

By the Committee on Rules; and 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 specifying a deadline to commence a legal challenge to
26 an amendment proposed by the Legislature to the State
27 Constitution; requiring the Attorney General to revise
28 the wording of the ballot title and ballot summary for
29 an amendment to the State Constitution proposed by the

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30 Legislature if the wording is found by a court to be
31 inaccurate, misleading, or otherwise defective and the
32 decision of the court is not reversed; requiring the
33 Department of State to furnish a designating number
34 and the revised ballot title and ballot summary to the
35 supervisors of elections for placement on the ballot;
36 providing that a defect in a ballot title or ballot
37 summary embodied in the joint resolution is not
38 grounds to remove the proposed amendment from the
39 ballot; making technical and grammatical changes;
40 amending s. 104.185, F.S.; subjecting a person to
41 criminal penalties for altering a signed initiative
42 petition without the knowledge and consent of the
43 person who signed the initiative petition; amending
44 ss. 15.21, 16.061, and 1011.73, F.S.; replacing the
45 term "substance" with "ballot summary" to conform to
46 changes made by the act; providing for severability;
47 providing an effective date.

48
49 Be It Enacted by the Legislature of the State of Florida:

50
51 Section 1. Subsection (3) of section 100.371, Florida
52 Statutes, is amended to read:

53 100.371 Initiatives; procedure for placement on ballot.—

54 (3) An initiative petition form circulated for signature
55 may not be bundled with or attached to any other petition. Each
56 signature must ~~shall~~ be dated when made and shall be valid for a
57 period of 30 months ~~4 years~~ following such date, provided all
58 other requirements of law are met. The sponsor shall submit

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59 signed and dated forms to the appropriate supervisor of
60 elections for verification as to the number of registered
61 electors whose valid signatures appear thereon. The supervisor
62 shall promptly verify the signatures within 30 days after ~~of~~
63 receipt of the petition forms and payment of the fee required by
64 s. 99.097. The supervisor shall promptly record, in the manner
65 prescribed by the Secretary of State, the date each form is
66 received by the supervisor, and the date the signature on the
67 form is verified as valid. The supervisor may verify that the
68 signature on a form is valid only if:

69 (a) The form contains the original signature of the
70 purported elector.

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

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

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

79
80 The supervisor shall retain the signature forms for at least 1
81 year following the election in which the issue appeared on the
82 ballot or until the Division of Elections notifies the
83 supervisors of elections that the committee which circulated the
84 petition is no longer seeking to obtain ballot position.

85 Section 2. Section 100.372, Florida Statutes, is created to
86 read:

87 100.372 Regulation of initiative petition circulators.-

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88 (1) DEFINITIONS.—As used in this section, the term:

89 (a) "Initiative sponsor" means the political committee
90 registered pursuant to s. 106.03 which has submitted the text of
91 a proposed amendment to the State Constitution to the Secretary
92 of State.

93 (b) "Petition circulator" means a person who, in the
94 context of direct, face-to-face conversation, presents an
95 initiative petition form to another person for their possible
96 signature.

97 (c) "Paid petition circulator" means a petition circulator
98 who, directly or indirectly, receives compensation for acting as
99 a petition circulator.

100 (2) QUALIFICATIONS OF PAID PETITION CIRCULATORS.—

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

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

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

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

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

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117 petition circulator.

118 (5) RESPONSIBILITIES OF INITIATIVE SPONSORS.—

119 (a) The sponsor of an initiative may not, directly or
120 indirectly, employ a person as a paid petition circulator unless
121 the person has signed an affidavit stating that the person has
122 not been convicted of, or entered a plea of nolo contendere to,
123 a criminal offense involving fraud, forgery, or identity theft
124 in any jurisdiction in the preceding 5 years.

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

128 (c) The sponsor of an initiative may not, directly or
129 indirectly, compensate a petition circulator based on the number
130 of signatures the petition circulator obtains on an initiative
131 petition.

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

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

137 Section 3. Section 101.161, Florida Statutes, is amended to
138 read:

139 101.161 Referenda; ballots.—

140 (1) (a) Whenever a constitutional amendment or other public
141 measure is submitted to a ~~the~~ vote of the electors, the ballot
142 shall contain a ballot summary and ballot title for the ~~people,~~
143 ~~the substance of such~~ amendment or other public measure. The
144 ballot summary shall provide an explanatory statement of the
145 chief purpose of the measure ~~shall be printed~~ in clear and

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146 unambiguous language. The ballot summary ~~on the ballot after the~~
147 ~~list of candidates, followed by the word "yes" and also by the~~
148 ~~word "no," and shall be styled in such a manner that a "yes"~~
149 ~~vote will indicate approval of the proposal and a "no" vote will~~
150 ~~indicate rejection. The ballot title shall be a caption by which~~
151 ~~the measure is commonly known.~~

152 (b) The ballot title and ballot summary for an ~~wording of~~
153 ~~the substance of the amendment or other public measure and the~~
154 ~~ballot title to appear on the ballot shall be embodied in the~~
155 ~~joint resolution, constitutional revision commission proposal,~~
156 ~~constitutional convention proposal, taxation and budget reform~~
157 ~~commission proposal, or enabling resolution or ordinance.~~

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

168 (d) Any action for a judicial determination that the ballot
169 title or ballot summary embodied in a joint resolution is
170 inaccurate, misleading, or otherwise defective must be commenced
171 within 30 days after the joint resolution is filed with the
172 Secretary of State or at least 150 days before the election at
173 which the amendment will appear on the ballot, whichever occurs
174 later. The court, including any appellate court, shall accord

