

AMENDED IN ASSEMBLY APRIL 16, 2013

AMENDED IN ASSEMBLY MARCH 21, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 857

Introduced by Assembly Member Fong

February 21, 2013

An act to amend Sections 9012, 9021, 9022, 9030, ~~and 9031~~ 9031, 18601, and 18602 of, and to add Sections 9009.5 ~~and~~, 9009.6, 9036, 9037, 9038, and 9039 to, the Elections Code, relating to elections.

LEGISLATIVE COUNSEL'S DIGEST

AB 857, as amended, Fong. Initiatives: petition circulators.

(1) The California Constitution and existing statutory law provide for the electors to propose statutes or amendments to the Constitution by initiative. Existing law authorizes a person who is a voter or who is qualified to register to vote in California to circulate an initiative or referendum petition anywhere within the state, and requires the person soliciting signatures to declare under penalty of perjury that he or she is a voter or is qualified to register to vote in the state.

This bill would delete the provisions providing that a person who is a voter or is qualified to vote in California is authorized to solicit signatures on an initiative or referendum petition, and requiring that person to declare under penalty of perjury that he or she is a voter or is qualified to register to vote in the state.

(2) Existing law requires local elections officials to perform various duties with respect to statewide initiative petitions, including determining the total number of signatures affixed to the petitions, transmitting that information to the Secretary of State, and performing

a random sampling technique for verification of signatures on specified petitions. Once an initiative measure is certified to have been signed by a specified number of voters, existing law provides that a petition setting forth the text of the proposed statute or amendment to the Constitution may be presented to the Secretary of State.

This bill would require at least 20% of the signatures on a petition for an initiative measure, and at least 20% of the signatures used to verify the qualification of an initiative measure, *measure* to be collected and submitted by persons who qualify as *on a petition or petition section that was circulated* by a person who does not receive money or other valuable consideration for the specific purpose of ~~obtaining~~ *soliciting* signatures of electors, and would require those persons to sign an affidavit under penalty of perjury, as specified. The bill would require an elections official who determines the total number of signatures affixed to a petition and an elections official or registrar of voters who verifies signatures on petitions to also determine the total number of signatures collected and submitted by persons who qualify as a person ~~who does~~ *who do* not receive money or other valuable consideration for the specific purpose of ~~obtaining~~ *soliciting* signatures of electors, as specified. ~~The bill would include specified findings and declarations of the Legislature in support of these policies.~~

This bill would prohibit a person from paying money or other valuable consideration to another person for soliciting signatures of electors on an initiative or referendum petition, and would prohibit a person from receiving money or other valuable consideration for soliciting signatures of electors on an initiative or referendum petition, unless the person soliciting signatures registers with the Secretary of State and completes a training program, as specified. The bill would require the Secretary of State to adopt regulations establishing registration procedures and establishing a training program, as specified. The bill also would require a proponent of an initiative or referendum petition who pays any person to solicit signatures of electors on the petition to keep detailed accounts, as defined, and would require the Secretary of State to regularly review the accounts. The bill would include specified findings and declarations of the Legislature in support of these policies.

(3) Existing law requires every proposed initiative measure, prior to circulation, to include on the petition, among other things, the circulating title and summary prepared by the Attorney General and a heading for the initiative measure, as specified. Existing law also requires a petition

for a proposed initiative or referendum measure to be presented in sections, as specified.

This bill would additionally require a petition for a proposed initiative measure that is circulated by persons who do not receive money or other valuable consideration for the specific purpose of obtaining signatures of electors to be printed on white paper in a contrasting color ink. The bill also would require a petition for a proposed initiative measure that is circulated by persons who do receive money or other valuable consideration for the specific purpose of obtaining signatures of electors to be printed on bright yellow paper in a contrasting color ink. The bill also would require each section of a petition for a proposed initiative measure to bear a unique identifying number.

(4) Under existing law, an initiative petition must contain specified language advising the public of its right to ask whether the person circulating the petition is a paid signature gatherer or a volunteer.

This bill would instead require a statewide initiative, referendum, or recall petition to include specified disclosures notifying the public that the petition circulator is receiving money or other valuable consideration for the specific purpose of soliciting signatures of electors, as specified.

(5) Existing law provides that a person who engages in specified conduct in connection with the collection of signatures on any state or local initiative, referendum or recall petition is guilty of a misdemeanor.

This bill would require a statewide initiative or referendum petition section to be deemed invalid and would prohibit an elections official from using the petition section for the purpose of determining if the initiative or referendum measure qualifies for the ballot if the signatures are solicited and submitted by a person who engages in fraud, misrepresentation, or any of the specified conduct for which he or she may be found guilty of a misdemeanor. The bill would authorize the Secretary of State or any elector to enforce this provision by a civil action in which the plaintiff has the burden of showing a violation by clear and convincing evidence.

