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**SENATE BILL 5959**

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**State of Washington**

**53rd Legislature**

**1993 Regular Session**

**By** Senators Nelson, M. Rasmussen, Amondson, Vognild, Erwin and Roach

Read first time 03/09/93. Referred to Committee on Government Operations.

1 AN ACT Relating to exercising the right to petition for referendum;  
2 amending RCW 4.24.500, 4.24.510, 4.24.520, 35.22.200, 35A.11.100, and  
3 35A.29.170; adding a new section to chapter 35.21 RCW; adding a new  
4 section to chapter 36.01 RCW; and creating a new section.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** The legislature declares that the right of  
7 referendum is one of the most powerful tools our citizens have for  
8 exercising control over our democratic processes. The legislature  
9 further declares that the right of petition under Article I, section 4  
10 of the state Constitution, and freedom of speech under Article I,  
11 section 5 of the state Constitution are well served by the active use  
12 of the referendum.

13 It is the intent of the legislature that a citizen feel at liberty  
14 to express his or her opinion by signing or filing a petition for  
15 referendum. It is the purpose of this act to ensure that any action  
16 taken against the signers or filers of a petition for referendum may be  
17 taken only upon a showing of bad faith and not for a mistake of law.

1       **Sec. 2.** RCW 4.24.500 and 1989 c 234 s 1 are each amended to read  
2 as follows:

3       Information provided by citizens concerning potential wrongdoing is  
4 vital to effective law enforcement and the efficient operation of  
5 government. The referendum process is an important vehicle for  
6 conveying public concern. The legislature finds that the threat of a  
7 civil action for damages can act as a deterrent to citizens who wish to  
8 report information to federal, state, or local agencies, or who sign or  
9 file a petition for referendum. The costs of defending against such  
10 suits can be severely burdensome. The purpose of RCW 4.24.500 through  
11 4.24.520 is to protect individuals who make good-faith reports to  
12 appropriate governmental bodies or who sign or file petitions for  
13 referendum in good faith.

14       **Sec. 3.** RCW 4.24.510 and 1989 c 234 s 2 are each amended to read  
15 as follows:

16       (1) A person who in good faith communicates a complaint or  
17 information or signs or files a petition for referendum to any agency  
18 of federal, state, or local government regarding any matter reasonably  
19 of concern to that agency shall be immune from civil liability on  
20 claims based upon the communication or filing to the agency. A person  
21 prevailing upon the defense provided for in this section shall be  
22 entitled to recover costs and reasonable attorneys' fees incurred in  
23 establishing the defense.

24       (2) Any person who files a petition for referendum under subsection  
25 (1) of this section that contains the minimum number of required  
26 signatures is acting in good faith, absent a showing to the contrary.

27       **Sec. 4.** RCW 4.24.520 and 1989 c 234 s 4 are each amended to read  
28 as follows:

29       In order to protect the free flow of information from citizens to  
30 their government, an agency receiving a complaint or information or a  
31 petition for referendum under RCW 4.24.510 may intervene in and defend  
32 against any suit precipitated by the communication to the agency. In  
33 the event that a local governmental agency does not intervene in and  
34 defend against a suit arising from any communication protected under  
35 ~~((this act))~~ RCW 4.24.500, 4.24.510, and this section, the office of  
36 the attorney general may intervene in and defend against the suit. An  
37 agency prevailing upon the defense provided for in RCW 4.24.510 shall

1 be entitled to recover costs and reasonable attorneys' fees incurred in  
2 establishing the defense. If the agency fails to establish the defense  
3 provided for in RCW 4.24.510, the party bringing the action shall be  
4 entitled to recover from the agency costs and reasonable attorney's  
5 fees incurred in proving the defense inapplicable or invalid.

6 **Sec. 5.** RCW 35.22.200 and 1965 ex.s. c 47 s 13 are each amended to  
7 read as follows:

8 The legislative powers of a charter city shall be vested in a mayor  
9 and a city council, to consist of such number of members and to have  
10 such powers as may be provided for in its charter. The charter may  
11 provide for direct legislation by the people through the initiative and  
12 referendum upon any matter within the scope of the powers, functions,  
13 or duties of the city. The exercise of the right of the people to  
14 petition for referendum is protected under RCW 4.24.500 through  
15 4.24.520. The mayor and council and such other elective officers as  
16 may be provided for in such charter shall be elected at such times and  
17 in such manner as provided in Title 29 RCW, and for such terms and  
18 shall perform such duties and receive such compensation as may be  
19 prescribed in the charter.

20 **Sec. 6.** RCW 35A.11.100 and 1973 1st ex.s. c 81 s 3 are each  
21 amended to read as follows:

22 Except as provided in RCW 35A.11.090, and except that the number of  
23 registered voters needed to sign a petition for initiative or  
24 referendum shall be fifteen percent of the total number of names of  
25 persons listed as registered voters within the city on the day of the  
26 last preceding city general election, the powers of initiative and  
27 referendum in noncharter code cities shall be exercised in the manner  
28 set forth for the commission form of government in RCW 35.17.240  
29 through 35.17.360, as now or hereafter amended. The exercise of any  
30 right to petition for referendum is protected under RCW 4.24.500  
31 through 4.24.520.

32 **Sec. 7.** RCW 35A.29.170 and 1967 ex.s. c 119 s 35A.29.170 are each  
33 amended to read as follows:

34 Initiative and referendum petitions authorized to be filed under  
35 provisions of this title, or authorized by charter, or authorized for  
36 code cities having the commission form of government as provided by

1 chapter 35.17 RCW, shall be in substantial compliance with the  
2 provisions of RCW 35A.01.040 as to form and content of the petition,  
3 insofar as such provisions are applicable; shall contain a true copy of  
4 a resolution or ordinance sought to be referred to the voters; shall be  
5 subject to the good faith protections under RCW 4.24.500 through  
6 4.24.520; and must contain valid signatures of qualified electors of  
7 the code city in the number required by the applicable provision of  
8 this title. Except when otherwise provided by statute, referendum  
9 petitions must be filed with the clerk of the legislative body of the  
10 code city within ninety days after the passage of the resolution or  
11 ordinance sought to be referred to the voters, or within such lesser  
12 number of days as may be authorized by statute or charter in order to  
13 precede the effective date of an ordinance: PROVIDED, That nothing  
14 herein shall be construed to abrogate or affect an exemption from  
15 initiative and/or referendum provided by a code city charter. The  
16 clerk shall determine the sufficiency of the petition under the rules  
17 set forth in RCW 35A.01.040. When a referendum petition is filed with  
18 the clerk, the legislative action sought to be referred to the voters  
19 shall be suspended from taking effect. Such suspension shall terminate  
20 when: (1) There is a final determination of insufficiency or  
21 untimeliness of the referendum petition; or (2) the legislative action  
22 so referred is approved by the voters at a referendum election.

23 NEW SECTION. **Sec. 8.** A new section is added to chapter 35.21 RCW  
24 to read as follows:

25 Any exercise of the right of petition for referendum is protected  
26 by the good faith provisions of RCW 4.24.500 through 4.24.520.

27 NEW SECTION. **Sec. 9.** A new section is added to chapter 36.01 RCW  
28 to read as follows:

29 Any exercise of the right of petition for referendum is protected  
30 by the good faith provisions of RCW 4.24.500 through 4.24.520.

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