

1 STATE OF OKLAHOMA

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

3 SENATE BILL 852

By: Brogdon

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5
6 AS INTRODUCED

7 An Act relating to initiative and referendum;
8 amending 34 O.S. 2001, Sections 3, 4, 6, 8, 9, as
9 amended by Section 2, Chapter 407, O.S.L. 2005, 10
10 and 12 (34 O.S. Supp. 2008, Section 9), which relate
11 to initiative and referendum petitions; requiring
12 gist statement to be submitted to Secretary of State;
13 providing procedures for certain appeal to Supreme
14 Court; prohibiting further challenge; modifying size
15 of sheets for signatures on such petitions; modifying
16 certain notarization and affidavit requirement;
17 making language gender neutral; requiring publication
18 of notice of filing and ballot title of petition;
19 requiring notice of right to protest
20 constitutionality and ballot title; specifying filing
21 requirements and time for filing such protests;
22 specifying certain duties of Secretary of State and
23 Supreme Court; allowing for revival of protest;
24 modifying time period for signed copies of petition
to be filed; modifying certain certification by
Secretary of State with respect to number of
signatures; specifying filing requirements and time
for filing objection to validity or number of
signatures; modifying time period for review of
ballot title and notification to Governor; requiring
Governor's Proclamation to set election on date of
next General Election; prohibiting petition blocking;
defining term; providing for codification; and
providing an effective date.

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

1 SECTION 1. AMENDATORY 34 O.S. 2001, Section 3, is
2 amended to read as follows:

3 Section 3. Each initiative petition and each referendum
4 petition shall be duplicated for the securing of signatures, and
5 each sheet for signatures shall be attached to a copy of the
6 petition. Each copy of the petition and sheets for signatures is
7 hereinafter termed a pamphlet. On the outer page of each pamphlet
8 shall be printed the word "Warning", and underneath this in
9 ten-point type the words, "It is a felony for anyone to sign an
10 initiative or referendum petition with any name other than his or
11 her own, or knowingly to sign his or her name more than once for the
12 measure, or to sign such petition when he or she is not a legal
13 voter". A simple statement of the gist of the proposition shall be
14 printed on the top margin of each signature sheet. This gist
15 statement shall be submitted to the Secretary of State at the same
16 time the proponent files a true and exact copy of the proposition
17 with the Secretary of State. Any person who is dissatisfied with
18 the wording of the gist statement may, within five (5) days after
19 the gist statement is filed with the Secretary of State, appeal to
20 the Supreme Court. Within thirty (30) days after such an appeal is
21 filed, the Court shall either uphold the sufficiency of the proposed
22 gist statement, make corrections to the gist statement or draft a
23 new gist statement. Once the Court has ruled or should there be no
24 appeal within the five (5) days allotted for such an appeal, there

1 shall be no further challenge to the petition on the basis of the
2 gist statement. Not more than twenty (20) signatures on one sheet
3 on lines provided for the signatures shall be counted. Any
4 signature sheet not in substantial compliance with this act shall be
5 disqualified by the Secretary of State.

6 SECTION 2. AMENDATORY 34 O.S. 2001, Section 4, is
7 amended to read as follows:

8 Section 4. When any such initiative or referendum petition
9 shall be offered for filing, the Secretary of State, in the presence
10 of the person offering the same for filing, shall detach the sheets
11 containing the signatures and affidavits and cause them all to be
12 attached to one or more printed copies of the measure so proposed by
13 initiative or referendum petition. All petitions for the initiative
14 and referendum and sheets for signatures shall be printed on pages
15 eight and one-half (8 1/2) inches in width by fourteen (14) inches
16 in length or eight and one-half (8 1/2) inches in width by eleven
17 (11) inches in length, with a margin of one and three-fourths (1
18 3/4) inches at the top for binding, ~~if~~. If the aforesaid sheets
19 shall be too bulky for convenient binding in one volume, they may be
20 bound in two or more volumes, those in each volume to be attached to
21 a single printed copy of such measure, ~~and~~ and the detached copies of
22 such measures shall be delivered to the person offering the same for
23 filing. Each of the volumes and each signature sheet therein shall
24 be numbered consecutively, and a cover sheet shall be attached,