The bill would provide that the provisions of this act take effect January 1, 2014, and apply to any initiative or referendum petition for which the Attorney General issued a circulating title and summary on or after October 1, 2013.

~~(4)~~

(6) Because this bill would impose new requirements on local elections officials relative to calculating and verifying signatures on a petition, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
 State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. (a) The Legislature finds and declares all of the
 2 following:
 3 (1) The power of the initiative is a fundamental right reserved
 4 for the voters of California and must be protected as a means of
 5 governing through direct democracy.
 6 (2) The voters amended the California Constitution to reserve
 7 for themselves the power of the initiative because ~~powerful,~~
 8 ~~out-of-state~~ *financially powerful* interests, including railroad
 9 companies, exercised a corrupting influence over state politics.
 10 (3) The purpose of reserving the initiative power was to provide
 11 individuals, communities, and coalitions a means to protect the
 12 general interests of the State of California.
 13 (4) For the past 30 years, a disturbing trend in the state’s political
 14 process has undermined the original intent of the initiative power.
 15 Whereas the initiative was reserved by the voters for the purpose
 16 of allowing ~~volunteers and grassroots organizations~~ *voters* to
 17 participate in direct democracy, *now the integrity of* the initiative
 18 process has been corrupted by well financed special interests.
 19 (5) Whether an initiative measure qualifies for the ballot no
 20 longer depends upon how much the state’s voters truly support the
 21 proposed law but, rather, depends upon how much money a
 22 proponent is willing to spend to place the proposal on the ballot.
 23 *Thus, the presence of an initiative measure on the ballot is no*
 24 *longer viewed as an expression of a minimum amount of public*
 25 *support but, rather, the willingness of a special interest to pay a*

1 *sufficient number of petition circulators to use whatever means*
2 *necessary to qualify the initiative measure for the ballot.*

3 (6) Whereas initiative petitions were originally circulated by
4 volunteer and grassroots organizations, the demonstration of
5 community support for an initiative petition has given way to paid
6 circulators who work at the behest of well-funded individuals and
7 organizations.

8 ~~(7) In~~ organizations. In many cases, the individuals and
9 organizations supporting an initiative petition do not reside in the
10 state and will not be subject to the laws that they propose.

11 (7) *Due to the prevalence of paid circulators, the statewide*
12 *election ballot is increasingly cluttered with initiative measures*
13 *that do not have enough public support to justify the expenses of*
14 *administering the election for those particular proposals.*
15 *Additionally, voters have been overwhelmed by the number and*
16 *complexity of the proposals.*

17 (8) The prevalence of paid circulators has *also* led to instances
18 of fraud and misrepresentation, and the erosion of public
19 confidence in the initiative process. The most popular means of
20 paying petition circulators is based on the number of signatures a
21 person collects. Under a payment-per-signature arrangement, a
22 paid circulator has no incentive to educate voters about an initiative
23 petition but, instead, is motivated solely to gather as many
24 signatures as possible. In their quest for economic gain, paid
25 circulators often purposefully mislead voters and leave the public
26 in the dark about the true content of initiative petitions.

27 ~~(9) The~~ *Because the* use of paid circulators has been associated
28 with coercive and misleading tactics to collect signatures from the
29 public. As a result, *signatures*, the public is dissatisfied with the
30 initiative process.

31 ~~(10) The~~ presence of an initiative measure on the ballot is no
32 longer viewed as an expression of a minimum amount of public
33 support but, rather, the willingness of a special interest to pay a
34 sufficient number of petition circulators to use whatever means
35 necessary to qualify the initiative measure for the ballot.

36 ~~(11) The~~ statewide election ballot is increasingly cluttered with
37 initiative measures that do not have enough public support to justify
38 the expenses of administering the election for those particular
39 proposals. Additionally, voters have been overwhelmed by the
40 number and complexity of the proposals.

1 ~~(12)~~
 2 (10) The Legislature is responsible for providing the manner in
 3 which initiative petitions are circulated, presented, and certified.
 4 Consistent with this constitutional duty, the Legislature must
 5 provide for laws that are consistent with the original intent of the
 6 voters in reserving the power of the initiative; protect the integrity
 7 of the initiative process; and prevent the occurrence of fraud and
 8 misrepresentation in the circulation, presentation, and certification
 9 of initiative petitions.

10 (b) Therefore, it is the intent of the Legislature to do all of the
 11 following:

12 (1) Preserve and protect the integrity of California’s initiative
 13 process.

14 (2) Ensure that initiative petitions have sufficient grassroots
 15 support *from informed voters* to be placed on the ballot.

16 (3) Protect access to the initiative process and preserve the
 17 constitutional right of voters in California to engage in direct
 18 democracy.

