

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

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

SPONSOR(S): Policy & Budget Council; 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>21 Y, 11 N, As CS</u>	<u>Martin</u>	<u>Hansen</u>
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

CS/HB 903 amends s. 100.371, F.S., to:

- reduce the time that a petition signature is valid from 4 years to two years;
- provide that the Secretary of State shall require certification of level 2 background screening for employees or contractors of initiative sponsors for the purpose of obtaining signatures on petition forms; and
- require that in order to be valid, a signature must be filed with the appropriate supervisor of elections within 60 days of being signed.

The bill is effective July 1, 2008.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government

The bill imposes new regulations on citizen initiatives by requiring certification of employees or contractors of initiative sponsors that have undergone background screening for the purpose of obtaining petition signatures.

B. EFFECT OF PROPOSED CHANGES:

Background

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.

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.

Section 100.371, F.S., provides that a petition signature is valid for a period of four years from the date signed. This circulation period is the longest of any other state in the United States by two years. Examples of signature validity periods for other states and the number of signatures required in those states are listed below:

- 64 days in Massachusetts – 66,000
- 90 days in Oklahoma – 139,000
- 150 days in California – 694,000
- 180 days in Michigan – 380,000
- 6 months in Washington – 225,000 (statutory initiative)
- 6 months in Colorado – 76,000
- 24 months in Illinois – 279,000
- 24 months in Arizona – 230,000

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 a 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.

In 2007, the Legislature also passed a bill (CS/SB 900) that would have required initiative sponsors to submit petition signatures within 30 days to the appropriate supervisor of elections. The bill, however, was vetoed by the Governor as unnecessarily restricting “the right of Florida citizens to propose amendments to the Florida Constitution”. Section 100.371, as amended by CS/HB 537 in 2007, now requires supervisors to verify petition signatures within 30 days of receipt. Also, because an elector may now revoke a petition within 150 days of signature, it is possible that an elector may submit a petition-revocation form on a petition *that has yet to be submitted by the initiative sponsor*. In order to eliminate this possibility and assist supervisors with management of their workload relative to verification of petitions, it makes sense to require initiative sponsors to submit their petitions within some reasonable period of time after being obtained.

Proposed Changes

CS/HB 903 amends s. 100.371, F.S., to:

- reduce the time that a petition signature is valid from four years to two years;
- provide that the Secretary of State shall require certification of level 2 background screening for employees or contractors of initiative sponsors for the purpose of obtaining signatures on petition forms; and

¹ Chapter 2007-231, Laws of Fla.

² Chapter 2007-30, Laws of Fla.

- require that in order to be valid, a signature must be filed with the appropriate supervisor of elections within 60 days of being signed.

Pursuant to s. 435.04, F.S., level 2 screening includes:

fingerprinting for all purposes and checks...statewide criminal and juvenile records checks through the Florida Department of Law Enforcement, and federal criminal records checks through the Federal Bureau of Investigation, and may include local criminal records checks through local law enforcement agencies.

The background investigation is designed to ensure that no persons subject to the provisions of s. 435.02, F.S., "have been found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, any offense prohibited" under a variety of state criminal provisions or under any similar statute of another jurisdiction. Those provisions are listed in detail in s. 435.02(2), F.S.

The bill is effective July 1, 2008.

C. SECTION DIRECTORY:

Section 1. Amends s. 100.371, F.S., to reduce the time that a petition signature is valid from four years to two years; provides that the Secretary of State shall require certification of level 2 background screening for employees or contractors of initiative sponsors for the purpose of obtaining signatures on petition forms; and requires that in order to be valid a signature must be filed with the appropriate supervisor of elections within 60 days of being signed.

Section 2. Provides a severability clause.

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

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Level 2 background screening costs \$42.25 for electronically submitted fingerprint cards, or \$53.25 for hard cards, per employee screened, according to the Florida Department of Law Enforcement.³ Such costs would be assumed by initiative sponsors.

D. FISCAL COMMENTS:

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:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The bill speaks to “employees or contractors of a sponsor”, but is not clear as to whether the level 2 background screening would apply only to paid petition circulators. Presumably, employees or contractors of a sponsor would be obtaining petition signatures for some type of compensation.

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.

³ http://www.fdle.state.fl.us/CriminalHistory/BackgroundChecks_FAQs_011808.pdf (last visited April 16, 2008)

On April 15, 2008, the Policy & Budget Council adopted a strike-all amendment that imposes significantly different requirements on the citizen initiative process from the original bill. CS/HB 903 amends s. 100.371, F.S., to:

- reduce the time that a petition signature is valid from 4 years to two years;
- provide that the Secretary of State shall require certification of level 2 background screening for employees or contractors of initiative sponsors for the purpose of obtaining signatures on petition forms; and
- require that in order to be valid, a signature must be filed with the appropriate supervisor of elections within 60 days of being signed.

The bill is effective July 1, 2008.