Senate Engrossed House Bill

FILED

JANICE K. BREWER
SECRETARY OF STATE

State of Arizona
House of Representatives
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CHAPTER 244

HOUSE BILL 2288

AN ACT

AMENDING SECTIONS 16-918, 19-116, 19-121.01, 19-121.02, 19-121.04 AND 19-124, ARIZONA REVISED STATUTES; RELATING TO INITIATIVE AND REFERENDUM.

(TEXT OF BILL BEGINS ON NEXT PAGE)

Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 16-918, Arizona Revised Statutes, is amended to read:

16-918. Campaign finance reports; notice; civil penalty; prohibition on candidacy

A. If a political committee fails to file a report in a timely manner as required by this chapter, the filing officer shall send written notice of the delinquency of the report to the political committee and the candidate, in the case of the candidate's campaign committee, or to the designating individual, in the case of an individual's exploratory committee. The notice shall be sent by certified mail within fifteen days after the filing officer determines there may be a failure to file a campaign finance report. The notice shall provide with reasonable particularity the nature of the failure and a statement of the penalties provided in this section.

B. A political committee, or in the case of a candidate's campaign committee, the candidate, or in the case of an exploratory committee, the designating individual, is liable for a late penalty of ten dollars for each day after failure to make or file a campaign finance report that is required pursuant to this chapter up to a maximum of four hundred fifty dollars. The filing officer shall not accept a campaign report unless any penalties owed as a result of this section or any penalties imposed pursuant to section 16-924 are paid with the report.

C. A political committee, or in the case of a candidate's campaign committee, the candidate, or in the case of an exploratory committee, the designating individual, that has failed to file within fifteen days after receiving a notice of delinquency pursuant to subsection A of this section is liable for a civil penalty of twenty-five dollars for each subsequent day that the filing is late. This penalty shall be assessed pursuant to section 16-924.

D. For purposes of this section, there is a failure to make and file a campaign finance report by the treasurer, the designating individual, in the case of an exploratory committee, the candidate, in the case of a candidate's campaign committee, and for all other political committees, the chairman, if any of the following occurs:

1. The report is not filed in a timely manner as prescribed by section 16-913.

2. The report is not signed in accordance with section 16-913.

3. A good faith effort is not made to substantially complete the report as prescribed by section 16-915.

E. It is a defense to an enforcement action brought pursuant to this section if good cause is shown by the treasurer, the designating individual, in the case of an exploratory committee, or the candidate, in the case of a candidate's campaign committee, for the failure to make and file a campaign finance report. For purposes of this subsection, good cause includes an illness or absence from this state at the time the campaign finance report

was due or the written notice of delinquency was delivered if the illness or absence reasonably prevented the treasurer, designating individual or candidate from filing the report or receiving the written notice.

F. In addition to the enforcement actions prescribed by this section, a person who was a candidate for nomination or election to any local or state office and who after written notice pursuant to this section failed to make and file a campaign finance report as required by this chapter is not eligible to be a candidate for nomination or election to any local or state office for five years after the last failure to make and file a campaign finance report occurred. This penalty shall be imposed as follows:

1. A candidate's failure to make and file a campaign finance report with a filing officer for a jurisdiction is grounds for that filing officer to refuse the candidate's nomination paper for any public office in that jurisdiction as described in this subsection.

2. A candidate's failure to make and file a campaign finance report with any filing officer is grounds for a filing officer from another jurisdiction to refuse the candidate's nomination paper for any public office on presentation of a certified copy of a final order issued pursuant to section 16-924.

G. For a standing political committee, in addition to any late penalty and civil penalty assessed pursuant to this section, if the standing political committee makes a late filing three or more times, the standing political committee is no longer eligible for consolidated filing status pursuant to section 16-913, subsection K and shall make all of its filings in each reporting jurisdiction in which it is active.

