
SENATE BILL 5386

State of Washington

65th Legislature

2017 Regular Session

By Senators Pedersen, Miloscia, Hunt, Fain, Billig, Carlyle, Mullet, Kuderer, Saldaña, and Frockt

Read first time 01/23/17. Referred to Committee on State Government.

1 AN ACT Relating to strengthening the initiative process by
2 providing for more comprehensive review before initiatives receive
3 ballot titles; amending RCW 29A.72.010, 29A.72.020, 29A.72.030, and
4 43.07.120; adding new sections to chapter 29A.72 RCW; and creating a
5 new section.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7 NEW SECTION. **Sec. 1.** Article II, section 1 of the Washington
8 state Constitution states that the first power reserved by the people
9 is the initiative process.

10 However, that power has become undermined in recent years.
11 Initiatives passed by the people have been subsequently overturned by
12 courts due to deficiencies in the drafting of those measures. This
13 comes at expense to taxpayers and undermines public confidence in the
14 initiative process.

15 Initiatives must increasingly be supported by powerful special
16 interests to reach the ballot. This contravenes the original purpose
17 of the initiative process, which is to allow citizens to participate
18 in the legislative process.

19 The legislature finds that more robust review of proposed
20 initiative measures before filing is needed for the following
21 purposes: (1) To improve the quality of initiative drafting; (2) to

1 end the cycle of unconstitutional initiatives passed by voters, but
2 struck down by courts; (3) to reduce the burdens for ordinary
3 citizens seeking to file initiatives; and (4) to return initiatives
4 to their original purpose as a counterweight to powerful interests
5 who dominate the legislative process.

6 **Sec. 2.** RCW 29A.72.010 and 2015 c 72 s 10 are each amended to
7 read as follows:

8 If any legal voter of the state, either individually or on behalf
9 of an organization, desires to petition the legislature to enact a
10 proposed measure, or submit a proposed initiative measure to the
11 people, or order that a referendum of all or part of any act, bill,
12 or law, passed by the legislature be submitted to the people, he or
13 she shall file with the secretary of state:

14 (1) A legible copy of the measure proposed, or the act or part of
15 such act on which a referendum is desired;

16 (2) If the measure proposed is an initiative, a plain statement
17 of the intent of the measure;

18 (3) A signed affidavit, or electronic submission, that the
19 sponsor is a registered voter; and

20 ~~((3))~~ (4) A filing fee prescribed under RCW 43.07.120.

21 **Sec. 3.** RCW 29A.72.020 and 2003 c 111 s 1803 are each amended to
22 read as follows:

23 (1) Upon receipt of a proposed initiative measure, and before
24 giving it a serial number, the secretary of state shall submit a copy
25 ~~((thereof))~~ of the proposed initiative measure and the sponsor's
26 statement of intent to the office of the code reviser and the office
27 of the attorney general and give notice to the sponsor of such
28 transmittal.

29 (2) Upon receipt of the measure and the sponsor's statement of
30 intent, the assistant code reviser to whom it has been assigned may
31 confer with the sponsor and shall within ~~((seven working))~~ forty-five
32 days from its receipt, review the proposal and recommend to the
33 sponsor such revision or alteration of the measure as may be deemed
34 necessary and appropriate, including:

35 (a) Wording the initiative with simplicity and clarity so that
36 the effect of the measure is not misleading or likely to confuse
37 voters; and

1 (b) Wording the initiative to comply with requirements of
2 legislative drafting such as article II, section 19 and article II,
3 section 37 of the Washington state Constitution.

4 (3) Upon receipt of the measure and the sponsor's statement of
5 intent, the assistant attorney general to whom it has been assigned
6 may confer with the sponsor and shall within forty-five days from its
7 receipt, review the proposal and provide to the sponsor an assessment
8 of whether the proposed measure is drafted in a manner that complies
9 with the Washington state and United States Constitutions.

