

ENROLLED HOUSE
BILL NO. 2246

By: Terrill, Kern, Reynolds and
Shumate of the House

and

Brogdon of the Senate

An Act relating to initiative and referendum; amending 34 O.S. 2001, Sections 2, 3.1 and 6.1, which relate to initiatives and referendums; modifying initiative petition form; modifying signature and circulation requirements; providing requirements for petition circulators; providing for protected rights of petition circulators; providing for violations; modifying filing requirements of petition; modifying signatures not included in count; creating the Initiative and Referendum Task Force; providing for membership; providing for duties and responsibilities; providing for codification; providing for noncodification; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY 34 O.S. 2001, Section 2, is amended to read as follows:

Section 2. The form of initiative petition shall be substantially as follows:

INITIATIVE PETITION

To the Honorable _____, Governor of Oklahoma (or To the Honorable _____, Mayor, Chairman of County Commissioners, or other chief executive officers, as the case may be, for the city, county or other municipality): We, the undersigned legal voters of the State of Oklahoma (and of the district of _____, county of _____, or city of _____, as the case may be), respectfully order that the following proposed law (or

amendment to the constitution, ordinance, or amendment to the city charter, as the case may be) shall be submitted to the legal voters of the State of Oklahoma (or of the district of _____, county of _____, or city of _____, as the case may be) for their approval or rejection at the regular general election (or regular or special city election), to be held on the ____ day of _____, 19 20, and each for himself says: I have personally signed this petition; I am a legal voter of the State of Oklahoma (and of the district of _____, county of _____, city of _____, as the case may be); my residence or post office are correctly written after my name. The time for filing this petition expires ~~ninety days~~ one year from (insert date when petition is to be opened for signatures). (This for State initiative. For county, city, or other municipality the length of time shall be ninety days.) The question we herewith submit to our fellow voters is: Shall the following bill (or proposed amendment to the Constitution or resolution) be approved? (Insert here an exact copy of the title and text of the measure.)

Name and Address of Proponents (not to exceed three)

Name _____ Residence _____ Post Office _____
If in the city, street and number.

(Here follow twenty or fewer numbered lines for signatures.)

SECTION 2. AMENDATORY 34 O.S. 2001, Section 3.1, is amended to read as follows:

Section 3.1 It shall be unlawful for any person other than a ~~qualified elector of~~ person registered to vote in the State of Oklahoma, or a person registered to circulate any an initiative or referendum petition in Oklahoma to amend, add to, delete, strike or otherwise change in any way the Constitution or laws of the State of Oklahoma, or of any subdivision of the State of Oklahoma. Every person convicted of a violation of this section shall be punished by a fine of not to exceed One Thousand Dollars (\$1,000.00), or by imprisonment in the county jail for not to exceed one (1) year, or by both said fine and imprisonment. To be registered to circulate an initiative or referendum petition in Oklahoma, a person must be eighteen (18) years of age and a United States citizen who shall file in writing, by sworn affidavit, the following information to the Office of the Secretary of State before final filing of signed petitions with the Secretary of State:

1. Name of petitioner;
2. Name of circulator;
3. Residential address, including street number, city, state and zip code;
4. Mailing address, if different;
5. Have you been or do you expect to be paid for soliciting signatures for this petition? [] YES [] NO;
6. If the answer to paragraph 5 is yes, then identify the expected payor; and
7. Verified signature of circulator.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3.2 of Title 34, unless there is created a duplication in numbering, reads as follows:

The right of citizens to engage in orderly circulation of petitions shall be protected and not infringed. This includes:

1. Assaulting or intimidating any person with intent to deter that person from signing or circulating a petition;
2. Touching, damaging, or stealing any petition or promotional piece in the custody of a circulator without the consent of the circulator;
3. Yelling, shouting, using a bullhorn or amplifier, cursing, using obscene gestures, or engaging in other outrageous conduct with the intent to deter a person from signing or circulating a petition;
4. Interrupting the communication between a circulator engaged in conversation with a potential signer after that person is within five (5) feet of a signer, including coming within arm's length of either person until the conversation has ended, with the intent to deter a person from signing or circulating a petition;
5. Interfering with business relationships with intent to deter a person from signing or circulating a petition;

6. Making false claims that a circulator is attempting to engage in identity theft or other criminal activity with intent to deter a person from signing or circulating a petition;

