

State of South Dakota

EIGHTY-FIRST SESSION
LEGISLATIVE ASSEMBLY, 2006

717M0148

HOUSE BILL NO. 1003

Introduced by: The Committee on Local Government at the request of the Office of the
Secretary of State

1 FOR AN ACT ENTITLED, An Act to revise certain provisions concerning absentee voting.

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

3 Section 1. That § 12-19-2 be amended to read as follows:

4 12-19-2. An absentee voter desiring to vote by mail may apply to the person in charge of the
5 election for an absentee ballot. The application or request shall be made in writing and be signed
6 by the applicant and shall state the applicant's voter registration address. The application or
7 request shall contain an oath verifying the validity of the information contained in the
8 application or request. The oath shall be administered by a notary public or other officer
9 authorized by statute to administer an oath. If the application or request does not contain an
10 oath, the application or request shall be accompanied by a copy of the voter's identification card
11 as required by § 12-18-6.1. The copy of the voter's identification card shall be maintained by the
12 person in charge of the election. However, the voter's identification card is not available for
13 public inspection. The application or request may be used to obtain an absentee ballot for all
14 elections in that calendar year conducted by the jurisdiction receiving the application or request
15 if so indicated. If the application or request is from a voter identified as being covered by the



1 Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff-1) as of January 1,
2 ~~2004~~ 2006, an absentee ballot shall be provided to the voter for each federal election through
3 the next two general elections. The ballot shall be sent to the voter's residence, as shown in the
4 voter registration file or any temporary residence address designated in writing by the voter, at
5 the time of applying for the absentee ballot. ~~The State Board of Elections shall promulgate rules,~~
6 ~~pursuant to chapter 1-26, to prescribe the application or request form.~~ The person in charge of
7 the election shall stamp the application with the date it was received. ~~The application may be~~
8 ~~made by letter or upon any form containing the required information or upon any form~~
9 ~~prescribed by the State Board of Elections or the postcard form referred to in § 12-4-8.1,~~
10 ~~executed by persons authorized in accordance with the Uniformed and Overseas Citizens~~
11 ~~Absentee Voting Act (UOCAVA) (42 U.S.C. § 1973ff) as of January 1, 2004.~~ The person in
12 charge of the election shall preserve a record of the name, post office mailing address, and
13 voting precinct of each applicant and, except as provided by § 12-19-45, deliver the record to
14 the superintendent of the election board of the home precinct of the applicant.

15 Section 2. That chapter 12-19 be amended by adding thereto a NEW SECTION to read as
16 follows:

17 The State Board of Elections shall promulgate rules, pursuant to chapter 1-26, to prescribe
18 the absentee application form and a combined absentee ballot application/return envelope for
19 absentee voting in the office of the person in charge of the election. The application may be
20 made by letter or upon any form containing the required information or upon any form
21 prescribed by the State Board of Elections or the postcard form referred to in § 12-4-8.1,
22 executed by any person authorized in accordance with the Uniformed and Overseas Citizens
23 Absentee Voting Act (UOCAVA) (42 U.S.C. § 1973ff) as of January 1, 2006.

24 Section 3. That § 12-19-2.1 be amended to read as follows:

1 12-19-2.1. At anytime prior to an election, a voter may apply in person to the person in
2 charge of the election for an absentee ballot during regular office hours up to 3:00 p.m. on the
3 day of the election. If the voter applies in person, the voter shall complete a combined absentee
4 ballot application/return envelope and show the person in charge of the election the voter's
5 identification card as required in § 12-18-6.1 or complete the affidavit as provided in § 12-18-
6 6.2.

7 In the event of confinement because of sickness or disability, a qualified voter may apply
8 pursuant to the provisions of § 12-19-2 in writing ~~for~~ and obtain an absentee ballot by
9 authorized messenger so designated over the signature of the voter. The person in charge of the
10 election may deliver to the authorized messenger a ballot to be delivered to the qualified voter.
11 ~~An~~ Any application for a ballot by authorized messenger must be received by the person in
12 charge of the election before 3:00 p.m. the day of the election. If ~~an~~ the application designating
13 an authorized messenger also indicates a request for an absentee ballot for any future election,
14 such absentee ballot shall be mailed to the address provided on the application. If no address is
15 provided, the ballot shall be mailed to the person's voter registration address.