H. FOR ANY POLITICAL COMMITTEE THAT HAS FAILED TO FILE THREE CONSECUTIVE CAMPAIGN FINANCE REPORTS WITH THE SECRETARY OF STATE AS PRESCRIBED BY SECTION 16-913, THE SECRETARY OF STATE SHALL SEND THE COMMITTEE CHAIRMAN AND TREASURER A WRITTEN NOTICE OF INTENT TO SUSPEND THE POLITICAL COMMITTEE. THE NOTICE OF INTENT TO SUSPEND SHALL STATE THAT FAILURE OF THE POLITICAL COMMITTEE TO FULLY COMPLY WITH ALL FILING REQUIREMENTS FOR THAT COMMITTEE, INCLUDING ANY REQUIRED PAYMENTS, WITHIN THIRTY DAYS OF THE DATE OF THE NOTICE SHALL RESULT IN SUSPENSION OF THE POLITICAL COMMITTEE'S AUTHORITY TO OPERATE IN THIS STATE. ON SUSPENSION OF THE POLITICAL COMMITTEE'S AUTHORITY TO OPERATE, THE SECRETARY OF STATE IS NO LONGER REQUIRED TO PROVIDE ANY FURTHER NOTICE OF DELINQUENCY TO THE POLITICAL COMMITTEE. THIS SUBSECTION DOES NOT REDUCE OR ELIMINATE THE POLITICAL COMMITTEE'S CONTINUING OBLIGATION TO MAKE CAMPAIGN FINANCE FILINGS AND PAY ANY FINES, PENALTIES, CIVIL PENALTIES OR OTHER SANCTIONS THAT MAY CONTINUE TO ACCRUE AS OTHERWISE PROVIDED BY LAW. THIS SUBSECTION DOES NOT APPLY TO REPORTS REQUIRED PURSUANT TO ARTICLE 2 OF THIS CHAPTER OR TO A CANDIDATE'S CAMPAIGN COMMITTEE DESIGNATED BY THAT CANDIDATE PURSUANT TO SECTION 16-903 DURING THAT ELECTION CYCLE.

Sec. 2. Section 19-116, Arizona Revised Statutes, is amended to read:

19-116. Signing petitions; coercion; intimidation; false description; classification

A. A person who knowingly coerces any other person by menace or threat, or threatens any other person to the effect that the other person will or may be injured in his business, or discharged from employment, or that he will not be employed, to sign or subscribe, or to refrain from signing or subscribing, his name to an initiative or referendum petition, or, after signing or subscribing his name, to have his name taken therefrom, is guilty of a class 1 misdemeanor.

B. A PERSON WHO IS A CIRCULATOR OF AN INITIATIVE OR REFERENDUM PETITION AND WHO INDUCES ANY OTHER PERSON IN THE CIRCULATOR'S PRESENCE TO SIGN THE INITIATIVE OR REFERENDUM PETITION BY KNOWINGLY MISREPRESENTING THE GENERAL SUBJECT MATTER OF THE MEASURE IS GUILTY OF A CLASS 1 MISDEMEANOR.

Sec. 3. Section 19-121.01, Arizona Revised Statutes, is amended to read:

19-121.01. Secretary of state; removal of petition and ineligible signatures; facsimile sheets; random sample

A. Within ~~fifteen~~ TWENTY days, excluding Saturdays, Sundays and other legal holidays, of the date of filing of an initiative or referendum petition and issuance of the receipt, the secretary of state shall:

1. Remove the following:

(a) Those sheets not attached to a copy of the title and text of the measure.

(b) The copy of the title and text from the remaining petition sheets.

(c) Those sheets not bearing the petition serial number in the lower right-hand corner of each side.

(d) Those sheets containing a circulator's affidavit that is not completed or signed.

(e) Those sheets on which the affidavit of the circulator is not notarized, the notary's signature is missing, the notary's commission has expired or the notary's seal is not affixed.

(f) Those sheets on which the signatures of the circulator or the notary are dated earlier than the dates on which the electors signed the face of the petition sheet.

2. After completing the steps in paragraph 1 of this subsection, review each sheet to determine the county of the majority of the signers and shall:

(a) Place a three or four letter abbreviation designating that county in the upper right-hand corner of the face of the petition.