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175 the case priority over other pending cases and render a decision
176 as expeditiously as possible. If the court determines that the
177 ballot title or ballot summary embodied in the joint resolution
178 is defective and further appeals are declined, abandoned, or
179 exhausted, the Attorney General shall promptly prepare a revised
180 ballot title and ballot summary to correct the deficiencies
181 identified by the court, and the Department of State shall
182 furnish a designating number and the revised ballot title and
183 ballot summary to the supervisors of elections for placement on
184 the ballot. The court shall have continuing jurisdiction to
185 correct any revisions by the Attorney General which are alleged
186 to be inaccurate, misleading, or defective. A defect in the
187 ballot title or ballot summary embodied in the joint resolution
188 is not grounds to remove the proposed amendment from the ballot.
189 ~~The ballot title shall consist of a caption, not exceeding 15~~
190 ~~words in length, by which the measure is commonly referred to or~~
191 ~~spoken of.~~

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

196 (b) For every amendment proposed by initiative, the ballot
197 shall include, following the ballot summary, a separate
198 financial impact statement concerning the measure prepared by
199 the Financial Impact Estimating Conference in accordance with s.
200 100.371(5).

201 (3) (a) The Department of State shall give each proposed
202 constitutional amendment a designating number for convenient
203 reference. This number designation shall appear on the ballot.

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204 Designating numbers shall be assigned in the order of filing or
205 certification and in accordance with rules adopted by the
206 Department of State. The Department of State shall furnish the
207 designating number, the ballot title, and the ballot summary
208 ~~substance~~ of each amendment to the supervisor of elections of
209 each county in which such amendment is to be voted on.

210 (b) A proposed constitutional amendment or other public
211 measure submitted to a vote of the electors shall be placed on
212 the ballot after the list of candidates, followed by the word
213 "yes" and also by the word "no." A "yes" vote will indicate
214 approval of the proposal and a "no" vote will indicate
215 rejection.

216 (4)~~(3)~~(a) For any general election in which the Secretary
217 of State, for any circuit, or the supervisor of elections, for
218 any county, has certified the ballot position for an initiative
219 to change the method of selection of judges, the ballot for any
220 circuit must contain the statement in paragraph (b) or paragraph
221 (c) and the ballot for any county must contain the statement in
222 paragraph (d) or paragraph (e).

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

232 (c) In any circuit where the initiative is to change the

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233 selection of circuit court judges to election by the voters, the
234 ballot shall state: "Shall the method of selecting circuit court
235 judges in the ...(number of the circuit)... judicial circuit be
236 changed from selection by the judicial nominating commission and
237 appointment by the Governor with subsequent terms determined by
238 a retention vote of the people to election by a vote of the
239 people?" This statement must be followed by the word "yes" and
240 also by the word "no."

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

250 (e) In any county where the initiative is to change the
251 selection of county court judges to election by the voters, the
252 ballot shall state: "Shall the method of selecting county court
253 judges in ...(name of the county)... be changed from selection
254 by the judicial nominating commission and appointment by the
255 Governor with subsequent terms determined by a retention vote of
256 the people to election by a vote of the people?" This statement
257 must be followed by the word "yes" and also by the word "no."

258 Section 4. Section 104.185, Florida Statutes, is amended to
259 read:

260 104.185 Offenses relating to petitions; ~~knowingly signing~~
261 ~~more than once; signing another person's name or a fictitious~~

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262 name.—

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

267 (2) A person who signs another person's name or a
268 fictitious name to any petition to secure ballot position for a
269 candidate, a minor political party, or an issue commits a
270 misdemeanor of the first degree, punishable as provided in s.
271 775.082 or s. 775.083.

272 (3) A person who alters an initiative petition that has
273 been signed by another person, without the other person's
274 knowledge or consent, commits a misdemeanor of the first degree,
275 punishable as provided in s. 775.082 or s. 775.083.

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

278 15.21 Initiative petitions; s. 3, Art. XI, State
279 Constitution.—The Secretary of State shall immediately submit an
280 initiative petition to the Attorney General and to the Financial
281 Impact Estimating Conference if the sponsor has:

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

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

287 16.061 Initiative petitions.—

288 (1) The Attorney General shall, within 30 days after
289 receipt of a proposed revision or amendment to the State
290 Constitution by initiative petition from the Secretary of State,

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291 petition the Supreme Court, requesting an advisory opinion
292 regarding the compliance of the text of the proposed amendment
293 or revision with s. 3, Art. XI of the State Constitution and the
294 compliance of the proposed ballot title and ballot summary
295 ~~substance~~ with s. 101.161. The petition may enumerate any
296 specific factual issues that the Attorney General believes would
297 require a judicial determination.

298 Section 7. Paragraph (b) of subsection (4) of section
299 1011.73, Florida Statutes, is amended to read:

300 1011.73 District millage elections.—

301 (4) FORM OF BALLOT.—

302 (b) The district school board shall provide ~~the wording of~~
303 ~~the substance of the measure and~~ the ballot title and the ballot
304 summary in the resolution calling for the election. The wording
305 of the ballot must conform to the provisions of s. 101.161.

306 Section 8. If any provision of this act or its application
307 to any person or circumstance is held invalid, the invalidity
308 does not affect other provisions or applications of the act
309 which can be given effect without the invalid provision or
310 application, and to this end the provisions of this act are
311 severable.

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