19 SEC. 2. Section 9009.5 is added to the Elections Code, to read:

20 9009.5. (a) A petition for a proposed initiative measure that
 21 is circulated by a person who does not receive money or other
 22 valuable consideration for the specific purpose of ~~obtaining~~
 23 *soliciting* signatures of electors, ~~as described in subdivision (c)~~
 24 ~~of for purposes of~~ Section 9036, shall be printed on white paper
 25 in a contrasting color ink.

26 (b) A petition for a proposed initiative measure that is circulated
 27 by a person who receives money or other valuable consideration
 28 for the specific purpose of ~~obtaining~~ *soliciting* signatures of electors
 29 shall be printed on bright yellow paper in a contrasting color ink.

30 SEC. 3. Section 9009.6 is added to the Elections Code, to read:

31 9009.6. (a) *Notwithstanding any other provision of law, a*
 32 *petition for a proposed initiative measure that is circulated by a*
 33 *person who receives money or other valuable consideration for*
 34 *the specific purpose of soliciting signatures of electors shall include*
 35 *all of the following:*

36 (1) *Immediately prior to the portion of the petition for voters’*
 37 *signatures, printed names, and residence addresses, the following*
 38 *language shall be printed in 18-point boldface type:*

39 **“WARNING TO THE PUBLIC: THIS PETITION IS BEING**
 40 **CIRCULATED BY A PERSON PAID TO OBTAIN YOUR**

1 SIGNATURE. READ THE CONTENTS OF THIS PETITION
2 BEFORE SIGNING.”

3 (2) Immediately following the language required by paragraph
4 (1) shall be printed a disclosure statement, in 14-point boldface
5 type, that includes the following language:

6 “The political committee paying for this petition to be circulated
7 is (insert full name of committee as registered with the Secretary
8 of State pursuant to Section 84101 of the Government Code).

9 The following donors have contributed \$50,000 or more to the
10 (insert full name of committee as registered with the Secretary of
11 State pursuant to Section 84101 of the Government Code) within
12 six months of the printing of this petition: (insert name of each of
13 the top three donors who have contributed \$50,000 or more and,
14 if an individual, his or her occupation and the identity of his or
15 her employer).”

16 (b) If the information for the disclosure statement described in
17 paragraph (2) of subdivision (a) changes, the disclosure statement
18 on the petition shall be updated within 14 days.

19 ~~SEC. 3.~~

20 SEC. 4. Section 9012 of the Elections Code is amended to read:

21 9012. (a) A petition for a proposed initiative or referendum
22 measure may be presented in sections, but each section shall
23 contain a full and correct copy of the circulating title and summary
24 and text of the proposed measure.

25 (b) Each section of a petition for a proposed initiative measure
26 shall bear a unique identifying number.

27 (c) The text of the proposed initiative or referendum measure
28 shall be printed in type not smaller than 8 point.

29 ~~SEC. 4.~~

30 SEC. 5. Section 9021 of the Elections Code is amended to read:

31 9021. Each section of a petition for a proposed initiative or
32 referendum measure shall bear the name of a county or city and
33 county, and only qualified registered voters of that county or city
34 and county may sign that section. The circulator may sign the
35 section he or she is circulating as provided in Section 106.

36 ~~SEC. 5.~~

37 SEC. 6. Section 9022 of the Elections Code is amended to read:

38 9022. (a) Each section of a petition for a proposed initiative
39 or referendum measure shall have attached thereto the declaration

1 of the person soliciting the signatures setting forth the information
2 required by Section 104.

3 (b) A person who ~~qualifies to collect~~ *solicits* and ~~submit~~ *submits*
4 signatures for a proposed initiative measure and ~~who is a person~~
5 ~~who~~ does not receive money or other valuable consideration for
6 the specific purpose of ~~obtaining~~ *soliciting* signatures of electors
7 ~~within the meaning of subdivision (c) of Section 9036~~ shall sign
8 an affidavit that is prepared by the Secretary of State and that
9 declares all of the following:

10 (1) The person ~~is a person who~~ does not receive money or other
11 valuable consideration for ~~the specific purpose of obtaining~~
12 *soliciting* signatures of electors ~~within the meaning of subdivision~~
13 ~~(c) of Section 9036.~~

14 (2) To the best of his or her knowledge, the signatures on the
15 petition sections circulated by him or her should be counted
16 towards the ~~requirements~~ *requirement* set forth in ~~subdivisions (a)~~
17 ~~and (b)~~ *subdivision (a)* of Section 9036.

18 (3) The person's current place of permanent residence.

19 (4) If the person is not a resident of the state, he or she consents
20 to both of the following:

21 (A) The jurisdiction of the state for purposes of an investigation
22 or prosecution by any state or local agency regarding the validity
23 of the signatures submitted by him or her.

24 (B) Service of process for any legal action pertaining to an
25 investigation or prosecution by any state or local agency regarding
26 the validity of the signatures submitted by him or her.

