

1 STATE OF OKLAHOMA

2 1st Session of the 53rd Legislature (2011)

3 HOUSE BILL 1718

By: Stiles

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5
6 AS INTRODUCED

7 An Act relating to initiative and referendum;
8 amending 34 O.S. 2001, Sections 3, 4, 6, and 8, as
9 amended by Section 1, Chapter 318, O.S.L. 2009 (34
10 O.S. Supp. 2010, Section 8), which relate to
11 initiative and referendum petitions; requiring gist
12 statement to be submitted to Secretary of State;
13 providing procedures for certain appeal to Supreme
14 Court; prohibiting further challenge; modifying size
15 of sheets for signatures on such petitions; modifying
16 certain notarization and affidavit requirement;
17 making language gender neutral; requiring publication
18 of notice of filing and ballot title of petition;
19 requiring notice of right to protest
20 constitutionality and ballot title; specifying filing
21 requirements and time for filing such protests;
22 specifying certain duties of Secretary of State and
23 Supreme Court; allowing for revival of protest;
24 modifying time period for signed copies of petition
to be filed; prohibiting petition blocking; defining
term; providing for codification; and providing an
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

1 each sheet for signatures shall be attached to a copy of the
2 petition. Each copy of the petition and sheets for signatures is
3 hereinafter termed a pamphlet. On the outer page of each pamphlet
4 shall be printed the word "Warning", and underneath this in
5 ten-point type the words, "It is a felony for anyone to sign an
6 initiative or referendum petition with any name other than his or
7 her own, or knowingly to sign his or her name more than once for the
8 measure, or to sign such petition when he or she is not a legal
9 voter." A simple statement of the gist of the proposition shall be
10 printed on the top margin of each signature sheet. This gist
11 statement shall be submitted to the Secretary of State at the same
12 time the proponent files a true and exact copy of the proposition
13 with the Secretary of State. Any person who is dissatisfied with
14 the wording of the gist statement may, within five (5) days after
15 the gist statement is filed with the Secretary of State, appeal to
16 the Supreme Court. Within thirty (30) days after such an appeal is
17 filed, the Court shall either uphold the sufficiency of the proposed
18 gist statement, make corrections to the gist statement or draft a
19 new gist statement. Once the Court has ruled or should there be no
20 appeal within the five (5) days allotted for such an appeal, there
21 shall be no further challenge to the petition on the basis of the
22 gist statement. Not more than twenty (20) signatures on one sheet
23 on lines provided for the signatures shall be counted. Any
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1 signature sheet not in substantial compliance with this act shall be
2 disqualified by the Secretary of State.

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

5 Section 4. When any such initiative or referendum petition
6 shall be offered for filing, the Secretary of State, in the presence
7 of the person offering the same for filing, shall detach the sheets
8 containing the signatures and affidavits and cause them all to be
9 attached to one or more printed copies of the measure so proposed by
10 initiative or referendum petition. All petitions for the initiative
11 and referendum and sheets for signatures shall be printed on pages
12 eight and one-half (8 1/2) inches in width by fourteen (14) inches
13 in length or eight and one-half (8 1/2) inches in width by eleven
14 (11) inches in length, with a margin of one and three-fourths (1
15 3/4) inches at the top for binding, ~~if.~~ If the aforesaid sheets
16 shall be too bulky for convenient binding in one volume, they may be
17 bound in two or more volumes, those in each volume to be attached to
18 a single printed copy of such measure, and the detached copies of
19 such measures shall be delivered to the person offering the same for
20 filing. Each of the volumes and each signature sheet therein shall
21 be numbered consecutively, and a cover sheet shall be attached,
22 showing the purported number of signature sheets, the series of
23 numbers assigned to the signature sheets and the total number of
24 signatures counted per volume. The Secretary of State shall render

