Senate Engrossed House Bill

FILED
MICHELE REAGAN
SECRETARY OF STATE

State of Arizona
House of Representatives
Fifty-second Legislature
Second Regular Session
2016

CHAPTER 296

HOUSE BILL 2428

AN ACT

AMENDING SECTIONS 19-121, 19-121.01, 19-123 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 19-121, Arizona Revised Statutes, is amended to read:

19-121. Signature sheets; petitions; form; procedure for filing

A. Signature sheets filed shall:

1. Be in the form prescribed by law.

2. Have printed in their lower right-hand corner, on each side of such sheets, the official serial number assigned to the petition by the secretary of state.

3. Be attached to a full and correct copy of the title and text of the measure, or amendment to the constitution, proposed or referred by the petition.

4. Be printed in at least eight-point type.

5. Be printed in black ink on white or recycled white pages fourteen inches in width by eight and one-half inches in length, with a margin of at least one-half inch at the top and one-fourth inch at the bottom of each page. NOTWITHSTANDING THIS SUBSECTION, THE SECRETARY OF STATE MAY PRESCRIBE AN ALTERNATIVE PAGE WIDTH AND LENGTH IN THE ELECTION PROCEDURES MANUAL ADOPTED PURSUANT TO SECTION 16-452.

B. For the purposes of this chapter, a petition is filed when the petition sheets are tendered to the secretary of state, who shall issue a receipt based on an estimate made to the secretary of state of the purported number of sheets and signatures filed. A RECEIPT MAY BE ELECTRONICALLY ISSUED. After the issuance of the receipt, no additional petition sheets may be accepted for filing.

C. Petitions may be filed with the secretary of state in numbered sections for convenience in handling. THE SECRETARY OF STATE MAY PRESCRIBE THE METHOD OF FILING, INCLUDING ELECTRONIC FILING. Not more than fifteen signatures on one sheet shall be counted. For petitions filed regarding city, town or county matters, the political committee that is the proponent of the petition and that files the petitions shall organize the signature sheets and group them by circulator and is solely responsible for compliance with this subsection. The local filing officer may return as unfiled any signature sheets that are not so organized and grouped.

D. Initiative petitions that have not been filed with the secretary of state as of 5:00 p.m. on the day required by the constitution before the ensuing general election after their issuance shall be null and void, but in no event shall the secretary of state accept an initiative petition that was issued for circulation more than twenty-four months before the general election at which the measure is to be included on the ballot.

E. For the purposes of this article and article 4 of this chapter, the measure to be attached to the petition as enacted by the legislative body of an incorporated city, town or county means the adopted ordinance or resolution signed by the mayor or the chairman of the board of supervisors, as appropriate, and signed by the clerk of the municipality or the clerk of

the board, as appropriate, or, in the absence of a written ordinance or resolution, that portion of the minutes of the legislative body that ~~are~~ IS approved by the governing body and filed with the clerk of the governing body and that ~~reflect~~ REFLECTS the action taken by that body when adopting the measure. In the case of zoning measures, the measure shall also include a legal description of the property and any amendments made to the ordinance by the legislative body.

Sec. 2. Section 19-121.01, Arizona Revised Statutes, is amended to read:

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

A. Within 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 complete title and text of the measure as prescribed in this chapter.

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

(c) Those sheets not bearing the correct 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 or that has been modified.

(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.

(g) Those sheets that are circulated by a circulator who is prohibited from participating in any election, initiative, referendum or recall campaign pursuant to section 19-119.01.

(h) Those sheets on which the circulator is required to be registered with the secretary of state pursuant to section 19-118 and the circulator is not properly registered at the time the petitions were circulated.

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~~ ON 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~~ PLACING AN ADJACENT MARK OR STRIKING THROUGH 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~~ MADE AVAILABLE to the applicant BUT MAY BE DISPOSED OF AFTER A REASONABLE PERIOD OF TIME.

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~~ PLACING AN ADJACENT MARK OR STRIKING THROUGH 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, if the date on which the petitioner signed the petition is before the date that the statement of organization was filed for the political committee that is filing the petition or if the date on which the petitioner signed the petition is after the date on which the affidavit was completed by the circulator and notarized.

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

(e) Signatures withdrawn pursuant to section 19-113.

(f) Signatures for which the secretary of state determines that the petition circulator has printed the elector's first and last names or other information in violation of section 19-112.

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~~ ON 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~~ NOTIFY 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 twenty day period provided in subsection A of this section, shall select, at random, five percent 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:~~ IN A CLEAR MANNER.

~~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.~~ C. 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.~~ D. 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~~ TRANSMIT a ~~facsimile~~ COPY 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, ELECTRONIC MAIL OR OTHER ELECTRONIC TRANSFER METHOD to each county recorder a ~~facsimile sheet~~ COPY of each signature sheet on which a signature appears of any individual who claims to be a qualified elector of that county and whose signature was selected for verification as part of the random sample.

~~D.~~ E. The secretary of state shall presume that the date noted on the petition for a petitioner's signature is the date on which the petitioner signed the petition, and any person seeking to establish a different date for the signature bears the burden of proof in overcoming the presumption.

~~E.~~ F. The secretary of state shall retain ~~in custody~~ AN ELECTRONIC COPY OF all signature sheets ~~removed pursuant to this section~~ except as otherwise prescribed in this title. AFTER THE TIME PERIOD FOR LEGAL CHALLENGES HAS ELAPSED, THE ORIGINAL SHEETS SHALL BE MADE AVAILABLE TO THE APPLICANT BUT MAY BE DISPOSED OF AFTER A REASONABLE PERIOD OF TIME.

