

1 STATE OF OKLAHOMA

2 1st Session of the 52nd Legislature (2009)

3 HOUSE BILL No.2246\_\_\_\_\_

By: Terrill

4  
5  
6 AS INTRODUCED

7 An Act relating to initiative and referendum;  
8 amending 34 O.S. 2001, Sections 1, 2, 3, 3.1, 4, 6,  
9 6.1, 8, 9, as amended by Section 2, Chapter 407,  
10 O.S.L. 2005, 10 and 11 (34 O.S. Supp. 2008, Section  
11 9), which relate to initiatives and referendums;  
12 modifying referendum petition form; modifying  
13 initiative petition form; modifying signature and  
14 circulation requirements; providing requirements for  
15 petition circulators; providing for protected rights  
16 of petition circulators; providing for violations;  
17 modifying filing requirements of petition; providing  
18 for certificate of circulator; allowing certain  
19 persons to withdraw signature; requiring approval  
20 before circulation of petition; providing for gist  
21 statement; modifying dates for filing; modifying  
22 appeal of ballot title; modifying procedure upon  
23 appeal; providing for codification; and providing an  
24 effective date.

18 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

19 SECTION 1. AMENDATORY 34 O.S. 2001, Section 1, is  
20 amended to read as follows:

21 Section 1. The referendum petition shall be substantially as  
22 follows:

23 PETITION FOR REFERENDUM

1 To the Honorable \_\_\_\_\_, Governor of Oklahoma (or To the  
2 Honorable \_\_\_\_\_, Mayor, Chairman of County Commissioners, or  
3 other chief executive officer, as the case may be, of the city,  
4 county or other municipal corporation of \_\_\_\_\_):

5 We, the undersigned legal voters of the State of Oklahoma (or  
6 district of \_\_\_\_\_, county of \_\_\_\_\_, or city of  
7 \_\_\_\_\_, as the case may be), respectfully order that Senate  
8 (or House) Bill No. \_\_\_\_\_ (or ordinance No. \_\_\_\_\_),  
9 entitled (title of Act, and if the petition is against less than the  
10 whole Act, then set forth here the part or parts on which the  
11 referendum is sought), passed by the \_\_\_\_\_ Legislature of the  
12 State of Oklahoma, at the regular (or special) session of said  
13 legislature, shall be referred to the people of the State (district  
14 of \_\_\_\_\_, county of \_\_\_\_\_, or city of \_\_\_\_\_, as  
15 the case may be) for their approval or rejection at the regular (or  
16 special) election to be held on the \_\_\_\_\_ day of \_\_\_\_\_, ~~19~~  
17 20, and each for himself says: I have personally signed this  
18 petition; I am a legal voter of the State of Oklahoma (and district  
19 of \_\_\_\_\_, county of \_\_\_\_\_, or city of \_\_\_\_\_, as  
20 the case may be); my residence or post office are correctly written  
21 after my name.

22 Referendum petitions shall be filed with the Secretary of State  
23 not more than ninety days after the final adjournment of the session  
24 of the Legislature which passed the bill on which the referendum is

1 demanded. (For county, city or other municipality the length of  
2 time shall be thirty days.)

3 The question we herewith submit to our fellow voters is: Shall  
4 the following bill of the Legislature (or ordinance or  
5 resolution--local legislation) be approved? (Insert here an exact  
6 copy of the title and text of the measure.)

7 Name and Address of Proponents (not to exceed three)

8 Name \_\_\_\_\_ Residence \_\_\_\_\_ Post Office \_\_\_\_\_

9 If in city, street and number.

10 (Here follow twenty or fewer numbered lines for signatures.)

11 SECTION 2. AMENDATORY 34 O.S. 2001, Section 2, is  
12 amended to read as follows:

13 Section 2. The form of initiative petition shall be  
14 substantially as follows:

15 INITIATIVE PETITION

16 To the Honorable \_\_\_\_\_, Governor of Oklahoma (or To the  
17 Honorable \_\_\_\_\_, Mayor, Chairman of County Commissioners,  
18 or other chief executive officers, as the case may be, for the city,  
19 county or other municipality): We, the undersigned legal voters of  
20 the State of Oklahoma (and of the district of \_\_\_\_\_,  
21 county of \_\_\_\_\_, or city of \_\_\_\_\_, as the case  
22 may be), respectfully order that the following proposed law (or  
23 amendment to the constitution, ordinance, or amendment to the city  
24 charter, as the case may be) shall be submitted to the legal voters

