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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, 9031, ~~18601~~, and 18602 of, and to add Sections 9009.5, 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.

(2) Existing law requires local elections officials to perform various duties with respect to statewide initiative petitions including, within 8 days after the filing of a petition, determining the total number of signatures affixed to the petition. Existing law also requires an elections official, within 30 days of notification from the Secretary of State that a petition has received 100% or more of the signatures needed to declare the petition sufficient, to determine the number of qualified voters who signed the petition. Upon order of the Secretary of State, existing law requires an elections official, within 30 days, to verify each signature on a petition, as specified.

This bill would extend the time a local elections official is required to determine the total number of signatures affixed to a petition to 10 days, and would extend the time a local elections official is required to determine the number of qualified voters who signed the petition to 35 days after receiving notice from the Secretary of State that the petition has received the signatures needed to declare the petition sufficient. The bill also would extend the time that an elections official is required to verify the signatures on a petition to 35 days.

This bill would require at least 20% of the signatures on a petition for an initiative measure to be submitted 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 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 submitted by persons who do not receive money or other valuable consideration for the specific purpose of soliciting signatures of electors, as specified.

~~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.~~

This bill would require a professional petition firm, as defined, to register annually with the Secretary of State in order to pay individuals to circulate petitions and collect signatures to qualify an initiative or referendum measure on a state election ballot, as specified, and would require the professional petition firm to provide training to paid circulators related to obtaining signatures for initiative or referendum petitions, as specified. The bill also would require the Secretary of State to assign a unique three-letter code to each professional petition firm, and would require a professional petition firm to assign a unique four-digit identifying number to each person hired to circulate a state initiative or referendum petition. Before a professional petition firm begins soliciting signatures for an initiative or referendum petition, the bill would require the firm to obtain from each person hired as a paid circulator a certified statement, as specified. Within 14 days of the date of execution of the certified statement, the bill would require a professional petition firm to provide to the Secretary of State the name and unique identifying number of each paid circulator and to retain copies of each certified statement, as specified, and would authorize the Secretary of State to inspect those records under reasonable conditions during normal business hours, as specified. The bill would require the Secretary of State to provide each county elections official with a list of the names and unique identifying numbers for paid circulators, and would prohibit the county elections officials from counting signatures on a petition or sections of a petition if the name and unique identifying number of the paid circulator does not appear on the list provided by the Secretary of State.

This bill would further require a professional petition firm that pays any person to solicit signatures of electors on an initiative or referendum petition to keep detailed accounts, as defined, and would authorize the Secretary of State to review those 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, statewide initiative or 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~~ *whether* 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~~ *upon a* showing ~~a violation by~~ *of* 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.

(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 financially
8 powerful interests, including railroad companies, exercised a
9 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 voters to participate in direct democracy, now the
17 integrity of the initiative process has been corrupted by—well
18 financed *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~~

1 proponent is willing to spend to place the proposal on the ballot.
2 Thus, *Due to the growth of paid signature gathering*, the presence
3 of an initiative measure on the ballot is no longer *necessarily*
4 viewed as an expression of a minimum amount of public support
5 but, rather, *the willingness often is the result* of a special interest
6 *willing* to pay a sufficient number of petition circulators ~~to use~~
7 ~~whatever means necessary~~ to qualify the initiative measure for the
8 ballot.

9 (6) Whereas initiative petitions were originally circulated by
10 volunteer and grassroots organizations, ~~the demonstration of~~
11 ~~community support for an initiative petition has given way to paid~~
12 ~~circulators who work at the behest of~~ well-funded individuals and
13 organizations *that promote narrow interests may rely exclusively*
14 *on paid circulators to qualify an initiative measure that does not*
15 *have broad community support*. In many cases, the individuals
16 and organizations supporting an initiative petition do not reside in
17 the state and will not be subject to the laws that they propose.

