

SB 852

1 THE STATE SENATE  
2 Monday, February 23, 2009

3 Senate Bill No. 852  
4 As Amended

5 SENATE BILL NO. 852 - By: Brogdon of the Senate and Terrill of the  
6 House.

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

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

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

12 Section 3. Each initiative petition and each referendum  
13 petition shall be duplicated for the securing of signatures, and  
14 each sheet for signatures shall be attached to a copy of the  
15 petition. Each copy of the petition and sheets for signatures is  
16 hereinafter termed a pamphlet. On the outer page of each pamphlet  
17 shall be printed the word "Warning", and underneath this in  
18 ten-point type the words, "It is a felony for anyone to sign an  
19 initiative or referendum petition with any name other than his or  
20 her own, or knowingly to sign his or her name more than once for the  
21 measure, or to sign such petition when he or she is not a legal  
22 voter". A simple statement of the gist of the proposition shall be  
23 printed on the top margin of each signature sheet. This gist  
24 statement shall be submitted to the Secretary of State at the same

1 time the proponent files a true and exact copy of the proposition  
2 with the Secretary of State. Any person who is dissatisfied with  
3 the wording of the gist statement may, within five (5) days after  
4 the gist statement is filed with the Secretary of State, appeal to  
5 the Supreme Court. Within thirty (30) days after such an appeal is  
6 filed, the Court shall either uphold the sufficiency of the proposed  
7 gist statement, make corrections to the gist statement or draft a  
8 new gist statement. Once the Court has ruled or should there be no  
9 appeal within the five (5) days allotted for such an appeal, there  
10 shall be no further challenge to the petition on the basis of the  
11 gist statement. Not more than twenty (20) signatures on one sheet  
12 on lines provided for the signatures shall be counted. Any  
13 signature sheet not in substantial compliance with this act shall be  
14 disqualified by the Secretary of State.

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

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

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



1 ~~written or typewritten the names of the signers of the sheet),~~  
2 ~~signed this sheet~~ each signer of the foregoing this petition, and  
3 ~~each of them~~ signed his or her name thereto in my presence; I  
4 believe that each has stated his or her name, post office address,  
5 and residence correctly, and that each signer is a legal voter of  
6 the State of Oklahoma and county of \_\_\_\_\_ or of the city of \_\_\_\_\_  
7 (as the case may be). (Signature and postoffice address of  
8 affiant.)  
9 Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_ A.D.  
10 ~~19\_\_~~ 20\_\_.

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

13 SECTION 4. 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.~~

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

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

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

1 convene the same for such hearing. No objection to the sufficiency  
2 shall be considered unless it has been made and filed as herein  
3 provided.

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

21 ~~B.~~ F. The proponents of a referendum or an initiative petition  
22 may terminate the circulation period any time during the ~~ninety-day~~  
23 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           E. 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

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

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

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

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

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

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

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

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

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

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

1 measure with the Secretary of State and one copy with the Attorney  
2 General.

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

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

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

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

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

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

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

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

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

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

22 2. After receipt of the measure and the official ballot title,  
23 as certified by the Attorney General, the Secretary of State shall

1 within five (5) days transmit to the Secretary of the State Election  
2 Board an attested copy of the measure, including the official ballot  
3 title.

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

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

19 2. Within ten (10) business days after completion of the review  
20 by the Attorney General, the Secretary of State shall, if no appeal  
21 is filed, transmit to the Secretary of the State Election Board an  
22 attested copy of the measure, including the official ballot title,  
23 and a certification that the requirements of this section have been

1 met. If an appeal is taken from such ballot title within the time  
2 specified in Section 10 of this title, then the Secretary of State  
3 shall certify to the Secretary of the State Election Board the  
4 ballot title which is finally approved by the Supreme Court.

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

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

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

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

22 Section 12. When ~~the ballot title has been decided upon an~~  
23 initiative or referendum petition has been properly filed with

1 sufficient signatures thereon, as provided in this title, and all  
2 objections or protests have been resolved or the period for filing  
3 such has expired, the Secretary of State shall, in writing, notify  
4 the Governor, who ~~forthwith~~ shall issue a proclamation setting forth  
5 the substance of the measure and the date on which the vote will be  
6 held, which shall be on the date of the next General Election.

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

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

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

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

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

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

5 COMMITTEE REPORT BY: COMMITTEE ON RULES, dated 2-16-09 - DO PASS, As  
6 Amended and Coauthored.