

ENGROSSED HOUSE
BILL NO. 1044

By: Hilliard, Seikel and
Ross of the House

and

Roberts of the Senate

An Act relating to initiative and referendum;

amending 34 O.S. 1991, Sections 3, as amended by
Section 3, Chapter 92, O.S.L. 1992, 3.1, 6, 6.1, as
amended by Section 6, Chapter 92, O.S.L. 1992, 8,
as amended by Section 7, Chapter 92, O.S.L. 1992,
18, 22, 23 and 24 (34 O.S. Supp. 1994, Sections 3,
6.1 and 8), which relate to initiative and
referendum procedures; prescribing form for
signature sheets; defining term; modifying
requirements for circulation of petitions;
conforming references; modifying requirements for
physical count of signatures by Secretary of State;
providing standard for determination of sufficiency
of signatures on petitions; modifying provisions
related to clerical and technical errors; excluding
application of certain standard to statistical
analysis; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 34 O.S. 1991, Section 3, as amended by Section 3, Chapter 92, O.S.L. 1992 (34 O.S. Supp. 1994, Section 3), is amended to read as follows:

Section 3. A. Each initiative petition and each referendum petition shall be duplicated for the securing of signatures, and each sheet for signatures shall be attached to a copy of the petition. Each copy of the petition and sheets for signatures is hereinafter termed a pamphlet. On the outer page of each pamphlet shall be printed the word "Warning", and underneath this in ten-point type the words, "It is a felony for anyone to sign an initiative or referendum petition with any name other than his own, or knowingly to sign his name more than once for the measure, or to sign such petition when he is not a legal voter". A simple statement of the gist of the proposition shall be printed on the top margin of each signature sheet. Not more than twenty (20) signatures on one sheet on lines provided for the signatures shall be counted. Any signature sheet not in substantial compliance with this act shall be disqualified by the Secretary of State.

B. Each signature sheet shall be prepared as prescribed by subsections B and C of this section. The front side of the form shall be substantially as follows:

SIGNATURES

The gist of the proposition is as follows:

[INSERT GIST OF PROPOSITION]

A "YES" vote is a vote in favor of this measure. A "NO" vote is a vote against this measure.

1. _____

Signature of Legal Voter Residence City State Zip
County

2. _____

Signature of Legal Voter Residence City State Zip
County

3. _____

Signature of Legal Voter Residence City State Zip
County

4. _____

Signature of Legal Voter Residence City State Zip
County

5. _____

Signature of Legal Voter Residence City State Zip
County

6. _____

Signature of Legal Voter Residence City State Zip
County

7. _____

Signature of Legal Voter Residence City State Zip
County

8. _____

Signature of Legal Voter Residence City State Zip
County

9. _____

Signature of Legal Voter Residence City State Zip
County

10. _____

Signature of Legal Voter Residence City State Zip
County

11. _____

Signature of Legal Voter Residence City State Zip
County

12. _____

Signature of Legal Voter Residence City State Zip
County

13. _____

Signature of Legal Voter Residence City State Zip
County

14. _____

Signature of Legal Voter Residence City State Zip
County

15. _____

Signature of Legal Voter Residence City State Zip
County

16. _____

Signature of Legal Voter Residence City State Zip
County

17. _____

Signature of Legal Voter Residence City State Zip
County

18. _____

and who is lawfully registered to vote in an election conducted within the State of Oklahoma.

SECTION 2. AMENDATORY 34 O.S. 1991, Section 3.1, is amended to read as follows:

Section 3.1 It shall be unlawful for any person other than a ~~qualified elector~~ legal voter of the State of Oklahoma to circulate any initiative or referendum petition to amend, add to, delete, strike or otherwise change in any way the Constitution or laws of the State of Oklahoma, or of any subdivision of the State of Oklahoma. Every person convicted of a violation of this section shall be punished by a fine of not to exceed One Thousand Dollars (\$1,000.00), or by imprisonment in the county jail for not to exceed one (1) year, or by both said fine and imprisonment.

SECTION 3. AMENDATORY 34 O.S. 1991, Section 6, is amended to read as follows:

Section 6. Each sheet of every such petition containing signatures shall be verified on the back thereof, in substantially the following form, by the person who circulated said sheet of said petition, by his or her affidavit thereon and as a part thereof.

State of Oklahoma,)
) ss.
County of _____)

I, _____, being first duly sworn, say: That I am a ~~qualified elector~~ legal voter of the State of Oklahoma and that (Here shall be legibly written or typewritten the names of the signers of the sheet), signed this sheet of the foregoing petition, and each of them signed his name thereto in my presence; I believe that each has stated his name, post office address, and residence correctly, and that each signer is a legal voter of the State of Oklahoma and county of _____ or of the city of _____ (as the case may be). (Signature and post office address of affiant.) Subscribed and sworn to before me this _____ day of _____ A.D. 19__.