1 of the State of Oklahoma (or of the district of \_\_\_\_\_,  
2 county of \_\_\_\_\_, or city of \_\_\_\_\_, as the case may  
3 be) for their approval or rejection at the regular general election  
4 (or regular or special city election), to be held on the \_\_\_\_ day  
5 of \_\_\_\_\_, ~~19~~ 20, and each for himself says: I have personally  
6 signed this petition; I am a legal voter of the State of Oklahoma  
7 (and of the district of \_\_\_\_\_, county of \_\_\_\_\_,  
8 city of \_\_\_\_\_, as the case may be); my residence or post  
9 office are correctly written after my name. The time for filing  
10 this petition expires ~~ninety days~~ one year from (insert date when  
11 petition is to be opened for signatures). (This for State  
12 initiative. For county, city, or other municipality the length of  
13 time shall be ninety days.) The question we herewith submit to our  
14 fellow voters is: Shall the following bill (or proposed amendment  
15 to the Constitution or resolution) be approved? (Insert here an  
16 exact copy of the title and text of the measure.)

17 Name and Address of Proponents (not to exceed three)

18 Name \_\_\_\_\_ Residence \_\_\_\_\_ Post Office \_\_\_\_\_

19 If in the city, street and number.

20 (Here follow twenty or fewer numbered lines for signatures.)

21 SECTION 3. AMENDATORY 34 O.S. 2001, Section 3, is  
22 amended to read as follows:

23 Section 3. Each initiative petition and each referendum  
24 petition shall be duplicated for the securing of signatures, and

1 each sheet for signatures shall be attached to a copy of the  
2 petition. Each copy of the petition and sheets for signatures is  
3 hereinafter termed a pamphlet. On the outer page of each pamphlet  
4 and on each signature sheet shall be printed the word "Warning", and  
5 underneath this in ten-point type the words, "It is a felony for  
6 anyone to sign an initiative or referendum petition with any name  
7 other than his or her own, or knowingly to sign his or her name more  
8 than once for the measure, to interfere with the lawful circulation  
9 of petitions, or to sign such petition when he or she is not a legal  
10 voter". A simple statement of the gist of the proposition shall be  
11 printed on the top margin of each signature sheet. Not more than  
12 twenty (20) signatures on one sheet on lines provided for the  
13 signatures shall be counted. Any signature sheet not in substantial  
14 compliance with this act shall be disqualified by the Secretary of  
15 State.

16 SECTION 4. AMENDATORY 34 O.S. 2001, Section 3.1, is  
17 amended to read as follows:

18 Section 3.1 It shall be unlawful for any person other than a  
19 ~~qualified elector of~~ person registered to vote in the State of  
20 Oklahoma, or a person registered to circulate ~~any~~ an initiative or  
21 referendum petition in Oklahoma to amend, add to, delete, strike or  
22 otherwise change in any way the Constitution or laws of the State of  
23 Oklahoma, or of any subdivision of the State of Oklahoma. Every  
24 person convicted of a violation of this section shall be punished by

1 a fine of not to exceed One Thousand Dollars (\$1,000.00), or by  
2 imprisonment in the county jail for not to exceed one (1) year, or  
3 by both said fine and imprisonment. To be registered to circulate  
4 an initiative or referendum petition in Oklahoma a person must be  
5 eighteen (18) years of age and a U.S. Citizen who shall file in  
6 writing, by sworn affidavit, the following information to the Ethics  
7 Commission office before final filing of signed petitions with the  
8 Secretary of State:

- 9 1. Name of petition;
- 10 2. Name of circulator;
- 11 3. Residential address, including street number, city, state  
12 and ZIP code;
- 13 4. Mailing address, if different;
- 14 5. Have you been or do you expect to be paid for soliciting  
15 signatures for this petition? [ ] YES [ ] NO;
- 16 6. If the answer to paragraph 5 is yes, then identify the  
17 expected payor; and
- 18 7. Verified signature of circulator.

