
State Government Committee

HB 1169

Brief Description: Revising the requirements for obtaining signatures on an initiative or referendum petition.

Sponsors: Representatives Hunt, Haigh, Tom, McDermott, Romero and Wallace.

Brief Summary of Bill

- Requires signature gatherers, prior to asking for a signature, to disclose whether they are paid, to accurately describe the effect of the initiative or referendum, and to provide a comprehensive written summary of the initiative or referendum that has been approved by the Secretary of State.

Hearing Date: 2/4/03

Staff: Katie Blinn (786-7114).

Background:

The number of valid signatures necessary for an initiative to the people or an initiative to the legislature is 8 percent of the votes cast for Governor at the last gubernatorial election. The number of signatures necessary for a referendum is 4 percent. Once the text of an initiative is filed with the Secretary of State (Secretary), the Attorney General writes a 75-word summary and the ballot title. The ballot title consists of a subject statement, a 30-word concise description, and a question. The ballot title becomes the title of the measure on all petitions, ballots and other material, and the summary appears after the ballot title on all petitions. Each petition must have lines for signatures on one side, and the measure printed on the other side. When the person proposing the measure has enough signatures to exceed the 4 percent or percent requirement, he or she files the petitions with the Secretary for certification.

In 1988, the U.S. Supreme Court (Court) struck down a Colorado statute that prohibited ballot measure sponsors from *paying* signature gatherers, ruling that the prohibition violated political free speech rights. Meyer v. Grant, 486 U.S. 414, 419 (1988). In 1994, the Washington statute that prohibited paying signature gatherers on a *per-signature* basis, RCW 29.79.490, was struck down by the United States District Court for Western Washington. Limit v. Maleng, 874 F.Supp. 1138 (1994).

In 2000, the Washington statute that required initiative sponsors to disclose the names, addresses, and amounts paid to all paid signature gatherers, RCW 42.17.090(1)(g), was struck down by the Ninth Circuit Court of Appeals. Washington Initiatives Now (WIN) v. Rippie, 213 F.3d 1132 (2000). The Court struck down a similar Colorado law because no substantial state interest was advanced to justify why paid signature gatherers were not afforded the anonymity enjoyed by their volunteer counterparts. Buckley v. American Constitutional Law Foundation, Inc., 525 U.S. 182, 204 (1999).

Finally, a Colorado law that required signature gatherers to wear badges displaying their names and whether they were paid or volunteer was struck down in 1999. Buckley, 525 U.S. at 197-200 (1999). The Court only addressed the name disclosure requirement, finding that it discouraged participation in the petition circulation process and thereby burdened political speech. The Court refused to decide the constitutionality of the second requirement, that the badge disclose whether the signature gatherer was paid or volunteer.

Even if a court determines that a disclosure law imposes a significant burden on political free speech rights, the court must balance that burden against the state's interests in combating fraud and providing voters with useful information about the electoral process. The state must show that its interests are substantial, that they are furthered by the disclosure requirement, and that they outweigh the burden imposed on political speech.

Summary of Bill:

The Secretary shall approve or disapprove a comprehensive summary of each initiative and referendum no more than 10 business days after it is submitted to the Secretary with the text of the measure. Prior to requesting a voter's signature on an initiative or referendum petition, a signature gatherer must:

- disclose whether he or she is paid;
- accurately describe the effect of the measure; and
- provide a comprehensive written summary that has been approved by the Secretary.

The bill does not indicate who writes or provides the comprehensive summary, the consequences of the Secretary disapproving the summary, or whether the summary is the same or in addition to the 75-word summary currently provided by the Attorney General.

Appropriation: None.

Fiscal Note: Not Requested.

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