7. Restricting the movement or actions of any person with intent to deter that person from signing or circulating a petition;

8. Placing one's body or other obstruction in the path between a circulator and any person within fifty (50) feet of a circulator with intent to deter that person from signing or circulating a petition;

9. Making false statements to any person with respect to any circulator or signer, or otherwise making any threat of assault, defamation, or business interruption, to any person having authority to eject a petitioner from a location with intent to have a circulator ejected or interfere with the circulation of the petition; and

10. Unlawfully threatening arrest or detention of any person lawfully engaged in circulation of a petition.

Every person convicted of a violation of this section shall be punished by a fine not to exceed One Thousand Dollars (\$1,000.00), or by imprisonment in the county jail not to exceed one (1) year, or by both said fine and imprisonment. Every person who violates this section, or pays or directly incites any person to engage in violation of this section is responsible for statutory damages to the circulator in the amount of Five Hundred Dollars (\$500.00) for each violation.

SECTION 4. 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; and

8. All signatures acquired by a petition circulator that has not registered with the Office of the Secretary of State pursuant to Section 3.1 of Title 34 of the Oklahoma Statutes.

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

SECTION 5. NEW LAW A new section of law not to be codified in the Oklahoma Statutes reads as follows:

A. There is hereby created to continue until January 31, 2010, the Initiative and Referendum Task Force. The task force will examine the initiative and referendum petition process in Oklahoma.

B. The task force shall consist of twelve (12) members as follows:

1. The Secretary of State, or designee;

2. The Attorney General, or designee;

3. Five members appointed by the President Pro Tempore of the Senate as follows:

a. one member from a political subdivision involved in the initiative and referendum petition process,

b. one member from the public actively involved in the initiative and referendum petition process, and

c. three members of the Senate; and

4. Five members appointed by the Speaker of the House of Representatives as follows:

a. one member from a political subdivision involved in the initiative and referendum petition process,

b. one member from the public actively involved in the initiative and referendum petition process, and

c. three members of the House of Representatives.

C. 1. Members shall serve at the pleasure of their appointing authorities. A vacancy on the task force shall be filled by the original appointing authority.

2. Appointments to the task force shall be made by September 1, 2009.

3. A majority of the members of the task force shall constitute a quorum. A majority of the members present at a meeting may act for the task force.

4. The President Pro Tempore of the Senate and the Speaker of the House of Representatives shall each designate a cochair from among the members of the task force.

5. The cochairs of the task force shall convene the first meeting of the task force on or before September 30, 2009, at which time a schedule of the meetings shall be determined.

D. The task force may use the services of the staffs of the Senate and the House of Representatives and may, as necessary, seek the advice and services of experts in the field of initiative and referendum petition circulation.

E. The Office of the Secretary of State shall cooperate with the task force in fulfilling its duties and responsibilities including, but not limited to, providing any information, records or reports requested by the task force.

F. Members of the task force shall receive no compensation for their service, but shall receive travel reimbursement as follows:

1. Legislative members of the task force shall be reimbursed for necessary travel expenses incurred in the performance of their duties in accordance with the provisions of Section 456 of Title 74 of the Oklahoma Statutes; and

2. Nonlegislative members of the task force shall be reimbursed by their appointing authorities or respective agencies for necessary travel expenses incurred in the performance of their duties in accordance with the State Travel Reimbursement Act.

G. The duties and responsibilities of the task force shall include, but not be limited to:

1. Review of the initiative and referendum petition process used by the State of Oklahoma and the political subdivisions thereof;

2. Review of the initiative and referendum petition financial disclosure requirements;

3. Review of petition requirements as they pertain to the Secretary of State and the Oklahoma Ethics Commission;

4. Review of the possibility of process and withdrawing signatures from a petition;

5. Review of issues relating to cost recovery to the Office of the Secretary of State, including, but not limited to, registration cost, operations and management of the petition process, bifurcation process and additional mandated requirements to the Office of the Secretary of State; and

6. Review of the practices used by petition circulators.

H. The task force shall publish its findings and recommendations by December 31, 2009, including recommendations for any resulting legislation.

SECTION 6. Sections 1 through 4 of this act shall become effective November 1, 2009.

SECTION 7. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the House of Representatives the 19th day of May, 2009.

Presiding Officer of the House of
Representatives

Passed the Senate the 20th day of May, 2009.

Presiding Officer of the Senate