

LEGISLATURE OF NEBRASKA
ONE HUNDRED FOURTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 214

Introduced by Schumacher, 22.

Read first time January 13, 2015

Committee: Government, Military and Veterans Affairs

1 A BILL FOR AN ACT relating to elections; to amend section 32-1403,
2 Reissue Revised Statutes of Nebraska, and section 32-101, Revised
3 Statutes Cumulative Supplement, 2014; to provide for electronic
4 signatures on initiative and referendum petitions; to provide powers
5 and duties; to provide fees; to create a fund; to provide penalties;
6 to harmonize provisions; to provide operative dates; to provide
7 severability; to repeal the original sections; and to declare an
8 emergency.

9 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 32-101, Revised Statutes Cumulative Supplement,
2 2014, is amended to read:

3 32-101 Sections 32-101 to 32-1551 and sections 2 to 16 and 19 to 21
4 of this act shall be known and may be cited as the Election Act.

5 Sec. 2. It is the intent of the Legislature to facilitate the
6 rights of the people reserved in Article III of the Constitution of
7 Nebraska through the use of electronic signatures on petitions and
8 electronic verification of signatures on petitions used for the
9 initiative and referendum processes. In order to overcome obstacles to
10 the exercise of those rights, take advantage of modern technology, and
11 provide for a contemplative environment in which those rights might be
12 exercised, the Legislature finds that there is a need to establish the
13 means to ensure the validity of the electronic signatures and of the
14 verification process and to ensure that security measures are in place to
15 prevent opportunities for fraud and misuse.

16 Sec. 3. For purposes of sections 2 to 16 of this act:

17 (1) Electronic signature means the submission of data by an eligible
18 signer as prescribed by section 6 of this act;

19 (2) Eligible signer means an individual who is eligible to sign an
20 initiative petition or a referendum petition, as applicable;

21 (3) Petition means an initiative petition and a referendum petition;

22 (4) Petition sponsor means (a) the petition sponsor filing pursuant
23 to section 32-1405 or (b) a person who directly or indirectly contributes
24 five thousand dollars or more in support of a petition and if any person
25 so contributing is not a natural person, the governing board of the
26 entity, the chief executive officer of the entity, any person in control,
27 within the meaning of the Internal Revenue Code of 1986 as defined in
28 section 49-801.01, of the entity, and any registered lobbyist materially
29 involved with the entity in the design or promotion of the petition,
30 except that for purposes of filings with the Secretary of State relating
31 to a petition and for purposes of conducting litigation involving a

1 petition, only a person identified under subdivision (a) of this
2 subdivision shall be considered to be a petition sponsor;

3 (5) Registered participant means a person who complies with section
4 16 of this act;

5 (6) State agency means any agency, board, or court of state
6 government or any constitutional officer of the executive, legislative,
7 or judicial branch of state government except individual members of the
8 Legislature; and

9 (7) State-qualified data means a valid voter identification number
10 issued or assigned by the Secretary of State, an audit trail of which is
11 maintained by the Secretary of State; a qualifying self-assigned personal
12 identification number preregistered by an eligible signer with the
13 Secretary of State; a personal identification number on a state tax
14 return filed with the Department of Revenue; a unique access code or
15 other unique electronic identifier assigned or approved by a state agency
16 for use in identifying a party in communications with the state agency
17 and which the Secretary of State has integrated into the electronic
18 signature process; or other data which is maintained for purposes of
19 identification by a state agency independently of the voter registration
20 register and which is accessible by the Secretary of State.

21 Sec. 4. The Secretary of State shall provide for the submission of
22 electronic signatures for every petition unless the petition sponsor opts
23 out of the use of electronic signatures by notifying the Secretary of
24 State at the time of filing the petition for review under section
25 32-1405, as applicable. If the petition sponsor does not opt out under
26 this section, an eligible signer may choose whether to submit his or her
27 electronic signature for a petition or sign the petition manually.
28 Sections 2 to 16 of this act shall not be construed to require an
29 eligible signer to use electronic signatures or to require a petition
30 sponsor to opt for or against the use of electronic signatures.

31 Sec. 5. (1) At the time of filing a petition for review under

1 section 32-1405, a petition sponsor who does not opt out under section 4
2 of this act shall pay a filing fee or file a qualifying affidavit.

3 (2) The filing fee shall be ten thousand dollars for an initiative
4 petition proposing a constitutional amendment and five thousand dollars
5 for any other petition.