1 showing the purported number of signature sheets, the series of
2 numbers assigned to the signature sheets and the total number of
3 signatures counted per volume. The Secretary of State shall render
4 a signed receipt to the person offering the petition for filing,
5 which receipt shall include a report, volume by volume, showing the
6 number of signature sheets in each volume, the series of numbers
7 assigned to the signature sheets in each volume, and the number of
8 purported signatures in each volume. Duplicate copies of the cover
9 sheets, with necessary corrections, may be used as receipts. If the
10 volume of signatures is sufficiently large, the Secretary of State
11 shall seal the petitions in such manner that they cannot be opened
12 unless the seal is broken, and if requested by those filing ~~said~~ the
13 petition, they shall not be opened before 9:00 a.m. on the day
14 following the date ~~said~~ the petitions are filed, and ~~said~~ the
15 procedure shall continue until such time as the Secretary shall be
16 able to receipt the petitions so filed; but additional signature
17 sheets shall not be accepted after 5:00 p.m. on ninetieth day. The
18 Secretary of State shall not provide any copies of signature sheets
19 to anyone until the sheets have been bound as provided in this
20 section.

21 Provided, that whenever reference is made in this ~~act~~ title to
22 the Secretary of State, such reference shall include the Secretary
23 of State or any officer constitutionally designated to perform the
24 duties herein prescribed.

1 SECTION 3. AMENDATORY 34 O.S. 2001, Section 6, is
2 amended to read as follows:

3 Section 6. Each sheet of every such petition containing
4 signatures shall be verified on the back thereof, in substantially
5 the following form, by the person who circulated ~~said~~ the sheet of
6 ~~said~~ the petition, by his or her affidavit thereon and as a part
7 thereof.

8 State of Oklahoma,)
9) ss.
10 County of _____)

11 I, _____, being first duly sworn, say: That ~~I am a qualified~~
12 ~~elector of the State of Oklahoma and that (Here shall be legibly~~
13 ~~written or typewritten the names of the signers of the sheet),~~
14 ~~signed this sheet~~ each signer of the ~~foregoing~~ this petition, ~~and~~
15 ~~each of them~~ signed his or her name thereto in my presence; I
16 believe that each has stated his or her name, post office address,
17 and residence correctly, and that each signer is a legal voter of
18 the State of Oklahoma and county of _____ or of the city of _____
19 (as the case may be). (Signature and postoffice address of
20 affiant.)

21 Subscribed and sworn to before me this _____ day of _____ A.D.
22 ~~19__~~ 20__.

23 (Signature and title of the officer before whom oath is made,
24 and ~~his~~ the officer's post office address.)

1 SECTION 4. AMENDATORY 34 O.S. 2001, Section 8, is
2 amended to read as follows:

3 Section 8. A. When a citizen or citizens desire to circulate a
4 petition initiating a proposition of any nature, whether to become a
5 statute law or an amendment to the Constitution, or for the purpose
6 of invoking a referendum upon legislative enactments, such citizen
7 or citizens shall, when such petition is prepared, and before the
8 same is circulated or signed by electors, file a true and exact copy
9 of same in the office of the Secretary of State ~~and, within ninety~~
10 ~~(90) days.~~

11 B. It shall be the duty of the Secretary of State to cause to
12 be published, in at least one newspaper of general circulation in
13 the state, a notice of such filing and the apparent sufficiency or
14 insufficiency thereof. Such publication shall include the text of
15 the ballot title as reviewed or, if applicable, as rewritten, by the
16 Attorney General pursuant to the provisions of subsection D of
17 Section 9 of this title, and shall include notice that any citizen
18 or citizens of the state may file a protest as to the
19 constitutionality of the petition, by a written notice to the
20 Supreme Court and to the proponent or proponents filing the
21 petition, or as to the ballot title as provided in Section 10 of
22 this title. Any such protest must be filed within ten (10) days
23 after publication. A copy of the protest shall be filed with the
24 Secretary of State.

1 C. Upon the filing of a protest to the petition, the Supreme
2 Court shall then fix a day, not less than ten (10) days thereafter,
3 at which time it will hear testimony and arguments for and against
4 the sufficiency of such petition.