18 (7) *Professional petition firms hire paid circulators to gather*
19 *as many signatures as possible in the least amount of time. Often*
20 *the signatures are obtained without providing electors an*
21 *explanation of the true purpose and effect of the proposed initiative*
22 *measure. Paid circulators are also instructed to solicit signatures*
23 *from electors who do not understand the contents of the petition.*
24 Due to the prevalence of *professional petition firms and paid*
25 circulators, *special interests may qualify an initiative measure for*
26 *the ballot without the necessary minimum showing of public*
27 *support. As a result*, the statewide election ballot is increasingly
28 cluttered with initiative measures that do not have enough public
29 support to justify the expenses of administering the election for
30 those particular proposals. ~~Additionally, voters have been~~
31 ~~overwhelmed by the number and complexity of the proposals.~~

32 (8) *As has been the case since the initiative power was created,*
33 *initiative measures that have broad public support continue to*
34 *qualify for the ballot through the efforts of volunteers and*
35 *organizations, but the sheer number and complexity of proposals*
36 *without broad public support have overwhelmed voters,*
37 *undermining the integrity of both the signature gathering and*
38 *electoral processes.*

39 (8)

1 (9) The prevalence of paid circulators has also led to instances
2 of fraud and misrepresentation, and the erosion of public
3 confidence in the initiative process. The most popular means of
4 paying petition circulators is based on the number of signatures a
5 person collects. Under a payment-per-signature arrangement, a
6 paid circulator ~~has no~~ *does not need an* incentive to educate voters
7 about an initiative petition but, instead, ~~is~~ *may be* motivated solely
8 *by financial reasons* to gather as many signatures as possible. In
9 their quest for economic gain, paid circulators often purposefully
10 mislead voters and leave the public in the dark about the true
11 content of initiative petitions.

12 ~~(9)~~

13 (10) Because the use of paid circulators *is no longer a sufficient*
14 *means of measuring the necessary public support for an initiative*
15 *measure to appear on the ballot and* has been associated with
16 coercive and misleading tactics to collect signatures, the public is
17 dissatisfied with the initiative process *and the means by which a*
18 *petition is circulated to qualify a measure for the ballot.*

19 (11) *Unlike paid circulators, a widespread volunteer effort to*
20 *qualify an initiative measure for the ballot demonstrates a*
21 *significant level of public support. Improving the measure of public*
22 *support for a proposed initiative measure will increase the public's*
23 *confidence in the integrity of the initiative process.*

24 ~~(10)~~

25 (12) The Legislature is responsible for providing the manner in
26 which initiative petitions are circulated, presented, and certified.
27 Consistent with this constitutional duty, the Legislature must
28 provide for laws that are consistent with the original intent of the
29 voters in reserving the power of the initiative; protect the integrity
30 of the initiative process; and prevent the occurrence of fraud and
31 misrepresentation in the circulation, presentation, and certification
32 of initiative petitions.

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

35 (1) Preserve and protect the integrity of California's initiative
36 process.

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

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

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

5 9009.5. (a) A petition for a proposed initiative measure that
 6 is circulated by a person who does not receive money or other
 7 valuable consideration for the ~~specific~~ purpose of soliciting
 8 signatures of electors, for purposes of Section 9036, shall be printed
 9 on white paper in a contrasting color ink.

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

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

15 9009.6. (a) Notwithstanding any other provision of law, a
 16 petition for a proposed initiative measure that is circulated by a
 17 person who receives money or other valuable consideration for
 18 the specific purpose of soliciting signatures of electors shall include
 19 ~~all of the following:~~

20 ~~(1) Immediately following statement immediately~~ prior to the
 21 portion of the petition for voters’ signatures, printed names, and
 22 residence addresses, ~~the following language shall be printed in~~
 23 18-point boldface type:

24 ~~“WARNING-NOTICE TO THE PUBLIC: THIS PETITION IS~~
 25 ~~BEING CIRCULATED BY A PERSON PAID TO OBTAIN~~
 26 ~~YOUR SIGNATURE. YOU ARE ENCOURAGED TO READ THE~~
 27 ~~CONTENTS OF THIS PETITION BEFORE SIGNING.”~~

28

29 ~~(2)~~

30 ~~(b) Immediately following~~ *On each state initiative petition,*
 31 *immediately prior to that portion of the petition for voters’*
 32 *signatures, printed names, and residence addresses, but after the*
 33 *language required by* ~~paragraph (1) subdivision (a), where~~
 34 *applicable,* shall be printed a disclosure statement, in 14-point
 35 boldface type, that includes the following language:

36

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

1 The following donors have contributed \$50,000 or more to the
2 (insert full name of committee as registered with the Secretary of
3 State pursuant to Section 84101 of the Government Code) within
4 six months of the printing of this petition: (insert name of each of
5 the top three donors who have contributed ~~\$50,000~~ *fifty thousand*
6 *dollars (\$50,000)* or more and, if an individual, his or her
7 occupation and the identity of his or her employer.”

