

LEGISLATIVE BILL 337

Approved by the Governor June 1, 1995

Introduced by Schimek, 27; Hall, 7; Kristensen, 37; Warner, 25

AN ACT relating to initiative and referendum measures; to amend sections 32-101, 32-202, 32-628, 32-1404, 32-1405, and 32-1409, Revised Statutes Supplement, 1994; to change and provide procedures for circulating and verifying petitions; to provide powers and duties for the Secretary of State; to harmonize provisions; to provide severability; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 32-101, Revised Statutes Supplement, 1994, is amended to read:

32-101. Sections 32-101 to 32-1550 and sections 7 and 8 of this act shall be known and may be cited as the Election Act.

Sec. 2. Section 32-202, Revised Statutes Supplement, 1994, is amended to read:

32-202. In addition to any other duties prescribed by law, the Secretary of State shall:

- (1) Supervise the conduct of primary and general elections in this state;
- (2) Provide training for election commissioners, county clerks, and other election officials in providing for registration of voters and the conduct of elections;
- (3) Enforce the Election Act;
- (4) With the assistance and advice of the Attorney General, make uniform interpretations of the act;
- (5) Provide periodic training for the agencies and their agents and contractors in carrying out their duties under sections 32-308 to 32-310;
- (6) Develop and print forms for use as required by sections 32-308, 32-310, 32-320, and 32-329;
- (7) Contract with the Department of Administrative Services for storage and distribution of the forms;
- (8) Require reporting to ensure compliance with sections 32-308 to 32-310; and

(9) Prepare and transmit reports as required by the National Voting Rights Act of 1993, 42 U.S.C. 1973gg et seq.

(10) Develop and print a manual describing the requirements of the initiative and referendum process and distribute the manual to election commissioners and county clerks for distribution to the public upon request; and

(11) Develop and print pamphlets described in section 7 of this act.

Sec. 3. Section 32-628, Revised Statutes Supplement, 1994, is amended to read:

32-628. (1) All petitions prepared or filed pursuant to the Election Act or any petition which requires the election commissioner or county clerk to verify signatures by utilizing the permanent registration register shall provide a space at least two and one-half inches long for written signatures, a space at least two inches long for printed names, and sufficient space for street name and number, city or village, and zip code. Lines on each petition shall not be less than one-fourth inch apart. Petitions may be designed in such a manner that lines for signatures and other information run the length of the page rather than the width. Petitions shall provide for no more than twenty signatures per page.

(2) For the purpose of preventing fraud, deception, and misrepresentation, every sheet of every petition containing signatures shall have upon it, above the signatures, statements printed in boldface type in substantially the following form:

WARNING TO PETITION SIGNERS--VIOLATION OF ANY OF THE FOLLOWING PROVISIONS OF LAW MAY RESULT IN THE FILING OF CRIMINAL CHARGES: Any person who signs any name other than his or her own to any petition or who is not, at the time of signing or circulating the petition, a registered voter and qualified to sign or circulate the petition except as provided for initiative and referendum petitions shall be guilty of a Class I misdemeanor. Any person who falsely swears to a circulator's affidavit on a petition, who accepts money or other things of value for signing a petition, or who offers money or other things of value in exchange for a signature upon any petition shall be guilty of a Class IV felony.

(3) Every sheet of a petition which contains signatures shall have upon it, below the signatures, an affidavit in substantially the following form:

STATE OF NEBRASKA)
) ss.
COUNTY OF)

....., (name of circulator) being first duly sworn, deposes and says that he or she is the circulator of this petition containing signatures, that he or she is a registered voter of the State of Nebraska, that each person whose name appears on the petition personally signed the petition in the presence of the affiant, that the date to the left of each signature is the correct date on which the signature was affixed to the petition and that the date was personally affixed by the person signing such petition, that the affiant believes that each signer has written his or her name, street and number or voting precinct, and city, village, or post office address correctly, that the affiant believes that each signer was qualified to sign the petition, and that the affiant stated to each signer before he or she affixed his or her signature the purpose of this petition.

