

1 STATE OF OKLAHOMA

2 2nd Session of the 51st Legislature (2008)

3 SENATE BILL 1913

By: Rabon of the Senate

4 and

5 Shumate of the House

6  
7  
8 AS INTRODUCED

9 An Act relating to initiative and referendum;  
10 amending 34 O.S. 2001, Sections 3, 6.1, 8, 9, as  
11 amended by Section 2, Chapter 407, O.S.L. 2005 and 12  
12 (34 O.S. Supp. 2007, Section 9), which relate to  
13 filing and circulating of initiative and referendum  
14 petitions; requiring approved ballot title to be  
15 printed on signature sheets; requiring Secretary of  
16 State to verify that signatories are registered  
17 voters; providing that count and verification be open  
18 to public; clarifying that petition signatories must  
19 be registered to vote in this state; providing  
20 procedure for signatory to request removal of  
21 signature; requiring certain affidavit; modifying  
22 time period for review and approval of ballot title;  
23 requiring Secretary of State to make certain  
24 notification; modifying time when Governor required  
to make certain proclamation; and providing an  
effective date.

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

21 SECTION 1. AMENDATORY 34 O.S. 2001, Section 3, is  
22 amended to read as follows:

23 Section 3. Each initiative petition and each referendum  
24 petition shall be duplicated for the securing of signatures, and

1 each sheet for signatures shall be attached to a copy of the  
2 petition. Each copy of the petition and sheets for signatures is  
3 hereinafter termed a pamphlet. On the outer page of each pamphlet  
4 shall be printed the word "Warning", and underneath this in  
5 ten-point type the words, "It is a felony for anyone to sign an  
6 initiative or referendum petition with any name other than his or  
7 her own, or knowingly to sign his or her name more than once for the  
8 measure, or to sign such petition when he or she is not a ~~legal~~  
9 registered voter in the State of Oklahoma". ~~A simple statement of~~  
10 ~~the gist of the proposition~~ The ballot title, as approved by the  
11 Attorney General pursuant to the provisions of Section 9 of this  
12 title, shall be printed on the top margin at the top of each  
13 signature sheet in ten-point type. Not more than twenty (20)  
14 signatures on one sheet on lines provided for the signatures shall  
15 be counted. Any signature sheet not in substantial compliance with  
16 this ~~act~~ section and any other provision of this title shall be  
17 disqualified by the Secretary of State.

18 SECTION 2. AMENDATORY 34 O.S. 2001, Section 6.1, is  
19 amended to read as follows:

20 Section 6.1 A. The Secretary of State shall make or cause to  
21 be made a physical count of the number of signatures on the  
22 petitions and shall verify that each person signing the petition is  
23 a registered voter in this state. In making such count, the  
24 Secretary of State shall not include in such physical count:

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

4 2. All signatures of nonresidents or persons who are not  
5 registered to vote in this state;

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

8 4. All multiple signatures on any printed signature line;

9 5. All signatures not on a printed signature line;

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

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

15 B. The count and verification required by this section shall be  
16 open to the public.

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

20 SECTION 3. AMENDATORY 34 O.S. 2001, Section 8, is  
21 amended to read as follows:

22 Section 8. A. When a citizen or citizens desire to circulate a  
23 petition initiating a proposition of any nature, whether to become a  
24 statute law or an amendment to the Constitution, or for the purpose

1 of invoking a referendum upon legislative enactments, such citizen  
2 or citizens shall, when such petition is prepared, and before the  
3 same is circulated or signed by ~~electors~~ registered voters, file a  
4 true and exact copy of same in the office of the Secretary of State  
5 and, within ninety (90) days after ~~such filing of an initiative~~  
6 ~~petition~~ the notification of the decision of the ballot title  
7 pursuant to the provisions of subsection A of Section 12 of this  
8 title, the signed copies thereof shall be filed with the Secretary  
9 of State, but the signed copies of a referendum petition shall be  
10 filed with the Secretary of State within ninety (90) days after the  
11 adjournment of the Legislature enacting the measure on which the  
12 referendum is invoked. The ~~electors~~ registered voters shall sign  
13 their legally-registered name, their address or post office box, and  
14 the name of the county in which they reside. Any petition not filed  
15 in accordance with this provision shall not be considered. The  
16 proponents of a referendum or an initiative petition, any time  
17 before the final submission of signatures, may withdraw the  
18 referendum or initiative petition upon written notification to the  
19 Secretary of State.

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

23 1. All signed petitions have already been filed with the  
24 Secretary of State;

1        2. No more petitions are in circulation; and

2        3. The proponents will not circulate any more petitions.

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

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

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

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

12        The Supreme Court shall make the determination of the numerical  
13 sufficiency or insufficiency of the signatures counted by the  
14 Secretary of State.

15        Upon order of the Supreme Court it shall be the duty of the  
16 Secretary of State to forthwith cause to be published, in at least  
17 one newspaper of general circulation in the state, a notice of such  
18 filing and the apparent sufficiency or insufficiency thereof and  
19 notice that any citizen or citizens of the state may file a protest  
20 to the petition or an objection to the count made by the Secretary  
21 of State, by a written notice to the Supreme Court of the state and  
22 to the proponent or proponents filing the petition, ~~said~~ such  
23 protest to be filed within ten (10) days after publication. Any  
24 registered voter of this state who signed the petition may, within

1 the ten-day period, if the voter believes that the procedures set  
2 forth in this title were not followed by the person circulating the  
3 petition, request that his or her name be removed from the list of  
4 signatories to the petition. The request shall be accompanied by an  
5 affidavit filed by the registered voter setting forth that belief  
6 and any supporting documentation. A copy of the request for removal  
7 of signature, protest or objection to the count shall be filed with  
8 the Secretary of State. In case of the filing of an objection to  
9 the count, notice shall also be given to the Secretary of State and  
10 the party filing a protest, if one was filed.

