

By Senator Simmons

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1                                   A bill to be entitled  
2       An act relating to initiative petitions; amending s.  
3       100.371, F.S.; limiting the validity of a signed  
4       initiative petition to 30 months; creating s. 100.372,  
5       F.S.; providing definitions; specifying qualifications  
6       for a person to act as a paid petition circulator;  
7       prohibiting a petition circulator from receiving  
8       compensation based on the number of signatures  
9       obtained on an initiative petition; requiring the  
10      initiative petition forms used by a paid petition  
11      circulator to identify the name of the paid petition  
12      circulator; requiring a person seeking employment with  
13      an initiative sponsor as a paid petition circulator to  
14      sign an affidavit stating that the person has not been  
15      convicted of, or entered a plea of nolo contendere to,  
16      a criminal offense involving fraud, forgery, or  
17      identity theft in any jurisdiction within a certain  
18      period; subjecting a petition circulator or an  
19      initiative sponsor to criminal penalties for violating  
20      specified restrictions or requirements; prohibiting an  
21      initiative sponsor from compensating a petition  
22      circulator based on the number of signatures obtained  
23      on an initiative petition; authorizing the Department  
24      of State to adopt rules; amending s. 101.161, F.S.;  
25      requiring the Secretary of State to revise the wording  
26      of the ballot title or ballot summary for an amendment  
27      to the State Constitution proposed by the Legislature  
28      when the wording is found by a court to be confusing,  
29      misleading, or otherwise deficient; requiring the

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30 Secretary of State to place the revised ballot title  
31 or ballot summary on the ballot if the court's  
32 decision is not reversed; making technical and  
33 grammatical changes; amending s. 104.185, F.S.;

34 subjecting a person to criminal penalties for altering  
35 a signed initiative petition without the knowledge and  
36 consent of the person who signed the initiative  
37 petition; amending ss. 15.21, 16.061, and 1011.73,  
38 F.S.; replacing the term "substance" with "ballot  
39 summary" to conform to changes made by the act;  
40 providing for severability; providing an effective  
41 date.

42  
43 Be It Enacted by the Legislature of the State of Florida:

44  
45 Section 1. Subsection (3) of section 100.371, Florida  
46 Statutes, is amended to read:

47 100.371 Initiatives; procedure for placement on ballot.—

48 (3) An initiative petition form circulated for signature  
49 may not be bundled with or attached to any other petition. Each  
50 signature must ~~shall~~ be dated when made and shall be valid for a  
51 period of 30 months ~~4 years~~ following such date, provided all  
52 other requirements of law are met. The sponsor shall submit  
53 signed and dated forms to the appropriate supervisor of  
54 elections for verification as to the number of registered  
55 electors whose valid signatures appear thereon. The supervisor  
56 shall promptly verify the signatures within 30 days after ~~of~~  
57 receipt of the petition forms and payment of the fee required by  
58 s. 99.097. The supervisor shall promptly record, in the manner

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59 prescribed by the Secretary of State, the date each form is  
60 received by the supervisor, and the date the signature on the  
61 form is verified as valid. The supervisor may verify that the  
62 signature on a form is valid only if:

63 (a) The form contains the original signature of the  
64 purported elector.

65 (b) The purported elector has accurately recorded on the  
66 form the date on which he or she signed the form.

67 (c) The form accurately sets forth the purported elector's  
68 name, street address, county, and voter registration number or  
69 date of birth.

70 (d) The purported elector is, at the time he or she signs  
71 the form, a duly qualified and registered elector authorized to  
72 vote in the county in which his or her signature is submitted.

73  
74 The supervisor shall retain the signature forms for at least 1  
75 year following the election in which the issue appeared on the  
76 ballot or until the Division of Elections notifies the  
77 supervisors of elections that the committee which circulated the  
78 petition is no longer seeking to obtain ballot position.

