

SENATE BILL REPORT

SB 5397

As of February 6, 2017

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 Warnick, Lias, Walsh, Nelson, O'Ban, Billig, Kuderer, King, Honeyford, Wilson, Pedersen, Hunt, Wellman, Saldaña and Carlyle.

Brief History:

Committee Activity: State Government: 2/08/17.

Brief Summary of Bill

- Requires businesses using or expecting to use paid signature gatherers for initiative, referendum, or recall petitions to disclose certain information about the business and its signature-gathering activity.
- Requires businesses using or expecting to use paid signature gatherers for initiative, referendum, or recall petitions to disclose certain information about individuals compensated for gathering signatures.
- Prohibits compensation of individuals for gathering initiative, referendum, or recall petition signatures who have been convicted of election law violations, fraud, forgery, or identity theft in the last five years.

SENATE COMMITTEE ON STATE GOVERNMENT

Staff: Samuel Brown (786-7470)

Background: Initiative and Referendum in Washington. The processes for initiatives and referendums, adopted in the state Constitution in 1912, provide for 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

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.

- referendum bills, where voters adopt or reject laws proposed by the Legislature.

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 voters.

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 with 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.

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 acknowledging penalties for violations of election laws.

Constitutional Considerations. The initiative and referendum processes are protected free speech under the First Amendment to the United States Constitution. 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. Additionally, requiring that signature gatherers wear identification is impermissible. Washington courts have held that initiative and referendum signature gatherers enjoy the right to seek signatures at large shopping malls or other facilities which serve as the functional equivalent of downtown areas under the Washington Constitution.

Summary of Bill: Disclosure Requirements. Any business operating in Washington that uses, or expects to use, paid signature gatherers for initiative, referendum, or recall petitions 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 who will be paid by the business to collect signatures;
- a list of the measures on which 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 individual will gather signatures;
- an attestation that the individual completed a training program outlining the rights and responsibilities of voters, signature gatherers, and property owners;
- a confirmation that a national background check was completed and that the individual has not been convicted of a crime involving fraud, forgery, or identity theft and has not violated election laws in the past five years; and
- any other information the Secretary of State may require by rule.

The training program describing the rights and responsibilities of voters, signature gatherers, and property owners must be available electronically. 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 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 is a \$500 fine 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 is not grounds for the Secretary of State to refuse to accept the petition. The Secretary of State must adopt rules to implement the provisions of this act.

Appropriation: None.

Fiscal Note: Requested on February 2, 2017.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: The bill takes effect on January 4, 2018.