8
9 ~~(b)~~

10 (c) If the information for the disclosure statement described in
11 ~~paragraph (2) of subdivision (a)~~ (b) changes, the disclosure
12 statement on the petition shall be updated within 14 days.

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

14 9012. (a) A petition for a proposed initiative or referendum
15 measure may be presented in sections, but each section shall
16 contain a full and correct copy of the circulating title and summary
17 and text of the proposed measure.

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

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

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

23 9021. Each section of a petition for a proposed initiative or
24 referendum measure shall bear the name of a county or city and
25 county, and only qualified registered voters of that county or city
26 and county may sign that section. The circulator may sign the
27 section he or she is circulating as provided in Section 106.

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

29 9022. (a) Each section of a petition for a proposed initiative
30 or referendum measure shall have attached thereto the declaration
31 of the person soliciting the signatures setting forth the information
32 required by Section 104.

33 (b) A person who solicits ~~and submits~~ signatures for a proposed
34 initiative measure and does not receive money or other valuable
35 consideration for the specific purpose of soliciting signatures of
36 electors shall sign an affidavit that is prepared by the Secretary of
37 State and that declares all of the following:

38 (1) The person does not receive money or other valuable
39 consideration for soliciting signatures of electors *for purposes of*
40 *subdivision (a) of Section 9036* .

1 (2) To the best of his or her knowledge, the signatures on the
2 petition sections circulated by him or her should be counted
3 towards the requirement set forth in subdivision (a) of Section
4 9036.

5 (3) *The person’s unique identifying number assigned pursuant*
6 *to subdivision (g) of Section 9037.*

7 ~~(3)~~

8 (4) The person’s current place of permanent residence.

9 ~~(4)~~

10 (5) If the person is not a resident of the state, he or she consents
11 to both of the following:

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

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

18 (c) The circulator shall certify to the content of the declaration
19 as to its truth and correctness, under penalty of perjury under the
20 laws of the State of California, with his or her ~~signature.~~ *signature.*
21 The circulator shall state the date and the place of execution on
22 the declaration immediately preceding his or her signature.

23 (d) Petitions so verified shall be prima facie evidence that the
24 signatures thereon are genuine and that the persons signing are
25 qualified voters. ~~Unless otherwise proven upon official~~
26 ~~investigation, it shall be presumed that the petition presented~~
27 ~~contains the signatures of the requisite number of qualified voters.~~

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

29 9030. (a) Each section of the petition shall be filed with the
30 elections official of the county or city and county in which it was
31 circulated, but all sections circulated in any county or city and
32 county shall be filed at the same time. Once filed, no petition
33 section shall be amended except by order of a court of competent
34 jurisdiction.

35 (b) ~~Within eight~~ 10 days after the filing of the petition, excluding
36 Saturdays, Sundays, and holidays, the elections official shall
37 determine the total number of signatures affixed to the petition
38 and, in the case of an initiative petition, the total number of
39 signatures submitted for purposes of subdivision (a) of Section
40 9036. The elections official shall transmit this information to the

1 Secretary of State. If the total number of signatures filed with all
2 elections officials is less than 100 percent of the number of
3 qualified voters required to find the petition sufficient or, in the
4 case of an initiative petition, the number of signatures submitted
5 for purposes of subdivision (a) of Section 9036 is less than ~~20~~
6 ~~percent of the total number of signatures submitted, the total~~
7 *number needed to satisfy the requirement of that subdivision*, the
8 Secretary of State shall so notify the proponents and the elections
9 officials, and no further action shall be taken with regard to the
10 petition.

11 (c) If the number of signatures filed with all elections officials
12 is 100 percent or more of the number of qualified voters needed
13 to declare the petition sufficient and, in the case of an initiative
14 petition, the percentage of signatures submitted for purposes of
15 subdivision (a) of Section 9036 is equal to or greater than ~~20~~
16 ~~percent of the number of signatures submitted, the total number~~
17 *needed to satisfy the requirement of that subdivision*, the Secretary
18 of State shall immediately so notify the elections officials.

