

SECOND REGULAR SESSION

[PERFECTED]

HOUSE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NO. 1869

96TH GENERAL ASSEMBLY

6051L.03P

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 116.010, 116.080, 116.090, 116.120, 116.160, 116.170, 116.175, 116.180, 116.190, 116.332, and 116.334, RSMo, and to enact in lieu thereof thirteen new sections relating to initiative and referendum petitions, with penalty provisions and an emergency clause for a certain section.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 116.010, 116.080, 116.090, 116.120, 116.160, 116.170, 116.175, 116.180, 116.190, 116.332, and 116.334, RSMo, are repealed and thirteen new sections enacted in lieu thereof, to be known as sections 116.010, 116.080, 116.090, 116.115, 116.120, 116.153, 116.160, 116.175, 116.180, 116.190, 116.332, 116.333, and 116.334, to read as follows:

116.010. As used in this chapter, unless the context otherwise indicates,

(1) "County" means any one of the several counties of this state or the city of St. Louis;

(2) "Election authority" means a county clerk or board of election commissioners, as established by section 115.015;

(3) "General election" means the first Tuesday after the first Monday in November in even-numbered years;

(4) "Official ballot title" means the summary statement, and **on statewide ballot measures proposed by the general assembly** the fiscal note summary prepared for all statewide ballot measures in accordance with the provisions of this chapter which shall be placed on the ballot and, when applicable, shall be the petition title for initiative or referendum petitions;

(5) "Statewide ballot measure" means a constitutional amendment submitted by initiative petition, the general assembly or a constitutional convention; a statutory measure submitted by

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

13 initiative or referendum petition; the question of holding a constitutional convention; and a
14 constitution proposed by a constitutional convention;

15 (6) "Voter" means a person registered to vote in accordance with section 115.151.

116.080. 1. Each petition circulator shall be at least eighteen years of age and registered
2 with the secretary of state. **No person shall qualify as a petition circulator who has been**
3 **convicted of, or found guilty of, or pled guilty to an offense involving forgery under the**
4 **laws of this state, or an offense under the laws of any other jurisdiction if that offense**
5 **would be considered forgery under the laws of this state.** Signatures collected by any
6 circulator who has not registered with the secretary of state pursuant to this chapter on or before
7 5:00 p.m. on the final day for filing petitions with the secretary of state shall not be counted.

8 2. Each petition circulator shall supply the following information to the secretary of
9 state's office:

10 (1) Name of petition;

11 (2) Name of circulator;

12 (3) Residential address, including street number, city, state and zip code;

13 (4) Mailing address, if different;

14 (5) Have you been or do you expect to be paid for soliciting signatures for this petition?

15 YES NO;

16 (6) If the answer to subdivision (5) is yes, then identify the payor;

17 (7) Signature of circulator.

18 3. The circulator information required in subsection 2 of this section shall be submitted
19 to the secretary of state's office with the following oath and affirmation:

20 I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL
21 STATEMENTS MADE BY ME ARE TRUE AND CORRECT, **THAT I HAVE NEVER**
22 **BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE**
23 **INVOLVING FORGERY.**

24 4. Each petition circulator shall subscribe and swear to the proper affidavit on each
25 petition page such circulator submits before a notary public commissioned in Missouri. When
26 notarizing a circulator's signature, a notary public shall sign his or her official signature and affix
27 his or her official seal to the affidavit only if the circulator personally appears before the notary
28 and subscribes and swears to the affidavit in his or her presence.

29 5. Any circulator who falsely swears to a circulator's affidavit knowing it to be false is
30 guilty of a class A misdemeanor punishable, notwithstanding the provisions of section 560.021
31 to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not
32 to exceed ten thousand dollars or both.

33 **6. Any person collecting signatures for an initiative or referendum petition shall**
34 **indicate whether such person is a compensated signature collector or an uncompensated**
35 **volunteer signature collector by prominently displaying a button or sign stating that such**
36 **person is either compensated or uncompensated for collecting signatures. Any violation**
37 **of this subsection shall be an infraction subject to a penalty of not less than one hundred**
38 **but not more than five hundred dollars.**

116.090. 1. Any person who **knowingly** signs any name other than his own to any
2 petition **with the intent to alter the outcome [, or] shall, upon conviction thereof, be guilty**
3 **of a class one election offense, as defined in section 115.631.**

4 **2. Any person** who knowingly signs his or her name more than once for the same
5 measure for the same election, or who knows he or she is not at the time of signing or circulating
6 the same a Missouri registered voter and a resident of this state, shall, upon conviction thereof,
7 be guilty of a class A misdemeanor punishable, notwithstanding the provisions of section
8 560.021 to the contrary, for a term of imprisonment not to exceed one year in the county jail or
9 a fine not to exceed ten thousand dollars or both. **Nothing in this section shall prohibit a**
10 **person from signing his or her name to a petition that he or she had previously signed as**
11 **a sponsoring signatory under section 116.333.**

12 [2.] **3.** Any person who knowingly accepts or offers money or anything of value to
13 another person in exchange for a signature on a petition is guilty of a class A misdemeanor
14 punishable, notwithstanding the provisions of section [560.021] **560.016** to the contrary, for a
15 term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten
16 thousand dollars or both.