.....
Circulator

.....
Address

Subscribed and sworn to before me, a notary public, this day of 19.... at, Nebraska.

.....
Notary Public

(4) Each sheet of a petition circulated by a paid circulator shall have upon its face and in plain view of persons who sign the petition a statement the following language in letters not smaller than sixteen-point type in a contrasting color from other red print on the petition. If the petition is circulated by a paid circulator, the statement shall be as follows: This petition is circulated by a paid circulator. If the petition is circulated by a circulator who is not being paid, the statement shall be as follows: This petition is circulated by a volunteer circulator.

Sec. 4. Section 32-1404, Revised Statutes Supplement, 1994, is amended to read:

32-1404. Signers and circulators of initiative and referendum petitions shall meet the requirements of sections 32-629 and 32-630. A circulator shall have been registered to vote in Nebraska for one month prior to circulating an initiative or referendum petition. A registered voter who intends to circulate initiative and referendum petitions outside of his or her county of residence shall register with the Secretary of State on forms provided by the Secretary of State prior to circulating initiative and referendum petitions outside of his or her county of residence. The Secretary of State shall make available to the counties a list of registered circulators for each petition drive.

Sec. 5. Section 32-1405, Revised Statutes Supplement, 1994, is amended to read:

32-1405. (1) Prior to obtaining any signatures on an initiative or referendum petition, a copy of the form to be used statement of the object of the petition and the text of the measure shall be filed with the Secretary of State together with a sworn statement containing the names and street addresses of every person, corporation, or association sponsoring the petition.

(2) Upon receipt of the filing, the Secretary of State shall transmit the text of the proposed measure to the Revisor of Statutes. The Revisor of Statutes shall review the proposed measure and suggest changes as to form and draftmanship. The revisor shall complete the review within ten days after receipt from the Secretary of State. The Secretary of State shall provide the results of the review and suggested changes to the sponsor but shall otherwise keep them confidential for five days after receipt by the sponsor. The Secretary of State shall then maintain the opinion as public information and as a part of the official record of the initiative. The suggested changes may be accepted or rejected by the sponsor.

(3) The Secretary of State shall prepare five camera-ready copies of the petition from the information filed by the sponsor and any changes accepted by the sponsor and shall provide the copies to the sponsor within five days after receipt of the review required in subsection (2) of this section. The sponsor shall print the petitions to be circulated from the forms provided.

(4) The changes made to this section by this legislative bill shall apply to initiative and referendum petitions filed on or after the effective

date of this act.

Sec. 6. Section 32-1409, Revised Statutes Supplement, 1994, is amended to read:

32-1409. (1) Upon the receipt of the petitions, the Secretary of State, with the aid and assistance of the election commissioner or county clerk, shall determine the validity and sufficiency of signatures on the pages of the filed petition. The Secretary of State shall deliver the various pages of the filed petition to the election commissioner or county clerk by hand carrier, by use of law enforcement officials, or by certified mail, return receipt requested. Upon receipt of the pages of the petition, the election commissioner or county clerk shall issue to the Secretary of State a written receipt that the pages of the petition are in the custody of the election commissioner or county clerk. The election commissioner or county clerk shall compare the signature of each person signing and the circulator upon each of the pages of the petition with the voter registration records to determine if the circulator was a registered voter one month prior to on the date of circulating and signing the petition and to determine if each signer was a registered voter on or before the date on which the petition was required to be filed with the Secretary of State. The election commissioner or county clerk shall also compare the signer's printed name, street and number or voting precinct, and city, village, or post office address with the voter registration records to determine whether the signer was a registered voter. All signatures and addresses The signature and address shall be presumed to be valid signatures and addresses only if the election commissioner or county clerk has found the signers to be registered voters finds the printed name, street and number or voting precinct, and city, village, or post office address to match the registration records and that the registration was received on or before the date on which the petition was required to be filed with the Secretary of State. The finding of the election commissioner or county clerk - except that such presumption shall not be conclusive and may be rebutted by any credible evidence which the election commissioner or county clerk Secretary of State finds sufficient. The express purpose of the comparison of names and addresses with the voter registration records, in addition to helping to determine the validity of such petition, the sufficiency of such petition, and the qualifications of the signer, shall be to prevent fraud, deception, and misrepresentation in the petition process.

