsor of
8 record of the petition shall be a necessary party defendant in such suit.

9 (b) Any suit brought pursuant to this subsection asserting the
10 insufficiency of an initiative or referendum petition, other than for
11 insufficiency of signatures pursuant to Article III, section 2, of the
12 Constitution of Nebraska, shall be commenced within sixty days after the
13 Secretary of State posts the notice of circulation pursuant to subsection
14 (4) of section 32-1405 unless the sixtieth day falls after the deadline
15 for filing petitions. If the sixtieth day falls after the deadline for
16 filing petitions, then the suit shall be commenced by the close of
17 business on the last day for filing petitions.

18 (3) Such suits shall be advanced on the trial docket and heard and
19 decided by the court as quickly as possible. Either party may appeal to
20 the Court of Appeals within ten days after a decision is rendered. The
21 appeal procedures described in the Administrative Procedure Act shall not
22 apply to this section.

23 (4) The district court of Lancaster County shall have jurisdiction
24 over all litigation arising under sections 32-1401 to 32-1416. However,
25 if a suit brought pursuant to this section does not assert an
26 insufficiency of signatures, then the Supreme Court shall hear the case
27 pursuant to its original jurisdiction under section 24-204 if practicable
28 and upon petition of any party.

29 (5) Any official asserting a defense to an action brought pursuant
30 to subsection (1) of this section, or any resident asserting the legal
31 insufficiency of an initiative or referendum petition pursuant to

1 subsection (2) of this section, may raise the substantive facial
2 insufficiency of the measure in question. Such an insufficiency may be
3 the sole basis for the claim or defense. No claim shall be dismissed, nor
4 any official prevented from raising a defense, for lack of ripeness of a
5 claimed substantive facial insufficiency.

6 (6) Nothing in this section shall be construed as applying to or
7 limiting suits not brought pursuant to this section and brought after
8 enactment of a measure.

9 **Sec. 3.** Original sections 32-1405 and 32-1412, Revised Statutes
10 Cumulative Supplement, 2024, are repealed.