19 (d) Within ~~30~~ 35 days after this notification, excluding
20 Saturdays, Sundays, and holidays, the elections official shall
21 determine the number of qualified voters who have signed the
22 petition *and the number of qualified voters who have signed a*
23 *section of the petition that satisfies the requirement of subdivision*
24 *(a) of Section 9036*. If more than 500 names have been signed on
25 sections of the petition filed with an elections official, the elections
26 official shall use a random sampling technique for verification of
27 signatures, as determined by the Secretary of State. The random
28 sample of signatures to be verified shall be drawn in such a manner
29 that every signature filed with the elections official shall be given
30 an equal opportunity to be included in the sample. The random
31 sampling shall include an examination of at least 500 or 3 percent
32 of the signatures, whichever is greater. In determining from the
33 records of registration the number of qualified voters who have
34 signed the petition, the elections official may use the duplicate file
35 of affidavits of registered voters or the facsimiles of voters'
36 signatures, provided that the method of preparing and displaying
37 the facsimiles complies with law.

38 (e) The elections official, upon the completion of the
39 examination, shall immediately attach to the petition, except the
40 signatures thereto appended, a properly dated certificate showing

1 the result of the ~~examination, including, in the case of an initiative~~
2 ~~petition, the total number of qualified voters who signed the~~
3 ~~sections of the petition submitted for purposes of subdivision (a)~~
4 ~~of Section 9036, examination~~ and shall immediately transmit the
5 petition and the certificate to the Secretary of State. A copy of this
6 certificate shall be filed in the elections official's office.

7 (f) If the certificates received from all elections officials by the
8 Secretary of State establish that the number of valid signatures
9 does not equal 95 percent of the number of qualified voters needed
10 to find the petition sufficient or, in the case of an initiative petition,
11 that the number of valid signatures submitted for purposes of
12 subdivision (a) of Section 9036 does not equal 95 percent of the
13 number of qualified voters needed to satisfy the requirement ~~set~~
14 ~~forth in subdivision (a) of Section 9036, of that subdivision,~~ the
15 petition shall be deemed to have failed to qualify, and the Secretary
16 of State shall immediately so notify the proponents and the
17 elections officials.

18 (g) If the certificates received from all elections officials by the
19 Secretary of State total more than 110 percent of the number of
20 qualified voters needed to find the petition sufficient and, in the
21 case of an initiative petition, the number of valid signatures
22 submitted for purposes of subdivision (a) of Section 9036 total
23 more than 110 percent of the number of qualified voters needed
24 to satisfy the requirement ~~set forth in subdivision (a) of Section~~
25 ~~9036, of that subdivision,~~ the petition shall be deemed to qualify
26 as of the date of receipt by the Secretary of State of certificates
27 showing the petition ~~to have reached the 110 percent, received~~
28 ~~more than 110 percent of the qualified voters needed,~~ and the
29 Secretary of State shall immediately so notify the proponents and
30 the elections officials.

31 (h) The Secretary of State shall enact regulations consistent with
32 this section.

33 SEC. 8. Section 9031 of the Elections Code is amended to read:
34 9031. (a) If the statistical sampling shows that the number of
35 valid signatures is within 95 to 110 percent of the number of
36 signatures of qualified voters needed to declare the petition
37 sufficient or, in the case of an initiative petition, the number of
38 valid signatures submitted for purposes of subdivision (a) of
39 Section 9036 is within 95 to 110 percent of the number of
40 signatures needed to satisfy the requirement ~~of subdivision (a) of~~

1 ~~Section 9036~~, *that subdivision*, the Secretary of State shall order
2 the examination and verification of each signature filed, and shall
3 so notify the elections officials.

4 (b) Within ~~30~~ 35 days, excluding Saturdays, Sundays, and
5 holidays, after receipt of the order, the elections official or registrar
6 of voters shall determine from the records of registration the
7 number of qualified voters who have signed the petition and, in
8 the case of an initiative petition, the number of qualified voters
9 who have signed sections of the petition submitted for purposes
10 of subdivision (a) of Section 9036, and if necessary the board of
11 supervisors shall allow the elections official or registrar additional
12 assistance for the purpose of examining the petition and provide
13 for their compensation. In determining from the records of
14 registration the number of qualified voters who have signed the
15 petition, the elections official or registrar of voters may use any
16 file or list of registered voters maintained by his or her office, or
17 the facsimiles of voters' signatures, provided that the method of
18 preparing and displaying the facsimiles complies with law.

19 (c) The elections official or registrar, upon the completion of
20 the examination, shall immediately attach to the petition, except
21 the signatures thereto appended, an amended certificate properly
22 dated, showing the result of the examination and shall immediately
23 transmit the petition, together with the amended certificate, to the
24 Secretary of State. A copy of the amended certificate shall be filed
25 in the elections official's office.

