

1 ENGROSSED SENATE
2 BILL NO. 800

By: Sykes of the Senate

3 and

4 Murphey of the House

5
6
7 [initiative and referendum - initiative and
8 referendum petitions - specifying filing
9 requirements and time for filing protests -
10 effective date]
11

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

13 SECTION 1. AMENDATORY 34 O.S. 2001, Section 8, is
14 amended to read as follows:

15 Section 8. A. When a citizen or citizens desire to circulate a
16 petition initiating a proposition of any nature, whether to become a
17 statute law or an amendment to the Constitution, or for the purpose
18 of invoking a referendum upon legislative enactments, such citizen
19 or citizens shall, when such petition is prepared, and before the
20 same is circulated or signed by electors, file a true and exact copy
21 of same in the office of the Secretary of State and, ~~within ninety~~
22 ~~(90) days.~~

23 B. It shall be the duty of the Secretary of State to cause to
24 be published, in at least one newspaper of general circulation in

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

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

17 D. A protest filed by anyone hereunder may, if abandoned by the
18 party filing same, be revived within five (5) days by any other
19 citizen. After such hearing the Supreme Court shall decide whether
20 such petition is in the form required by the statutes. If the Court
21 is at the time adjourned, the Chief Justice shall immediately
22 convene the same for such hearing. No objection to the sufficiency
23 shall be considered unless it has been made and filed as herein
24 provided.

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

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

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

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

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

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

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

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

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

1 objection to the count shall be filed with the Secretary of State.
2 ~~In case of the filing of an objection to the count, and~~ notice shall
3 also be given to the Secretary of State ~~and the party filing a~~
4 ~~protest, if one was filed.~~

5 ~~D. I.~~ The Secretary of State shall deliver the bound volumes of
6 signatures to the Supreme Court.

7 ~~E. J.~~ Upon the filing of an objection to the count, the Supreme
8 Court shall resolve the objection with dispatch. The Supreme Court
9 shall adopt rules to govern proceedings to apply to the challenge of
10 a measure on the grounds that the proponents failed to gather
11 sufficient signatures.

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

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

24

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

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

9 SECTION 2. AMENDATORY 34 O.S. 2001, Section 9, as
10 amended by Section 2, Chapter 407, O.S.L. 2005 (34 O.S. Supp. 2008,
11 Section 9), is amended to read as follows:

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

19 B. The parties submitting the measure shall also submit a
20 suggested ballot title which shall be filed on a separate sheet of
21 paper and shall not be deemed part of the petition. The suggested
22 ballot title:

23 1. Shall not exceed two hundred (200) words;
24

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

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

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

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

10 6. Shall contain language which clearly states that a "yes"
11 vote is a vote in favor of the proposition and a "no" vote is a vote
12 against the proposition; and

13 7. Shall not contain language whereby a "yes" vote is, in fact,
14 a vote against the proposition and a "no" vote is, in fact, a vote
15 in favor of the proposition.

16 C. When a measure is proposed as a constitutional amendment by
17 the Legislature or when the Legislature proposes a statute
18 conditioned upon approval by the people:

19 1. After final passage of a measure, the Secretary of State
20 shall submit the proposed ballot title to the Attorney General for
21 review as to legal correctness. Within five (5) business days, the
22 Attorney General shall, in writing, notify the Secretary of State,
23 the President Pro Tempore of the Senate and the Speaker of the House
24 of Representatives whether or not the proposed ballot title complies

1 with applicable laws. The Attorney General shall state with
2 specificity any and all defects found and, if necessary, within ten
3 (10) business days of determining that the proposed ballot title is
4 defective, prepare a preliminary ballot title which complies with
5 the law and furnish a copy of such ballot title to the Secretary of
6 State, the President Pro Tempore of the Senate and the Speaker of
7 the House of Representatives. The Attorney General may consider any
8 comments made by the President Pro Tempore of the Senate or the
9 Speaker of the House of Representatives and shall file a final
10 ballot title with the Secretary of State no sooner than ten (10)
11 business days and no later than fifteen (15) business days after
12 furnishing the preliminary ballot title; and

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

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

21 1. After the filing ~~and binding of the petition pamphlets~~ of
22 the petition and prior to the gathering of signatures thereon, the
23 Secretary of State shall submit the proposed ballot title to the
24 Attorney General for review as to legal correctness. Within five

1 (5) business days after the filing of the measure and ballot title,
2 the Attorney General shall, in writing, notify the Secretary of
3 State whether or not the proposed ballot title complies with
4 applicable laws. The Attorney General shall state with specificity
5 any and all defects found and, if necessary, within ten (10)
6 business days of determining that the proposed ballot title is
7 defective, prepare and file a ballot title which complies with the
8 law; and

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

18 SECTION 3. AMENDATORY 34 O.S. 2001, Section 10, is
19 amended to read as follows:

20 Section 10. A. Any person who is dissatisfied with the wording
21 of a ballot title may, within ten (10) days after the same is filed
22 ~~by the Attorney General with~~ published by the Secretary of State as
23 provided for in subsection B of Section 9 8 of this title, appeal to
24 the Supreme Court by petition in which shall be offered a substitute

1 ballot title for the one from which the appeal is taken. Upon the
2 hearing of such appeal, the court may correct or amend the ballot
3 title before the court, or accept the substitute suggested, or may
4 draft a new one which will conform to the provisions of Section 9 of
5 this title.

6 B. No such appeal shall be allowed as to the ballot title of
7 constitutional and legislative enactments proposed by the
8 Legislature.

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

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

19 SECTION 5. This act shall become effective November 1, 2009.
20
21
22
23
24

1 Passed the Senate the 5th day of March, 2009.

2
3 _____
4 Presiding Officer of the Senate

5 Passed the House of Representatives the ____ day of _____,
6 2009.

7
8 _____
9 Presiding Officer of the House
10 of Representatives