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

13 E. Upon the filing of an objection to the count, the Supreme  
14 Court shall resolve the objection with dispatch. Upon the filing of  
15 a request for removal of signature, the Supreme Court shall  
16 determine the sufficiency of the request and, if determined  
17 sufficient, shall remove the name of the registered voter from the  
18 list. The Supreme Court shall adopt rules to govern proceedings to  
19 apply to the challenge of a measure on the grounds that the  
20 proponents failed to gather sufficient signatures.

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

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

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

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

17 SECTION 4. AMENDATORY 34 O.S. 2001, Section 9, as  
18 amended by Section 2, Chapter 407, O.S.L. 2005 (34 O.S. Supp. 2007,  
19 Section 9), is amended to read as follows:

20 Section 9. A. When a referendum is ordered by petition of the  
21 people against any measure passed by the Legislature or when any  
22 measure is proposed by initiative petition, whether as an amendment  
23 to the Constitution or as a statute, it shall be the duty of the  
24 parties submitting the measure to prepare and file one copy of the

1 measure with the Secretary of State and one copy with the Attorney  
2 General.

3 B. The parties submitting the measure shall also submit a  
4 suggested ballot title which shall be filed on a separate sheet of  
5 paper and shall not be deemed part of the petition. The suggested  
6 ballot title:

7 1. Shall not exceed two hundred (200) words;

8 2. Shall explain in basic words, which can be easily found in  
9 dictionaries of general usage, the effect of the proposition;

10 3. Shall be written on the eighth-grade reading comprehension  
11 level;

12 4. Shall not contain any words which have a special meaning for  
13 a particular profession or trade not commonly known to the citizens  
14 of this state;

15 5. Shall not reflect partiality in its composition or contain  
16 any argument for or against the measure;

17 6. Shall contain language which clearly states that a "yes"  
18 vote is a vote in favor of the proposition and a "no" vote is a vote  
19 against the proposition; and

20 7. Shall not contain language whereby a "yes" vote is, in fact,  
21 a vote against the proposition and a "no" vote is, in fact, a vote  
22 in favor of the proposition.

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1 C. When a measure is proposed as a constitutional amendment by  
2 the Legislature or when the Legislature proposes a statute  
3 conditioned upon approval by the people:

4 1. After final passage of a measure, the Secretary of State  
5 shall submit the proposed ballot title to the Attorney General for  
6 review as to legal correctness. Within five (5) business days, the  
7 Attorney General shall, in writing, notify the Secretary of State,  
8 the President Pro Tempore of the Senate and the Speaker of the House  
9 of Representatives whether or not the proposed ballot title complies  
10 with applicable laws. The Attorney General shall state with  
11 specificity any and all defects found and, if necessary, within ten  
12 (10) business days of determining that the proposed ballot title is  
13 defective, prepare a preliminary ballot title which complies with  
14 the law and furnish a copy of such ballot title to the Secretary of  
15 State, the President Pro Tempore of the Senate and the Speaker of  
16 the House of Representatives. The Attorney General may consider any  
17 comments made by the President Pro Tempore of the Senate or the  
18 Speaker of the House of Representatives and shall file a final  
19 ballot title with the Secretary of State no sooner than ten (10)  
20 business days and no later than fifteen (15) business days after  
21 furnishing the preliminary ballot title; and

22 2. After receipt of the measure and the official ballot title,  
23 as certified by the Attorney General, the Secretary of State shall  
24 within five (5) days transmit to the Secretary of the State Election

1 Board an attested copy of the measure, including the official ballot  
2 title.

3 D. The following procedure shall apply to ballot titles of  
4 referendums ordered by a petition of the people or any measure  
5 proposed by an initiative petition:

6 1. After the filing ~~and binding of the petition pamphlets~~ of  
7 the petition and prior to the gathering of signatures thereon, the  
8 Secretary of State shall submit the proposed ballot title to the  
9 Attorney General for review as to legal correctness. Within five  
10 (5) business days after the filing of the measure and ballot title,  
11 the Attorney General shall, in writing, notify the Secretary of  
12 State whether or not the proposed ballot title complies with  
13 applicable laws. The Attorney General shall state with specificity  
14 any and all defects found and, if necessary, within ten (10)  
15 business days of determining that the proposed ballot title is  
16 defective, prepare and file a ballot title which complies with the  
17 law; and

18 2. Within ten (10) business days after completion of the review  
19 by the Attorney General, the Secretary of State shall, if no appeal  
20 is filed, transmit to the Secretary of the State Election Board an  
21 attested copy of the measure, including the official ballot title,  
22 and a certification that the requirements of this section have been  
23 met. If an appeal is taken from ~~such~~ the ballot title within the  
24 time specified in Section 10 of this title, then the Secretary of

1 State shall certify to the Secretary of the State Election Board the  
2 ballot title which is finally approved by the Supreme Court.

3 SECTION 5. AMENDATORY 34 O.S. 2001, Section 12, is  
4 amended to read as follows:

5 Section 12. A. When the ballot title has been decided upon,  
6 the Secretary of State shall, in writing, notify the person filing  
7 the petition of the decision, and the ninety-day period for the  
8 circulation of the petition shall begin on the first business day  
9 following the notification.

10 B. When an initiative or referendum petition has been properly  
11 filed with sufficient signatures thereto, as provided in this title,  
12 and all objections or protests have been resolved or the period for  
13 filing has expired, the Secretary of State shall, in writing, notify  
14 the Governor, who forthwith shall issue a proclamation setting forth  
15 the substance of the measure and the date on which the vote will be  
16 held.

17 SECTION 6. This act shall become effective January 1, 2009.

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