19 SECTION 5. NEW LAW A new section of law to be codified  
20 in the Oklahoma Statutes as Section 3.2 of Title 34, unless there is  
21 created a duplication in numbering, reads as follows:

22 The right of citizens to engage in orderly circulation of  
23 petitions shall be protected and not infringed. This includes:

24

- 1        1. Assaulting or intimidating any person with intent to deter  
2 that person from signing or circulating a petition;
- 3        2. Touching, damaging, or stealing any petition or promotional  
4 piece in the custody of a circulator without the consent of the  
5 circulator;
- 6        3. Yelling, shouting, using a bullhorn or amplifier, cursing,  
7 using obscene gestures, or engaging in other outrageous conduct with  
8 the intent to deter a person from signing or circulating a petition;
- 9        4. Interrupting the communication between a circulator engaged  
10 in conversation with a potential signer after that person is within  
11 five (5) feet of a signer, including coming within arm's length of  
12 either person until the conversation has ended, with the intent to  
13 deter a person from signing or circulating a petition;
- 14        5. Interfering with business relationships with intent to deter  
15 a person from signing or circulating a petition;
- 16        6. Making false claims that a circulator is attempting to  
17 engage in identity theft or other criminal activity with intent to  
18 deter a person from signing or circulating a petition;
- 19        7. Restricting the movement or actions of any person with  
20 intent to deter that person from signing or circulating a petition;
- 21        8. Placing one's body or other obstruction in the path between  
22 a circulator and any person within fifty (50) feet of a circulator  
23 with intent to deter that person from signing or circulating a  
24 petition;

1       9. Making false statements to any person with respect to any  
2 circulator or signer, or otherwise making any threat of assault,  
3 defamation, or business interruption, to any person having authority  
4 to eject a petitioner from a location with intent to have a  
5 circulator ejected or interfere with the circulation of the  
6 petition; and

7       10. Unlawfully threatening arrest or detention of any person  
8 lawfully engaged in circulation of a petition.

9       Every person convicted of a violation of this section shall be  
10 punished by a fine not to exceed One Thousand Dollars (\$1,000.00),  
11 or by imprisonment in the county jail not to exceed one (1) year, or  
12 by both said fine and imprisonment. Every person who violates this  
13 section, or pays or directly incites any person to engage in  
14 violation of this section is responsible for statutory damages to  
15 the circulator in the amount of Five Hundred Dollars (\$500.00) for  
16 each violation.

17       SECTION 6.       AMENDATORY       34 O.S. 2001, Section 4, is  
18 amended to read as follows:

19       Section 4. When any such initiative or referendum petition  
20 shall be offered for filing, the Secretary of State, in the presence  
21 of the person offering the same for filing, shall detach the sheets  
22 containing the signatures and affidavits and cause them all to be  
23 attached to one or more printed copies of the measure so proposed by  
24 initiative or referendum petition. All petitions for the initiative

1 and referendum and sheets for signatures may be single-sided and  
2 stapled and shall be printed on pages eight and one-half (8 1/2)  
3 inches in width by fourteen (14) inches in length, or eight and one-  
4 half (8 1/2) inches in width by eleven (11) inches in length with a  
5 margin of one and three-fourths (1 3/4) inches at the top for  
6 binding; if the aforesaid sheets shall be too bulky for convenient  
7 binding in one volume, they may be bound in two or more volumes,  
8 those in each volume to be attached to a single printed copy of such  
9 measure; the detached copies of such measures shall be delivered to  
10 the person offering the same for filing. Each of the volumes and  
11 each signature sheet therein shall be numbered consecutively, and a  
12 cover sheet shall be attached, showing the purported number of  
13 signature sheets, the series of numbers assigned to the signature  
14 sheets and the total number of signatures counted per volume. The  
15 Secretary of State shall render a signed receipt to the person  
16 offering the petition for filing, which receipt shall include a  
17 report, volume by volume, showing the number of signature sheets in  
18 each volume, the series of numbers assigned to the signature sheets  
19 in each volume, and the number of purported signatures in each  
20 volume. Duplicate copies of the cover sheets, with necessary  
21 corrections, may be used as receipts. If the volume of signatures  
22 is sufficiently large, the Secretary of State shall seal the  
23 petitions in such manner that they cannot be opened unless the seal  
24 is broken, and if requested by those filing said petition, they



1 ~~name, post office address, and residence correctly, and that each~~  
2 ~~signer is a legal voter of the State of Oklahoma and county of~~  
3 ~~\_\_\_\_\_ or of the city of \_\_\_\_\_ (as the case may be). (Signature~~  
4 ~~and postoffice address of affiant.)~~

5 A registered voter may sign and circulate the same petition.  
6 Each sheet of every such petition containing signatures shall  
7 contain a certificate of circulator signed and executed by the  
8 circulator after the last signature on a sheet has been obtained.