26 (d) (1) If the amended certificates establish the petition's
27 sufficiency, the petition shall be deemed to be filed as of the date
28 of receipt by the Secretary of State of certificates showing the
29 petition to be signed by the requisite number of voters of the state.

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

34 (e) *The Secretary of State shall adopt regulations consistent*
35 *with this section, including, but not limited to, provisions specifying*
36 *a procedure that accounts for duplicate signatures that appear on*
37 *petitions submitted pursuant to Section 9036.*

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

39 9036. (a) At least 20 percent of the signatures submitted
40 ~~pursuant to~~ *to satisfy the requirements of* Section 9035 shall be

1 presented on a petition or section of a petition that was circulated
2 by a person who does not receive money or other valuable
3 consideration exclusively or primarily for the specific purpose of
4 soliciting signatures of electors on the petition.

5 (b) (1) A person who is an employee or member of a nonprofit
6 organization, other than an organization in the business of soliciting
7 signatures on initiative petitions, who receives money or other
8 valuable consideration from the organization and as part of that
9 employment or membership solicits signatures for the qualification
10 of an initiative measure shall be deemed to be a person who does
11 not receive money or other valuable consideration for the specific
12 purpose of soliciting signatures of electors, unless a primary
13 purpose of that employment or membership is to solicit signatures
14 on an initiative petition.

15 (2) For purposes of this subdivision, “member” means any of
16 the following:

17 (A) A person who, pursuant to a specific provision of an
18 organization’s articles of incorporation or bylaws, has the right to
19 vote directly or indirectly for the election of a director or directors,
20 or an officer or officers, or on a disposition of all or substantially
21 all of the assets of the organization, or on a merger or a dissolution.

22 (B) A person who is designated in an organization’s articles of
23 incorporation or bylaws as a member and, pursuant to a specific
24 provision of the articles of incorporation or bylaws, has the right
25 to vote on changes to the articles of incorporation or bylaws.

26 (C) A person who pays or has paid membership dues in an
27 amount predetermined by the organization, provided the
28 organization is tax exempt under Section 501(c) of the Internal
29 Revenue Code.

30 (3) For purposes of this subdivision, a member of a local union
31 is a member of any national or international union of which the
32 local union is a part and of any federation with which the local,
33 national, or international union is affiliated.

34 (4) For purposes of this subdivision, a person is not a member
35 of a nonprofit organization solely by virtue of being on a mailing
36 or contact list of the organization.

37 (c) Signatures that are solicited by a person who is a registered
38 voter of a political party, a member of a political party committee
39 as defined in Section 85205 of the Government Code, or an
40 employee of a political party or a political party committee and

1 who receives money or other valuable consideration for soliciting
2 signatures on an initiative petition from the political party or
3 political party committee do not count towards the number of
4 signatures needed to satisfy the requirement of subdivision (a).

5 (d) (1) Signatures on an initiative petition that are solicited
6 through direct mail do not count towards the number of signatures
7 needed to satisfy the requirement of subdivision (a) if the person
8 soliciting the signatures through direct mail, or any other person
9 who organizes, pays for, or arranges for the direct mail, receives
10 money or other valuable consideration primarily for the purpose
11 of soliciting signatures of electors, unless the person is an employee
12 or member of a nonprofit organization as described in subdivision
13 (b).

14 (2) This subdivision shall not be construed to preclude an
15 organization that has a primary purpose other than soliciting
16 signatures on initiative petitions from soliciting signatures from
17 the organization's members through direct mail and relying on
18 those signatures for purposes of satisfying the requirement set forth
19 in subdivision (a).

20 (e) This section shall not be construed to preclude a person who
21 receives ~~nominal, non-monetary benefits, nominal benefits other~~
22 ~~than money~~, including food, transportation, or lodging, from
23 qualifying under this section as a person who does not receive
24 money or other valuable consideration exclusively or primarily
25 for the specific purpose of soliciting signatures of electors on a
26 petition for a proposed initiative measure.

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

28 9037. (a) ~~A person shall not pay money or other valuable~~
29 ~~consideration to another person for the specific purpose of~~
30 ~~soliciting signatures of electors on an initiative or referendum~~
31 ~~petition, and a person shall not receive money or other valuable~~
32 ~~consideration for the specific purpose of soliciting signatures of~~
33 ~~electors on an initiative or referendum petition, unless the person~~
34 ~~soliciting the signatures does both of the following:~~ *For purposes*
35 *of this section, "professional petition firm" means an entity that*
36 *is created and maintained for the exclusive or primary purpose of*
37 *paying individuals to circulate initiative and referendum petitions*
38 *for the purpose of gathering signatures to qualify an initiative or*
39 *referendum measure for a state election ballot.*

1 (1) Registers with the Secretary of State in the manner prescribed
2 by subdivision (c) and by regulations adopted by the Secretary of
3 State.