6 (3) A petition sponsor who cannot afford the filing fee may file a
7 qualifying affidavit in lieu of the filing fee. If the petition sponsor
8 reports to the Nebraska Accountability and Disclosure Commission fifty
9 thousand dollars or more in aggregate contributions in support of the
10 petition or ten thousand dollars or more in aggregate contributions from
11 a petition sponsor, the qualifying affidavit ceases to have effect and
12 the petition sponsor shall pay the appropriate filing fee before further
13 use of electronic signatures for such petition is permitted.

14 Sec. 6. Subject to section 4 of this act, an eligible signer may
15 sign a petition by use of an electronic signature. The Secretary of State
16 shall accept an electronic signature meeting the requirements of this
17 section and include the signature in the count of signatures necessary to
18 validate the petition. No circulator signature or notarization shall be
19 required for electronic signatures. The use of an electronic signature
20 shall have the same force and effect as the use of a manual signature on
21 a petition if and only if the electronic signature complies with the
22 following requirements:

23 (1) The electronic signature is submitted by an eligible signer to a
24 web site established pursuant to section 12 of this act;

25 (2) A signer at the time of submitting the electronic signature also
26 submits (a) his or her name, address, county of residence, political
27 party affiliation, and date of birth as shown on his or her voter
28 registration record, (b) his or her assent to the petition document, and
29 (c) a unique identifier which (i) can be verified against other state-
30 qualified data associated with the signer or (ii) would be acceptable in
31 commercial financial transactions involving the transfer of money between

1 financial institutions such as credit card transactions;

2 (3) The electronic signature is correlated with the signer as
3 evidenced by a reasonable match with voter registration records and
4 voting records which correspond to at least one item of state-qualified
5 data or by the execution of a financial transaction initiated under the
6 signer's name and involving one or more financial institutions, which
7 financial transaction may be evidenced by an online contribution to the
8 Petition Operations Fund using the eligible signer's credit or debit
9 card;

10 (4) The electronic signature has not been disqualified because of
11 abuse as defined in rules and regulations adopted and promulgated by the
12 Secretary of State;

13 (5) The electronic signature has not been repudiated as a result of
14 the postcard mailed pursuant to section 7 of this act;

15 (6) The electronic signature has not been previously submitted and
16 verified as a signature on the same petition; and

17 (7) The electronic signature conforms to reasonable rules and
18 regulations adopted and promulgated by the Secretary of State which
19 facilitate the intent stated in section 2 of this act.

20 Sec. 7. Upon receipt of an electronic signature, the Secretary of
21 State shall mail a postcard by United States mail to the signer at the
22 address on his or her voter registration record notifying the signer that
23 his or her signature has been received, identifying the petition to which
24 the signature is attached, and notifying the signer that he or she has
25 ten days to contact the office of the Secretary of State to indicate that
26 he or she did not submit the signature.

27 Sec. 8. If for any reason an electronic signature cannot be
28 correlated with the signer as required in subdivision (3) of section 6 of
29 this act, the eligible signer may submit his or her name, address, county
30 of residence, political party affiliation, and date of birth as shown on
31 his or her voter registration record and a request that a petition be

1 mailed to the address shown on his or her voter registration record. The
2 Secretary of State shall encrypt coding on a single signature petition
3 form to identify the form and the eligible signer requesting the form and
4 shall mail the form to such address by United States mail. The eligible
5 signer may return the completed form to the Secretary of State prior to
6 the deadline and the form shall qualify as an electronic signature for
7 the petition. No circulator signature or notarization shall be required
8 on a single signature petition form under this section.

9 Sec. 9. The Secretary of State shall make public on a county-by-
10 county basis, at least once each week, the number of electronic
11 signatures collected for each petition.

12 Sec. 10. On or before January 1, 2016, the Secretary of State shall
13 adopt and promulgate rules and regulations to carry out sections 2 to 16
14 of this act and to facilitate the intent stated in section 2 of this act.
15 The Secretary of State shall seek the advice of public and private
16 entities in developing the rules and regulations, including the
17 Department of Administrative Services. The rules and regulations shall
18 provide for a degree of security for the process of submitting electronic
19 signatures and electronic signature verification reasonably related to
20 the risks and consequences of fraud or misuse. The rules and regulations
21 shall, at a minimum, require the maintenance of an audit trail of public
22 Internet protocol addresses identified with the session in which the
23 electronic signature was submitted, the data submitted by the signer, the
24 time and date of the submission, the state-qualified data used for
25 verification, and the date the postcard required under section 7 of this
26 act was mailed.