9 The statement of the circulator shall be in substantially the  
10 following form, signed and dated by the person who circulated the  
11 sheet of the petition:

12 CERTIFICATE OF CIRCULATOR

13 I, \_\_\_\_\_, the circulator of this petition, assert that I am  
14 qualified to circulate this petition, that each signature on the  
15 petition was signed in my presence; and that, to my best knowledge  
16 and belief, each signature is the genuine signature of the person  
17 purporting to sign the petition, the person signing the petition was  
18 at the time of signing a qualified registered voter of the State of  
19 Oklahoma, and the voter was qualified to sign the petition.

20 No person shall make a false statement on a certificate of the  
21 circulator. Every person convicted of a violation of this section  
22 shall be punished by a fine not to exceed One Thousand Dollars  
23 (\$1,000.00), or by imprisonment in the county jail not to exceed one  
24 (1) year, or by both said fine and imprisonment.

1 Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_ A.D.  
2 ~~19~~ 20\_\_.

3 (Signature and title of the officer before whom oath is made,  
4 and his or her post office address.)

5 SECTION 8. AMENDATORY 34 O.S. 2001, Section 6.1, is  
6 amended to read as follows:

7 Section 6.1 A. The Secretary of State shall make or cause to  
8 be made a physical count of the number of signatures on the  
9 petitions. In making such count, the Secretary of State shall not  
10 include in such physical count:

11 1. All signatures on any sheet of any petition which is not  
12 verified by the person who circulated the sheet of the petition as  
13 provided in Section 6 of this title;

14 2. All signatures of nonresidents;

15 3. All signatures on a sheet that is not attached to a copy of  
16 the petition;

17 4. All multiple signatures on any printed signature line;

18 5. All signatures not on a printed signature line;

19 6. Those signatures by a person who signs with any name other  
20 than his own or signs more than once; ~~and~~

21 7. All signatures on any sheet on which a notary has failed to  
22 sign, the seal of the notary is absent, the commission of the notary  
23 has expired or the expiration date is not on the signature sheet;

24 and

1       8. The signature of any person who has withdrawn their  
2 signature from a petition appearing in person at the office of the  
3 Secretary of State and filing a request to withdraw signature by  
4 sworn affidavit including the following information before 5:00 p.m.  
5 on the final day for filing petitions with the Secretary of State:

6           a. name of petitioner,

7           b. name of signer,

8           c. residential address, including street number, city,  
9           state and ZIP code,

10          d. mailing address, if different,

11          e. have you been or do you expect to be paid for  
12          withdrawing your signature for this petition? [ ] YES  
13          [ ] NO,

14          f. if the answer to subparagraph e is yes, then identify  
15          the expected payor, and

16          g. verified signature of circulator.

17       The Secretary of State shall not suggest or give legal advice  
18 with respect to withdrawal of signatures.

19       B. The Secretary of State shall notify the Attorney General of  
20 any and all violations of this title of which ~~he~~ the Secretary of  
21 State has knowledge.

22       SECTION 9.        AMENDATORY        34 O.S. 2001, Section 8, is  
23 amended to read as follows:

1 Section 8. A. When a citizen or citizens desire to circulate a  
2 petition initiating a proposition of any nature, whether to become a  
3 statute law or an amendment to the Constitution, or for the purpose  
4 of invoking a referendum upon legislative enactments, such citizen  
5 or citizens shall, when such petition pamphlet is prepared, and  
6 before the same is circulated or signed by ~~electors~~ voters, file for  
7 approval a true and exact copy of same in the office of the  
8 Secretary of State and, within ~~ninety (90) days~~ one (1) year after  
9 ~~such filing of~~ an initiative petition is approved to be circulated  
10 and signed by qualified registered voters according to this act, the  
11 signed copies thereof shall be filed with the Secretary of State,  
12 but the signed copies of a referendum petition shall be filed with  
13 the Secretary of State within ninety (90) days after the adjournment  
14 of the Legislature enacting the measure on which the referendum is  
15 invoked. A referendum petition shall be filed, but need not be  
16 approved before it may be circulated and signed by voters according  
17 to this act. The ~~electors~~ voters shall sign their  
18 legally-registered name, their address or post office box, and the  
19 name of the county in which they reside.

20 Proponents shall make final submission of signatures at least  
21 four (4) months before the election at which the measure shall be  
22 voted.