(b) Remove all signatures of those not in the county of the majority on each sheet by marking an "SS" in red ink in the margin to the right of the signature line.

(c) Cause all signature sheets to be grouped together by county of registration of the majority of those signing and attach them to one or more copies of the title and text of the measure. If the sheets are too bulky for convenient grouping by the secretary of state in one volume by county, they may be bound in two or more volumes with those in each volume attached to a single printed copy of the measure. The remaining detached copies of the title and text of the measure shall be delivered to the applicant.

3. After completing the steps in paragraph 2 of this subsection, remove the following signatures that are not eligible for verification by marking an "SS" in red ink in the margin to the right of the signature line:

(a) If the signature of the qualified elector is missing.

(b) If the residence address or the description of residence location is missing.

(c) If the date on which the petitioner signed is missing.

(d) Signatures in excess of the fifteen signatures permitted per petition.

(e) Signatures withdrawn pursuant to section 1-261.

4. After the removal of petition sheets and signatures, count the number of signatures for verification on the remaining petition sheets and note that number in the upper right-hand corner of the face of each petition sheet immediately above the county designation.

5. Number the remaining petition sheets that were not previously removed and that contain signatures eligible for verification in consecutive order on the front side of each petition sheet in the upper left-hand corner.

6. Count all remaining petition sheets and signatures not previously removed and issue a receipt to the applicant of this total number eligible for verification.

B. If the total number of signatures for verification as determined pursuant to subsection A, paragraph 6 of this section equals or exceeds the constitutional minimum, the secretary of state, during the same ~~fifteen~~ TWENTY day period provided in subsection A of this section, shall select, at random, five per cent of the total signatures eligible for verification by the county recorders of the counties in which the persons signing the petition claim to be qualified electors. The random sample of signatures to be verified shall be drawn in such a manner that every signature eligible for verification has an equal chance of being included in the sample. The random sample produced shall identify each signature selected by petition page and line number. The signatures selected shall be marked according to the following procedure:

1. Using red ink, mark the selected signature by circling the line number and drawing a line from the base of the circle extending into the left margin.

2. If a signature line selected for the random sample is found to be blank or was removed from the verification process pursuant to subsection A of this section and is marked with an "SS", then the next line down, even if

that requires going to the next petition sheet in sequence, on which an eligible signature appears shall be selected as a substitute if that line has not already been selected for the random sample. If the next eligible line is already being used in the random sample, the secretary of state shall proceed back up the page from the signature line originally selected for the random sample to the next previous signature line eligible for verification. If that line is already being used in the random sample, the secretary of state shall continue moving down the page or to the next page from the line originally selected for the random sample and shall select the next eligible signature as its substitute for the random sample. The secretary of state shall use this process of alternately moving forward and backward until a signature eligible for verification and not already included in the random sample can be selected and substituted.

C. After the selection of the random sample and the marking of the signatures selected on the original petition sheets pursuant to subsection B of this section, the secretary of state shall reproduce a facsimile of the front of each signature sheet on which a signature included in the random sample appears. The secretary of state shall clearly identify those signatures marked for verification by color highlighting or other similar method and shall transmit by personal delivery or certified mail to each county recorder a facsimile sheet of each signature sheet on which a signature appears of any individual ~~claiming~~ WHO CLAIMS to be a qualified elector of that county AND whose signature was selected for verification as part of the random sample.

D. The secretary of state shall retain in custody all signature sheets removed pursuant to this section except as otherwise prescribed in this title.

Sec. 4. Section 19-121.02, Arizona Revised Statutes, is amended to read:

19-121.02. Certification by county recorder

A. Within ~~ten~~ FIFTEEN days, excluding Saturdays, Sundays and other legal holidays, after receiving the facsimile signature sheets from the secretary of state pursuant to section 19-121.01, the county recorder shall determine which signatures of individuals whose names were transmitted shall be disqualified for any of the following reasons:

1. No residence address or description of residence location is provided.

2. No date of signing is provided.

3. The signature is illegible and the signer is otherwise unidentifiable.

4. The address provided is illegible or nonexistent.

5. The individual was not a qualified elector on the date of signing the petition.

6. The individual was a registered voter but was not at least eighteen years of age on the date of signing the petition or affidavit.

