

The Florida Senate
PROFESSIONAL STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: Ethics and Elections Committee

BILL: SB 900

INTRODUCER: Senator Posey

SUBJECT: Initiative Petitions

DATE: March 6, 2007

REVISED: 03/08/07

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Rubinas	Rubinas	EE	Fav/4 amendments
2.			JU	
3.				
4.				
5.				
6.				

Please see last section for Summary of Amendments

- Technical amendments were recommended
- Amendments were recommended
- Significant amendments were recommended

I. Summary:

This bill imposes additional requirements on petition gathering to secure ballot position for an issue. The bill specifies what information must be presented to a supervisor of election in order for the petition to be valid. The bill also provides a means for revocation of previously signed petitions by electors which essentially mirrors the process by which the petition was initially secured. The bill requires paid petition circulators to provide additional information on the petition form and to wear a badge identifying themselves prominently as paid circulators.

The bill also provides that petitions are not valid unless they strictly comply with all requirements of law.

Petitions gathered prior to August 1, 2008, will be honored if compliant with the current requirements for validity.

This bill takes effect on August 1, 2008.

This bill amends section 100.371 of the Florida Statutes.

II. Present Situation:

During previous elections, numerous stories have appeared in newspapers concerning fraud in the petition process to place constitutional amendments on the ballot. Two petition gatherers were arrested in Santa Rosa County for over 40 counts each of uttering a forged document.¹ Several other elections supervisors found petitions signed with the names of dead voters.²

Petitions

Petitions signed by the requisite number of voters may be used to place an issue³ before the voters and for several other purposes.⁴ Most notably, petitions are used to secure ballot position for constitutional amendments proposed by citizen initiatives. Section 3, Art. XI, State Const., which authorizes citizen initiatives, states:

The power to propose the revision or amendment of any portion or portions of this constitution by initiative is reserved to the people, provided that, any such revision or amendment, except for those limiting the power of government to raise revenue, shall embrace but one subject and matter directly connected therewith. It may be invoked by filing with the custodian of state records a petition containing a copy of the proposed revision or amendment, signed by a number of electors in each of one half of the congressional districts of the state, and of the state as a whole, equal to eight percent of the votes cast in each of such districts respectively and in the state as a whole in the last preceding election in which presidential electors were chosen.

Accordingly, signatures equal to 8 percent of the votes cast in the last presidential election must be gathered to place a citizen initiative amendment on the ballot. “For the 2008 General Election Ballot, 611,009 signatures are required.”⁵

Citizen Initiative Petition Form

Rule 1S-2.009(2), F.A.C., provides that the format for a citizen initiative petition to propose a constitutional amendment must:

- a. [Be] printed on separate cards or individual sheets of paper. The minimum size of such forms shall be 3 inches by 5 inches and the maximum shall be 8 1/2 inches by 11 inches.

¹ See “Two Pace residents accused in voter scam,” Derek Pivnick, Pensacola News Journal, p. 1A, July 2, 2004.

² See “Names of the dead found on petitions,” Joni James and Lucy Morgan, St. Petersburg Times, September 28, 2004.

³ Under s. 106.011(7), F.S., the term “‘issue’ means any proposition which is required by the State Constitution, by law or resolution of the Legislature, or by the charter, ordinance, or resolution of any political subdivision of this state to be submitted to the electors for their approval or rejection at an election, or any proposition for which a petition is circulated in order to have such proposition placed on the ballot at any election.”

⁴ Petitions may be used to place an issue before the voters, for a candidate to qualify for office, to recall a local elected official, to change the method of the selection of trial court judges. See s. 3, Art. XI, State Const.; ss. 99.095, 100.371, 105.035, and 100.361, F.S.

⁵ Florida Department of State, Division of Elections, Initiative Petition Process: Congressional District Requirements, available at <http://election.dos.state.fl.us/initiatives/congres.shtml>.

- b. [Be] clearly and conspicuously entitled at the top of the form “Constitutional Amendment Petition Form.”
- c. Include[] adequate space for the signee’s name, legal residential street address, city, county, date of birth, signature, and date of signature.
- d. Contain[] the ballot title that shall not exceed 15 words and the ballot summary of the proposed amendment or other public measure that shall not exceed 75 words in length as prescribed in subsection (4).
- e. Conspicuously contain[] the full text of the amendment being proposed including the article and section being created or amended, preceded by a ballot title and ballot summary. If the text must be printed on both sides of the form, it shall be clearly indicated that the text is continued or begins on the other side.
- f. Contain[] space for only one elector’s signature. The Division [of Elections] will not approve petition forms providing for multiple signatures per page.
- g. [Be] marked, in accordance with s. 106.143, F.S., governing political disclaimers, with “paid political advertisement” or contain[] the abbreviation “pd. pol. adv.” and identify[] the name of the sponsoring political committee, and the name of the entity paying for the advertisement if different from the name of the sponsoring political committee.
- h. Contain[] space, in accordance with s. 106.19(3), F.S., for the name and address of a paid petition circulator, in the event the petition form is gathered by a paid petition circulator.

