

HB 2296 - S COMM AMD

By Committee on Governmental Operations

ADOPTED 03/04/2014

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** (1) The legislature finds that in *Filo*
4 *Foods, LLC v. City of SeaTac*, No. 70758-2-I (Wash. Ct. App. Div. I,
5 Feb. 10, 2014), the Washington court of appeals ruled that RCW
6 35A.01.040(7), requiring local certifying officers to strike all
7 signatures of any person signing an optional municipal code city
8 initiative petition two or more times, was unconstitutional. The court
9 held that the statute unduly burdened the first amendment rights of
10 voters who expressed a view on a political matter by signing an
11 initiative petition.

12 (2) The legislature intends to require local officers certifying
13 city and town petitions to count one valid signature of a duplicate
14 signer. This will ensure that a person inadvertently signing a city or
15 town petition more than once will not be penalized for doing so.

16 **Sec. 2.** RCW 35.21.005 and 2008 c 196 s 1 are each amended to read
17 as follows:

18 Wherever in this title petitions are required to be signed and
19 filed, the following rules shall govern the sufficiency thereof:

20 (1) A petition may include any page or group of pages containing an
21 identical text or prayer intended by the circulators, signers or
22 sponsors to be presented and considered as one petition and containing
23 the following essential elements when applicable, except that the
24 elements referred to in (d) and (e) of this subsection are essential
25 for petitions referring or initiating legislative matters to the
26 voters, but are directory as to other petitions:

27 (a) The text or prayer of the petition which shall be a concise
28 statement of the action or relief sought by petitioners and shall

1 include a reference to the applicable state statute or city ordinance,
2 if any;

3 (b) If the petition initiates or refers an ordinance, a true copy
4 thereof;

5 (c) If the petition seeks the annexation, incorporation,
6 withdrawal, or reduction of an area for any purpose, an accurate legal
7 description of the area proposed for such action and if practical, a
8 map of the area;

9 (d) Numbered lines for signatures with space provided beside each
10 signature for the name and address of the signer and the date of
11 signing;

12 (e) The warning statement prescribed in subsection (2) of this
13 section.

14 (2) Petitions shall be printed or typed on single sheets of white
15 paper of good quality and each sheet of petition paper having a space
16 thereon for signatures shall contain the text or prayer of the petition
17 and the following warning:

18 WARNING

19 Every person who signs this petition with any other than his or
20 her true name, or who knowingly signs more than one of these
21 petitions, or signs a petition seeking an election when he or
22 she is not a legal voter, or signs a petition when he or she is
23 otherwise not qualified to sign, or who makes herein any false
24 statement, shall be guilty of a misdemeanor.

25 Each signature shall be executed in ink or indelible pencil and
26 shall be followed by the name and address of the signer and the date of
27 signing.

28 (3) The term "signer" means any person who signs his or her own
29 name to the petition.

30 (4) To be sufficient a petition must contain valid signatures of
31 qualified registered voters or property owners, as the case may be, in
32 the number required by the applicable statute or ordinance. Within
33 three working days after the filing of a petition, the officer with
34 whom the petition is filed shall transmit the petition to the county
35 auditor for petitions signed by registered voters, or to the county
36 assessor for petitions signed by property owners for determination of

1 sufficiency. The officer or officers whose duty it is to determine the
2 sufficiency of the petition shall proceed to make such a determination
3 with reasonable promptness and shall file with the officer receiving
4 the petition for filing a certificate stating the date upon which such
5 determination was begun, which date shall be referred to as the
6 terminal date. Additional pages of one or more signatures may be added
7 to the petition by filing the same with the appropriate filing officer
8 prior to such terminal date. Any signer of a filed petition may
9 withdraw his or her signature by a written request for withdrawal filed
10 with the receiving officer prior to such terminal date. Such written
11 request shall so sufficiently describe the petition as to make
12 identification of the person and the petition certain. The name of any
13 person seeking to withdraw shall be signed exactly the same as
14 contained on the petition and, after the filing of such request for
15 withdrawal, prior to the terminal date, the signature of any person
16 seeking such withdrawal shall be deemed withdrawn.

