

HCS HB 856 -- INITIATIVE AND REFERENDUM PETITIONS

SPONSOR: Dugger

COMMITTEE ACTION: Voted "do pass" by the Committee on Elections by a vote of 10 to 0.

This substitute changes the laws regarding initiative and referendum petitions. In its main provisions, the substitute:

- (1) Defines the term "day" as it applies to initiative and referendum petitions as a calendar day including weekends and holidays;
- (2) Specifies that no mistake, error, or omission by a party other than a person signing a petition, anyone involved in the gathering of signatures for and the filing of a petition, or any government official or employee can invalidate the signature of any person signing a petition as long as the person's intent in signing the petition is reasonably clear;
- (3) Specifies that all statewide ballot measures proposed by an initiative petition must be submitted to the voters by official ballot title at the next general election or at a special election called by the Governor;
- (4) Requires each page of a petition to include an affidavit which the petition circulator must sign specifying that he or she is at least 18 years of age and whether he or she is being paid for circulating the petition. Currently, a circulator must register with the Secretary of State and sign an affidavit with this information prior to collecting signatures on a petition;
- (5) Allows the proponent of a petition to reserve an area in the upper left-hand corner of each signature page for the use of clerical notations;
- (6) Specifies that the text of a petition must include all matter that is to be repealed, which must be enclosed in brackets or in a strike-through font, and all sections of existing law which would be explicitly repealed by the measure;
- (7) Allows the proponent of a petition to provide proof of the voter's registration within 30 days of the issuance of the certificate of sufficiency or insufficiency by the Secretary of State;
- (8) Creates the crime of intentional misrepresentation of a petition if a person knowingly and fraudulently gathers signatures by causing a voter to sign a petition other than the

one the voter intended to sign or by forging or falsifying signatures and the crime of malicious obstruction of the signing of a petition if a person attempts to or maliciously intimidates, obstructs, or otherwise prevents a voter from signing a petition. Anyone who commits one of these crimes will be guilty of a misdemeanor punishable by a fine of up to \$10,000, imprisonment for up to one year, or both;

(9) Requires the Secretary of State to accept properly submitted file folders of signature pages that are in substantial compliance with the law;

(10) Removes the provision which specifies that if the Attorney General or the circuit court of Cole County determines that the fiscal note or its summary does not satisfy state requirements, it must be returned to the State Auditor for revision allowing a court to change a fiscal note summary in the same manner as a summary statement. The accuracy of a fiscal note may still be challenged in a court of appeals and the Missouri Supreme Court;

(11) Specifies that a change to the official ballot title from an action brought later than 10 days after the ballot title is certified by the Secretary of State will have no effect on the validity of signatures collected on petition sheets that contain the original official ballot title;

(12) Specifies that a petition proponent must be allowed to intervene in a ballot title challenge case;

(13) Specifies that if an action challenging a ballot title or fiscal note for an initiative petition is substantially the same as a previous lawsuit by the same proponent, the court opinions, the Secretary of State's certification of the title, and the State Auditor's fiscal note from the previous case must be included with the plaintiff's petition;

(14) Requires a ballot title challenge to be made within 55 days of the original certification by the Secretary of State;

(15) Establishes time limits for the adjudication of a ballot title challenge. The circuit court must rule within 55 days, and any party to the suit may appeal within 10 days after a circuit court's decision. The court of appeals must render a decision within 30 days of the filing of an appeal, and any party to the suit may appeal to the Missouri Supreme Court within 10 days of the appeals court's decision. The Missouri Supreme Court must render a decision within 30 days of the filing of an appeal;

(16) Requires the Secretary of State to refer a copy of a sample petition sheet to the Attorney General and the State Auditor

within two business days of the submission of the petition for the Attorney General's approval and the State Auditor's preparation of a fiscal note and fiscal note summary; and

(17) Requires the Secretary of State to send notice of approval within 15 days after the submission of a petition sheet instead of the current 30 days.

FISCAL NOTE: Estimated Net Effect on General Revenue Fund of an income of \$0 in FY 2012, a cost of \$103,215 up to \$1,188,354 in FY 2013, and an income of \$0 in FY 2014. No impact on Other State Funds in FY 2012, FY 2013, and FY 201.

PROPOSERS: Supporters say that the bill will make the petition process more fair and efficient. Time limitations will allow proponents to collect signatures and allow for adjudication of ballot measure issues in a reasonable manner. The bill will prevent interference with the petition process.

Testifying for the bill were Representative Dugger; Ron Calzone; and Ed Emery.

OPPOSERS: Those who oppose the bill say that it may allow for errors in the petition process because signatures must be counted without regard to proper ballot language or various procedural mistakes. The initiative process often results in errors and problematic laws that must be corrected by the legislature. It is better to resolve the issues with ballot language early in the process.

Testifying against the bill were Missouri Restaurant Association; and Missouri National Education Association.

OTHERS: Others testifying on the bill say that many of the bill's changes merely codify court rulings. The collection of petition signatures involves a significant amount of time. Election authorities may not be able to comply with the time limitations in the bill or properly check signatures and print ballots.

Testifying on the bill was Office of the Secretary of State.