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

6 (b) ~~A person who is an employee or member of a nonprofit
7 organization, other than an organization in the business of soliciting
8 signatures on initiative or referendum petitions, who receives
9 money or other valuable consideration from the organization and
10 as part of that employment or membership solicits signatures for
11 the qualification of an initiative or referendum measure shall be
12 deemed to be a person who does not receive money or other
13 valuable consideration for the specific purpose of soliciting
14 signatures of electors for purposes of subdivision (a), unless a
15 primary purpose of that employment or membership is to solicit
16 signatures on an initiative or referendum petition.~~

17 (b) (1) *A professional petition firm shall register annually with
18 the Secretary of State. The registration form shall include the full
19 name, address, and partners, owners, or officers of the firm, and
20 shall be accompanied by a registration fee established by the
21 Secretary of State. The Secretary of State shall adopt regulations
22 providing procedures for registration pursuant to this subdivision,
23 including the denial and revocation of registration.*

24 (c) *The Secretary of State shall use the registration fees collected
25 pursuant to subdivision (b) to maintain a directory of professional
26 petition firms on his or her Internet Web site and to defray any
27 other costs associated with the requirements of this section.*

28 (d) *A professional petition firm shall provide training to each
29 paid petition circulator, individually or in a group, that includes
30 a review of all applicable laws related to obtaining signatures on
31 a petition, including any prohibitions, and shall submit a copy of
32 the training materials to the Secretary of State. The training
33 materials shall be consistent with the regulations adopted by the
34 Secretary of State pursuant to subdivision (l).*

35 (e)

36 (e) ~~A person who is required to register with the Secretary of
37 State pursuant to subdivision (a) shall file an application with the
38 Secretary of State Prior to soliciting signatures for an initiative
39 or referendum petition, a professional petition firm shall obtain~~

1 *from each person hired as a paid circulator a statement that*
2 *includes all of the following:*

3 (1) The full name and any assumed name of the ~~applicant.~~
4 *person.*

5 (2) The residential street address of the ~~applicant.~~ *person.*

6 (3) An example of the signature of the ~~applicant.~~ *person.*

7 (4) A list of the initiative or referendum petitions for which the
8 ~~applicant~~ *person* will solicit signatures.

9 (5) If the ~~applicant~~ *person* has been convicted of a criminal
10 offense involving fraud, forgery, identification theft, or a violation
11 of the Elections Code, information relating to the circumstances
12 of the conviction, as required by the Secretary of State.

13 (6) A statement signed by the ~~applicant~~ *person* acknowledging
14 that he or she has *received training and has read and understands*
15 *a summary of* applicable laws pertaining to the soliciting of
16 signatures for an initiative or referendum measure, *as prepared*
17 *by the Secretary of State or required by the Secretary of State by*
18 *regulation.*

19 (7) Proof that the ~~applicant~~ *person* has completed the training
20 required by ~~paragraph (2) of subdivision (a).~~ *(d).*

21 (8) A photograph of the ~~applicant~~ *person* that meets all of the
22 following requirements:

23 (A) Is a conventional photograph with a plain background.

24 (B) Shows the face or the face, neck, and shoulders of the
25 ~~applicant.~~ *person.*

26 (C) Is prepared and processed for printing ~~as in a format~~
27 *prescribed by the Secretary of State.*

28 (9) If the ~~applicant~~ *person* is not a resident of the state, a
29 statement that he or she consents to both of the following:

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

33 (B) Service of process for any legal action pertaining to the
34 validity of the signatures submitted by him or her.

35 (10) ~~The applicant~~ *Each person hired by a professional petition*
36 *firm to circulate a state initiative or referendum petition shall*
37 *certify the content of the application as to its truth and correctness;*
38 *of the contents of the statement required by this subdivision under*
39 *penalty of perjury under the laws of the State of California, with*
40 *his or her signature. The applicant certification shall state the date*

1 and the place of execution ~~on the application~~ immediately
2 preceding ~~his or her~~ *the person's* signature.