79 Section 2. Section 100.372, Florida Statutes, is created to  
80 read:

81 100.372 Regulation of initiative petition circulators.-

82 (1) DEFINITIONS.-As used in this section, the term:

83 (a) "Initiative sponsor" means the political committee  
84 registered pursuant to s. 106.03 which has submitted the text of  
85 a proposed amendment to the State Constitution to the Secretary  
86 of State.

87 (b) "Petition circulator" means a person who, in the

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88 context of direct, face-to-face conversation, presents an  
89 initiative petition form to another person for their possible  
90 signature.

91 (c) "Paid petition circulator" means a petition circulator  
92 who, directly or indirectly, receives compensation for acting as  
93 a petition circulator.

94 (2) QUALIFICATIONS OF PAID PETITION CIRCULATORS.—

95 (a) A paid petition circulator must be at least 18 years of  
96 age and eligible to register to vote in this state pursuant to  
97 s. 97.041.

98 (b) A person may not act as a paid petition circulator for  
99 a period of 5 years following the date of a conviction of, or a  
100 plea of nolo contendere to, a criminal offense involving fraud,  
101 forgery, or identity theft in any jurisdiction.

102 (c) A person must carry identification while acting as a  
103 paid petition circulator.

104 (3) COMPENSATION OF PETITION CIRCULATORS.—A petition  
105 circulator may not receive compensation that is, directly or  
106 indirectly, based on the number of signatures he or she obtains  
107 on an initiative petition.

108 (4) INITIATIVE PETITION FORMS.—Every initiative petition  
109 form presented by a paid petition circulator to obtain another  
110 person's signature must legibly identify the name of the paid  
111 petition circulator.

112 (5) RESPONSIBILITIES OF INITIATIVE SPONSORS.—

113 (a) The sponsor of an initiative may not, directly or  
114 indirectly, employ a person as a paid petition circulator unless  
115 the person has signed an affidavit stating that the person has  
116 not been convicted of, or entered a plea of nolo contendere to,

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117 a criminal offense involving fraud, forgery, or identity theft  
118 in any jurisdiction in the preceding 5 years.

119 (b) The sponsor of an initiative must maintain the names,  
120 addresses, and affidavits of paid petition circulators for at  
121 least 4 years.

122 (c) The sponsor of an initiative may not, directly or  
123 indirectly, compensate a petition circulator based on the number  
124 of signatures the petition circulator obtains on an initiative  
125 petition.

126 (6) CRIMINAL PENALTIES.—A person who violates this section  
127 commits a misdemeanor of the first degree, punishable as  
128 provided in s. 775.082 or s. 775.083.

129 (7) RULEMAKING.—The Department of State may adopt rules to  
130 administer this section.

131 Section 3. Section 101.161, Florida Statutes, is amended to  
132 read:

133 101.161 Referenda; ballots.—

134 (1) (a) Whenever a constitutional amendment or other public  
135 measure is submitted to a ~~the~~ vote of the electors, the ballot  
136 shall contain a ballot summary and ballot title for the ~~people,~~  
137 ~~the substance of such~~ amendment or other public measure. The  
138 ballot summary shall provide an explanatory statement of the  
139 chief purpose of the measure ~~shall be printed~~ in clear and  
140 unambiguous language. The ballot summary ~~on the ballot after the~~  
141 list of candidates, followed by the word "yes" and also by the  
142 word "no," and shall be styled in such a manner that a "yes"  
143 vote will indicate approval of the proposal and a "no" vote will  
144 indicate rejection. The ballot title shall be a caption by which  
145 the measure is commonly known.

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146        (b) The ballot title and ballot summary for an ~~wording of~~  
147 ~~the substance of the~~ amendment or other public measure ~~and the~~  
148 ~~ballot title~~ to appear on the ballot shall be embodied in the  
149 joint resolution, constitutional revision commission proposal,  
150 constitutional convention proposal, taxation and budget reform  
151 commission proposal, or enabling resolution or ordinance.