27 (c) The circulator shall certify to the content of the declaration
28 as to its truth and correctness, under penalty of perjury under the
29 laws of the State of California, with ~~the his or her signature of his~~
30 ~~or her name~~. The circulator shall state the date and the place of
31 execution on the declaration immediately preceding his or her
32 signature.

33 (d) Petitions so verified shall be prima facie evidence that the
34 signatures thereon are genuine and that the persons signing are
35 qualified voters. Unless otherwise proven upon official
36 investigation, it shall be presumed that the petition presented
37 contains the signatures of the requisite number of qualified voters.

38 ~~SEC. 6.~~

39 *SEC. 7.* Section 9030 of the Elections Code is amended to read:

1 9030. (a) Each section of the petition shall be filed with the
2 elections official of the county or city and county in which it was
3 circulated, but all sections circulated in any county or city and
4 county shall be filed at the same time. Once filed, no petition
5 section shall be amended except by order of a court of competent
6 jurisdiction.

7 (b) Within eight days after the filing of the petition, excluding
8 Saturdays, Sundays, and holidays, the elections official shall
9 determine the total number of signatures affixed to the petition
10 and, in the case of an initiative petition, the total number of
11 signatures submitted by persons who qualify under *for purposes*
12 *of subdivision (e) (a) of Section 9036*. The elections official shall
13 transmit this information to the Secretary of State. If the total
14 number of signatures filed with all elections officials is less than
15 100 percent of the number of qualified voters required to find the
16 petition ~~sufficient~~, *sufficient* or, in the case of an initiative petition,
17 the number of signatures submitted by persons who qualify under
18 *for purposes of subdivision (e) (a) of Section 9036* is less than 20
19 percent of the total number of signatures submitted, the Secretary
20 of State shall so notify the proponents and the elections officials,
21 and no further action shall be taken with regard to the petition.

22 (c) If the number of signatures filed with all elections officials
23 is 100 percent or more of the number of qualified voters needed
24 to declare the petition sufficient and, in the case of an initiative
25 petition, the percentage of signatures submitted by persons who
26 *qualify under for purposes of subdivision (e) (a) of Section 9036*
27 is equal to or greater than 20 percent of the number of signatures
28 submitted, the Secretary of State shall immediately so notify the
29 elections officials.

30 (d) Within 30 days after this notification, excluding Saturdays,
31 Sundays, and holidays, the elections official shall determine the
32 number of qualified voters who have signed the petition. If more
33 than 500 names have been signed on sections of the petition filed
34 with an elections official, the elections official shall use a random
35 sampling technique for verification of signatures, as determined
36 by the Secretary of State. The random sample of signatures to be
37 verified shall be drawn in such a manner that every signature filed
38 with the elections official shall be given an equal opportunity to
39 be included in the sample. The random sampling shall include an
40 examination of at least 500 or 3 percent of the signatures,

1 whichever is greater. In determining from the records of registration
2 the number of qualified voters who have signed the petition, the
3 elections official may use the duplicate file of affidavits of
4 registered voters or the facsimiles of voters' signatures, provided
5 that the method of preparing and displaying the facsimiles complies
6 with law.

7 (e) The elections official, upon the completion of the
8 examination, shall immediately attach to the petition, except the
9 signatures thereto appended, a properly dated certificate showing
10 the result of the examination, including, in the case of an initiative
11 petition, the total number of qualified voters who signed the
12 sections of the petition submitted ~~by persons who qualify under~~
13 *for purposes of* subdivision ~~(e) (a)~~ of Section 9036, and shall
14 immediately transmit the petition and the certificate to the Secretary
15 of State. A copy of this certificate shall be filed in the elections
16 official's office.

17 (f) If the certificates received from all elections officials by the
18 Secretary of State establish that the number of valid signatures
19 does not equal 95 percent of the number of qualified voters needed
20 to find the petition sufficient or, in the case of an initiative petition,
21 that the number of valid signatures submitted ~~by persons who~~
22 ~~qualify under~~ *for purposes of* subdivision ~~(e) (a)~~ of Section 9036
23 does not equal 95 percent of the number of qualified voters needed
24 to satisfy the ~~requirements of~~ *requirement set forth in subdivision*
25 *(a) of* Section 9036, the petition shall be deemed to have failed to
26 qualify, and the Secretary of State shall immediately so notify the
27 proponents and the elections officials.

28 (g) If the certificates received from all elections officials by the
29 Secretary of State total more than 110 percent of the number of
30 qualified voters needed to find the petition sufficient and, in the
31 case of an initiative petition, the number of valid signatures
32 submitted ~~by persons who qualify under~~ *for purposes of* subdivision
33 ~~(e) (a)~~ of Section 9036 total more than 110 percent of the number
34 of qualified voters needed to satisfy the ~~requirements of~~
35 *requirement set forth in subdivision (a) of* Section 9036, the petition
36 shall be deemed to qualify as of the date of receipt by the Secretary
37 of State of certificates showing the petition to have reached the
38 110 percent, and the Secretary of State shall immediately so notify
39 the proponents and the elections officials.