10 (4) The recommendations of the code reviser's office and the
11 attorney general are advisory only, and the sponsor may accept or
12 reject them in whole or in part. The code reviser and the attorney
13 general shall each issue a certificate of review certifying that he
14 or she has reviewed the measure and that any recommendations have
15 been communicated to the sponsor. ((The)) Each certificate must
16 contain such recommendations and be issued whether or not the sponsor
17 accepts such recommendations. ((Within fifteen working days after
18 notification of submittal of the proposed measure to the code
19 reviser's office, the sponsor, if he or she desires to proceed with
20 sponsorship, shall file the measure together with the certificate of
21 review with the secretary of state for assignment of a serial number,
22 and the secretary of state shall then submit to the code reviser's
23 office a certified copy of the measure filed. Upon submission of the
24 proposal to the secretary of state for assignment of a serial number,
25 the secretary of state shall refuse to make such assignment unless
26 the proposal is accompanied by a certificate of review.))

27 NEW SECTION. Sec. 4. A new section is added to chapter 29A.72
28 RCW to read as follows:

29 (1) After receipt of recommendations from the code reviser and
30 the attorney general, the sponsor may amend the proposed initiative
31 measure. Within seven days of receipt of both certificates of review
32 under RCW 29A.72.020(4), the sponsor, if he or she desires to proceed
33 with sponsorship, must file the proposed measure with both
34 certificates of review with the secretary of state, regardless of
35 whether the sponsor has amended the measure language in response to
36 the recommendations of the code reviser and the attorney general.

37 (2) Upon submission of the measure and the certificates of review
38 to the secretary of state, the secretary of state must publish the
39 draft measure, along with the sponsor's statement of intent and the

1 recommendations of the code reviser under RCW 29A.72.020(2), for a
2 public review and comment process. The public review and comment
3 process shall last twenty-eight days from submission of the measure
4 and certificates of review. Any interested person may provide comment
5 on the draft measure to the secretary of state.

6 (3) At the end of the public review and comment process, the
7 secretary of state shall provide all comments received on the
8 proposed measure to the sponsor. The sponsor may amend the proposed
9 initiative measure in response to comments received during the public
10 review and comment process. Upon request, the office of the code
11 reviser may assist the sponsor.

12 (4) After the close of the public review and comment process, the
13 sponsor, if he or she desires to proceed with sponsorship, must file
14 the measure with the secretary of state.

15 (a) If the language of the measure has not been amended after the
16 code reviser and attorney general have completed their reviews of the
17 measure under RCW 29A.72.020, the secretary of state shall assign the
18 measure a serial number and then submit to the code reviser's office
19 a certified copy of the measure filed.

20 (b) If the language of the measure has been amended after the
21 code reviser and attorney general have completed their reviews of the
22 measure under RCW 29A.72.020, the secretary of state shall transmit a
23 copy of the measure to the attorney general, who shall review the
24 certified copy of the measure and, within seven days, determine
25 whether it is drafted in a manner that complies with the Washington
26 state and United States Constitutions. The attorney general shall
27 submit a certification of this determination to the sponsor and the
28 secretary of state. If the attorney general determines that the
29 proposed measure is not compliant with the Washington state and
30 United States Constitutions, the sponsor may amend the measure and
31 resubmit it in accordance with RCW 29A.72.010, except that the
32 sponsor shall not be required to pay an additional filing fee. If the
33 sponsor does not wish to further amend the measure, he or she shall
34 notify the secretary of state, who shall assign the measure a serial
35 number and then submit to the code reviser's office a certified copy
36 of the measure filed.

37 NEW SECTION. **Sec. 5.** A new section is added to chapter 29A.72
38 RCW to read as follows:

1 Any person may seek a declaratory judgment that a proposed
2 initiative measure is unconstitutional on its face within thirty days
3 after a measure is submitted to the secretary of state for assignment
4 of a serial number. The action must be filed in the superior court of
5 Thurston county. The action may only allege that the measure is
6 unconstitutional on its face and may not require issues of fact to be
7 resolved or the development of a record. The superior court shall
8 issue its decision within ninety days of the filing of the action.