3 ~~(d) If an applicant complies with subdivision (c), not later than~~
4 ~~five business days after the applicant submits the application, the~~
5 ~~Secretary of State shall register the applicant and assign the~~
6 ~~applicant a registration number.~~

7 ~~(e) The Secretary of State shall deny the registration of a person~~
8 ~~who has been convicted of a criminal offense involving fraud,~~
9 ~~forgery, or identification theft in any state, or a violation of the~~
10 ~~Elections Code, during the five-year period prior to the date of the~~
11 ~~application.~~

12 ~~(f) If a person receives money or other valuable consideration~~
13 ~~for the specific purpose of soliciting signatures of electors on an~~
14 ~~initiative or referendum petition and the person was not registered~~
15 ~~pursuant to this section at the time the signatures were solicited,~~
16 ~~the signatures presented on the petition or sections of the petition~~
17 ~~circulated by that person shall not count towards satisfying the~~
18 ~~requirements of Sections 9030, 9031, and 9035.~~

19 *(f) Within 14 days of the date of execution of the certified*
20 *statement described in subdivision (e), a professional petition firm*
21 *shall provide to the Secretary of State the name and unique*
22 *identifying number of each paid circulator assigned pursuant to*
23 *subdivision (g) and shall retain copies of each certified statement*
24 *for not less than two years after the petition is filed or two years*
25 *after the deadline for submission of the petition to the elections*
26 *officials, whichever is later. The Secretary of State may inspect*
27 *the records under reasonable conditions during normal business*
28 *hours at any time before the deadline for filing the petition or*
29 *during the period specified for retention. For purposes of this*
30 *subdivision, normal business hours means those hours that the*
31 *proponent of the initiative or referendum measure is normally*
32 *open for business to the public. The right of inspection may be*
33 *enforced by writ of mandamus issued by a court of competent*
34 *jurisdiction.*

35 *(g) The Secretary of State shall assign a unique three-letter*
36 *code to each professional petition firm. Each professional petition*
37 *firm shall assign a unique four-digit identifying number to each*
38 *person hired to circulate a state initiative or referendum petition.*
39 *The professional petition firm shall include the seven-digit*
40 *alphanumeric code consisting of the three-letter code of the*

1 *professional petition firm followed by the four-digit identifying*
2 *number of the paid circulator on the top of the first page of the*
3 *statement required by subdivision (e).*

4 ~~(g)~~

5 ~~(h) A person registered under this section hired by a professional~~
6 ~~petition firm to solicit signatures on a state initiative or referendum~~
7 ~~petition shall wear a badge provided by the proponent of the~~
8 ~~initiative or referendum measure that evidences the person's~~
9 ~~registration professional petition firm when the person is soliciting~~
10 ~~signatures on the proposed initiative or referendum petition. The~~
11 ~~badge shall be worn in a conspicuous place and contain the~~
12 ~~person's photograph and registration number. The Secretary of~~
13 ~~State shall prescribe the form of the registration badge by~~
14 ~~regulation: the seven-digit alphanumeric code consisting of the~~
15 ~~three-letter code of the professional petition firm followed by the~~
16 ~~four-digit identifying number of the paid circulator pursuant to~~
17 ~~subdivision (g).~~

18 ~~(i) (1) If a person receives money or other valuable~~
19 ~~consideration from a professional petition firm for the purpose of~~
20 ~~soliciting signatures of electors on an initiative or referendum~~
21 ~~petition and was not duly trained and certified pursuant to the~~
22 ~~requirements of this section at the time the signatures were~~
23 ~~solicited, the signatures presented on the petition or sections of~~
24 ~~the petition circulated by that person shall not count towards~~
25 ~~satisfying the requirements of Sections 9030, 9031, and 9035.~~

26 ~~(2) The Secretary of State shall provide to each county elections~~
27 ~~official a list of the names and unique identifying numbers for paid~~
28 ~~circulators. The county elections officials shall not count signatures~~
29 ~~on a petition or sections of a petition circulated by paid circulators~~
30 ~~if the name and unique identifying number of the paid circulator~~
31 ~~on the petition pursuant to paragraph (3) of subdivision (b) of~~
32 ~~Section 9022 does not appear on the list provided by the Secretary~~
33 ~~of State.~~

34 ~~(h)~~

35 ~~(j) The registration certified statement of a petition circulator~~
36 ~~under this section required by subdivision (e) shall be effective~~
37 ~~for two years from the date the Secretary of State assigns a~~
38 ~~registration number to the applicant. Upon expiration of the~~
39 ~~registration, the applicant may reapply in accordance with~~
40 ~~subdivision (e). of execution. If an applicant's the information in~~