152        (c) A ballot title may not exceed 15 words. Except for  
153 ballot summaries for amendments and ~~ballot language~~ proposed by  
154 joint resolution, the ballot summary for an ~~substance of the~~  
155 amendment or other public measure may not exceed ~~shall be an~~  
156 ~~explanatory statement, not exceeding~~ 75 words in length, ~~of the~~  
157 ~~chief purpose of the measure.~~ In addition, ~~for every amendment~~  
158 ~~proposed by initiative, the ballot shall include, following the~~  
159 ~~ballot summary, a separate financial impact statement concerning~~  
160 ~~the measure prepared by the Financial Impact Estimating~~  
161 ~~Conference in accordance with s. 100.371(5).~~

162        (d) A deficiency in the ballot title or ballot summary for  
163 an amendment to the State Constitution proposed by a joint  
164 resolution of the Legislature is not grounds for a court to  
165 order the removal of the proposed amendment from the ballot. If  
166 a court finds that the ballot title or ballot summary for the  
167 amendment is confusing, misleading, or otherwise deficient, the  
168 court shall specifically identify the confusing, misleading, or  
169 deficient wording in a written decision. In addition to pursuing  
170 other remedies or procedures to reverse the decision of the  
171 court, the Secretary of State shall revise the ballot title or  
172 ballot summary of the proposed amendment that was found by the  
173 court to be confusing, misleading, or deficient. The Secretary  
174 of State shall place the revised ballot title or ballot summary

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175 for the amendment on the ballot if the judicial decision is not  
176 reversed. The ballot title shall consist of a caption, not  
177 exceeding 15 words in length, by which the measure is commonly  
178 referred to or spoken of.

179 (2) (a) The substance and ballot title and ballot summary of  
180 a constitutional amendment proposed by initiative shall be  
181 prepared by the sponsor and approved by the Secretary of State  
182 in accordance with rules adopted pursuant to s. 120.54.

183 (b) For every amendment proposed by initiative, the ballot  
184 shall include, following the ballot summary, a separate  
185 financial impact statement concerning the measure prepared by  
186 the Financial Impact Estimating Conference in accordance with s.  
187 100.371(5).

188 (3) (a) The Department of State shall give each proposed  
189 constitutional amendment a designating number for convenient  
190 reference. This number designation shall appear on the ballot.  
191 Designating numbers shall be assigned in the order of filing or  
192 certification and in accordance with rules adopted by the  
193 Department of State. The Department of State shall furnish the  
194 designating number, the ballot title, and the ballot summary  
195 substance of each amendment to the supervisor of elections of  
196 each county in which such amendment is to be voted on.

197 (b) A proposed constitutional amendment or other public  
198 measure submitted to a vote of the electors shall be placed on  
199 the ballot after the list of candidates, followed by the word  
200 "yes" and also by the word "no." A "yes" vote will indicate  
201 approval of the proposal and a "no" vote will indicate  
202 rejection.

203 (4) ~~(3)~~ (a) For any general election in which the Secretary

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204 of State, for any circuit, or the supervisor of elections, for  
205 any county, has certified the ballot position for an initiative  
206 to change the method of selection of judges, the ballot for any  
207 circuit must contain the statement in paragraph (b) or paragraph  
208 (c) and the ballot for any county must contain the statement in  
209 paragraph (d) or paragraph (e).

210 (b) In any circuit where the initiative is to change the  
211 selection of circuit court judges to selection by merit  
212 selection and retention, the ballot shall state: "Shall the  
213 method of selecting circuit court judges in the ...(number of  
214 the circuit)... judicial circuit be changed from election by a  
215 vote of the people to selection by the judicial nominating  
216 commission and appointment by the Governor with subsequent terms  
217 determined by a retention vote of the people?" This statement  
218 must be followed by the word "yes" and also by the word "no."

219 (c) In any circuit where the initiative is to change the  
220 selection of circuit court judges to election by the voters, the  
221 ballot shall state: "Shall the method of selecting circuit court  
222 judges in the ...(number of the circuit)... judicial circuit be  
223 changed from selection by the judicial nominating commission and  
224 appointment by the Governor with subsequent terms determined by  
225 a retention vote of the people to election by a vote of the  
226 people?" This statement must be followed by the word "yes" and  
227 also by the word "no."