Sec. 3. Section 19-123, Arizona Revised Statutes, is amended to read:

19-123. Publicity pamphlet; printing; distribution; public hearings

A. When the secretary of state is ordered by the legislature, or by petition under the initiative and referendum provisions of the constitution, to submit to the people a measure or proposed amendment to the constitution, the secretary of state shall cause to be printed, at the expense of the state, except as otherwise provided in this article, a publicity pamphlet, which shall contain:

1. A true copy of the title and text of the measure or proposed amendment. Such text shall indicate material deleted, if any, by printing such material with a line drawn through the center of the letters of such material and shall indicate material added or new material by printing the letters of such material in capital letters.

2. The form in which the measure or proposed amendment will appear on the ballot, the official title, the descriptive title prepared by the secretary of state and the number by which it will be designated.

3. The arguments for and against the measure or amendment.

4. For any measure or proposed amendment, a legislative council analysis of the ballot proposal as prescribed by section 19-124.

5. The report of the commission on judicial performance review for any justices of the supreme court, judges of the court of appeals and judges of the superior court who are subject to retention.

6. The summary of a fiscal impact statement prepared by the joint legislative budget committee staff pursuant to subsection D of this section.

B. The secretary of state shall POST THE PUBLICITY PAMPHLET ON THE SECRETARY OF STATE'S WEBSITE AS SOON AS IS PRACTICABLE AFTER THE PAMPHLET IS PRINTED AND SHALL mail one copy of the publicity pamphlet to every household that contains a registered voter. The mailings may be made over a period of days but shall be mailed in order to be delivered to households before the earliest date for receipt by registered voters of any requested early ballots for the general election.

C. Sample ballots for both the primary and general elections shall include a statement that information on how to obtain a publicity pamphlet for the general election ballot propositions is available by calling the secretary of state. The statement shall include a telephone number and mailing address of the secretary of state.

D. On certification of an initiative measure as qualified for the ballot, the secretary of state shall hold or cause to be held at least three public meetings on the ballot measure. Hearings shall be held in at least three different counties and shall be held before the date of the election on the measure. The hearings shall provide an opportunity for proponents, opponents and the general public to provide testimony and request information. Hearings may be scheduled to include more than one qualified ballot measure and shall include a fiscal impact presentation on the measure

by the joint legislative budget committee staff. The joint legislative budget committee staff shall prepare a summary of the fiscal impact for each ballot measure, not to exceed three hundred words, for publication in the publicity pamphlet.

Sec. 4. 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 forty-eight 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 forty-eight 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. THE SECRETARY OF STATE SHALL PROMINENTLY POST ON ITS WEBSITE THE DATES ON WHICH THE BALLOT MEASURE FILINGS ARE DUE AND THE DATE OF THE ELECTION. Each argument filed shall contain the ~~original notarized signature~~ SWORN STATEMENT of each person sponsoring it. If the argument is sponsored by an organization, it shall contain the ~~notarized signature~~ SWORN STATEMENT of two executive officers of the organization or if sponsored by a political committee it shall contain the ~~notarized signature~~ SWORN STATEMENT of the committee's chairman or treasurer. EACH ARGUMENT FILED SHALL ALSO BE SUBMITTED TO THE SECRETARY OF STATE IN ELECTRONIC FORMAT. Payment of the deposit required by subsection ~~D~~ E OF THIS SECTION 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. WHEN THE LEGISLATURE ORDERS THE SECRETARY OF STATE TO SUBMIT TO THE PEOPLE A MEASURE OR PROPOSED AMENDMENT TO THE CONSTITUTION AT A SPECIAL ELECTION AND AS SOON AS IS PRACTICABLE AFTER THE LEGISLATURE ORDERS THAT SUBMITTAL, THE SECRETARY OF STATE SHALL PROMINENTLY POST ON ITS WEBSITE THE DATES ON WHICH THE ANALYSIS, IF ANY, AND THE ARGUMENTS ADVOCATING OR OPPOSING THE MEASURE ARE DUE AND THE DATE OF THE ELECTION.

~~B.~~ C. 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.~~ D. 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.~~ E. 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. THE SECRETARY OF STATE SHALL PROVIDE FOR ELECTRONIC SUBMITTAL OF DEPOSIT PAYMENTS. 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.~~ F. ~~When~~ IF a measure is submitted at a special election, and time will not permit full compliance with this article, the charter provision or ordinance providing for the special election shall make provision for printing and distribution of the publicity pamphlet.

~~F.~~ G. 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 OF THIS SECTION, the secretary of state may establish a separate deadline for filing the referendum ballot arguments pursuant to rules adopted by the secretary of state.

APPROVED BY THE GOVERNOR MAY 17, 2016.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 17, 2016.

Passed the House February 18, 2016

by the following vote: 53 Ayes,

4 Nays, 3 Not Voting

Speaker of the House

☐ Pro Tempore

Chief Clerk of the House

Passed the Senate March 28, 2016

by the following vote: 29 Ayes,

0 Nays, 1 Not Voting

President of the Senate

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

_____ day of _____, 20_____

at _____ o'clock _____M.

Secretary to the Governor

Approved this _____day of

_____

at _____o'clock _____M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this _____ day of _____, 20_____

at _____ o'clock _____M.

Secretary of State

H.B. 2428

HOUSE CONCURS IN SENATE
AMENDMENTS AND FINAL PASSAGE

May 6, 2016,

by the following vote: 55 Ayes,

0 Nays, 5 Not Voting

Speaker of the House

Jim Drake
Chief Clerk of the House

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

7 day of May, 2016,

at 1:18 o'clock A. M.

Valerie Hanna
Secretary to the Governor

Approved this 17th day of

May, 2016,

at 1:36 o'clock P. M.

Doug A. Ducey
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 17th day of May, 2016,

at 4:35 o'clock P M.

Michele Reagan
Secretary of State

H.B. 2428