116.115. Any person who submits a sample sheet to or files an initiative petition
2 **with the secretary of state may withdraw the petition upon written notice to the secretary**
3 **of state. If such notice is submitted to the secretary of state, the proposed petition shall no**
4 **longer be circulated by any person, committee, or other entity. The secretary of state shall**
5 **vacate the certification of the official ballot title within three days of receiving notice of**
6 **withdrawal.**

116.120. 1. When an initiative or referendum petition is submitted to the secretary of
2 state, he or she shall examine the petition to determine whether it complies with the Constitution
3 of Missouri and with this chapter. Signatures on petition pages that have been collected by any
4 person who is not properly registered with the secretary of state as a circulator shall not be
5 counted as valid. Signatures on petition pages that do not have the official ballot title affixed to
6 the page shall not be counted as valid. **Signatures previously verified on a proposed initiative**
7 **or referendum under section 116.333 shall not be included in the calculation under this**
8 **section for the purpose of verifying whether the petition contains the required number of**

9 **signatures.** The secretary of state may verify the signatures on the petition by use of random
10 sampling. The random sample of signatures to be verified shall be drawn in such a manner that
11 every signature properly filed with the secretary of state shall be given an equal opportunity to
12 be included in the sample. The process for establishing the random sample and determining the
13 statistically valid result shall be established by the secretary of state. Such a random sampling
14 shall include an examination of five percent of the signatures.

15 2. If the random sample verification establishes that the number of valid signatures is
16 less than ninety percent of the number of qualified voters needed to find the petition sufficient
17 in a congressional district, the petition shall be deemed to have failed to qualify in that district.
18 In finding a petition insufficient, the secretary of state does not need to verify all congressional
19 districts on each petition submitted if verification of only one or more districts establishes the
20 petition as insufficient.

21 3. If the random sample verification establishes that the number of valid signatures total
22 more than one hundred ten percent of the number of qualified voters needed to find the petition
23 sufficient in a congressional district, the petition shall be deemed to qualify in that district.

24 4. If the random sampling shows the number of valid signatures within a congressional
25 district is within ninety to one hundred ten percent of the number of signatures of qualified voters
26 needed to declare the petition sufficient in that district, the secretary of state shall order the
27 examination and verification of each signature filed.

**116.153. Within thirty days of issuing certification that the petition contains a
2 sufficient number of valid signatures pursuant to section 116.150, the joint committee on
3 legislative research shall hold a public hearing in Jefferson City to take public comment
4 concerning the proposed measure. Such hearing shall be a public meeting under chapter
5 610.**

116.160. 1. [If the general assembly adopts a joint resolution proposing a constitutional
2 amendment or a bill without a fiscal note summary, which is to be referred to a vote of the
3 people, after receipt of such resolution or bill the secretary of state shall promptly forward the
4 resolution or bill to the state auditor.] If the general assembly adopts a joint resolution proposing
5 a constitutional amendment or a bill without an official summary statement, which is to be
6 referred to a vote of the people, within twenty days after receipt of the resolution or bill, the
7 secretary of state shall prepare and transmit to the attorney general a summary statement of the
8 measure as the proposed summary statement. The secretary of state may seek the advice of the
9 legislator who introduced the constitutional amendment or bill and the speaker of the house or
10 the president pro tem of the legislative chamber that originated the measure. The summary
11 statement may be distinct from the legislative title of the proposed constitutional amendment or

12 bill. The attorney general shall within ten days approve the legal content and form of the
13 proposed statement.

14 2. The official summary statement shall contain no more than fifty words, excluding
15 articles. The title shall be a true and impartial statement of the purposes of the proposed measure
16 in language neither intentionally argumentative nor likely to create prejudice either for or against
17 the proposed measure.

