

1 STATE OF OKLAHOMA

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

3 SENATE BILL 1982

By: Brogdon

4
5
6 AS INTRODUCED

7 An Act relating to initiative and referendum;
8 amending 34 O.S. 2001, Sections 4, 6, 6.1, 8, 9, as
9 amended by Section 2, Chapter 407, O.S.L. 2005, 10
10 and 12 (34 O.S. Supp. 2007, Section 9), which relate
11 to initiative and referendum petitions; modifying
12 size of sheets for signatures on such petitions;
13 deleting certain notarization and affidavit
14 requirement; making language gender neutral;
15 requiring publication of notice of filing and ballot
16 title of petition; requiring notice of right to
17 protest constitutionality and ballot title;
18 specifying filing requirements and time for filing
19 such protests; specifying certain duties of Secretary
20 of State and Supreme Court; allowing for revival of
21 protest; modifying time period for signed copies of
22 petition to be filed; modifying certain certification
23 by Secretary of State with respect to number of
24 signatures; specifying filing requirements and time
for filing objection to validity or number of
signatures; modifying time period for review of
ballot title and notification to Governor; requiring
Governor's Proclamation to set election on date of
next General Election; prohibiting petition blocking;
defining term; providing for codification; and
providing an effective date.

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

23 SECTION 1. AMENDATORY 34 O.S. 2001, Section 4, is
24 amended to read as follows:

1 Section 4. When any such initiative or referendum petition
2 shall be offered for filing, the Secretary of State, in the presence
3 of the person offering the same for filing, shall detach the sheets
4 containing the signatures and affidavits and cause them all to be
5 attached to one or more printed copies of the measure so proposed by
6 initiative or referendum petition. All petitions for the initiative
7 and referendum and sheets for signatures shall be printed on pages
8 eight and one-half (8 1/2) inches in width by fourteen (14) inches
9 in length or eight and one-half (8 1/2) inches in width by eleven
10 (11) inches in length, with a margin of one and three-fourths (1
11 3/4) inches at the top for binding, ~~if.~~ If the aforesaid sheets
12 shall be too bulky for convenient binding in one volume, they may be
13 bound in two or more volumes, those in each volume to be attached to
14 a single printed copy of such measure, and the detached copies of
15 such measures shall be delivered to the person offering the same for
16 filing. Each of the volumes and each signature sheet therein shall
17 be numbered consecutively, and a cover sheet shall be attached,
18 showing the purported number of signature sheets, the series of
19 numbers assigned to the signature sheets and the total number of
20 signatures counted per volume. The Secretary of State shall render
21 a signed receipt to the person offering the petition for filing,
22 which receipt shall include a report, volume by volume, showing the
23 number of signature sheets in each volume, the series of numbers
24 assigned to the signature sheets in each volume, and the number of

1 purported signatures in each volume. Duplicate copies of the cover
2 sheets, with necessary corrections, may be used as receipts. If the
3 volume of signatures is sufficiently large, the Secretary of State
4 shall seal the petitions in such manner that they cannot be opened
5 unless the seal is broken, and if requested by those filing ~~said~~ the
6 petition, they shall not be opened before 9:00 a.m. on the day
7 following the date ~~said~~ the petitions are filed, and ~~said~~ the
8 procedure shall continue until such time as the Secretary shall be
9 able to receipt the petitions so filed; but additional signature
10 sheets shall not be accepted after 5:00 p.m. on ninetieth day. The
11 Secretary of State shall not provide any copies of signature sheets
12 to anyone until the sheets have been bound as provided in this
13 section.

14 Provided, that whenever reference is made in this ~~act~~ title to
15 the Secretary of State, such reference shall include the Secretary
16 of State or any officer constitutionally designated to perform the
17 duties herein prescribed.

18 SECTION 2. AMENDATORY 34 O.S. 2001, Section 6, is
19 amended to read as follows:

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

1 State of Oklahoma,)
2) ss.
3 County of _____)

4 I, _____, ~~being first duly sworn, say hereby verify:~~ That I am
5 a qualified elector of the State of Oklahoma and that ~~(Here shall be~~
6 ~~legibly written or typewritten the names of the signers of the~~
7 ~~sheet), signed this sheet~~ each of the signers of the foregoing
8 petition, ~~and each of them~~ signed his or her name thereto in my
9 presence; I believe that each has stated his or her name, post
10 office address, and residence correctly, and that each signer is a
11 legal voter of the State of Oklahoma and county of _____ or of the
12 city of _____ (as the case may be). (Signature and postoffice
13 address of ~~affiant~~ petition circulator.)