9 **Sec. 6.** RCW 29A.72.030 and 2003 c 111 s 1804 are each amended to
10 read as follows:

11 (1) Initiative measures proposed to be submitted to the people
12 must be filed with the secretary of state within (~~ten~~) eighteen
13 months prior to the election at which they are to be submitted, and
14 the signature petitions must be filed with the secretary of state not
15 less than four months before the next general statewide election.

16 (2) Initiative measures proposed to be submitted to the
17 legislature must be filed with the secretary of state within (~~ten~~)
18 fifteen months prior to the next regular session of the legislature
19 at which they are to be submitted, and the signature petitions must
20 be filed with the secretary of state not less than ten days before
21 such regular session of the legislature.

22 (3) A referendum measure petition ordering that any act or part
23 of an act passed by the legislature be referred to the people must be
24 filed with the secretary of state within ninety days after the final
25 adjournment of the legislative session at which the act was passed.
26 It may be submitted at the next general statewide election or at a
27 special election ordered by the legislature.

28 (4) A proposed initiative or referendum measure may be filed no
29 earlier than the opening of the secretary of state's office for
30 business pursuant to RCW 42.04.060 on the first day filings are
31 permitted, and any initiative or referendum petition must be filed
32 not later than the close of business on the last business day in the
33 specified period for submission of signatures. If a filing deadline
34 falls on a Saturday, the office of the secretary of state must be
35 open for the transaction of business under this section from 8:00
36 a.m. to 5:00 p.m. on that Saturday.

37 (5) For purposes of this section, a proposed initiative measure
38 is considered filed with the secretary of state when the sponsor
39 complies with the requirements of RCW 29A.72.010.

1 **Sec. 7.** RCW 43.07.120 and 2015 c 176 s 8101 are each amended to
2 read as follows:

3 (1) The secretary of state must establish by rule and collect the
4 fees in this subsection:

5 (a) For a copy of any law, resolution, record, or other document
6 or paper on file in the secretary's office;

7 (b) For any certificate under seal;

8 (c) For filing and recording trademark;

9 (d) For each deed or patent of land issued by the governor;

10 (e) For recording miscellaneous records, papers, or other
11 documents.

12 (2) The secretary of state may adopt rules under chapter 34.05
13 RCW establishing reasonable fees for the following services rendered
14 under chapter 23.95 RCW, Title 23B RCW, chapter 18.100, 19.09, 19.34,
15 19.77, 23.86, 23.90, 24.03, 24.06, 24.12, 24.20, 24.24, 24.28, 24.36,
16 25.04, 25.15, 25.10, 25.05, or 26.60 RCW:

17 (a) Any service rendered in-person at the secretary of state's
18 office;

19 (b) Any expedited service;

20 (c) The electronic or facsimile transmittal of information from
21 corporation records or copies of documents;

22 (d) The providing of information by micrographic or other
23 reduced-format compilation;

24 (e) The handling of checks, drafts, or credit or debit cards upon
25 adoption of rules authorizing their use for which sufficient funds
26 are not on deposit; and

27 (f) Special search charges.

28 (3) For each initiative to the people or initiative to the
29 legislature, the secretary of state shall collect a filing fee of
30 five hundred dollars.

31 (4) To facilitate the collection of fees, the secretary of state
32 may establish accounts for deposits by persons who may frequently be
33 assessed such fees to pay the fees as they are assessed. The
34 secretary of state may make whatever arrangements with those persons
35 as may be necessary to carry out this section.

36 ~~((4))~~ (5) The secretary of state may adopt rules for the use of
37 credit or debit cards for payment of fees.

38 ~~((5))~~ (6) No member of the legislature, state officer, justice
39 of the supreme court, judge of the court of appeals, or judge of the
40 superior court may be charged for any search relative to matters

1 pertaining to the duties of his or her office; nor may such official
2 be charged for a certified copy of any law or resolution passed by
3 the legislature relative to his or her official duties, if such law
4 has not been published as a state law.

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