27 Sec. 11. The Secretary of State may establish and update a
28 verification data base from state agencies for purposes of implementing
29 sections 2 to 16 of this act. The verification data collected by the
30 Secretary of State for purposes of sections 2 to 16 of this act shall be
31 confidential and shall not be a public record within the meaning of

1 sections 84-712 to 84-712.09. The verification data base shall include
2 data which is unique to an eligible signer, which is maintained by a
3 state agency independently of the voter registration register and voting
4 records, and which is accessible to the Secretary of State, including,
5 but not limited to, motor vehicle operators' licenses and state
6 identification cards.

7 Sec. 12. The Secretary of State shall establish a secure server
8 located within Nebraska and under the direct control of the Secretary of
9 State and a secure web site on the server with a uniform resource locator
10 designated by the Secretary of State for purposes of submission of
11 electronic signatures for petitions. Any interaction with the server is
12 deemed to have occurred in Nebraska. The web site shall set forth the
13 full text of any petition for which electronic signatures are being
14 accepted. The web site shall be designed so that an eligible signer views
15 the full text of the petition before being able to submit his or her
16 electronic signature for the petition. The web site shall include links
17 to web sites which provide information related to the petition and which
18 are maintained in support of or opposition to the petition by petition
19 sponsors and registered participants.

20 Sec. 13. Any person may challenge a petition for which electronic
21 signatures were gathered prior to the election at which the question
22 would be submitted. The person challenging the petition shall, at the
23 time of filing the litigation in court, file an affidavit with the
24 Secretary of State identifying every person who directly or indirectly
25 contributed one thousand dollars or more in cash or in kind for the
26 litigation in opposition to the relevant petition. If any person so
27 contributing is not a natural person, the affidavit shall also identify
28 the governing board of the entity, the chief executive officer of the
29 entity, any person in control, within the meaning of the Internal Revenue
30 Code of 1986 as defined in section 49-801.01, of the entity, and any
31 registered lobbyist materially involved with the entity in opposition to

1 the petition. If after filing the initial affidavit any additional
2 persons meet such criteria, an additional affidavit shall be filed with
3 the Secretary of State within three working days after meeting such
4 criteria. Any failure to identify such persons shall be grounds for
5 dismissal of the litigation.

6 Sec. 14. The Secretary of State may operate a secure web site
7 account for the purpose of receiving credit card contributions. The
8 Secretary of State shall remit contributions to the State Treasurer for
9 credit to the Petition Operations Fund.

10 Sec. 15. The Petition Operations Fund is created. The fund shall be
11 used for purposes of carrying out sections 2 to 16 of this act. Any money
12 in the fund available for investment shall be invested by the state
13 investment officer pursuant to the Nebraska Capital Expansion Act and the
14 Nebraska State Funds Investment Act.

15 Sec. 16. A person may become a registered participant and request
16 that a link be placed on the web site created by the Secretary of State
17 under section 12 of this act by applying to the Secretary of State. The
18 application shall provide the appropriate information regarding the link
19 and shall be accompanied by a registration fee of two hundred fifty
20 dollars for each link or an affidavit stating that such person cannot
21 afford such fee. The link shall be to a web site maintained by the
22 registered participant which provides information supporting or opposing
23 a petition on the web site created by the Secretary of State.

24 Sec. 17. Section 32-1403, Reissue Revised Statutes of Nebraska, is
25 amended to read:

26 32-1403 A full and correct copy of the title and text of the law or
27 amendment to the Constitution of Nebraska to be proposed by an initiative
28 petition or the measure sought to be referred to the registered voters by
29 a referendum petition shall be printed upon each sheet of the petition
30 which contains signatures. The petition may be filed with the Secretary
31 of State in numbered sections for convenience in handling. Electronic

1 signatures may be gathered pursuant to sections 2 to 16 of this act.

2 Sec. 18. Intentional interference with the operation or integrity
3 of a server or web site established under section 12 of this act is a
4 Class III felony.

5 Sec. 19. Attempting to submit the electronic signature of another
6 person is a Class IV felony.

7 Sec. 20. Reporting to the Secretary of State that an electronic
8 signature was not submitted if in fact such electronic signature was
9 submitted is a Class I misdemeanor.

10 Sec. 21. Sections 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15,
11 16, 17, 18, 19, 20, and 23 of this act become operative on January 1,
12 2016. The other sections of this act become operative on their effective
13 date.

14 Sec. 22. If any section in this act or any part of any section is
15 declared invalid or unconstitutional, the declaration shall not affect
16 the validity or constitutionality of the remaining portions.

17 Sec. 23. Original section 32-1403, Reissue Revised Statutes of
18 Nebraska, is repealed.

19 Sec. 24. Original section 32-101, Revised Statutes Cumulative
20 Supplement, 2014, is repealed.

21 Sec. 25. Since an emergency exists, this act takes effect when
22 passed and approved according to law.