1 (h) The Secretary of State shall enact regulations consistent with
2 this section.

3 ~~SEC. 7.~~

4 *SEC. 8.* Section 9031 of the Elections Code is amended to read:

5 9031. (a) If the statistical sampling shows that the number of
6 valid signatures is within 95 to 110 percent of the number of
7 signatures of qualified voters needed to declare the petition
8 sufficient or, in the case of an initiative petition, the number of
9 valid signatures ~~collected by persons who qualify under~~ *submitted*
10 *for purposes of* ~~subdivision (e)(a)~~ *subdivision (a)* of Section 9036 is within 95 to
11 110 percent of the number of signatures ~~required by~~ *needed to*
12 *satisfy the requirement of subdivision (a)* of Section 9036, the
13 Secretary of State shall order the examination and verification of
14 each signature filed, and shall so notify the elections officials.

15 (b) Within 30 days, excluding Saturdays, Sundays, and holidays,
16 after receipt of the order, the elections official or registrar of voters
17 shall determine from the records of registration the number of
18 qualified voters who have signed the petition and, in the case of
19 an initiative petition, the number of qualified voters who have
20 signed sections of the petition ~~submitted by persons who qualify~~
21 ~~under~~ *for purposes of* ~~subdivision (e)(a)~~ *subdivision (a)* of Section 9036, and if
22 necessary the board of supervisors shall allow the elections official
23 or registrar additional assistance for the purpose of examining the
24 petition and provide for their compensation. In determining from
25 the records of registration the number of qualified voters who have
26 signed the petition, the elections official or registrar of voters may
27 use any file or list of registered voters maintained by his or her
28 office, or the facsimiles of voters' signatures, provided that the
29 method of preparing and displaying the facsimiles complies with
30 law.

31 (c) The elections official or registrar, upon the completion of
32 the examination, shall immediately attach to the petition, except
33 the signatures thereto appended, an amended certificate properly
34 dated, showing the result of the examination and shall immediately
35 transmit the petition, together with the amended certificate, to the
36 Secretary of State. A copy of the amended certificate shall be filed
37 in the elections official's office.

38 (d) (1) If the amended certificates establish the petition's
39 sufficiency, the petition shall be deemed to be filed as of the date

1 of receipt by the Secretary of State of certificates showing the
2 petition to be signed by the requisite number of voters of the state.

3 (2) If the amended certificates received from all elections
4 officials by the Secretary of State establish that the petition has
5 still been found insufficient, the Secretary of State shall
6 immediately so notify the proponents and the elections officials.

7 ~~SEC. 8.~~

8 *SEC. 9.* Section 9036 is added to the Elections Code, to read:

9 9036. (a) At least 20 percent of the signatures ~~of registered~~
10 ~~voters collected and submitted pursuant to Section 9035 shall have~~
11 ~~been obtained by persons who do~~ *be presented on a petition or*
12 *section of a petition that was circulated by a person who does not*
13 *receive money or other valuable consideration exclusively or*
14 *primarily for the specific purpose of ~~obtaining~~ *soliciting* signatures
15 of electors on a ~~petition for a proposed initiative measure. the~~
16 *petition.**

17 (b) ~~At least 20 percent of the signatures collected and used to~~
18 ~~verify the qualification of an initiative measure pursuant to Sections~~
19 ~~9030 and 9031 shall have been obtained by persons who do not~~
20 ~~receive money or other valuable consideration for the specific~~
21 ~~purpose of obtaining signatures of electors on a petition for a~~
22 ~~proposed initiative measure.~~

23 (c) ~~For purposes of this article, the following persons qualify~~
24 ~~as a “person who does not receive money or other valuable~~
25 ~~consideration for the specific purpose of obtaining signatures of~~
26 ~~electors”:~~

27 (1) ~~A person who does not receive money or other valuable~~
28 ~~consideration exclusively or primarily for the purpose of obtaining~~
29 ~~signatures of electors on a petition for a proposed initiative~~
30 ~~measure.~~

31 (2)

32 (b) (1) A person who is an employee *or member of an a*
33 *nonprofit organization, other than an organization in the business*
34 ~~of collecting~~ *soliciting* signatures on initiative petitions, who ~~is~~
35 ~~paid by~~ *receives money or other valuable consideration from the*
36 *organization and as part of that employment obtains or membership*
37 *solicits* signatures for the qualification of an initiative measure
38 *shall be deemed to be a person who does not receive money or*
39 *other valuable consideration for the specific purpose of soliciting*

