

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 903 Registration of Paid Petition Circulators

SPONSOR(S): Economic Expansion & Infrastructure, Dorworth & others

TIED BILLS: **IDEN./SIM. BILLS:** SB 2340

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Committee on Ethics & Elections</u>	<u>7 Y, 0 N</u>	<u>West</u>	<u>Mitchell</u>
2) <u>Economic Expansion & Infrastructure Council</u>	<u>9 Y, 4 N, As CS</u>	<u>West/Madsen</u>	<u>Tinker</u>
3) <u>Policy & Budget Council</u>	<u></u>	<u>Martin</u>	<u>Hansen</u>
4) <u></u>	<u></u>	<u></u>	<u></u>
5) <u></u>	<u></u>	<u></u>	<u></u>

SUMMARY ANALYSIS

HB 903 addresses the process by which citizens may propose amendments to the state constitution, particularly the procedures involving signature-gathering by paid petition circulators. The bill requires that paid petition circulators satisfy certain requirements and that they register with the Department of State (Department).

The bill authorizes the adoption, by Department rule, of a fee to be charged to those registering as paid petition circulators to offset the cost of registration and regulation. The Department estimates a nonrecurring cost of up to \$100,000 to create a database to permit the registration of paid petition circulators. While the bill authorizes the Department to collect fees to cover these costs, the bill does not provide an appropriation of additional trust funds to allow the agency to expend the fee revenue.

The bill is effective August 1, 2008.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government

The bill creates regulations and requires registration of paid petition circulators.

Ensure Lower taxes

Under the bill, a fee may be charged to petition circulators. The fee is yet to be determined and is intended to cover the costs of registration and regulation by the Department.

B. EFFECT OF PROPOSED CHANGES:

Background

Two pieces of legislation were enacted in 2007 that affect citizen initiatives. CS/SB 1920¹ permits an owner or lessee of private property to exclude persons who undertake activities supporting or opposing ballot initiatives. CS/HB 537² created a revocation process whereby a person signing a citizen initiative petition can revoke one's signature within 150 days of initially signing a petition. A number of additional reforms of the citizen initiative process were contained in HB 7009 in 2007. The bill passed all Council and Committee references, but was laid on the table May 1, 2007.

Some of the changes proposed in HB 903 reflect suggestions by the Ballot Initiative Strategy Center (BISC), a non-profit organization based in Washington, D.C. According to the BISC web site, the organization was "launched five years ago to reinvigorate the initiative process among state and national progressive organizations by providing education, training, and research so that a wide range of ideologically progressive groups can use the process more effectively to fight for social, environmental, and economic justice." Two notable BISC recommendations are:

1. Circulators should be required to register with the Secretary of State, and the list of registrants should be accessible as public information.

Because of the nature of the paid signature gathering industry, the field will likely always be fraught with mercenary or traveling petitioners. By requiring all signature gatherers to register with the Secretary of State, initiative watch dogs will be able to do multi-state research on petitioners. BISC recommends that, in addition to the information required in this bill, the Department should require disclosure of any arrests or convictions for sexual assaults or identity theft. These crimes are particularly sensitive to an unsuspecting public. It would be a service to voters to know that they are not providing their personal information to dangerous criminals or identity thieves.

¹ Chapter 2007-231, Laws of Fla.

² Chapter 2007-30, Laws of Fla.

2. Prevent people who have been convicted of certain crimes from circulating petitions - convictions such as identity theft, sex offenses, other fraud.

California prohibits felons who are currently on parole from circulating petitions. In Florida, all felons, including those guilty of sex offenses, identity theft, and fraud convictions are permitted to collect signatures. At the least, those offenses are considered germane to whether a person should be permitted to gather voters' personal information. It is only possible to prevent these people from circulating if there is some form of registration in the state, so that officials are aware of who is petitioning. BISC recommends that states should establish a system of registering each petitioner with the Secretary of State, and collecting the information necessary to run criminal background checks.

Proposed Changes

Definitions

HB 903 creates s. 100.372, F.S., to provide for the following definitions:

"Petition circulator" means any person who, in the context of a direct face-to-face interaction, presents to another person for his or her possible signature a petition form or petition-revocation form regarding ballot placement for an initiative.

"Paid petition circulator" means a petition circulator who receives any compensation as a direct or indirect consequence of the activities described in the paragraph above, other than for the reimbursement of legitimate out-of-pocket expenses incurred by the petition circulator in the ordinary course of these activities, as specified by Department rule.

"Registrant" means a person who is registered with the Department as a paid petition circulator.

Prohibited Acts

HB 903 does the following:

- Prohibits a paid petition circulator from collecting petitions in Florida without first registering with the Department.
- Prohibits anyone from paying a petition circulator who is not registered with the Department.
- Prohibits registrants from circulating petition forms until the forms have been registered with the Department.

