ENGROSSED SENATE
BILL NO. 852 By: Brogdon of the Senate

and

Terrill of the House

[initiative and referendum - initiative and referendum petitions - codification - effective date]

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

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

Section 3. 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 <u>or her</u> own, or knowingly to sign his <u>or her</u> name more than once for the measure, or to sign such petition when he <u>or she</u> 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. <u>This gist</u>

statement shall be submitted to the Secretary of State at the same time the proponent files a true and exact copy of the proposition with the Secretary of State. Any person who is dissatisfied with the wording of the gist statement may, within five (5) days after the gist statement is filed with the Secretary of State, appeal to the Supreme Court. Within thirty (30) days after such an appeal is filed, the Court shall either uphold the sufficiency of the proposed gist statement, make corrections to the gist statement or draft a new gist statement. Once the Court has ruled or should there be no appeal within the five (5) days allotted for such an appeal, there shall be no further challenge to the petition on the basis of the gist statement. 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.

SECTION 2. AMENDATORY 34 O.S. 2001, Section 4, is amended to read as follows:

Section 4. When any such initiative or referendum petition shall be offered for filing, the Secretary of State, in the presence of the person offering the same for filing, shall detach the sheets containing the signatures and affidavits and cause them all to be attached to one or more printed copies of the measure so proposed by initiative or referendum petition. All petitions for the initiative and referendum and sheets for signatures shall be printed on pages

eight and one-half (8 1/2) inches in width by fourteen (14) inches in length or eight and one-half (8 1/2) inches in width by eleven (11) inches in length, with a margin of one and three-fourths (1 3/4) inches at the top for binding~~; if~~. If the aforesaid sheets shall be too bulky for convenient binding in one volume, they may be bound in two or more volumes, those in each volume to be attached to a single printed copy of such measure~~;~~, and the detached copies of such measures shall be delivered to the person offering the same for filing. Each of the volumes and each signature sheet therein shall be numbered consecutively, and a cover sheet shall be attached, showing the purported number of signature sheets, the series of numbers assigned to the signature sheets and the total number of signatures counted per volume. The Secretary of State shall render a signed receipt to the person offering the petition for filing, which receipt shall include a report, volume by volume, showing the number of signature sheets in each volume, the series of numbers assigned to the signature sheets in each volume, and the number of purported signatures in each volume. Duplicate copies of the cover sheets, with necessary corrections, may be used as receipts. If the volume of signatures is sufficiently large, the Secretary of State shall seal the petitions in such manner that they cannot be opened unless the seal is broken, and if requested by those filing ~~said~~ the petition, they shall not be opened before 9:00 a.m. on the day following the date ~~said~~ the petitions are filed, and ~~said~~ the

procedure shall continue until such time as the Secretary shall be able to receipt the petitions so filed; but additional signature sheets shall not be accepted after 5:00 p.m. on ninetieth day. The Secretary of State shall not provide any copies of signature sheets to anyone until the sheets have been bound as provided in this section.

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

SECTION 3. AMENDATORY 34 O.S. 2001, 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~~ the sheet of ~~said~~ the 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 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~~ each signer of ~~the foregoing~~ this petition~~, and~~

~~each of them~~ signed his or her name thereto in my presence; I believe that each has stated his or her 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 postoffice address of affiant.)

Subscribed and sworn to before me this _____ day of _____ A.D. ~~19__~~ 20__.

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

SECTION 4. 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~~.

B. It shall be the duty of the Secretary of State to 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. Such publication shall include the text of

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

C. Upon the filing of a protest to the petition, the Supreme Court 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.

D. 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 shall decide whether such petition is in form as required by the statutes. If the Court is at the time adjourned, the Chief Justice shall immediately convene the same for such hearing. No objection to the sufficiency shall be considered unless it has been made and filed as herein provided.

E. Within one (1) year after such filing of an initiative petition or determination of the sufficiency of the petition by the

Supreme Court as provided in this section, whichever is later, 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 or determination of the sufficiency of the petition by the Supreme Court as provided in this section, whichever is later. ~~The electors~~ Each elector shall sign ~~their~~ his or her legally-registered name, ~~their~~ address or post office box, and the name of the county ~~in which they reside~~ of residence. 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.~~ F. 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.~~ G. 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~~ basis for the ratio and per centum of legal voters as set forth in Section 2 of Article V of the Oklahoma Constitution.

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

H. 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~~ the filing of the signed petitions 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~~. Any such objection must be filed within ten (10) days after publication and must relate only to the validity or number of the signatures. 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~~, and notice shall also be given to the Secretary of State ~~and the party filing a protest, if one was filed~~.

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

~~E.~~ J. 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.

~~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.~~ K. 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~~ Court deems equitable.

~~I.~~ L. 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 5. AMENDATORY 34 O.S. 2001, Section 9, as amended by Section 2, Chapter 407, O.S.L. 2005 (34 O.S. Supp. 2008, Section 9), is amended to read as follows:

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

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

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

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

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

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

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

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

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

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

1. After final passage of a measure, the Secretary of State shall submit the proposed ballot title to the Attorney General for review as to legal correctness. Within five (5) business days, the Attorney General shall, in writing, notify the Secretary of State, the President Pro Tempore of the Senate and the Speaker of the House of Representatives whether or not the proposed ballot title complies with applicable laws. The Attorney General shall state with specificity any and all defects found and, if necessary, within ten

(10) business days of determining that the proposed ballot title is defective, prepare a preliminary ballot title which complies with the law and furnish a copy of such ballot title to the Secretary of State, the President Pro Tempore of the Senate and the Speaker of the House of Representatives. The Attorney General may consider any comments made by the President Pro Tempore of the Senate or the Speaker of the House of Representatives and shall file a final ballot title with the Secretary of State no sooner than ten (10) business days and no later than fifteen (15) business days after furnishing the preliminary ballot title~~.~~; and

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

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

1. After the filing ~~and binding of the petition pamphlets~~ of the petition and prior to the gathering of signatures thereon, the Secretary of State shall submit the proposed ballot title to the Attorney General for review as to legal correctness. Within five (5) business days after the filing of the measure and ballot title, the Attorney General shall, in writing, notify the Secretary of

State whether or not the proposed ballot title complies with applicable laws. The Attorney General shall state with specificity any and all defects found and, if necessary, within ten (10) business days of determining that the proposed ballot title is defective, prepare and file a ballot title which complies with the law; and

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

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

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

title before the court, or accept the substitute suggested, or may draft a new one which will conform to the provisions of Section 9 of this title.

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

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

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

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

It shall be unlawful for any person or other entity, whether a resident or nonresident of this state, to engage in petition blocking. As used in this section, "petition blocking" means engaging in or conspiring to engage in an organized effort to prevent an initiative or referendum petition from being voted upon

by the people of this state, either by frivolous legal challenges or by interfering with the rights granted by the Oklahoma Constitution to propose initiative or referendum petitions and circulate the same for signatures. Such activity shall include, but not be limited to:

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

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

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

SECTION 9. This act shall become effective November 1, 2009.

Passed the Senate the 11th day of March, 2009.

_____
Presiding Officer of the Senate

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

_____
Presiding Officer of the House of Representatives