1 *signatures of electors, unless a primary purpose of that employment*
2 *or membership is to solicit signatures on an initiative petition.*

3 (2) *For purposes of this subdivision, “member” means any of*
4 *the following:*

5 (A) *A person who, pursuant to a specific provision of an*
6 *organization’s articles of incorporation or bylaws, has the right*
7 *to vote directly or indirectly for the election of a director or*
8 *directors, or an officer or officers, or on a disposition of all or*
9 *substantially all of the assets of the organization, or on a merger*
10 *or a dissolution.*

11 (B) *A person who is designated in an organization’s articles of*
12 *incorporation or bylaws as a member and, pursuant to a specific*
13 *provision of the articles of incorporation or bylaws, has the right*
14 *to vote on changes to the articles of incorporation or bylaws.*

15 (C) *A person who pays or has paid membership dues in an*
16 *amount predetermined by the organization, provided the*
17 *organization is tax exempt under Section 501(c) of the Internal*
18 *Revenue Code.*

19 (3) *For purposes of this subdivision, a member of a local union*
20 *is a member of any national or international union of which the*
21 *local union is a part and of any federation with which the local,*
22 *national, or international union is affiliated.*

23 (4) *For purposes of this subdivision, a person is not a member*
24 *of a nonprofit organization solely by virtue of being on a mailing*
25 *or contact list of the organization.*

26 (c) *Signatures that are solicited by a person who is a registered*
27 *voter of a political party, a member of a political party committee*
28 *as defined in Section 85205 of the Government Code, or an*
29 *employee of a political party or a political party committee and*
30 *who receives money or other valuable consideration for soliciting*
31 *signatures on an initiative petition from the political party or*
32 *political party committee do not count towards the number of*
33 *signatures needed to satisfy the requirement of subdivision (a).*

34 (d) (1) *Signatures on an initiative petition that are solicited*
35 *through direct mail do not count towards the number of signatures*
36 *needed to satisfy the requirement of subdivision (a) if the person*
37 *soliciting the signatures through direct mail, or any other person*
38 *who organizes, pays for, or arranges for the direct mail, receives*
39 *money or other valuable consideration primarily for the purpose*
40 *of soliciting signatures of electors, unless the person is an employee*

1 or member of a nonprofit organization as described in subdivision
 2 (b).

3 (2) This subdivision shall not be construed to preclude an
 4 organization that has a primary purpose other than soliciting
 5 signatures on initiative petitions from soliciting signatures from
 6 the organization’s members through direct mail and relying on
 7 those signatures for purposes of satisfying the requirement set
 8 forth in subdivision (a).

9 ~~(d)~~

10 (e) This section shall not be construed to preclude a person who
 11 receives nominal, non-monetary benefits, including food,
 12 transportation, or lodging, from qualifying under ~~subdivision (e)~~.
 13 this section as a person who does not receive money or other
 14 valuable consideration exclusively or primarily for the specific
 15 purpose of soliciting signatures of electors on a petition for a
 16 proposed initiative measure.

17 SEC. 10. Section 9037 is added to the Elections Code, to read:

18 9037. (a) A person shall not pay money or other valuable
 19 consideration to another person for the specific purpose of
 20 soliciting signatures of electors on an initiative or referendum
 21 petition, and a person shall not receive money or other valuable
 22 consideration for the specific purpose of soliciting signatures of
 23 electors on an initiative or referendum petition, unless the person
 24 soliciting the signatures does both of the following:

25 (1) Registers with the Secretary of State in the manner
 26 prescribed by subdivision (c) and by regulations adopted by the
 27 Secretary of State.

28 (2) Completes a training program prescribed by regulations
 29 adopted by the Secretary of State.

30 (b) A person who is an employee or member of a nonprofit
 31 organization, other than an organization in the business of
 32 soliciting signatures on initiative or referendum petitions, who
 33 receives money or other valuable consideration from the
 34 organization and as part of that employment or membership solicits
 35 signatures for the qualification of an initiative or referendum
 36 measure shall be deemed to be a person who does not receive
 37 money or other valuable consideration for the specific purpose of
 38 soliciting signatures of electors for purposes of subdivision (a),
 39 unless a primary purpose of that employment or membership is to
 40 solicit signatures on an initiative or referendum petition.