228 (d) In any county where the initiative is to change the  
229 selection of county court judges to merit selection and  
230 retention, the ballot shall state: "Shall the method of  
231 selecting county court judges in ...(name of county)... be  
232 changed from election by a vote of the people to selection by



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233 the judicial nominating commission and appointment by the  
234 Governor with subsequent terms determined by a retention vote of  
235 the people?" This statement must be followed by the word "yes"  
236 and also by the word "no."

237 (e) In any county where the initiative is to change the  
238 selection of county court judges to election by the voters, the  
239 ballot shall state: "Shall the method of selecting county court  
240 judges in ...(name of the county)... be changed from selection  
241 by the judicial nominating commission and appointment by the  
242 Governor with subsequent terms determined by a retention vote of  
243 the people to election by a vote of the people?" This statement  
244 must be followed by the word "yes" and also by the word "no."

245 Section 4. Section 104.185, Florida Statutes, is amended to  
246 read:

247 104.185 Offenses relating to petitions; ~~knowingly signing~~  
248 ~~more than once; signing another person's name or a fictitious~~  
249 ~~name.-~~

250 (1) A person who knowingly signs a petition or petitions  
251 for a candidate, a minor political party, or an issue more than  
252 one time commits a misdemeanor of the first degree, punishable  
253 as provided in s. 775.082 or s. 775.083.

254 (2) A person who signs another person's name or a  
255 fictitious name to any petition to secure ballot position for a  
256 candidate, a minor political party, or an issue commits a  
257 misdemeanor of the first degree, punishable as provided in s.  
258 775.082 or s. 775.083.

259 (3) A person who alters an initiative petition that has  
260 been signed by another person, without the other person's  
261 knowledge or consent, commits a misdemeanor of the first degree,

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262 punishable as provided in s. 775.082 or s. 775.083.

263 Section 5. Subsection (2) of section 15.21, Florida  
264 Statutes, is amended to read:

265 15.21 Initiative petitions; s. 3, Art. XI, State  
266 Constitution.—The Secretary of State shall immediately submit an  
267 initiative petition to the Attorney General and to the Financial  
268 Impact Estimating Conference if the sponsor has:

269 (2) Submitted the ballot title, ballot summary ~~substance~~,  
270 and text of the proposed revision or amendment to the Secretary  
271 of State pursuant to ss. 100.371 and 101.161; and

272 Section 6. Subsection (1) of section 16.061, Florida  
273 Statutes, is amended to read:

274 16.061 Initiative petitions.—

275 (1) The Attorney General shall, within 30 days after  
276 receipt of a proposed revision or amendment to the State  
277 Constitution by initiative petition from the Secretary of State,  
278 petition the Supreme Court, requesting an advisory opinion  
279 regarding the compliance of the text of the proposed amendment  
280 or revision with s. 3, Art. XI of the State Constitution and the  
281 compliance of the proposed ballot title and ballot summary  
282 ~~substance~~ with s. 101.161. The petition may enumerate any  
283 specific factual issues that the Attorney General believes would  
284 require a judicial determination.

285 Section 7. Paragraph (b) of subsection (4) of section  
286 1011.73, Florida Statutes, is amended to read:

287 1011.73 District millage elections.—

288 (4) FORM OF BALLOT.—

289 (b) The district school board shall provide ~~the wording of~~  
290 ~~the substance of the measure and the ballot title~~ and the ballot

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291 summary in the resolution calling for the election. The wording  
292 of the ballot must conform to the provisions of s. 101.161.

293 Section 8. If any provision of this act or its application  
294 to any person or circumstance is held invalid, the invalidity  
295 does not affect other provisions or applications of the act  
296 which can be given effect without the invalid provision or  
297 application, and to this end the provisions of this act are  
298 severable.

299 Section 9. This act shall take effect July 1, 2011.