5 D. A protest filed by anyone hereunder may, if abandoned by the
6 party filing same, be revived within five (5) days by any other
7 citizen. After such hearing the Supreme Court shall decide whether
8 such petition is in form as required by the statutes. If the Court
9 is at the time adjourned, the Chief Justice shall immediately
10 convene the same for such hearing. No objection to the sufficiency
11 shall be considered unless it has been made and filed as herein
12 provided.

13 E. Within one (1) year after such filing of an initiative
14 petition or determination of the sufficiency of the petition by the
15 Supreme Court as provided in this section, whichever is later, the
16 signed copies thereof shall be filed with the Secretary of State,
17 but the signed copies of a referendum petition shall be filed with
18 the Secretary of State within ninety (90) days after the adjournment
19 of the Legislature enacting the measure on which the referendum is
20 invoked or determination of the sufficiency of the petition by the
21 Supreme Court as provided in this section, whichever is later. The
22 electors Each elector shall sign ~~their~~ his or her legally-registered
23 name, ~~their~~ address or post office box, and the name of the county
24 in which they reside of residence. Any petition not filed in

1 accordance with this provision shall not be considered. The
2 proponents of a referendum or an initiative petition, any time
3 before the final submission of signatures, may withdraw the
4 referendum or initiative petition upon written notification to the
5 Secretary of State.

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

- 9 1. All signed petitions have already been filed with the
10 Secretary of State;
- 11 2. No more petitions are in circulation; and
- 12 3. The proponents will not circulate any more petitions.

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

15 ~~C.~~ G. When the signed copies of a petition are timely filed,
16 the Secretary of State shall certify to the Supreme Court of the
17 state:

- 18 1. The total number of signatures counted pursuant to
19 procedures set forth in this title; and
- 20 2. ~~The total number of votes cast for the state office~~
21 ~~receiving the highest number of votes cast at the last general~~
22 ~~election~~ basis for the ratio and per centum of legal voters as set
23 forth in Section 2 of Article V of the Oklahoma Constitution.

1 The Supreme Court shall make the determination of the numerical
2 sufficiency or insufficiency of the signatures counted by the
3 Secretary of State.

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

19 ~~D.~~ I. The Secretary of State shall deliver the bound volumes of
20 signatures to the Supreme Court.

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

3 ~~F. Upon the filing of a protest to the petition, the Supreme
4 Court of the state shall then fix a day, not less than ten (10) days
5 thereafter, at which time it will hear testimony and arguments for
6 and against the sufficiency of such petition.~~

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

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

19 ~~I. L.~~ Whenever reference is made in this act to the Supreme
20 Court ~~of the state~~, such reference shall include the members of the
21 Supreme Court ~~of the state~~ or any officer constitutionally
22 designated to perform the duties herein prescribed.

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1 SECTION 5. AMENDATORY 34 O.S. 2001, Section 9, as
2 amended by Section 2, Chapter 407, O.S.L. 2005 (34 O.S. Supp. 2008,
3 Section 9), is amended to read as follows:

4 Section 9. A. When a referendum is ordered by petition of the
5 people against any measure passed by the Legislature or when any
6 measure is proposed by initiative petition, whether as an amendment
7 to the Constitution or as a statute, it shall be the duty of the
8 parties submitting the measure to prepare and file one copy of the
9 measure with the Secretary of State and one copy with the Attorney
10 General.

11 B. The parties submitting the measure shall also submit a
12 suggested ballot title which shall be filed on a separate sheet of
13 paper and shall not be deemed part of the petition. The suggested
14 ballot title:

15 1. Shall not exceed two hundred (200) words;

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

18 3. Shall be written on the eighth-grade reading comprehension
19 level;

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

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

1 6. Shall contain language which clearly states that a "yes"
2 vote is a vote in favor of the proposition and a "no" vote is a vote
3 against the proposition; and