14 ~~Subscribed and sworn to before me this _____ day of _____ A.D.~~
15 ~~19__.~~

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

18 SECTION 3. 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. In making such count, the Secretary of State shall not
23 include in such physical count:

24

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;

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

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

8 5. All signatures not on a printed signature line; and

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

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

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

17 SECTION 4. AMENDATORY 34 O.S. 2001, Section 8, is
18 amended to read as follows:

19 Section 8. A. When a citizen or citizens desire to circulate a
20 petition initiating a proposition of any nature, whether to become a
21 statute law or an amendment to the Constitution, or for the purpose
22 of invoking a referendum upon legislative enactments, such citizen
23 or citizens shall, when such petition is prepared, and before the
24 same is circulated or signed by electors, file a true and exact copy

1 of same in the office of the Secretary of State and, ~~within ninety~~
2 ~~(90) days.~~

3 B. It shall be the duty of the Secretary of State to cause to
4 be published, in at least one newspaper of general circulation in
5 the state, a notice of such filing and the apparent sufficiency or
6 insufficiency thereof. Such publication shall include the text of
7 the ballot title as reviewed or, if applicable, as rewritten, by the
8 Attorney General pursuant to the provisions of subsection D of
9 Section 9 of this title, and shall include notice that any citizen
10 or citizens of the state may file a protest as to the
11 constitutionality of the petition, by a written notice to the
12 Supreme Court and to the proponent or proponents filing the
13 petition, or as to the ballot title as provided in Section 10 of
14 this title. Any such protest must be filed within ten (10) days
15 after publication. A copy of the protest shall be filed with the
16 Secretary of State.

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

21 D. A protest filed by anyone hereunder may, if abandoned by the
22 party filing same, be revived within five (5) days by any other
23 citizen. After such hearing the Supreme Court shall decide whether
24 such petition is in form as required by the statutes. If the Court

1 is at the time adjourned, the Chief Justice shall immediately
2 convene the same for such hearing. No objection to the sufficiency
3 shall be considered unless it has been made and filed as herein
4 provided.

5 E. Within one (1) year after such filing of an initiative
6 petition or determination of the sufficiency of the petition by the
7 Supreme Court as provided in this section, whichever is later, the
8 signed copies thereof shall be filed with the Secretary of State,
9 but the signed copies of a referendum petition shall be filed with
10 the Secretary of State within ninety (90) days after the adjournment
11 of the Legislature enacting the measure on which the referendum is
12 invoked or determination of the sufficiency of the petition by the
13 Supreme Court as provided in this section, whichever is later. ~~The~~
14 ~~electors~~ Each elector shall sign ~~their~~ his or her legally-registered
15 name, ~~their~~ address or post office box, and the name of the county
16 ~~in which they reside~~ of residence. Any petition not filed in
17 accordance with this provision shall not be considered. The
18 proponents of a referendum or an initiative petition, any time
19 before the final submission of signatures, may withdraw the
20 referendum or initiative petition upon written notification to the
21 Secretary of State.

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

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

3 2. No more petitions are in circulation; and

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

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

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

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

12 2. ~~The total number of votes cast for the state office~~
13 ~~receiving the highest number of votes cast at the last general~~
14 ~~election~~ basis for the ratio and per centum of legal voters as set
15 forth in Section 2 of Article V of the Oklahoma Constitution.

16 The Supreme Court shall make the determination of the numerical
17 sufficiency or insufficiency of the signatures counted by the
18 Secretary of State.

19 H. Upon order of the Supreme Court it shall be the duty of the
20 Secretary of State to forthwith cause to be published, in at least
21 one newspaper of general circulation in the state, a notice of ~~such~~
22 the filing of the signed petitions and the apparent sufficiency or
23 insufficiency thereof and notice that any citizen or citizens of the
24 state may file ~~a protest to the petition or~~ an objection to the

1 count made by the Secretary of State, by a written notice to the
2 Supreme Court ~~of the state~~ and to the proponent or proponents filing
3 the petition, ~~said protest to~~. Any such objection must be filed
4 within ten (10) days after publication and must relate only to the
5 validity or number of the signatures. A copy of the ~~protest or~~
6 objection to the count shall be filed with the Secretary of State.
7 ~~In case of the filing of an objection to the count, and~~ notice shall
8 also be given to the Secretary of State ~~and the party filing a~~
9 ~~protest, if one was filed.~~

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

12 E. J. Upon the filing of an objection to the count, the Supreme
13 Court shall resolve the objection with dispatch. The Supreme Court
14 shall adopt rules to govern proceedings to apply to the challenge of
15 a measure on the grounds that the proponents failed to gather
16 sufficient signatures.