- 1 (c) A person who is required to register with the Secretary of
2 State pursuant to subdivision (a) shall file an application with the
3 Secretary of State that includes all of the following:
- 4 (1) The full name and any assumed name of the applicant.
 - 5 (2) The residential street address of the applicant.
 - 6 (3) An example of the signature of the applicant.
 - 7 (4) A list of the initiative or referendum petitions for which the
8 applicant will solicit signatures.
 - 9 (5) If the applicant has been convicted of a criminal offense
10 involving fraud, forgery, identification theft, or a violation of the
11 Elections Code, information relating to the circumstances of the
12 conviction, as required by the Secretary of State.
 - 13 (6) A statement signed by the applicant acknowledging that he
14 or she has read and understands applicable laws pertaining to the
15 soliciting of signatures for an initiative or referendum measure.
 - 16 (7) Proof that the applicant has completed the training required
17 by paragraph (2) of subdivision (a).
 - 18 (8) A photograph of the applicant that meets all of the following
19 requirements:
 - 20 (A) Is a conventional photograph with a plain background.
 - 21 (B) Shows the face or the face, neck, and shoulders of the
22 applicant.
 - 23 (C) Is prepared and processed for printing as prescribed by the
24 Secretary of State.
 - 25 (9) If the applicant is not a resident of the state, a statement
26 that he or she consents to both of the following:
 - 27 (A) The jurisdiction of the state for purposes of an investigation
28 or prosecution by any state or local agency regarding the validity
29 of the signatures submitted by him or her.
 - 30 (B) Service of process for any legal action pertaining to the
31 validity of the signatures submitted by him or her.
 - 32 (10) The applicant shall certify the content of the application
33 as to its truth and correctness, under penalty of perjury under the
34 laws of the State of California, with his or her signature. The
35 applicant shall state the date and the place of execution on the
36 application immediately preceding his or her signature.
- 37 (d) If an applicant complies with subdivision (c), not later than
38 five business days after the applicant submits the application, the
39 Secretary of State shall register the applicant and assign the
40 applicant a registration number.

1 (e) *The Secretary of State shall deny the registration of a person*
2 *who has been convicted of a criminal offense involving fraud,*
3 *forgery, or identification theft in any state, or a violation of the*
4 *Elections Code, during the five-year period prior to the date of*
5 *the application.*

6 (f) *If a person receives money or other valuable consideration*
7 *for the specific purpose of soliciting signatures of electors on an*
8 *initiative or referendum petition and the person was not registered*
9 *pursuant to this section at the time the signatures were solicited,*
10 *the signatures presented on the petition or sections of the petition*
11 *circulated by that person shall not count towards satisfying the*
12 *requirements of Sections 9030, 9031, and 9035.*

13 (g) *A person registered under this section shall wear a badge*
14 *provided by the proponent of the initiative or referendum measure*
15 *that evidences the person's registration when the person is*
16 *soliciting signatures on the proposed initiative or referendum*
17 *petition. The badge shall contain the person's photograph and*
18 *registration number. The Secretary of State shall prescribe the*
19 *form of the registration badge by regulation.*

20 (h) *The registration of a petition circulator under this section*
21 *shall be effective for two years from the date the Secretary of State*
22 *assigns a registration number to the applicant. Upon expiration*
23 *of the registration, the applicant may reapply in accordance with*
24 *subdivision (c). If an applicant's information changes during the*
25 *period of his or her registration, the applicant shall amend his or*
26 *her application and file the amended application with the Secretary*
27 *of State within 10 business days. If the changes relate to the*
28 *circulation of specific initiative or referendum petitions under*
29 *paragraph (4) of subdivision (c), the applicant's amended*
30 *application shall be filed with and approved by the Secretary of*
31 *State prior to the circulation of an initiative or referendum petition*
32 *that was not previously identified on the applicant's registration.*
33 *The Secretary of State shall approve or deny an amended*
34 *application within five business days from the filing of the amended*
35 *application.*

36 (i) *The Secretary of State shall revoke the registration of a*
37 *person registered under this section who, in the course of*
38 *circulating an initiative or referendum petition, engages in fraud,*
39 *misrepresentation, or any conduct described in Section 18600,*
40 *18601, or 18602.*

1 (j) *The Secretary of State shall adopt regulations necessary to*
2 *implement this section, including, but not limited to, regulations*
3 *that do both of the following:*

4 (1) *Establish procedures for registering persons who receive*
5 *money or other valuable consideration for the specific purpose of*
6 *soliciting signatures of electors on an initiative or referendum*
7 *petition.*

8 (2) *Establish a training program for persons who receive money*
9 *or other valuable consideration for the specific purpose of*
10 *soliciting signatures of electors on an initiative or referendum*
11 *petition. The training program shall include, but is not limited to,*
12 *instruction to circulators regarding how to avoid fraud,*
13 *misrepresentation, and other misconduct in the circulation of*
14 *petitions and instruction on compliance with, and consequences*
15 *for violations of, the requirements of this section.*

16 *SEC. 11. Section 9038 is added to the Elections Code, to read:*

17 9038. (a) *As used in this section, “accounts” means all of the*
18 *following:*

19 (1) *A contract entered into by a proponent of an initiative or*
20 *referendum measure and any person for the specific purpose of*
21 *soliciting signatures on a petition.*