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

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

10 1. After final passage of a measure, the Secretary of State
11 shall submit the proposed ballot title to the Attorney General for
12 review as to legal correctness. Within five (5) business days, the
13 Attorney General shall, in writing, notify the Secretary of State,
14 the President Pro Tempore of the Senate and the Speaker of the House
15 of Representatives whether or not the proposed ballot title complies
16 with applicable laws. The Attorney General shall state with
17 specificity any and all defects found and, if necessary, within ten
18 (10) business days of determining that the proposed ballot title is
19 defective, prepare a preliminary ballot title which complies with
20 the law and furnish a copy of such ballot title to the Secretary of
21 State, the President Pro Tempore of the Senate and the Speaker of
22 the House of Representatives. The Attorney General may consider any
23 comments made by the President Pro Tempore of the Senate or the
24 Speaker of the House of Representatives and shall file a final

1 ballot title with the Secretary of State no sooner than ten (10)
2 business days and no later than fifteen (15) business days after
3 furnishing the preliminary ballot title-; and

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

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

12 1. After the filing ~~and binding of the petition pamphlets of~~
13 the petition and prior to the gathering of signatures thereon, the
14 Secretary of State shall submit the proposed ballot title to the
15 Attorney General for review as to legal correctness. Within five
16 (5) business days after the filing of the measure and ballot title,
17 the Attorney General shall, in writing, notify the Secretary of
18 State whether or not the proposed ballot title complies with
19 applicable laws. The Attorney General shall state with specificity
20 any and all defects found and, if necessary, within ten (10)
21 business days of determining that the proposed ballot title is
22 defective, prepare and file a ballot title which complies with the
23 law; and

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1 2. Within ten (10) business days after completion of the review
2 by the Attorney General, the Secretary of State shall, if no appeal
3 is filed, transmit to the Secretary of the State Election Board an
4 attested copy of the measure, including the official ballot title,
5 and a certification that the requirements of this section have been
6 met. If an appeal is taken from such ballot title within the time
7 specified in Section 10 of this title, then the Secretary of State
8 shall certify to the Secretary of the State Election Board the
9 ballot title which is finally approved by the Supreme Court.

10 SECTION 6. AMENDATORY 34 O.S. 2001, Section 10, is
11 amended to read as follows:

12 Section 10. A. Any person who is dissatisfied with the wording
13 of a ballot title may, within ten (10) days after the same is ~~filed~~
14 ~~by the Attorney General with~~ published by the Secretary of State as
15 provided for in subsection B of Section ~~9~~ 8 of this title, appeal to
16 the Supreme Court by petition in which shall be offered a substitute
17 ballot title for the one from which the appeal is taken. Upon the
18 hearing of such appeal, the court may correct or amend the ballot
19 title before the court, or accept the substitute suggested, or may
20 draft a new one which will conform to the provisions of Section 9 of
21 this title.

22 B. No such appeal shall be allowed as to the ballot title of
23 constitutional and legislative enactments proposed by the
24 Legislature.

1 SECTION 7. AMENDATORY 34 O.S. 2001, Section 12, is
2 amended to read as follows:

3 Section 12. ~~When the ballot title has been decided upon an~~
4 initiative or referendum petition has been properly filed with
5 sufficient signatures thereon, as provided in this title, and all
6 objections or protests have been resolved or the period for filing
7 such has expired, the Secretary of State shall, in writing, notify
8 the Governor, who ~~forthwith~~ shall issue a proclamation setting forth
9 the substance of the measure and the date on which the vote will be
10 held, which shall be on the date of the next General Election.

11 SECTION 8. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 28 of Title 34, unless there is
13 created a duplication in numbering, reads as follows:

14 It shall be unlawful for any person or other entity, whether a
15 resident or nonresident of this state, to engage in petition
16 blocking. As used in this section, "petition blocking" means
17 engaging in or conspiring to engage in an organized effort to
18 prevent an initiative or referendum petition from being voted upon
19 by the people of this state, either by frivolous legal challenges or
20 by interfering with the rights granted by the Oklahoma Constitution
21 to propose initiative or referendum petitions and circulate the same
22 for signatures. Such activity shall include, but not be limited to:

23 1. Harassment or intimidation of persons circulating or
24 considering signing initiative or referendum petitions;

1 2. Filing of objections or protests or other legal action
2 deemed frivolous by the Supreme Court or other court of competent
3 jurisdiction; and

4 3. Acting under false pretenses or fraud with respect to any
5 action relating to the filing or circulation of an initiative or
6 referendum petition.

7 SECTION 9. This act shall become effective November 1, 2009.

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