16 Section 4. That § 12-19-9 be amended to read as follows:

17 12-19-9. An authorized messenger shall deliver the absentee ballot to the person in charge
18 of the election. ~~The person in charge of the election shall provide the authorized messenger~~
19 ~~referred to in § 12-19-2.1 with a receipt when he returns the absentee ballot. If~~ unless there is
20 not sufficient time for the person in charge of the election to transmit the absentee ballot to the
21 voter's home precinct. In that instance, the authorized messenger shall personally deliver it
22 personally the absentee ballot to the precinct superintendent of the voter's home precinct. If the
23 authorized messenger requests a receipt when returning the absentee ballot, the person in charge
24 of the election shall provide the authorized messenger a receipt.

1 Section 5. That § 12-19-9.1 be amended to read as follows:

2 12-19-9.1. If there is any nursing facility, assisted living center, or hospital, as defined in
3 § 34-12-1.1, within any county from which there might reasonably be expected to be five or
4 more absentee applications, the county auditor shall notify the person in charge of that facility
5 and the ~~chairman~~ chair of the county central committee of each party and any other person who
6 has filed a request to be notified of the date and time at which representatives of the auditor's
7 office will be present to assist the residents of that facility to vote, utilizing the absentee
8 procedure. Any political party, independent candidate, and nonpolitical candidate may assign
9 a person to accompany the auditor's representatives. At the date and time announced, the
10 auditor's representative and the representatives of the parties, independent candidates, and
11 nonpolitical candidates shall deliver ballots to and assist all persons at that facility who desire
12 such assistance and who have applied for absentee ballots. This section applies only to a general
13 election.

14 If a person in charge of an election conducts absentee voting at a nursing facility, assisted
15 living center, or hospital as defined in § 34-12-1.1, the voter shall complete a combined absentee
16 ballot application/return envelope and the identification and affidavit requirements provided in
17 § 12-19-2.1 are waived.

18 Section 6. That § 12-19-10 be amended to read as follows:

19 12-19-10. Upon receipt of the sealed return envelope containing the voted ballots, the person
20 in charge of the election shall keep it in a safe place without opening the envelope or breaking
21 the seal thereof and shall, except as provided by § 12-19-42, deliver it to the precinct
22 superintendent of election of the voter's home precinct. The person in charge of the election
23 shall have the absentee ballots delivered with the election supplies, or if received later, then
24 prior to the close of the polls. If the election board is not otherwise engaged in official duties,

1 or if there are absentee ballots not processed when the polls close, immediately thereafter, the
2 board shall carefully compare the statement on the reverse side of the official return envelope
3 with the written application received from the officer in charge of the election without opening
4 or breaking the seal of the return envelope. If the ballot is contained in a combined absentee
5 ballot application/return envelope, the comparison of the statement and the application shall be
6 omitted. The board shall enter the voter's name on the election pollbook and mark the
7 registration list if:

- 8 (1) The ballots received were voted by the voter whose name appears on the statement;
- 9 (2) The voter is registered in such precinct and has not previously voted in that precinct
10 at the election; and
- 11 (3) The written application and statement were both signed by the voter.

12 The board shall then open the envelope without opening, unfolding or examining the ballots
13 the envelope may contain, stamp the ballots with the official stamp, and deposit the ballots with
14 the other ballots cast at the election. No person may, prior to the counting of the votes, open,
15 unfold or examine any ballot, or make any communication to any person concerning the
16 markings or contents of the ballot. A violation of the preceding sentence is a Class 2
17 misdemeanor.

18 Section 7. That § 12-19-47 be amended to read as follows:

19 12-19-47. The Absentee Ballot Counting Board, during the time prescribed in § 12-19-46,
20 shall carefully compare the statement on the reverse side of the official return envelope with the
21 written application received from the officer in charge of the election without opening or
22 breaking the seal of the return envelope. If the ballot is contained in a combined absentee ballot
23 application/return envelope, the comparison of the statement and the application shall be
24 omitted. If the board is satisfied that the ballots received were voted by the voter whose name

1 appears on the statement and that ~~he~~ the voter is registered in such precinct and has not
2 previously voted in that precinct at the election, ~~they~~ the board shall enter the voter's name on
3 the election pollbook ~~and, after~~. After opening the envelope without opening, unfolding, or
4 examining the ballots contained in the envelope ~~may contain~~, the board shall affix to the ballots
5 the official stamp and deposit the ballots in the proper ballot box and count the ballots in the
6 manner prescribed by the State Board of Elections. No person, ~~may~~, prior to the counting of the
7 votes, may open, unfold, or examine any ballot, or make any communication to any person
8 concerning the markings or contents of the ballot. A violation of the preceding sentence is a
9 Class 2 misdemeanor.