

SENATE BILL REPORT

SB 5147

As of January 25, 2006

Title: An act relating to paid petition signature gathering.

Brief Description: Prohibiting payment of petition signature gatherers on a per-signature basis.

Sponsors: Senators Kohl-Welles and Kline.

Brief History:

Committee Activity: Government Operations & Elections: 1/26/06.

SENATE COMMITTEE ON GOVERNMENT OPERATIONS & ELECTIONS

Staff: Genevieve Pisarski (786-7488)

Background: In *Limit v. Maleng*, 874 F.Supp. 1138 (W.D. WA 1994), a federal district court ruled that a 1993 Washington law which criminalized payment on a per signature basis of signature gatherers for initiative and referendum petitions was an unconstitutional infringement on freedom of political speech. A formal legislative finding that payment on a per signature basis encouraged fraud was not sufficient to justify the law without any evidence that the method of payment actually resulted in fraud. In 2003, the section of law in question was amended in respect to different provisions in the section and the legislative findings in question were reenacted. Both were recodified as part of a larger recodification of elections laws.

Since then, in *Prete v. Bradbury*, 2004 U.S. Dist. LEXIS 28738, a federal district court upheld Oregon's 2002 Ballot Measure 26, now Article IV, section 1b, of the Oregon Constitution, which states: "It shall be unlawful to pay or receive money or other thing of value based on the number of signatures obtained on an initiative or referendum petition. Nothing herein prohibits payment for signature gathering which is not based, either directly or indirectly, on the number of signatures obtained." The court ruled that the measure and the Secretary of State's rules implementing it were narrowly tailored to serve an important state interest in protecting the integrity of the initiative and referendum process. The court cited evidence that described numerous instances of forged signatures and false certifications submitted by petition gatherers who were paid on commission. The decision is currently under appeal.

Summary of Bill: The Legislature's finding that payment on a per signature basis of signature gatherers for initiative and referendum petitions encourages fraud is amended to say that this form of payment has been shown in the state and the region to be an incentive for obtaining invalid signatures and forging signatures. It is the Legislature's intent to apply to initiative and referendum signature gathering the same prohibition on per signature payment that currently applies to registering of voters.

The section of statute is reenacted that includes payment on a per signature basis among a number of initiative and referendum petition violations that are made punishable as gross misdemeanors.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.