(Signature and title of the officer before whom oath is made, and his post office address.)

SECTION 4. AMENDATORY 34 O.S. 1991, Section 6.1, as amended by Section 6, Chapter 92, O.S.L. 1992 (34 O.S. Supp. 1994, Section 6.1), is amended to read as follows:

Section 6.1 A. The Secretary of State shall make or cause to be made a physical count of the number of signatures on the petitions. In making such count, the Secretary of State shall not include in such physical count:

1. All signatures on any sheet of any petition which is not verified by the person who circulated the sheet of the petition as provided in Section 6 of this title;

~~2. All signatures of nonresidents;~~

~~3.~~ All signatures on a sheet that is not attached to a copy of the petition;

~~4.~~ 3. All multiple signatures on any printed signature line;

~~5.~~ 4. All signatures not on a printed signature line;

~~6. Those signatures by a person who signs with any name other than his own or signs more than once; and~~

~~7.~~ 5. All signatures on any sheet on which a notary has failed to sign, the seal of the notary is absent, the commission of the notary has expired or the expiration date is not on the signature sheet.

B. The Secretary of State shall notify the Attorney General of any and all violations of this title of which he has knowledge.

SECTION 5. AMENDATORY 34 O.S. 1991, Section 8, as amended by Section 7, Chapter 92, O.S.L. 1992 (34 O.S. Supp. 1994, Section 8), is amended to read as follows:

Section 8. A. When a citizen or citizens desire to circulate a petition initiating a proposition of any nature, whether to become a statute law or an amendment to the Constitution, or for the purpose of invoking a referendum upon legislative enactments, such citizen

or citizens shall, when such petition is prepared, and before the same is circulated or signed by ~~electors~~ legal voters, file a true and exact copy of same in the office of the Secretary of State and, within ~~ninety (90) days~~ one (1) year after such filing of an initiative petition, the signed copies thereof shall be filed with the Secretary of State, but the signed copies of a referendum petition shall be filed with the Secretary of State within ~~ninety (90) days~~ one (1) year after the adjournment of the Legislature enacting the measure on which the referendum is invoked. The ~~electors~~ legal voters shall sign their legally-registered name, their address or post office box, and the name of the county in which they reside. Any petition not filed in accordance with this provision shall not be considered. The proponents of a referendum or an initiative petition, any time before the final submission of signatures, may withdraw the referendum or initiative petition upon written notification to the Secretary of State.

B. The proponents of a referendum or an initiative petition may terminate the circulation period any time during the ~~ninety-day~~ one-year circulation period by certifying to the Secretary of State that:

1. All signed petitions have already been filed with the Secretary of State;
2. No more petitions are in circulation; and
3. The proponents will not circulate any more petitions.

If the Secretary of State receives such a certification from the proponents, the Secretary of State shall begin the counting process.

C. When the signed copies of a petition are timely filed, the Secretary of State shall certify to the Supreme Court of the state:

1. The total number of signatures counted pursuant to procedures set forth in this title; and

2. The total number of votes cast for the state office receiving the highest number of votes cast at the last general election.

The Supreme Court shall make the determination of the numerical sufficiency or insufficiency of the signatures counted by the Secretary of State. Upon order of the Supreme Court it shall be the duty of the Secretary of State to forthwith cause to be published, in at least one newspaper of general circulation in the state, a notice of such filing and the apparent sufficiency or insufficiency thereof and notice that any citizen or citizens of the state may file a protest to the petition or an objection to the count made by the Secretary of State, by a written notice to the Supreme Court of the state and to the proponent or proponents filing the petition, said protest to be filed within ten (10) days after publication. A copy of the protest or objection to the count shall be filed with the Secretary of State. In case of the filing of an objection to the count, notice shall also be given to the Secretary of State and the party filing a protest, if one was filed.

D. The Secretary of State shall deliver the bound volumes of signatures to the Supreme Court.

E. Upon the filing of an objection to the count, the Supreme Court shall resolve the objection with dispatch. The Supreme Court shall adopt rules to govern proceedings to apply to the challenge of a measure on the grounds that the proponents failed to gather sufficient signatures. In order to make the determination of the numerical sufficiency or insufficiency of the signatures, a sample of signatures shall be identified using a random method. The sample analyzed shall contain the greater of two thousand five hundred (2,500) signatures or a number of signatures equivalent to two and one-half percent (2 1/2%) of the total number of signatures certified by the Secretary of State to the Supreme Court. The number of valid signatures in the statistical sample shall stand in

the same relationship to the whole statistical sample as the number of signatures required by law to place the question on the ballot bears to the total number of signatures on the petition certified by the Secretary of State to the Supreme Court. If the result reveals less than one hundred percent (100%) of the total number of signatures which are required for the question to be placed on the ballot are valid, the petition shall be declared insufficient. If the result reveals one hundred percent (100%) or more of the total number of signatures which are required for the question to be placed on the ballot are valid, the petition shall be determined by the Supreme Court to have a sufficient number of signatures to be placed on the ballot.