22 (2) *An employment manual or training materials provided to*
23 *persons who solicit signatures on a petition.*

24 (3) *Payroll records for each employee soliciting signatures on*
25 *a petition showing hours worked, number of signatures collected,*
26 *and amounts paid.*

27 (4) *Records identifying the amount and purpose of each payment*
28 *made by the proponent of an initiative or referendum measure to*
29 *any contractor or subcontractor soliciting signatures on a petition.*

30 (5) *Copies of petition sections circulated by persons who receive*
31 *money or other valuable consideration for the specific purpose of*
32 *soliciting signatures of electors on a petition.*

33 (b) *A proponent of an initiative or referendum measure who*
34 *pays any person money or other valuable consideration for the*
35 *specific purpose of soliciting signatures of electors on a petition*
36 *shall keep detailed accounts. The accounts shall be current as of*
37 *not later than the seventh calendar day after the date a payment*
38 *is made to a person for soliciting signatures on the petition.*

39 (c) *The Secretary of State shall review the accounts of each*
40 *proponent described in subdivision (b) in the manner, and*

1 according to a regular schedule, prescribed by regulations adopted
2 by the Secretary of State.

3 (d) The Secretary of State may inspect the accounts of a
4 proponent described in subdivision (b) under reasonable conditions
5 during normal business hours at any time before the deadline for
6 filing the petition or during the period specified for retention of
7 the accounts under subdivision (e). For purposes of this
8 subdivision, normal business hours means those hours that the
9 proponent of the initiative or referendum measure is normally
10 open for business to the public. The right of inspection may be
11 enforced by writ of mandamus issued by a court of competent
12 jurisdiction.

13 (e) A proponent of an initiative or referendum measure shall
14 preserve the accounts pertaining to an initiative or referendum
15 petition for at least two years after the deadline for filing the
16 petition for verification of signatures or at least two years after
17 the date the petition is filed under Section 9030, whichever is later.

18 (f) If a proponent of an initiative or referendum measure does
19 not produce accounts upon demand of the Secretary of State, both
20 of the following shall apply:

21 (1) There is a rebuttable presumption that a violation of Section
22 9037 has occurred.

23 (2) The proponent shall not solicit additional signatures on the
24 petition until the proponent makes the accounts available to the
25 Secretary of State for inspection. Any signatures solicited in
26 violation of this paragraph shall not be counted towards satisfying
27 the requirements of Sections 9030, 9031, 9035, and 9036.

28 (g) This section shall not be construed to require that accounts
29 be available for inspection by the public.

30 SEC. 12. Section 9039 is added to the Elections Code, to read:

31 9039. (a) An initiative or referendum petition section shall be
32 deemed invalid and shall not be used by an elections official for
33 the purpose of determining if the initiative or referendum measure
34 qualifies for the ballot if the signatures are solicited and submitted
35 by a person who engages in fraud, misrepresentation, or any
36 conduct described in Section 18600, 18601, or 18602.

37 (b) The Secretary of State or any elector may enforce this section
38 by a civil action in which the plaintiff has the burden of showing
39 a violation of this section by clear and convincing evidence.

1 *SEC. 13. Section 18601 of the Elections Code is amended to*
2 *read:*

3 18601. ~~Any~~(a) A person working for the proponent or
4 proponents of an initiative or referendum measure or recall petition
5 who refuses to allow a prospective signer to read the measure or
6 petition is guilty of a misdemeanor.

7 (b) (1) An arrest or conviction pursuant to this section in
8 connection with a local initiative or referendum measure or local
9 recall petition shall not invalidate or otherwise affect the validity
10 of any signature~~obtained~~ solicited by the person arrested or
11 convicted.

12 (2) A conviction pursuant to this section in connection with a
13 statewide initiative or referendum measure or statewide recall
14 petition shall invalidate the signatures solicited by the person
15 convicted.

16 *SEC. 14. Section 18602 of the Elections Code is amended to*
17 *read:*

18 18602. ~~Any~~A person working for the proponent or proponents
19 of a statewide initiative or referendum measure who covers or
20 otherwise obscures the summary of the measure prepared by the
21 Attorney General or the disclosure statement printed on the petition
22 pursuant to Section 9009.6 from the view of a prospective signer
23 is guilty of a misdemeanor.

24 *SEC. 15. The provisions of this act shall take effect January*
25 *1, 2014, and shall apply to any initiative or referendum petition*
26 *for which the Attorney General issued a circulating title and*
27 *summary on or after October 1, 2013.*

28 ~~SEC. 9.~~

29 *SEC. 16. If the Commission on State Mandates determines that*
30 *this act contains costs mandated by the state, reimbursement to*
31 *local agencies and school districts for those costs shall be made*
32 *pursuant to Part 7 (commencing with Section 17500) of Division*
33 *4 of Title 2 of the Government Code.*