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

21 G. ~~A protest filed by anyone hereunder may, if abandoned by the~~
22 ~~party filing same, be revived within five (5) days by any other~~
23 ~~citizen. After such hearing the Supreme Court of the state shall~~
24 ~~decide whether such petition be in form as required by the statutes.~~

1 ~~If the Court be at the time adjourned, the Chief Justice shall~~
2 ~~immediately convene the same for such hearing. No objection to the~~
3 ~~sufficiency shall be considered unless the same shall have been made~~
4 ~~and filed as herein provided.~~

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

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

13 SECTION 5. AMENDATORY 34 O.S. 2001, Section 9, as
14 amended by Section 2, Chapter 407, O.S.L. 2005 (34 O.S. Supp. 2007,
15 Section 9), is amended to read as follows:

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

23 B. The parties submitting the measure shall also submit a
24 suggested ballot title which shall be filed on a separate sheet of

1 paper and shall not be deemed part of the petition. The suggested
2 ballot title:

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

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

6 3. Shall be written on the eighth-grade reading comprehension
7 level;

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

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

13 6. Shall contain language which clearly states that a "yes"
14 vote is a vote in favor of the proposition and a "no" vote is a vote
15 against the proposition; and

16 7. Shall not contain language whereby a "yes" vote is, in fact,
17 a vote against the proposition and a "no" vote is, in fact, a vote
18 in favor of the proposition.

19 C. When a measure is proposed as a constitutional amendment by
20 the Legislature or when the Legislature proposes a statute
21 conditioned upon approval by the people:

22 1. After final passage of a measure, the Secretary of State
23 shall submit the proposed ballot title to the Attorney General for
24 review as to legal correctness. Within five (5) business days, the

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

16 2. After receipt of the measure and the official ballot title,
17 as certified by the Attorney General, the Secretary of State shall
18 within five (5) days transmit to the Secretary of the State Election
19 Board an attested copy of the measure, including the official ballot
20 title.

21 D. The following procedure shall apply to ballot titles of
22 referendums ordered by a petition of the people or any measure
23 proposed by an initiative petition:
24

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

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

22 SECTION 6. AMENDATORY 34 O.S. 2001, Section 10, is
23 amended to read as follows:

24

1 Section 10. A. Any person who is dissatisfied with the wording
2 of a ballot title may, within ten (10) days after the same is filed
3 ~~by the Attorney General with~~ published by the Secretary of State as
4 provided for in subsection B of Section 9 8 of this title, appeal to
5 the Supreme Court by petition in which shall be offered a substitute
6 ballot title for the one from which the appeal is taken. Upon the
7 hearing of such appeal, the court may correct or amend the ballot
8 title before the court, or accept the substitute suggested, or may
9 draft a new one which will conform to the provisions of Section 9 of
10 this title.

11 B. No such appeal shall be allowed as to the ballot title of
12 constitutional and legislative enactments proposed by the
13 Legislature.

14 SECTION 7. AMENDATORY 34 O.S. 2001, Section 12, is
15 amended to read as follows:

16 Section 12. ~~When the ballot title has been decided upon an~~
17 initiative or referendum petition has been properly filed with
18 sufficient signatures thereon, as provided in this title, and all
19 objections or protests have been resolved or the period for filing
20 such has expired, the Secretary of State shall, in writing, notify
21 the Governor, who ~~forthwith~~ shall issue a proclamation setting forth
22 the substance of the measure and the date on which the vote will be
23 held, which shall be on the date of the next General Election.

24

1 SECTION 8. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 28 of Title 34, unless there is
3 created a duplication in numbering, reads as follows:

4 It shall be unlawful for any person or other entity, whether a
5 resident or nonresident of this state, to engage in petition
6 blocking. As used in this section, "petition blocking" means
7 engaging in or conspiring to engage in an organized effort to
8 prevent an initiative or referendum petition from being voted upon
9 by the people of this state, either by frivolous legal challenges or
10 by interfering with the rights granted by the Oklahoma Constitution
11 to propose initiative or referendum petitions and circulate the same
12 for signatures. Such activity shall include, but not be limited to:

13 1. Harassment or intimidation of persons circulating or
14 considering signing initiative or referendum petitions;

15 2. Filing of objections or protests or other legal action
16 deemed frivolous by the Supreme Court or other court of competent
17 jurisdiction; and

18 3. Acting under false pretenses or fraud with respect to any
19 action relating to the filing or circulation of an initiative or
20 referendum petition.

21 SECTION 9. This act shall become effective November 1, 2008.

22

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