23 Any petition not filed in accordance with this provision shall  
24 not be considered. The proponents of a referendum or an initiative

1 petition, any time before the final submission of signatures, may  
2 withdraw the referendum or initiative petition upon written  
3 notification to the Secretary of State.

4 B. The proponents of a referendum or an initiative petition may  
5 terminate the circulation period any time during the ninety-day  
6 circulation period by certifying to the Secretary of State that:

7 1. All signed petitions have already been filed with the  
8 Secretary of State;

9 2. No more petitions are in circulation; and

10 3. The proponents will not circulate any more petitions.

11 If the Secretary of State receives such a certification from the  
12 proponents, the Secretary of State shall begin the counting process.

13 C. When the signed copies of a petition are timely filed, the  
14 Secretary of State shall certify to the Supreme Court of the state:

15 1. The total number of signatures counted pursuant to  
16 procedures set forth in this title; and

17 2. The total number of votes cast for the state office  
18 receiving the highest number of votes cast ~~at~~ in each of the last  
19 two general election elections.

20 The Supreme Court shall make the determination of the numerical  
21 sufficiency or insufficiency of the signatures counted by the  
22 Secretary of State. If the signatures are not determined to be  
23 insufficient before the second Tuesday in September of the year when

24

1 the signatures are filed, the question shall be placed on the  
2 ballot.

3       Upon order of the Supreme Court it shall be the duty of the  
4 Secretary of State to forthwith cause to be published, in at least  
5 one newspaper of general circulation in the state, a notice of such  
6 filing and the apparent sufficiency or insufficiency thereof and  
7 notice that any citizen or citizens of the state may file a protest  
8 to the petition or an objection to the count made by the Secretary  
9 of State, by a written notice to the Supreme Court of the state and  
10 to the proponent or proponents filing the petition, said protest to  
11 be filed within ten (10) days after publication. A copy of the  
12 protest or objection to the count shall be filed with the Secretary  
13 of State. In case of the filing of an objection to the count,  
14 notice shall also be given to the Secretary of State and the party  
15 filing a protest, if one was filed.

16       D. The Secretary of State shall deliver the bound volumes of  
17 signatures to the Supreme Court.

18       E. Upon the filing of an objection to the count, the Supreme  
19 Court shall resolve the objection with dispatch. The Supreme Court  
20 shall adopt rules to govern proceedings to apply to the challenge of  
21 a measure on the grounds that the proponents failed to gather  
22 sufficient signatures.

23       F. Upon the filing of a protest to the petition, the Supreme  
24 Court of the state shall then fix a day, not less than ten (10) days

1 thereafter, at which time it will hear testimony and arguments for  
2 and against the sufficiency of such petition.

3 G. A protest filed by anyone hereunder may, if abandoned by the  
4 party filing same, be revived within five (5) days by any other  
5 citizen. After such hearing the Supreme Court of the state shall  
6 decide whether such petition ~~be in form as required by the statutes~~  
7 proponents failed to gather sufficient signatures. If the Court be  
8 at the time adjourned, the Chief Justice shall immediately convene  
9 the same for such hearing. No objection to the sufficiency shall be  
10 considered unless the same shall have been made and filed as herein  
11 provided.

12 H. If in the opinion of the Supreme Court, any objection to the  
13 count or protest to the petition is frivolous, the Court may impose  
14 appropriate sanctions, including an award of costs and attorneys  
15 fees to either party as the court deems equitable.

16 I. Whenever reference is made in this act to the Supreme Court  
17 of the state, such reference shall include the members of the  
18 Supreme Court of the state or any officer constitutionally  
19 designated to perform the duties herein prescribed.

20 SECTION 10. AMENDATORY 34 O.S. 2001, Section 9, as  
21 amended by Section 2, Chapter 407, O.S.L. 2005 (34 O.S. Supp. 2008,  
22 Section 9), is amended to read as follows:

23 Section 9. A. When a referendum is ordered by petition of the  
24 people against any measure passed by the Legislature or when any

1 measure ~~is~~ proposed by initiative petition is filed for approval for  
2 circulation and signing by voters, whether as an amendment to the  
3 Constitution or as a statute, it shall be the duty of the parties  
4 submitting the measure to prepare and file one copy of the measure  
5 with the Secretary of State and one copy with the Attorney General.