F. Upon the filing of a protest to the petition, the Supreme Court of the state shall then fix a day, not less than ten (10) days thereafter, at which time it will hear testimony and arguments for and against the sufficiency of such petition.

G. A protest filed by anyone hereunder may, if abandoned by the party filing same, be revived within five (5) days by any other citizen. After such hearing the Supreme Court of the state shall decide whether such petition be in form as required by the statutes. If the Court be at the time adjourned, the Chief Justice shall immediately convene the same for such hearing. No objection to the sufficiency shall be considered unless the same shall have been made and filed as herein provided.

H. If in the opinion of the Supreme Court, any objection to the count or protest to the petition is frivolous, the Court may impose appropriate sanctions, including an award of costs and attorneys fees to either party as the court deems equitable.

I. Whenever reference is made in this act to the Supreme Court of the state, such reference shall include the members of the Supreme Court of the state or any officer constitutionally designated to perform the duties herein prescribed.

SECTION 6. AMENDATORY 34 O.S. 1991, Section 18, is amended to read as follows:

Section 18. In the event any official of this state shall fail or neglect to prepare or have published the argument and other matter as provided by law, or to perform any other duty required in connection therewith, any ~~elector~~ legal voter may petition the district court, without cost to him, where any such officer has his official residence, for a writ of mandamus to require such officer to perform such duty, and the district courts of this state are hereby given jurisdiction to issue writs of mandamus and require performance of such duty as provided by law.

SECTION 7. AMENDATORY 34 O.S. 1991, Section 22, is amended to read as follows:

Section 22. Whenever any measure or proposition is submitted to a vote by the initiative or referendum, it shall be the duty of the precinct election board of the precinct to make and transmit to the county election board the returns thereof in the same manner that they make their returns in the case of an election of public officers, transmitting to such county election board a certificate of the total number of ~~electors~~ legal voters voting in such elections; and the county election board shall keep a record showing such total number of votes cast in each of such precincts as shown by such returns. Should the proposition be one covering the state at large, or any district therein, or be of such other nature as to require it the county election board shall certify the result of such election to the State Election Board in the same manner as it certifies the result of election for public officers, and such county election board shall transmit to the State Election Board a certificate showing the total number of votes cast at any such election. It shall be the duty of the State Election Board to keep a record of all such election returns made to it under the provisions of this section.

SECTION 8. AMENDATORY 34 O.S. 1991, Section 23, is amended to read as follows:

Section 23. Every person who is a ~~qualified elector~~ legal voter of the State of Oklahoma may sign a petition for the referendum or for the initiative for any measure upon which he is legally entitled to vote. Any person signing any name other than his own to any petition, or knowingly signing his name more than once for the same measure at one election, or who is not at the time of signing the same a legal voter of this state, or whoever falsely makes or willfully destroys a petition or any part thereof, or who signs or files any certificate or petition knowing the same or any part thereof to be falsely made, or suppresses any certificate or petition or any part thereof which has been duly filed or who shall violate any provision of this statute, or who shall aid or abet any other person in doing any of said acts; and any person violating any provision of this chapter, shall upon conviction thereof be punished by a fine of not exceeding Five Hundred Dollars (\$500.00) or by imprisonment in the penitentiary not exceeding two (2) years, or by both such fine and imprisonment in the discretion of the court before which such conviction shall be had.

SECTION 9. AMENDATORY 34 O.S. 1991, Section 24, is amended to read as follows:

Section 24. A. The procedure ~~herein~~ prescribed by Section 1 et seq. of this title is not mandatory, but if substantially followed will be sufficient. If the end aimed at can be attained and procedure shall be sustained, clerical and mere technical errors shall be disregarded.

B. The provisions of this section shall not be applicable to the requirements imposed for statistical analysis of the number of valid signatures as provided by subsection E of Section 8 of this title and if the sample of signatures analyzed reveals an

insufficient number of valid signatures as required by law, such
determination shall be conclusive.

SECTION 10. This act shall become effective November 1, 1995.

Passed the House of Representatives the 1st day of March, 1995.

Speaker of the House of
Representatives

Passed the Senate the ____ day of _____, 1995.

President of the Senate