116.175. 1. [Except as provided in section 116.155, upon receipt from the secretary of
2 state's office of any petition sample sheet, joint resolution or bill, the auditor shall assess the
3 fiscal impact of the proposed measure. The state auditor may consult with the state departments,
4 local government entities, the general assembly and others with knowledge pertinent to the cost
5 of the proposal.] Proponents or opponents of any proposed measure, **state departments and**
6 **local government entities** may submit to the **secretary of state** [auditor] a proposed statement
7 of fiscal impact [estimating the cost of the proposal in a manner consistent with the standards of
8 the governmental accounting standards board and section 23.140, provided that all such
9 proposals are received by the state auditor within ten days of his or her receipt of the proposed
10 measure from the secretary of state]. **Such statement of fiscal impact shall be filed within**
11 **twenty days of receipt of the sample sheet by the secretary of state. For purposes of this**
12 **section, “proponent” shall mean the person submitting the sample sheet with the secretary**
13 **of state or a committee which has filed a statement of committee organization with the**
14 **Missouri ethics commission designating it is in favor of the proposed ballot measure**
15 **pursuant to section 130.021.5(10), as long as such filing has occurred prior to submission**
16 **of the sample sheet with the secretary of state. For purposes of this section, “opponent”**
17 **shall mean a person or committee which has filed a statement of committee organization**
18 **with the Missouri ethics commission designating it is opposed to the proposed ballot**
19 **measure pursuant to section 130.021.5(10). No person or committee shall submit more than**
20 **one statement of fiscal impact for each initiative petition.**

21 2. The secretary of state shall post statements of fiscal impact received pursuant
22 to this section on the secretary of state’s website. However, no more than one statement
23 from one proponent shall be accepted or posted to the website by the secretary of state.
24 [Within twenty days of receipt of a petition sample sheet, joint resolution or bill from the
25 secretary of state, the state auditor shall prepare a fiscal note and a fiscal note summary for the
26 proposed measure and forward both to the attorney general.]

27 3. The **statement of fiscal impact** [note and fiscal note summary] shall state the
28 measure's estimated cost or savings, if any, to state or local governmental entities **and to**
29 **businesses in Missouri.** [The fiscal note summary shall contain no more than fifty words,

30 excluding articles, which shall summarize the fiscal note in language neither argumentative nor
31 likely to create prejudice either for or against the proposed measure.]

32 [4. The attorney general shall, within ten days of receipt of the fiscal note and the fiscal
33 note summary, approve the legal content and form of the fiscal note summary prepared by the
34 state auditor and shall forward notice of such approval to the state auditor.

35 5. If the attorney general or the circuit court of Cole County determines that the fiscal
36 note or the fiscal note summary does not satisfy the requirements of this section, the fiscal note
37 and the fiscal note summary shall be returned to the auditor for revision. A fiscal note or fiscal
38 note summary that does not satisfy the requirements of this section also shall not satisfy the
39 requirements of section 116.180.]

116.180. 1. Within three days after receiving the official summary statement the
2 approved fiscal note summary [and the fiscal note relating to any statewide ballot measure], the
3 secretary of state shall certify the official ballot title [in separate paragraphs with the fiscal note
4 summary immediately following the summary statement of the measure] and shall deliver a copy
5 of the official ballot title [and the fiscal note] to the speaker of the house or the president pro tem
6 of the legislative chamber that originated the measure or, in the case of initiative or referendum
7 petitions, to the person whose name and address are designated under section 116.332. Persons
8 circulating the petition shall affix the official ballot title to each page of the petition prior to
9 circulation and signatures shall not be counted if the official ballot title is not affixed to the page
10 containing such signatures.

11 **2. Signatures obtained prior to the date the official ballot title is certified by the**
12 **secretary of state shall not be counted.**

116.190. 1. Any citizen who wishes to challenge the official ballot title or the fiscal note
2 prepared for a proposed constitutional amendment **or statutory referendum** submitted by the
3 general assembly[,] **or the official ballot title prepared for a constitutional amendment**
4 **submitted** by initiative petition, or by constitutional convention, or for a statutory initiative [or
5 referendum measure], may bring an action in the circuit court of Cole County. The action must
6 be brought within ten days after the official ballot title is certified by the secretary of state in
7 accordance with the provisions of this chapter.

