

THE HOUSE OF REPRESENTATIVES
Monday, March 30, 2009

ENGROSSED

Senate Bill No. 800

ESB 800

ENGROSSED SENATE BILL NO. 800 - By: SYKES of the Senate and MURPHEY of the House.

(initiative and referendum - initiative and referendum petitions - specifying filing requirements and time for filing protests - effective date)

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

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

9 B. It shall be the duty of the Secretary of State to cause to be published, in at least
10 one newspaper of general circulation in the state, a notice of such filing and the apparent
11 sufficiency or insufficiency of the petition. Such publication shall include the text of the
12 ballot title as reviewed or, if applicable, as rewritten, by the Attorney General pursuant
13 to the provisions of subsection D of Section 9 of this title, and shall include notice that

1 any citizen or citizens of the state may file a protest as to the constitutionality of the
2 petition, by a written notice to the Supreme Court and to the proponent or proponents
3 filing the petition, or as to the ballot title as provided in Section 10 of this title. Any such
4 protest must be filed within ten (10) days after publication. A copy of the protest shall be
5 filed with the Secretary of State.

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

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

15 E. Within ninety (90) days after such filing of an initiative petition or
16 determination of the sufficiency of the petition by the Supreme Court as provided in this
17 section, whichever is later, the signed copies thereof shall be filed with the Secretary of
18 State, but the signed copies of a referendum petition shall be filed with the Secretary of
19 State within ninety (90) days after the adjournment of the Legislature enacting the
20 measure on which the referendum is invoked or determination of the sufficiency of the
21 petition by the Supreme Court as provided in this section, whichever is later. The
22 electors Each elector shall sign ~~their~~ his or her legally-registered name, ~~their~~ address or

1 post office box, and the name of the county ~~in which they reside~~ of residence. Any
2 petition not filed in accordance with this provision shall not be considered. The
3 proponents of a referendum or an initiative petition, any time before the final submission
4 of signatures, may withdraw the referendum or initiative petition upon written
5 notification to the Secretary of State.

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

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

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

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

- 16 1. The total number of signatures counted pursuant to procedures set forth in this
17 title; and
- 18 2. The total number of votes cast for the state office receiving the highest number of
19 votes cast at the last general election.

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

1 H. Upon order of the Supreme Court it shall be the duty of the Secretary of State to
2 forthwith cause to be published, in at least one newspaper of general circulation in the
3 state, a notice of ~~such~~ the filing of the signed petitions and the apparent sufficiency or
4 insufficiency thereof and notice that any citizen or citizens of the state may file a ~~protest~~
5 ~~to the petition or~~ an objection to the count made by the Secretary of State, by a written
6 notice to the Supreme Court ~~of the state~~ and to the proponent or proponents filing the
7 petition, ~~said protest to.~~ Any such objection must be filed within ten (10) days after
8 publication and must relate only to the validity or number of the signatures. A copy of
9 the ~~protest or~~ objection to the count shall be filed with the Secretary of State. ~~In case of~~
10 ~~the filing of an objection to the count,~~ and notice shall also be given to the Secretary of
11 State ~~and the party filing a protest, if one was filed.~~

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

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

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

21 ~~G.~~ ~~A protest filed by anyone hereunder may, if abandoned by the party filing same,~~
22 ~~be revived within five (5) days by any other citizen. After such hearing the Supreme~~

1 ~~Court of the state shall decide whether such petition be in form as required by the~~
2 ~~statutes. If the Court be at the time adjourned, the Chief Justice shall immediately~~
3 ~~convene the same for such hearing. No objection to the sufficiency shall be considered~~
4 ~~unless the same shall have been made and filed as herein provided.~~

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

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

11 SECTION 2. AMENDATORY 34 O.S. 2001, Section 9, as amended by Section
12 2, Chapter 407, O.S.L. 2005 (34 O.S. Supp. 2008, Section 9), is amended to read as
13 follows:

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

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

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

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

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

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

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

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

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

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

14 1. After final passage of a measure, the Secretary of State shall submit the
15 proposed ballot title to the Attorney General for review as to legal correctness. Within
16 five (5) business days, the Attorney General shall, in writing, notify the Secretary of
17 State, the President Pro Tempore of the Senate and the Speaker of the House of
18 Representatives whether or not the proposed ballot title complies with applicable laws.
19 The Attorney General shall state with specificity any and all defects found and, if
20 necessary, within ten (10) business days of determining that the proposed ballot title is
21 defective, prepare a preliminary ballot title which complies with the law and furnish a
22 copy of such ballot title to the Secretary of State, the President Pro Tempore of the

1 Senate and the Speaker of the House of Representatives. The Attorney General may
2 consider any comments made by the President Pro Tempore of the Senate or the Speaker
3 of the House of Representatives and shall file a final ballot title with the Secretary of
4 State no sooner than ten (10) business days and no later than fifteen (15) business days
5 after furnishing the preliminary ballot title; and

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

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

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

21 2. Within ten (10) business days after completion of the review by the Attorney
22 General, the Secretary of State shall, if no appeal is filed, transmit to the Secretary of the

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

1 State Election Board an attested copy of the measure, including the official ballot title,
2 and a certification that the requirements of this section have been met. If an appeal is
3 taken from such ballot title within the time specified in Section 10 of this title, then the
4 Secretary of State shall certify to the Secretary of the State Election Board the ballot title
5 which is finally approved by the Supreme Court.

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

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

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

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

19 Section 12. When ~~the ballot title has been decided upon~~ an initiative or referendum
20 petition has been properly filed with sufficient signatures thereon, as provided in this
21 title, and all objections or protests have been resolved or the period for filing such has
22 expired, the Secretary of State shall, in writing, notify the Governor, who ~~forthwith~~ shall

1 issue a proclamation setting forth the substance of the measure and the date on which
2 the vote will be held.

3 SECTION 5. This act shall become effective November 1, 2009.

4 COMMITTEE REPORT BY: COMMITTEE ON RULES, dated 03-26-09 - DO PASS, As
5 Amended.