7. The signature was disqualified after comparison with the signature on the affidavit of registration.

8. If a petitioner signed more than once, all but one otherwise valid signature shall be disqualified.

9. For the same reasons any signatures or entire petition sheets could have been removed by the secretary of state pursuant to section 19-121.01, subsection A, PARAGRAPH 3.

B. Within the same time period provided in subsection A of this section, the county recorder shall certify to the secretary of state the following:

1. The name of any individual whose signature was included in the random sample and disqualified by the county recorder together with the petition page and line number of the disqualified signature.

2. The total number of signatures selected for the random sample and transmitted to the county recorder for verification and the total number of random sample signatures disqualified.

C. The secretary of state shall prescribe the form of the county recorder's certification.

D. At the time of the certification, the county recorder shall:

1. Return the facsimile signature sheets to the secretary of state.

2. Send notice of the results of the certification by mail to the person or organization that submitted the initiative or referendum petitions and to the secretary of state.

Sec. 5. Section 19-121.04, Arizona Revised Statutes, is amended to read:

19-121.04. <u>Disposition of petitions by secretary of state</u>

A. Within ~~forty-eight~~ SEVENTY-TWO hours, excluding Saturdays, Sundays and other legal holidays, after receipt of the facsimile signature sheets and the certification of each county recorder, the secretary of state shall determine the total number of valid signatures by subtracting from the total number of eligible signatures determined pursuant to section 19-121.01, subsection A, paragraph 6 in the following order:

1. All signatures on petitions containing a defective circulator's affidavit.

2. All signatures that were found ineligible by the county recorders and that were not subtracted pursuant to paragraph 1 of this subsection.

3. After determining the percentage of all signatures found to be invalid in the random sample, a like percentage from those signatures remaining after the subtractions performed pursuant to paragraphs 1 and 2 of this subsection.

B. If the actual number of signatures after certification pursuant to subsection C of this section on the remaining sheets after any such subtraction equals or exceeds the minimum number required by the constitution or if the number of valid signatures as projected from the random sample pursuant to subsection A of this section is at least one hundred five per

cent of the minimum number required by the constitution, the secretary of state shall issue the following receipt to the person or organization that submitted them:

_____ signature pages bearing _____ signatures for initiative (referendum) petition serial number ____ have been refused for filing in this office because the person circulating them was a county recorder or justice of the peace at the time of circulating the petition or due to defects in the circulator's affidavit. A total of _____ signatures included on the remaining petition sheets were found to be ineligible. Of the total random sample of _____ signatures, a total of _____ signatures were invalidated by the county recorders resulting in a failure rate of _____ per cent. The actual number of remaining signatures for such initiative (referendum) petition number _____ are equal to or in excess of the minimum required by the constitution to place a measure on the general election ballot. The number of valid signatures filed with this petition, based on the random sample, appears to be at least one hundred five per cent of the minimum required or through examination of each signature has been certified to be greater than the minimum required by the constitution.

Date: _____

_____

Secretary of State

(Seal)

The secretary of state shall then forthwith notify the governor that a sufficient number of signatures has been filed and that the initiative or referendum shall be placed on the ballot in the manner provided by law.

C. If the number of valid signatures as projected from the random sample is less than one hundred five but greater than ninety-five per cent of the minimum number required by the constitution, ~~then~~ the secretary of state shall order the examination and verification of each signature filed and shall so notify the county recorders. The county recorder's certification shall be in the form prescribed by the secretary of state.

D. If the number of valid signatures as projected from the random sample is less than ninety-five per cent of the minimum number required by the constitution or if the actual number of signatures on the remaining sheets after any such subtraction from the random sample or after certification fails to equal or exceed the minimum required by the constitution, the secretary of state shall immediately return the original signature sheets, in the form filed by him under section 19-121, to the person or organization that submitted them, together with a certified

statement that, for the following reasons, the petition lacks the minimum number of signatures to place it on the general election ballot:

1. Signature sheets bearing secretary of state page numbers _____ and bearing signatures of _____ persons appeared on petitions containing a defective circulator's affidavit.