17 (5) Petitions containing the required number of signatures shall be
18 accepted as prima facie valid until their invalidity has been proved.

19 (6) A variation on petitions between the signatures on the petition
20 and that on the voter's permanent registration caused by the
21 substitution of initials instead of the first or middle names, or both,
22 shall not invalidate the signature on the petition if the surname and
23 handwriting are the same.

24 (7) (~~Signatures, including the original, of any person who has~~
25 ~~signed a petition two or more times shall be stricken.~~) If a person
26 signs a petition more than once, all but the first valid signature must
27 be rejected.

28 (8) Signatures followed by a date of signing which is more than six
29 months prior to the date of filing of the petition shall be stricken.

30 (9) When petitions are required to be signed by the owners of
31 property, the determination shall be made by the county assessor.
32 Where validation of signatures to the petition is required, the
33 following shall apply:

34 (a) The signature of a record owner, as determined by the records
35 of the county auditor, shall be sufficient without the signature of his
36 or her spouse;

37 (b) In the case of mortgaged property, the signature of the

1 mortgagor shall be sufficient, without the signature of his or her
2 spouse;

3 (c) In the case of property purchased on contract, the signature of
4 the contract purchaser, as shown by the records of the county auditor,
5 shall be deemed sufficient, without the signature of his or her spouse;

6 (d) Any officer of a corporation owning land within the area
7 involved who is duly authorized to execute deeds or encumbrances on
8 behalf of the corporation, may sign on behalf of such corporation, and
9 shall attach to the petition a certified excerpt from the bylaws of
10 such corporation showing such authority;

11 (e) When the petition seeks annexation, any officer of a
12 corporation owning land within the area involved, who is duly
13 authorized to execute deeds or encumbrances on behalf of the
14 corporation, may sign under oath on behalf of such corporation. If an
15 officer signs the petition, he or she must attach an affidavit stating
16 that he or she is duly authorized to sign the petition on behalf of
17 such corporation;

18 (f) When property stands in the name of a deceased person or any
19 person for whom a guardian has been appointed, the signature of the
20 executor, administrator, or guardian, as the case may be, shall be
21 equivalent to the signature of the owner of the property; and

22 (g) When a parcel of property is owned by multiple owners, the
23 signature of an owner designated by the multiple owners is sufficient.

24 (10) The officer or officers responsible for determining the
25 sufficiency of the petition shall do so in writing and transmit the
26 written certificate to the officer with whom the petition was
27 originally filed.

28 **Sec. 3.** RCW 35A.01.040 and 2008 c 196 s 2 are each amended to read
29 as follows:

30 Wherever in this title petitions are required to be signed and
31 filed, the following rules shall govern the sufficiency thereof:

32 (1) A petition may include any page or group of pages containing an
33 identical text or prayer intended by the circulators, signers or
34 sponsors to be presented and considered as one petition and containing
35 the following essential elements when applicable, except that the
36 elements referred to in (d) and (e) of this subsection are essential

1 for petitions referring or initiating legislative matters to the
2 voters, but are directory as to other petitions:

3 (a) The text or prayer of the petition which shall be a concise
4 statement of the action or relief sought by petitioners and shall
5 include a reference to the applicable state statute or city ordinance,
6 if any;

7 (b) If the petition initiates or refers an ordinance, a true copy
8 thereof;

9 (c) If the petition seeks the annexation, incorporation,
10 withdrawal, or reduction of an area for any purpose, an accurate legal
11 description of the area proposed for such action and if practical, a
12 map of the area;

13 (d) Numbered lines for signatures with space provided beside each
14 signature for the name and address of the signer and the date of
15 signing;

16 (e) The warning statement prescribed in subsection (2) of this
17 section.

