

STATE OF OKLAHOMA

2nd Session of the 48th Legislature (2002)

HOUSE BILL HB2402

By: Vaughn

AS INTRODUCED

An Act relating to initiative and referendum; amending 34 O.S. 2001, Sections 6.1, 8 and 24, which relate to initiative and referendum procedures; modifying method for determining compliance with numerical sufficiency requirements; 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. 2001, 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. All multiple signatures on any printed signature line;
5. 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. 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. In order to make the determination of the numerical sufficiency or insufficiency of the signatures on an initiative petition or a referendum petition, 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 submitted to the Secretary of State. If analysis of the sample provided for by this subsection reveals that 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.

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

SECTION 2. AMENDATORY 34 O.S. 2001, 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, file a true and exact copy of same in the office of the Secretary of State and, within ninety (90) days 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 after the adjournment of the Legislature enacting the measure on which the referendum is invoked. The electors 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 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 submitted to the Supreme Court. If analysis of the sample provided for by this subsection reveals that 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.

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 3. AMENDATORY 34 O.S. 2001, Section 24, is amended to read as follows:

Section 24. A. The procedure ~~herein~~ prescribed by 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 B of Section 6.1 of this title or as provided by subsection E of Section 8 of this title and if a sample of signatures analyzed reveals an insufficient number of valid signatures as required by law, such determination shall be conclusive.

SECTION 4. This act shall become effective November 1, 2002.

48-2-7681 SCE 6/12/15