



SIoux FALLS AREA
CHAMBER OF COMMERCE

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ISSUE BRIEF:

Nonpartisan Elections — Constitutional Amendment V

July 2016

Approved by the Executive Committee: July 25, 2016

Approved by the Board of Directors: July 27, 2016

The Sioux Falls Area Chamber of Commerce will remain “NEUTRAL” on Constitutional Amendment V on the 2016 general election ballot.

Background

There are two ways in South Dakota to propose an amendment to the State Constitution. The first is by a majority vote of both houses of the Legislature endorsing a joint resolution to put an issue on the ballot. The resolution does not require the Governor's signature. The second option requires an initiative process with valid signatures equaling at least 10 percent of the vote total from the prior gubernatorial election. Nonpartisan election supporters gathered some 42,195 signatures, which is more than the required 27,741. Thus, this issue has been placed on the 2016 general election ballot as Constitutional Amendment V. To amend the constitution will require a majority vote.

In summary, Constitutional Amendment V would do the following:

- Change state election law so that primary elections for all federal (except for President and Vice President), state and county elected offices would be nonpartisan elections. This means that all candidates seeking the office would be listed on one primary ballot and registered voters, regardless of their political party, could vote for any candidate.
- The two candidates receiving the most votes would proceed to the general election, again without party affiliation designated. If there is more than one office to be filled the number of candidates proceeding to the general election would be twice the number of offices to be filled.

Discussion

South Dakota has a hybrid primary election system today. The Republican primary is closed meaning only registered Republicans can vote in the primary. The Democratic primary is open to voters registered as Democrat, Independent or No Party Affiliation. In addition, some general election candidates e.g. Public Utilities Commissioner are chosen at the state convention of each party (South Dakota Secretary of State *General Information on South Dakota Elections 2016*). Amendment V would eliminate these practices altogether.

For example, in a contest for state representative with six declared candidates (three Republicans, two Democrats and one Independent) all six candidates would be on the primary ballot with no party designation included. Since two state representatives will be elected, the top four candidates receiving votes would proceed to the general election and would, again, appear on the ballot without party designation.

It should be noted that the Amendment V only pertains to elections and does not impact the party-based processes used when the legislature convenes. Thus, “nonpartisan” ends at the general election. It should also be noted that using nonpartisan elections for

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statewide offices could result in two candidates from the same party running against each other in the general election. That scenario is not hard to imagine in South Dakota given current voter registration numbers.

Amendment V does not eliminate political parties nor their advocacy for their candidates.

The U.S. is a hodge-podge of variety with respect to the conduct of primary elections. According to the National Conference of State Legislatures (NCSL), they identify the following categories of primaries (though variations exist):

- Hybrid States (24 states) — These states evidence some combination of open and closed primaries. Due to the fact that primary rules differ by party in South Dakota, we fall into this category as does our neighbor Iowa.
- Open Primaries (11 states) — Any registered voter may “crossover” party lines and vote for any candidate in a primary. Thus, there are still Republican and Democratic primaries and party designation is noted on the general election ballot. South Dakota neighbors Minnesota, Montana and North Dakota are included.
- Closed Primaries (11 states) — Voters may only vote for candidates in the party for which they are registered. South Dakota neighbor Wyoming is in this group.
- Top-Two Primaries (4 states) — All candidates are listed on the ballot regardless of party affiliation with voters choosing one candidate only and the top-two vote-getters move on to the general election. South Dakota neighbor Nebraska uses this but only for nonpartisan legislative races.

As an often-cited example, Nebraska has nonpartisan elections for the state legislature, but it has partisan elections for federal, state constitutional, county and municipal offices (Nebraska Statutes Chapter 32-500). In addition, Nebraska has a unicameral legislature with the Senate comprised of 49 legislators.

In Nebraska when a voter goes to the polls in one of the 49 legislative districts, all the candidates appear, without party designation, on one ballot and the voter chooses one candidate. The top two vote-getters move on to a nonpartisan general election. In all other statewide and county elections, they choose candidates by party.

Nebraska’s practice differs from the proposed Amendment V, as the South Dakota proposal would make all elections nonpartisan except U.S. President and Vice President.

Chamber Position (Adopted Aug. 17, 2016)

The Sioux Falls Area Chamber of Commerce will remain “NEUTRAL” on Constitutional Amendment V on the 2016 general election ballot.

Rationale

The Chamber Issues Management Council heard two detailed presentations on this ballot issue and after vetting and discussing this issue within the IMC and the Chamber

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Executive Committee, there was no consensus to take a position in support or opposition. Furthermore, because of this division, it was determined that this was a likely representation of the division we would see within our membership in general. Finally, there is a question of whether or not this issue would have any significant affect upon the business community, resulting in a decision not to weigh in on this issue.