

SENATE BILL REPORT

INITIATIVE 517

As of February 19, 2013

Title: An act relating to establishing protections for citizens exercising their first amendment rights by participating in the initiative and referendum process.

Brief Description: Initiative and referendum.

Sponsors: People of the State of Washington.

Brief History:

Committee Activity: Governmental Operations: 2/14/13.

SENATE COMMITTEE ON GOVERNMENTAL OPERATIONS

Staff: Sam Thompson (786-7413)

Background: State Initiatives. If certified for the ballot, initiatives to the people are submitted to a vote of the people at the next state general election. If certified for the ballot, an initiative to the Legislature is first submitted to the Legislature, which must: (1) adopt it as proposed, in which case it becomes law without a vote of the people; (2) reject or decline to act on it, in which case it is submitted to a vote of the people at the next state general election; or (3) propose a different measure dealing with the same subject, in which case both measures are submitted to a vote of the people at the next state general election.

Circulating Periods. State initiatives are initially filed with the Secretary of State, prior to circulation of petitions. Initiatives to the people may be filed up to ten months prior to the election. Initiatives to the Legislature may be filed up to ten months prior to the regular legislative session.

Interfering With Signature Gathering. A person who harasses a signature gatherer or a person trying to sign a petition may potentially be prosecuted for harassment, a gross misdemeanor. In addition, a person interfering with a voter's right to sign or not sign a petition by threats, intimidation, or any other corrupt means or practices may be prosecuted for that offense, also a gross misdemeanor.

Local Initiatives and Referenda. Most cities in Washington may, pursuant to statute, authorize city initiatives and referenda, and at least 60 have done so. Counties may authorize county initiatives and referenda in home rule charters; the six counties that have adopted

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home rule charters – Clallam, King, Pierce, San Juan, Snohomish, and Whatcom – have all done so. Local initiative and referendum powers may be limited by statute. In 2012, the state Supreme Court ruled that because the Legislature expressly granted local legislative authorities, including city councils, exclusive power to legislate on use of automated traffic safety cameras, a city initiative seeking to limit that authority was not within the local initiative power.

Summary of Bill: Intent. The act is intended to protect constitutional rights to petition the government and rights to participate in the initiative and referendum process.

Circulating Periods. The time within which state initiatives to the people and initiatives to the Legislature may be filed is extended to afford circulators an additional four months to gather signatures.

Interference With Signature Gathering. A person interfering with a person gathering signatures or trying to sign a petition, or retaliating against or stalking any person gathering signatures or signing a petition, is subject to the anti-harassment procedures, civil penalties, and prosecution for disorderly conduct, a misdemeanor offense. Interfering with includes, but is not limited to, pushing, shoving, touching, spitting, throwing objects, yelling, screaming, being verbally abusive, other tumultuous conduct, blocking or intimidating, or maintaining an intimidating presence within 25 feet of any person gathering signatures and any person trying to sign a petition.

Signature gathering and petition signing for an officially filed and processed initiative or referendum is protected activity on sidewalks and walkways, including those in front of store entrances and exits and inside or outside public buildings such as public sports stadiums, convention or exhibition centers, and public fairs.

Processing of Petitions; Submission to Electorate. Any state or local initiative for which sufficient valid voter signatures are submitted, within the time period required, must be submitted to a vote of the people at the next election date. Government officials must facilitate, and not obstruct, processing of initiative petitions and public votes on initiatives. The term local legislative authority must be construed to include the people via local initiative regardless of the subject matter of the ballot measure.

Other. The act is called the Protect the Initiative Act. Provisions must be liberally construed. The act is self-executing. If any parts conflict with federal law or the state constitution, the act must be implemented to the maximum extent permissible; invalid provisions must be severed.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

Staff Summary of Public Testimony: PRO: This initiative appropriately extends the time for gathering signatures and provides protection for signature gathering in public places.

Assaults on signature gatherers must stop. Some cities and counties have improperly attempted to restrict local initiatives, sometimes suing to bar initiatives from the ballot. Signature gatherers have faced many difficulties in gathering signatures. Many signatures on a Vancouver initiative were stricken because of an onerous provision in current law that requires striking all signatures of any person who had signed a local petition two or more times. Efforts to bar red light cameras by local initiative were unjustly barred.

CON: This initiative is poorly drafted and includes technical flaws. Provisions are not internally consistent. Provisions prohibiting interfering with signature gathering may violate the First Amendment. Signature gatherers near stores have harassed customers. This initiative inappropriately restricts authority of stores to prevent signature gathering near entrances and exits.

Persons Testifying: PRO: Stoney Bird, Bellingham Democracy Alliance; Larry Patella, Debbie Peterson, sponsors of Vancouver petition; Tim Eyman, 517; Charlie Stemper, Randy Elmore, Stephen Pidgeon, Tim Sutinen, Edward Agazarm, citizens.

CON: Steve Gano, Rebecca Faust, citizens; Jan Gee, WA Food Industry Assn.