2. A total of _____ signatures on the remaining petition sheets were found to be ineligible.

3. A total of _____ signatures included in the random sample have been certified by the county recorders as ineligible at the time such petition was signed and a projection from such random sample has indicated that _____ more signatures are ineligible to appear on the petition.

A facsimile of the certifications of the county recorders under section 19-121.02 shall accompany the signature sheets returned to the person or organization that submitted them.

Sec. 6. Section 19-124, Arizona Revised Statutes, is amended to read:

19-124. Arguments and analyses on measures; cost; submission at special election

A. The person filing an initiative petition may at the same time file with the secretary of state an argument advocating the measure or constitutional amendment proposed in the petition. Not later than ~~sixty~~ FIFTY-THREE days preceding the regular primary election a person may file with the secretary of state an argument advocating or opposing the measure or constitutional amendment proposed in the petition. Not later than ~~sixty~~ FIFTY-THREE days preceding the regular primary election a person may file with the secretary of state an argument advocating or opposing any measure with respect to which the referendum has been invoked, or any measure or constitutional amendment referred by the legislature. Each argument filed shall contain the original NOTARIZED signature of each person sponsoring it. If the argument is sponsored by an organization, it shall ~~be signed by~~ CONTAIN THE NOTARIZED SIGNATURE OF two executive officers ~~thereof~~ OF THE ORGANIZATION or if sponsored by a political committee it shall ~~be signed by~~ CONTAIN THE NOTARIZED SIGNATURE OF the committee's chairman or treasurer. Payment of the deposit required by subsection D or reimbursement of the payor constitutes sponsorship of the argument for purposes of this subsection. The person or persons signing the argument shall identify themselves by giving their residence or post office address and a telephone number, which information shall not appear in the publicity pamphlet. Each argument filed pursuant to this subsection shall not exceed three hundred words in length.

B. Not later than sixty days preceding the regular primary election the legislative council, after providing reasonable opportunity for comments by all legislators, shall prepare and file with the secretary of state an impartial analysis of the provisions of each ballot proposal of a measure or proposed amendment. The analysis shall include a description of the measure

and shall be written in clear and concise terms avoiding technical terms wherever possible. The analysis may contain background information, including the effect of the measure on existing law, or any legislative enactment suspended by referendum, if the measure or referendum is approved or rejected.

C. The analyses and arguments shall be included in the publicity pamphlet immediately following the measure or amendment to which they refer. Arguments in the affirmative shall be placed first in order, and first among the affirmative or negative arguments shall be placed the arguments filed by the person filing the initiative petition or the person who introduced the measure or constitutional amendment referred. The remaining affirmative and negative arguments shall be placed in the order in which they were filed with the secretary of state.

D. The person filing an argument shall deposit with the secretary of state, at the time of filing, an amount of money as prescribed by the secretary of state for the purpose of offsetting a portion of the proportionate cost of the PURCHASE OF THE paper and THE printing of the argument. If the person filing an argument requests that the argument appear in connection with more than one proposition, a deposit shall be made for each placement requested. No such deposit or payment shall be required for the analyses prepared and filed by the legislative council. Any proportional balance remaining of the deposit, after paying the cost, shall be returned to the depositor.

E. When a measure is submitted at a special election, and time will not permit full compliance with ~~the provisions of~~ this article, the charter provision or ordinance providing for the special election shall make provision for printing and distribution of the publicity pamphlet.

F. In the case of referendum petitions that are not required to be filed until after the primary election or at a time so close to the primary election that a referendum cannot be certified for the ballot before the deadline for filing ballot arguments pursuant to subsection A, the secretary of state may establish a separate deadline for filing the referendum ballot arguments pursuant to rules adopted by the secretary of state.

Sec. 7. Emergency

This act is an emergency measure that is necessary to preserve the public peace, health or safety and is operative immediately as provided by law.

APPROVED BY THE GOVERNOR MAY 27, 2008.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 27, 2008.