6 B. The parties submitting the measure shall also submit a  
7 suggested ballot title which shall be filed on a separate sheet of  
8 paper and shall not be deemed part of the petition and in the case  
9 of a proposed initiative shall file a proposed petition and a gist  
10 statement. The suggested ballot title and gist statement:

11 1. Shall not exceed two hundred (200) words and the gist  
12 statement shall not exceed one hundred (100) words;

13 2. Shall explain in basic words, which can be easily found in  
14 dictionaries of general usage, the effect of the proposition;

15 3. Shall be written on the eighth-grade reading comprehension  
16 level;

17 4. Shall not contain any words which have a special meaning for  
18 a particular profession or trade not commonly known to the citizens  
19 of this state;

20 5. Shall not reflect partiality in its composition or contain  
21 any argument for or against the measure;

22 6. Shall contain language which clearly designates the statute  
23 or constitutional provision to be amended or proposed and states  
24 that a "yes" vote is a vote in favor of the proposition and a "no"

1 vote is a vote against the proposition, which shall not count  
2 against the word limitation; and

3 7. Shall not contain language whereby a "yes" vote is, in fact,  
4 a vote against the proposition and a "no" vote is, in fact, a vote  
5 in favor of the proposition.

6 C. When a measure is proposed as a constitutional amendment by  
7 the Legislature or when the Legislature proposes a statute  
8 conditioned upon approval by the people:

9 1. After final passage of a measure, the Secretary of State  
10 shall submit the proposed ballot title to the Attorney General for  
11 review as to legal correctness. Within five (5) business days, the  
12 Attorney General shall, in writing, notify the Secretary of State,  
13 the President Pro Tempore of the Senate and the Speaker of the House  
14 of Representatives whether or not the proposed ballot title complies  
15 with applicable laws. The Attorney General shall state with  
16 specificity any and all defects found and, if necessary, within ten  
17 (10) business days of determining that the proposed ballot title is  
18 defective, prepare a preliminary ballot title which complies with  
19 the law and furnish a copy of such ballot title to the Secretary of  
20 State, the President Pro Tempore of the Senate and the Speaker of  
21 the House of Representatives. The Attorney General may consider any  
22 comments made by the President Pro Tempore of the Senate or the  
23 Speaker of the House of Representatives and shall file a final  
24 ballot title with the Secretary of State no sooner than ten (10)

1 business days and no later than fifteen (15) business days after  
2 furnishing the preliminary ballot title.

3 2. After receipt of the measure and the official ballot title,  
4 as certified by the Attorney General, the Secretary of State shall  
5 within five (5) days transmit to the Secretary of the State Election  
6 Board an attested copy of the measure, including the official ballot  
7 title.

8 D. The following procedure shall apply to ballot titles of  
9 referendums ordered by a petition of the people or any measure  
10 proposed by an initiative petition:

11 1. After the filing ~~and binding~~ of the petition pamphlets,  
12 proposed ballot title, and gist statement for approval for  
13 circulation and signing by voters, the Secretary of State shall  
14 submit the proposed ballot title to the Attorney General for review  
15 as to legal correctness. Within ~~five (5)~~ fifteen (15) business days  
16 after the filing of the measure and ballot title, the Attorney  
17 General shall, in writing, notify the Secretary of State whether or  
18 not the proposed ballot title complies with applicable laws. The  
19 Attorney General shall state with specificity any and all defects  
20 found ~~and, if necessary,~~ or issue the determination of compliance,  
21 within ~~ten (10)~~ two (2) business days of determining that the  
22 proposed ballot title ~~is defective,~~ or gist statement is in  
23 compliance with all legal requirements relating to initiatives, and  
24 shall notify the proponent of the determination of all such defects

1 or be estopped to later deny the legal correctness thereof, and  
2 provide the proponent an opportunity to prepare and file a corrected  
3 ballot title which complies with the law; and if the proponent does  
4 file a corrected ballot title, petition pamphlet, or gist statement,  
5 or if the proponent files a written statement that the proponent  
6 will not make a requested change, then the Attorney General shall,  
7 within two (2) days of receipt, notify the Secretary of State in  
8 writing that the review is complete, and the Secretary of State  
9 shall immediately approve or deny approval of the proposed ballot  
10 title, language, petition pamphlet, or gist statement and publish  
11 notification of completion of the review by the Attorney General and  
12 all documents related to the filing on the official Secretary of  
13 State web site.