18 (2) Petitions shall be printed or typed on single sheets of white
19 paper of good quality and each sheet of petition paper having a space
20 thereon for signatures shall contain the text or prayer of the petition
21 and the following warning:

22 WARNING

23 Every person who signs this petition with any other than his or
24 her true name, or who knowingly signs more than one of these
25 petitions, or signs a petition seeking an election when he or
26 she is not a legal voter, or signs a petition when he or she is
27 otherwise not qualified to sign, or who makes herein any false
28 statement, shall be guilty of a misdemeanor.

29 Each signature shall be executed in ink or indelible pencil and
30 shall be followed by the name and address of the signer and the date of
31 signing.

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33 name to the petition.

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5 sufficiency of the petition shall proceed to make such a determination
6 with reasonable promptness and shall file with the officer receiving
7 the petition for filing a certificate stating the date upon which such
8 determination was begun, which date shall be referred to as the
9 terminal date. Additional pages of one or more signatures may be added
10 to the petition by filing the same with the appropriate filing officer
11 prior to such terminal date. Any signer of a filed petition may
12 withdraw his or her signature by a written request for withdrawal filed
13 with the receiving officer prior to such terminal date. Such written
14 request shall so sufficiently describe the petition as to make
15 identification of the person and the petition certain. The name of any
16 person seeking to withdraw shall be signed exactly the same as
17 contained on the petition and, after the filing of such request for
18 withdrawal, prior to the terminal date, the signature of any person
19 seeking such withdrawal shall be deemed withdrawn.

20 (5) Petitions containing the required number of signatures shall be
21 accepted as prima facie valid until their invalidity has been proved.

22 (6) A variation on petitions between the signatures on the petition
23 and that on the voter's permanent registration caused by the
24 substitution of initials instead of the first or middle names, or both,
25 shall not invalidate the signature on the petition if the surname and
26 handwriting are the same.

27 (~~(Signatures, including the original, of any person who has~~
28 ~~signed a petition two or more times shall be stricken.)) If a person
29 signs a petition more than once, all but the first valid signature must
30 be rejected.~~

31 (8) Signatures followed by a date of signing which is more than six
32 months prior to the date of filing of the petition shall be stricken.

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34 property, the determination shall be made by the county assessor.
35 Where validation of signatures to the petition is required, the
36 following shall apply:

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1 of the county auditor, shall be sufficient without the signature of his
2 or her spouse;

3 (b) In the case of mortgaged property, the signature of the
4 mortgagor shall be sufficient, without the signature of his or her
5 spouse;

6 (c) In the case of property purchased on contract, the signature of
7 the contract purchaser, as shown by the records of the county auditor,
8 shall be deemed sufficient, without the signature of his or her spouse;

9 (d) Any officer of a corporation owning land within the area
10 involved who is duly authorized to execute deeds or encumbrances on
11 behalf of the corporation, may sign on behalf of such corporation, and
12 shall attach to the petition a certified excerpt from the bylaws of
13 such corporation showing such authority;

14 (e) When the petition seeks annexation, any officer of a
15 corporation owning land within the area involved, who is duly
16 authorized to execute deeds or encumbrances on behalf of the
17 corporation, may sign under oath on behalf of such corporation. If an
18 officer signs the petition, he or she must attach an affidavit stating
19 that he or she is duly authorized to sign the petition on behalf of
20 such corporation;

21 (f) When property stands in the name of a deceased person or any
22 person for whom a guardian has been appointed, the signature of the
23 executor, administrator, or guardian, as the case may be, shall be
24 equivalent to the signature of the owner of the property; and

25 (g) When a parcel of property is owned by multiple owners, the
26 signature of an owner designated by the multiple owners is sufficient.

27 (10) The officer or officers responsible for determining the
28 sufficiency of the petition shall do so in writing and transmit the
29 written certificate to the officer with whom the petition was
30 originally filed."

ADOPTED 03/04/2014

1 On page 1, line 2 of the title, after "cities;" strike the
2 remainder of the title and insert "amending RCW 35.21.005 and
3 35A.01.040; and creating a new section."

EFFECT: Language is clarified to provide that if a person signs a petition more than once, all but the first valid signature must be rejected.

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