To verify a signature on a petition, a supervisor of elections must compare the signature with the voter’s signature in the registration books.⁶ If the signee lists an address that is different than his or her registered address, the petition is treated as if the registered address was listed.⁷ Additionally, a supervisor must:

ensure that each person signing [a] petition form is a registered elector in that county and that the date the elector signed the petition form is not more than four years prior to the date the Supervisor verified the petition. The Supervisor shall not verify a signature on an initiative petition form unless all of the following information is contained on the petition form:

- (a) The signee’s name,
- (b) The signee’s residential street address (including city and county),
- (c) The signee’s date of birth,
- (d) The signee’s signature, and
- (e) The date the elector signed the petition.⁸

Certification of Petitions

Upon completion of the verification . . . the Supervisors of Elections shall submit to the Division of Elections a certificate indicating the total number of signatures checked, the number of signatures verified, the number verified as registered

⁶ Section 99.097(3)(a), F.S.

⁷ Section 99.097(3)(b), F.S.

⁸ Rule 1S-2.0091(2), F.A.C.

electors and the distribution by congressional district. Each Supervisor of Elections shall promptly record each valid and verified petition in the statewide voter registration system no later than 5:00 p.m. on February 1 of the year in which the election is held.⁹

Revocation of Petitions

There is currently no statutory mechanism for a signed petition to be revoked by the elector initially signing a petition.

III. Effect of Proposed Changes:

This bill imposes additional requirements on petition gathering to secure ballot position for an issue and provides a method for revocation of petitions previously signed by an elector. The bill also provides that petitions are not valid unless they strictly comply with all requirements of law.

New Requirements for Petition Circulators

The bill requires paid and volunteer petition circulators to list their name and address on petition forms for ballot placement of an issue.

The bill also requires paid petition circulators to wear a prominent badge identifying themselves as paid petition circulators.

The requirements of s. 100.371, F.S., relating to initiative petitions are amended to:

- Provide that every signature on a petition must be dated by the elector when made;
- Require supervisors of elections to record the date each petition form was received by the supervisor and the date the signature on the form was verified and that the date on the petition form is not more than 20 days before the date the form is received by the supervisor of elections;
- Include the original signature, and voter registration number or date of birth of the purported elector;
- Include the name, street address, and county of the purported elector; and
- Require the purported elector to be a duly qualified and registered elector authorized to vote in the county in which the signature is submitted.

In addition, an elector's signature on a petition form may be revoked by submitting a signed petition revocation form adopted by rule for this purpose by the division of elections. The signature revocation process is subject to the same requirements prescribed for the gathering of signatures in support of an issue.

Petitions gathered prior to August 1, 2008, will be honored if compliant with the current requirements for validity.

⁹ Florida Department of State, *supra* note 6.

Effective Date

The bill takes effect on August 1, 2008.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

In *Buckley v. American Constitutional Law Foundation, Inc.*, the United States Supreme Court specifically did not address whether a requirement to wear badges that indicate whether the circulator is paid or a volunteer “would pass constitutional muster standing alone.” The Court opined, however, that requiring a badge that included personal identification information at the precise moment when the circulator’s interest in anonymity is greatest is injurious to free speech.¹⁰

In *Smith v. Coalition to Reduce Class Size*, the Florida Supreme Court stated:

“[i]n considering any legislative act or administrative rule which concerns the initiative amending process, we must be careful that the legislative statute or implementing rule is necessary for ballot integrity.”¹¹

V. Economic Impact and Fiscal Note:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

This bill will make citizen initiative petitions more susceptible to legal challenges.

¹⁰ *Buckley v. American Constitutional Law Foundation, Inc.*, 525 U.S. 182, 200 (1999). In its opinion, the Court reiterated several times that the arguments raised by the challengers to the statutory requirements only addressed the personal identification aspect of the badge—not the paid/volunteer status—and therefore the opinion was limited to the personal identification requirement, only.

¹¹ *Smith v. Coalition to Reduce Class Size*, 827 So. 2d 959, 963 (Fla. 2002) (quoting *State ex rel. Citizens Proposition for Tax Relief v. Firestone*, 386 So. 2d 561, 566 (Fla. 1980)).

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

VIII. Summary of Amendments:

Barcode 503858 by Ethics and Elections:

Requires the supervisor of elections to verify the petition signatures within 30 days after he or she receives the petition forms and payment of the fee required in section 99.097, F.S.

Barcode 110294 by Ethics and Elections:

Requires the supervisor verify the validity of petition signatures if received no more than 30 days after the petition is signed by the purported elector, rather than 20 days, and all other requirements are met.

Barcode 412360 by Ethics and Elections:

Provides that signatures gathered and submitted for verification by August 1, 2007, rather than August 1, 2008, will be subject to current law and requirements.

Barcode 914-546 by Ethics and Elections:

Provides a new effective date of August 1, 2007, rather than August 1, 2008.