14 2. Within ten (10) business days after notification to the  
15 proponent and the Secretary of State makes publication of approval  
16 or denial, and of completion of the review by the Attorney General,  
17 the Secretary of State shall, if no appeal is filed, immediately  
18 approve the ballot title, petition pamphlet and gist statement for  
19 circulation and signing by voters, transmit to the Secretary of the  
20 State Election Board an attested copy of the measure, including the  
21 official ballot title, and a certification that the requirements of  
22 this section have been met. If an appeal is taken from such ballot  
23 title within the time specified in Section 10 of this title, then  
24 the Secretary of State shall certify to the Secretary of the State

1 Election Board the ballot title which is finally approved by the  
2 Supreme Court. If no appeal is timely filed, then the ballot title,  
3 petition pamphlet and gist statement shall not be subject to  
4 challenge on the grounds that the petition pamphlet, language,  
5 proposed ballot title, or gist statement is not in compliance with  
6 all legal requirements relating to initiatives.

7 SECTION 11. AMENDATORY 34 O.S. 2001, Section 10, is  
8 amended to read as follows:

9 Section 10. A. Any person who is dissatisfied with the wording  
10 of a ballot title may, within ten (10) days after notification to  
11 the ~~same is filed~~ proponent and the date the Secretary of State  
12 makes publication of completion of the review by the Attorney  
13 General ~~with the Secretary of State~~ as provided for in Section 9 of  
14 this title, appeal to the Supreme Court by petition challenging the  
15 legal sufficiency of the petition pamphlet, language, ballot title,  
16 or the gist statement in which shall be offered a substitute ballot  
17 title, petition pamphlet, or gist statement for the one from which  
18 the appeal is taken. Upon the hearing of such appeal, which shall  
19 be commenced within ten (10) days of the appeal, the court may  
20 correct or amend the ballot title, petition pamphlet, or gist  
21 statement before the court, or accept the substitute suggested, or  
22 may draft a new one which will conform to the provisions of Section  
23 9 of this title. Unless a final determination of insufficiency is  
24 made within thirty-five (35) days of the appeal, the filing shall be

1 deemed approved and then the ballot title, language, petition,  
2 pamphlet, and gist statement shall not be subject to challenge on  
3 the grounds that the petition pamphlet, language, proposed ballot  
4 title, or gist statement is not in compliance with all legal  
5 requirements relating to initiatives. If a final determination of  
6 insufficiency is timely made, it shall state specifically the  
7 grounds and specific suggested corrections. The proponent may elect  
8 to modify and submit to the court a modified ballot title, language,  
9 petition pamphlet, or gist statement and offer same for approval by  
10 the court within ten (10) days of a determination of insufficiency.  
11 The court shall give notice to all parties to the appeal and shall  
12 commence a hearing within ten (10) days of submission and consider  
13 the proposed corrections.

14 Unless a final determination of insufficiency is made within  
15 thirty-five (35) days of the resubmission, the filing shall be  
16 deemed approved and then the ballot title, language, petition  
17 pamphlet, and gist statement shall not be subject to challenge on  
18 the grounds that the petition pamphlet, language, proposed ballot  
19 title, or gist statement is not in compliance with all legal  
20 requirements relating to initiatives. If a final determination of  
21 insufficiency is timely made, the proponent may continue to make  
22 resubmissions to the court according to the procedure above, or may  
23 make a new original filing, but in no case shall the proponent  
24 circulate petitions until they are deemed approved.

1 B. No such appeal shall be allowed as to the ballot title of  
2 constitutional and legislative enactments proposed by the  
3 Legislature.

4 SECTION 12. AMENDATORY 34 O.S. 2001, Section 11, is  
5 amended to read as follows:

6 Section 11. Notice of the appeal provided for in the preceding  
7 section shall be served upon the Attorney General and upon the party  
8 who filed such ballot title, or on any of such parties, at least  
9 five (5) days before such appeal is heard by the court. The  
10 Attorney General shall, and any citizen interested may, defend the  
11 ballot title from which the appeal is taken. Other procedure upon  
12 such appeals shall be the same as is prescribed for appeals from  
13 petitions filed as set forth in Section 8 of this title. When the  
14 legal sufficiency of the petition pamphlet, gist statement, and  
15 ballot title has been decided upon, the Secretary of State shall, in  
16 writing, notify the proponent that the petition pamphlet and gist  
17 statement have been approved.

18 SECTION 13. This act shall become effective November 1, 2009.

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20 52-1-6355 LRB 12/29/08

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