

SENATE BILL REPORT

SB 5375

As of February 4, 2015

Title: An act relating to disclosure in initiatives, referenda, and recall petitions.

Brief Description: Requiring disclosure by entities that compensate for petition signatures.

Sponsors: Senators Liias, Warnick and Billig.

Brief History:

Committee Activity: Government Operations & Security: 2/05/15.

SENATE COMMITTEE ON GOVERNMENT OPERATIONS & SECURITY

Staff: Samuel Brown (786-7470)

Background: Initiative and Referendum in Washington. The Legislature adopted processes for initiatives and referendums in 1912. The law as enacted allows the following:

- initiatives to the people, where if petitions have a sufficient number of signatures by registered voters, the issue is submitted for a vote of the people;
- initiatives to the Legislature, where if petitions have a sufficient number of signatures by registered voters, the issue is submitted to the Legislature;
- referendum measures, where laws recently passed by the Legislature are placed on the ballot after certification of petitions signed by registered voters; and
- referendum bills, where voters adopt or reject laws proposed by the Legislature.

Under the state Constitution, initiative petitions require signatures from 8 percent of the total number of votes cast for the Office of the Governor at the last regular gubernatorial election; referendum petitions require signatures from 4 percent of votes.

Recall Elections. The party initiating a recall complaint has 270 days to gather signatures against a statewide elected official, and 180 days to gather signatures against any other elected official. If the recall petition is against a state officer, an officer of a first class city, a member of a school board in a first class city, or a county officer in a county over 40,000 people, enough signatures must be gathered to equal 25 percent of the total votes cast for that office at the last election. For all other recall petitions, the signature requirement is 35 percent of the total votes cast for that office at the last election.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Petitions. The required form of initiative and referendum petitions is set forth in statute. First, a petition for initiative or referendum must include a place for each petitioner to sign and print the petitioner's name, and the address, city, and county at which the petitioner is registered to vote. It also must include a warning, as well as language that each petition signer has personally signed the petition; is a legal voter in Washington; verifies that the residence address of the petitioner is correctly stated; and has knowingly only signed the petition once. In addition the circulator must sign a declaration on the reverse of each petition that states the following:

"I,, swear or affirm under penalty of law that I circulated this sheet of the foregoing petition, and that, to the best of my knowledge, every person who signed this sheet of the foregoing petition knowingly and without any compensation or promise of compensation willingly signed his or her true name and that the information provided therewith is true and correct. I further acknowledge that under chapter 29A.84 RCW, forgery of signatures on this petition constitutes a class C felony, and that offering consideration or gratuity to any person to induce them to sign a petition is a gross misdemeanor, such violations being punishable by fine or imprisonment or both."

Constitutional Considerations. The initiative and referendum processes are protected free speech under the First Amendment. While courts have permitted regulation of the initiative and referendum processes to ensure that public interest in fair, honest, and efficient elections is served, several particular regulations have been overturned as overly burdensome. States may not require that signature gatherers be registered voters. Such a regulation would eliminate nonregistered voters from participating in the political process, and there are less burdensome methods of meeting the state's interests in administrative efficiency, fraud detection, and providing voters with information.

Additionally, requiring that signature gatherers wear identification is impermissible. This identification requirement discourages participation in the political process by forcing name identification at the time signature gatherers are delivering their political message and when reaction "may be the most intense, emotional, and unreasoned."

Summary of Bill: Disclosure Requirements. Any business operating in Washington that uses, or expects to use, paid signature gatherers must register with the Secretary of State within five days and disclose the following:

- the name, physical and mailing addresses, phone number, and email address of the business;
- the business license number of the business;
- a list of individuals that will be paid by the business to collect signatures;
- a list of the measures that the business is paying individuals to gather signatures;
- an affirmation signed by the sponsor of the signature-gathering business that the business operates in compliance with the law; and
- any other information the Secretary of State may require by rule.

The report to the Secretary of State must include the following information about each individual that the business compensates for gathering signatures:

- the name, address, phone number, and email address of the individual;
- a recent digital photograph of the individual;
- a copy of the individual's government-issued photo identification;

- a list of the measures in which the applicant will gather signatures;
- evidence that the applicant completed a training program administered or designed by the Secretary of State outlining the rights and responsibilities of voters, signature gatherers, and property owners; and
- a confirmation from the business that a national background check was completed for the individual and that the individual has not been convicted for a criminal offense involving fraud, forgery, or identity theft in any state in the last five years and has not violated election laws in this state or in another jurisdiction in the past five years.

The training program describing the rights and responsibilities of voters, signature gatherers, and property owners must be available in electronic formats. The address, phone number, email address, and copy of an individual's government-issued photo identification submitted to the Secretary of State as part of the disclosure statement are exempt from public disclosure.

Compensating Signature Gatherers. An individual may not be compensated for gathering signatures on petitions if the individual has been convicted of a criminal offense involving elections, fraud, forgery, or identification theft in any jurisdiction in the past five years. An individual may not be compensated for gathering signatures on petitions if the individual has been found in violation of an election law statute in any jurisdiction in the past five years.

Compensation for gathering signatures may not be conditioned on gathering other signatures for free. Any business compensating individuals for gathering petition signatures must update its disclosure statement within five days if it is compensating an individual for gathering petition signatures that the business has not previously disclosed, or if the business is compensating individuals for gathering signatures on a ballot measure not previously disclosed.

Failure to fully disclose all individuals compensated for signature gathering or all ballot measures for which signature gatherers were compensated subjects a business to a citation and a fine of \$500 per violation.

Other Provisions. The language on the declaration on the reverse side of petition forms that signature gatherers must sign is revised and must also be included on recall petitions. Failure or refusal of the signature gatherer to complete the declaration on the reverse side of a petition is not grounds for the Secretary of State to refuse to file the petition. The Secretary of State must adopt rules to implement the provisions of this act.

Appropriation: None.

Fiscal Note: Requested on February 3, 2015.

Committee/Commission/Task Force Created: No.

Effective Date: The bill takes effect on January 4, 2016.