1 a signed receipt to the person offering the petition for filing,
2 which receipt shall include a report, volume by volume, showing the
3 number of signature sheets in each volume, the series of numbers
4 assigned to the signature sheets in each volume, and the number of
5 purported signatures in each volume. Duplicate copies of the cover
6 sheets, with necessary corrections, may be used as receipts. If the
7 volume of signatures is sufficiently large, the Secretary of State
8 shall seal the petitions in such manner that they cannot be opened
9 unless the seal is broken, and if requested by those filing ~~said~~ the
10 petition, they shall not be opened before 9:00 a.m. on the day
11 following the date ~~said~~ the petitions are filed, and ~~said~~ the
12 procedure shall continue until such time as the Secretary shall be
13 able to receipt the petitions so filed, but additional signature
14 sheets shall not be accepted after 5:00 p.m. on the ninetieth day.
15 The Secretary of State shall not provide any copies of signature
16 sheets to anyone until the sheets have been bound as provided in
17 this section.

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

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

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1 Section 6. Each sheet of every such petition containing
2 signatures shall be verified on the back thereof, in substantially
3 the following form, by the person who circulated ~~said~~ the sheet of
4 ~~said~~ the petition, by his or her affidavit thereon and as a part
5 thereof:

6 State of Oklahoma,)
7) ss.
8 County of _____)

9 I, _____, being first duly sworn, say: That ~~I am a qualified~~
10 ~~elector of the State of Oklahoma and that (Here shall be legibly~~
11 ~~written or typewritten the names of the signers of the sheet),~~
12 ~~signed this sheet~~ each signer of the ~~foregoing~~ this petition, ~~and~~
13 ~~each of them~~ sheet signed his or her name thereto in my presence; I
14 believe that each has stated his or her name, post office address,
15 and residence correctly, and that each signer is a legal voter of
16 the State of Oklahoma and County of _____ or of the City of _____
17 (as the case may be). (Signature and post office address of
18 affiant.) Subscribed and sworn to before me this _____ day of
19 _____ A.D. ~~19~~ 20.

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

22 SECTION 4. AMENDATORY 34 O.S. 2001, Section 8, as
23 amended by Section 1, Chapter 318, O.S.L. 2009 (34 O.S. Supp. 2010,
24 Section 8), is amended to read as follows:

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

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

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

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

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

1 signatures, may withdraw the referendum or initiative petition upon
2 written notification to the Secretary of State.

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

6 1. All signed petitions have already been filed with the
7 Secretary of State;

8 2. No more petitions are in circulation; and

9 3. The proponents will not circulate any more petitions.

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

12 G. When the signed copies of a petition are timely filed, the
13 Secretary of State shall certify to the Supreme Court of the state:

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

16 2. The ~~total number of votes cast for the state office~~
17 ~~receiving the highest number of votes cast at the last general~~
18 ~~election~~ basis for the ratio and per centum of legal voters as set
19 forth in Section 2 of Article V of the Oklahoma Constitution.

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

23 H. Upon order of the Supreme Court it shall be the duty of the
24 Secretary of State to forthwith cause to be published, in at least

1 one newspaper of general circulation in the state, a notice of the
2 filing of the signed petitions and the apparent sufficiency or
3 insufficiency thereof and notice that any citizen or citizens of the
4 state may file an objection to the count made by the Secretary of
5 State, by a written notice to the Supreme Court and to the proponent
6 or proponents filing the petition. Any such objection must be filed
7 within ten (10) days after publication and must relate only to the
8 validity or number of the signatures. A copy of the objection to
9 the count shall be filed with the Secretary of State, and notice
10 shall also be given to the Secretary of State.

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

13 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 K. If in the opinion of the Supreme Court, any objection to the
19 count or protest to the petition is frivolous, the Court may impose
20 appropriate sanctions, including an award of costs and ~~attorneys~~
21 attorney fees to either party as the Court deems equitable.

22 L. Whenever reference is made in this act to the Supreme Court,
23 such reference shall include the members of the Supreme Court or any
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1 officer constitutionally designated to perform the duties herein
2 prescribed.

3 SECTION 5. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 28 of Title 34, unless there is
5 created a duplication in numbering, reads as follows:

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

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

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

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

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1 SECTION 6. This act shall become effective November 1, 2011.

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3 53-1-5904 LRB 12/27/10
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