8 2. The secretary of state shall be named as a party defendant in any action challenging
9 the official ballot title prepared by the secretary of state. [When the action challenges the fiscal
10 note or the fiscal note summary prepared by the auditor, the state auditor shall also be named as
11 a party defendant.] The president pro tem of the senate, the speaker of the house and the sponsor
12 of the measure and the secretary of state shall be the named party defendants in any action
13 challenging the official summary statement, fiscal note or fiscal note summary prepared pursuant

14 to section 116.155. **“Proponents” as defined in section 116.175 have the right to intervene**
15 **as party defendants in any suit filed under this section.**

16 3. The petition shall state the reason or reasons why the summary statement portion of
17 the official ballot title is insufficient or unfair and shall request a different summary statement
18 portion of the official ballot title. [Alternatively,] **Additionally, in the case of a constitutional**
19 **amendment or statutory referendum submitted by the General Assembly,** the petition shall
20 state the reasons why the fiscal note or the fiscal note summary portion of the official ballot title
21 is insufficient or unfair and shall request a different fiscal note or fiscal note summary portion
22 of the official ballot title.

23 4. The action shall be placed at the top of the civil docket. Insofar as the action
24 challenges the summary statement portion of the official ballot title, the court shall consider the
25 petition, hear arguments, and in its decision certify the summary statement portion of the official
26 ballot title to the secretary of state. Insofar as the action challenges the fiscal note or the fiscal
27 note summary portion of the official ballot title **of a constitutional amendment or statutory**
28 **referendum submitted by the general assembly,** the court shall consider the petition, hear
29 arguments, and in its decision, either certify the fiscal note or the fiscal note summary portion
30 of the official ballot title to the secretary of state or remand the fiscal note or the fiscal note
31 summary to the **oversight division of the committee on legislative research** [auditor] for
32 preparation of a new fiscal note or fiscal note summary pursuant to the procedures set forth in
33 section **116.155** [116.175]. Any party to the suit may appeal to the supreme court within ten days
34 after a circuit court decision. In making the legal notice to election authorities under section
35 116.240, and for the purposes of section 116.180, the secretary of state shall certify the language
36 which the court certifies to him.

37 **5. Any person bringing an action pursuant to this section shall take all necessary**
38 **actions to have such action presented for dispositive resolution within 120 days of filing of**
39 **such action. Such action shall be dismissed with prejudice for failure to prosecute unless**
40 **the circuit court of Cole County enters an order expressly stating that the sole cause for**
41 **delay was the court’s unavailability. Any person whose action is dismissed for failure to**
42 **prosecute pursuant to this section shall be assessed all costs of defense, including attorney**
43 **fees incurred in defending such action.**

116.332. 1. Before a constitutional amendment petition, a statutory initiative petition,
2 or a referendum petition may be circulated for signatures, **with the exception of sponsoring**
3 **signatures under section 116.333,** a sample sheet must be submitted to the secretary of state
4 in the form in which it will be circulated. When a person submits a sample sheet of a petition
5 he or she shall designate to the secretary of state the name and address of the person to whom
6 any notices shall be sent pursuant to sections 116.140 and 116.180 **and submit a copy of the**

7 **filed statement of committee organization required under subsection 5 of section 130.021**
8 **showing the date the statement was filed.** The secretary of state shall refer a copy of the
9 petition sheet to the attorney general for his approval and to the state auditor for purposes of
10 preparing a fiscal note and fiscal note summary. The secretary of state and attorney general must
11 each review the petition for sufficiency as to form and approve or reject the form of the petition,
12 stating the reasons for rejection, if any.

13 **2. Within two days of receipt of any such sample sheet, the secretary of state shall**
14 **conspicuously post the text of the proposed measure on its website, a disclaimer stating that**
15 **such text may not constitute the full and correct text as required under section 116.050, and**
16 **the name of the person or organization submitting the sample sheet. The posting shall be**
17 **removed within three days of either the withdraw of a petition under section 116.115 or**
18 **when a petition is rejected for any reason. The secretary of state's failure to comply with**
19 **this section shall be considered a violation under subsection 3 of section 610.027.**

20 **3.** Upon receipt of a petition from the office of the secretary of state, the attorney general
21 shall examine the petition as to form. If the petition is rejected as to form, the attorney general
22 shall forward his or her comments to the secretary of state within ten days after receipt of the
23 petition by the attorney general. If the petition is approved as to form, the attorney general shall
24 forward his or her approval as to form to the secretary of state within ten days after receipt of the
25 petition by the attorney general.

26 [3.] **4.** The secretary of state shall review the comments and statements of the attorney
27 general as to form and make a final decision as to the approval or rejection of the form of the
28 petition. The secretary of state shall send written notice to the person who submitted the petition
29 sheet of the approval within [thirty] **fifteen** days after submission of the petition sheet. The
30 secretary of state shall send written notice if the petition has been rejected, together with reasons
31 for rejection, within [thirty] **fifteen** days after submission of the petition sheet.