(2) Upon completion of the comparison of names and addresses with the voter registration records, the election commissioner or county clerk shall prepare in writing a certification under seal setting forth the name and address of each signer or circulator found not to be a registered voter and the petition page number and line number where the name is found, and if the reason for the challenge invalidity of the signature or address is other than the nonregistration of the signer or circulator, the election commissioner or county clerk shall set forth the reason for the challenge invalidity of the signature. If the election commissioner or county clerk determines that a signer has affixed his or her signature more than once to any page or pages of the petition and that only one person is registered by that name, the election commissioner or county clerk shall prepare in writing a certification under seal setting forth the name of the duplicate signature and shall count only the earliest dated signature. The election commissioner or county clerk shall deliver all pages of the petition and the certifications to the Secretary of State within forty days after the receipt of such pages from the Secretary of State. The delivery shall be by hand carrier, by use of law enforcement officials, or by certified mail, return receipt requested. The Secretary of State may grant to the election commissioner or county clerk an additional ten days to return all pages of the petition in extraordinary circumstances.

(3) Upon receipt of the pages of the petition, the Secretary of State shall issue a written receipt indicating the number of pages of the petition that are in his or her custody. When all the petitions and certifications have been received by the Secretary of State, he or she shall strike from the pages of the petition all but the earliest dated signature of any duplicate signatures and such stricken signatures shall not be added to the total number of valid signatures. Not more than twenty signatures on one sheet shall be counted. All signatures secured in a manner contrary to sections 32-1401 to 32-1416 shall not be counted. Clerical and technical errors in a petition shall be disregarded if the forms prescribed in sections 32-1401 to 32-1403 are substantially followed. The Secretary of State shall total the valid signatures and determine if constitutional and statutory requirements have been met. The Secretary of State shall immediately serve a copy of such determination by certified or registered mail upon the person filing the initiative or referendum petition. If the petition is found to be valid and sufficient, the Secretary of State shall proceed to place the

measure on the general election ballot.

(4) The Secretary of State may adopt and promulgate rules and regulations for the issuance of all necessary forms and procedural instructions to carry out this section.

Sec. 7. (1) The Secretary of State shall develop and print one informational pamphlet on all initiative and referendum measures to be placed on the ballot. The pamphlet shall include the measure number, the ballot title and text, and the full text of each initiated or referred measure and arguments both for and against each measure.

(2) The Secretary of State shall write the arguments for and against each measure, and each set of arguments shall consist of no more than two hundred fifty words. Information for the arguments may be provided by the sponsors of the measure, opponents to the measure, and other sources.

(3) The Secretary of State shall distribute the pamphlets to election commissioners and county clerks at least six weeks prior to the election. The election commissioners and county clerks shall immediately make the pamphlets available in their offices and in at least three other public locations that will facilitate distribution to the public.

Sec. 8. After the Secretary of State certifies the initiative and referendum measures for the ballot under subsection (3) of section 32-1411, the Secretary of State shall hold one public hearing in each congressional district for the purpose of allowing public comment on the measures. Notice of each hearing shall be published once in such newspapers as are necessary to provide for general circulation within the congressional district in which the meeting will be held not less than five days prior to the hearing. The hearings shall be held not more than eight weeks prior to the election.

Sec. 9. If any section in this act or any part of any section is declared invalid or unconstitutional, the declaration shall not affect the validity or constitutionality of the remaining portions.

Sec. 10. Original sections 32-101, 32-202, 32-628, 32-1404, 32-1405, and 32-1409, Revised Statutes Supplement, 1994, are repealed.