The bill's provisions would presumably be enforced by county supervisors of elections (supervisors) who would have to determine if a petition circulator had registered with the Department and satisfied all the requirements. It appears that some type of database would have to be developed by the Department to register and track paid petition circulators. This information would then have to be made available to supervisors.

Registration Requirements for Paid Petition Circulators

A person cannot be registered with the Department as a paid petition circulator unless the person is:

- a citizen of the United States for purposes of s. 97.041(1)(a)2., F.S.;
- a legal resident of this state for purposes of s. 97.041(1)(a)3., F.S.; and
- not a convicted felon ineligible to register to vote or to vote pursuant to s. 97.041(2)(b), F.S.

The bill provides that if a person no longer satisfies one or more of the above requirements, the registration is immediately rendered invalid by operation of law, the person is required to immediately notify the Department, and the person is required to immediately cease all petition gathering activities.

The bill does not specifically address how the Department might verify a person's registration information or whether it is required to do so. The Department could simply treat verification as a ministerial duty and accept each person's registration information as being true and accurate. Alternatively, the Department might conduct a background check of each applicant. Information about paid petition circulators will be accessible to the public. It is expected that the registration requirements will be "self-policing" in that firms employing paid petition circulators and opponents of initiatives will be checking for compliance with the bill's requirements.

The bill imposes a number of registration requirements on paid petition circulators. A person is required to provide to the Department:

- His or her full legal name;
- The street address at which the person legally resides;
- The person's telephone number;
- The person's date of birth;
- A copy of a valid government-issued, photo identification card;
- The name, street address, and telephone number of the person or entity from which the person will receive compensation as a direct or indirect consequence of his or her activities;
- Identification of the petition forms or petition-revocation forms that the person will be circulating;
- Any other information required by Department rule; and
- As a condition of registration, the registrant would be required to notify the Department of any change in the information submitted pursuant to this subsection within one business day after the change.

The bill gives authority to the Department to require, "...any other information required by Department rule" as a condition of registration.

Petition Form

The bill requires that the petition form that is circulated by the registrant:

- be registered with the Department.
- include the paid petition circulator's registration number.

Verification Requirements

The bill provides that petitions may not be verified by the supervisor, and may not be counted toward the number of valid signatures required for ballot placement if such signature was not gathered in full compliance with new s. 100.372, F.S.

Any signature gathered on a previously approved initiative petition form or petition-revocation form that is submitted for verification before August 1, 2008 (the bill's effective date), may be verified and counted if otherwise valid. However, any initiative petition form or petition-revocation form that is submitted for verification on or after August 1, 2008, may be verified and counted only if it complies with new s. 100.372, F.S.

The bill is effective August 1, 2008.

C. SECTION DIRECTORY:

Section 1. Creates s. 100.372, F.S., to require registration and regulation of paid petition circulators.

Section 2. Provides a severability clause.

Section 3. Provides an effective date of August 1, 2008.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill authorizes the adoption, by rule, of a fee to be charged to those registering as paid petition circulators to offset the cost of registration and regulation. This fee is to be deposited in the Grants and Donations Trust Fund of the Department of State.

2. Expenditures:

The Department estimates a nonrecurring cost of up to \$100,000 to create a database to permit the registration of paid petition circulators. While the bill authorizes the Department to collect

fees to cover these costs, the bill does not provide an appropriation of additional trust funds to allow the agency to expend the fee revenue.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None

2. Expenditures:

Supervisors would be required to dedicate staff time to verify that paid petition circulators met the requirements of the law before verifying each petition.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill requires that a fee be charged to paid petition circulators for registration with the Department. At this time, the amount of that fee is undetermined.

D. FISCAL COMMENTS:

The bill does not provide an appropriation of additional trust funds to allow the agency to expend the fee revenue that it is authorized to collect under this bill.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Election laws are exempt from the mandates provisions of s. 18(a), Art. VII, Fla..Const.

2. Other:

B. RULE-MAKING AUTHORITY:

Provides rulemaking authority to the Department to register and regulate paid petition circulators, including the adoption of a new fee to cover the cost of the registration of the paid petition circulators.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The bill does not make clear how the paid petition circulators will register or how the information will be communicated to the supervisors. There is no provision for invalidating petitions that were gathered by paid petition circulators who violate the bill's requirements or whether a voter whose petition has been invalidated may sign a new petition (and not violate s. 104.185 (1), F.S., which prohibits knowingly signing a petition more than once).

D. STATEMENT OF THE SPONSOR

None provided.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

On April 1, 2008, the Economic Expansion & Infrastructure Council adopted one amendment requiring that funds collected from the registration of paid petition circulators be deposited in the Grants and Donations Trust Fund of the Department.