116.333. 1. Persons submitting a sample sheet under section 116.332 shall also
2 **submit, with the sample sheet, at least one thousand but no more than two thousand**
3 **sponsoring signatures of registered voters of the state in support of the initiative. If such**
4 **person fails to submit sponsoring signatures pursuant to the provisions of this section, the**
5 **secretary of state shall send notice that the petition has been rejected.**

6 **2. For the purposes of this section:**

7 **(1) Sponsoring signatures shall be gathered and submitted on pages in the form**
8 **that shall be submitted for approval by the secretary of state under sections 116.040 and**
9 **116.332, except that each signature page shall contain the following statement:**
10

11 **We, the undersigned, registered voters of the state of Missouri and
12 County (or city of St. Louis), respectfully request that the following
13 proposed law (or amendment to the constitution) shall be submitted to the
14 Secretary of State for certification of an Official Ballot Title, and each for
15 himself or herself says: I have personally signed this petition; I am a
16 registered voter of the state of Missouri and County (or city of St.
17 Louis); my registered voting address and the name of the city, town or
18 village in which I live are correctly written after my name.**

19

20 **(2) Each petition page shall contain sponsoring signatures of voters from only one
21 county, which shall be designated in the upper right-hand corner of the page. All pages
22 shall be submitted at one time and shall be in order and numbered sequentially by county.
23 Sponsoring signatures on pages that do not comply with these requirements shall not be
24 counted as valid.**

25 **(3) Each person gathering sponsoring signatures shall meet the requirements of
26 section 116.080 except that signatures collected by any circulator who has not registered
27 with the secretary of state pursuant to section 116.080 on or before 5:00 p.m. on the day
28 the sponsoring signatures are submitted to the secretary of state shall not be counted.**

29 **3. Within five days of receipt of sponsoring signature pages under this section, the
30 secretary of state may send copies of the pages to election authorities to verify that the
31 persons whose names are listed as sponsoring signers to the petition are registered voters.
32 Such verification may either be of each signature or by random sampling as provided in
33 section 116.120, as the secretary shall direct. Each election authority shall check the
34 signatures against voter registration records in the election authority's jurisdiction
35 pursuant to the rules adopted by the secretary of state under subsection 5 of section
36 116.130.**

37 **4. Such verification shall be completed and certified to the secretary of state not
38 later than fifteen days from the date the election authority receives the sponsoring
39 signature pages.**

116.334. 1. If the petition form is approved[,] and at least one thousand sponsoring
2 **signatures are verified as registered voters, within three days of the receipt of such
3 certification, the secretary of state shall notify the person who submitted the sponsoring
4 signatures, make a copy of the sample petition and make such initial certification and the
5 date of such initial certification available on the secretary of state's website. For a period
6 of fifteen days after the petition is initially certified, the secretary of state shall accept
7 public comments regarding the proposed measure and provide copies of such comments**

8 **upon request.** Within [ten] **twenty-three** days of receipt of such initial certification, the
9 **secretary of state shall** prepare and transmit to the attorney general a summary statement of the
10 measure which shall be a concise statement not exceeding one hundred words. This statement
11 shall be in the form of a question using language neither intentionally argumentative nor likely
12 to create prejudice either for or against the proposed measure. The attorney general shall within
13 ten days approve the legal content and form of the proposed statement.

14 2. [Signatures obtained prior to the date the official ballot title is certified by the
15 secretary of state shall not be counted] **If the election authority certifies that less than one**
16 **thousand sponsoring signatures have been verified as registered voters, within three days**
17 **of receipt of the certification from the election authority, the secretary of state shall notify**
18 **the person who submitted the signatures that the petition has been rejected.**

Section B. The provisions of this act are severable. If any provision of this act is found
2 by a court of competent jurisdiction to be unconstitutional, the remaining provisions are valid
3 except to the extent that the court finds the valid provisions, standing alone, are incomplete and
4 are incapable of being executed in accordance with the will of the people.

Section C. Because of the need to ensure proper vetting of initiative and referendum
2 petitions prior to circulation, the enactment of section 116.153 of this act is deemed necessary
3 for the immediate preservation of the public health, welfare, peace and safety, and is hereby
4 declared to be an emergency act within the meaning of the constitution, and the enactment of
5 section 116.153 of this act shall be in full force and effect upon its passage and approval.

[116.170. If the general assembly adopts a joint resolution proposing a
2 constitutional amendment or a bill without a fiscal note summary, which is to be
3 referred to a vote of the people, the state auditor shall, within thirty days of
4 delivery to the auditor, prepare and file with the secretary of state a fiscal note
5 and a fiscal note summary for the proposed measure in accordance with the
6 provisions of section 116.175.]

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