1 *a person's statement* changes during the period of his or her
 2 registration, the applicant shall amend his or her application and
 3 file the amended application with *two-year effective period of the*
 4 *statement, the professional petition firm shall obtain an amended*
 5 *statement and provide it to the Secretary of State within 10 business*
 6 *days. If the changes relate to the circulation of specific initiative*
 7 *or referendum petitions under paragraph (4) of subdivision (c), the*
 8 *applicant's amended application shall be filed with and approved*
 9 *by the Secretary of State prior to the circulation of an initiative or*
 10 *referendum petition that was not previously identified on the*
 11 *applicant's registration. The Secretary of State shall approve or*
 12 *deny an amended application within five business days from the*
 13 *filing of the amended application or before the person continues*
 14 *to circulate initiative or referendum petitions, whichever comes*
 15 *first.*

16 (i)

17 (k) The Secretary of State shall revoke the registration of a
 18 ~~person~~ *professional petition firm* registered under this section ~~who,~~
 19 *that, in the course of circulating an initiative or referendum petition*
 20 *or hiring individuals to circulate an initiative or referendum*
 21 *petition, engages in fraud, misrepresentation, or any conduct*
 22 *described in Section 18600, 18601, or 18602.*

23 (j)

24 (l) The Secretary of State shall adopt regulations necessary to
 25 implement this section, including, but not limited to, regulations
 26 that do both of the following:

27 (1) Establish procedures for registering ~~persons who receive~~
 28 ~~money or other valuable consideration for the specific purpose of~~
 29 ~~soliciting signatures of electors on an initiative or referendum~~
 30 ~~petition~~ *professional petition firms.*

31 (2) Establish *criteria* for a training program for persons ~~who~~
 32 ~~receive money or other valuable consideration for the specific~~
 33 ~~purpose of soliciting~~ *hired by a professional petition firm to solicit*
 34 *signatures of electors on an initiative or referendum petition. The*
 35 *training program shall include, but is not limited to, instruction to*
 36 *circulators regarding how to avoid fraud, misrepresentation, and*
 37 *other misconduct in the circulation of petitions and instruction on*
 38 *compliance with, and consequences for violations of, the*
 39 *requirements of this section.*

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

1 9038. (a) As used in this section, “accounts” means all of the
2 following:

3 ~~(1) A contract entered into by a proponent of an initiative or~~
4 ~~referendum measure and any person for the specific purpose of~~
5 ~~soliciting signatures on a petition.~~

6 (2) An employment manual or training materials provided to
7 persons who solicit signatures on a petition.

8 (3) Payroll records for each employee soliciting signatures on
9 a petition showing hours worked, number of signatures collected,
10 and amounts paid.

11 (4) Records identifying the amount and purpose of each payment
12 ~~made by the received from a~~ proponent of an initiative or
13 ~~referendum measure to any contractor or subcontractor soliciting~~
14 ~~or from any other person who pays the professional petition firm~~
15 ~~for signatures on a petition.~~

16 (5) Copies of petition sections circulated by persons who receive
17 money or other valuable consideration for the specific purpose of
18 soliciting signatures of electors on a petition.

19 (b) ~~A proponent of an initiative or referendum measure who~~
20 ~~professional petition firm, as defined in subdivision (a) of Section~~
21 ~~9037, that pays any person money or other valuable consideration~~
22 ~~for the specific purpose of soliciting signatures of electors on a~~
23 ~~initiative or referendum petition shall keep detailed accounts.~~
24 ~~accounts, as follows: The~~

25 (1) *The* accounts shall be current as of not later than the seventh
26 calendar day after the date a payment is made to a person for
27 soliciting signatures on the petition.

28 (2) *The* accounts shall be preserved for at least two years after
29 the deadline for filing the petition for verification of signatures or
30 at least two years after the date the petition is filed under Section
31 9030, whichever is later.

32 (c) The Secretary of State ~~shall~~ may review the accounts of each
33 ~~proponent professional petition firm~~ described in subdivision (b)
34 in the ~~manner, and according to a regular schedule, manner~~
35 prescribed by regulations adopted by the Secretary of State.

36 (d) The Secretary of State may inspect the accounts of a
37 ~~proponent professional petition firm~~ described in subdivision (b)
38 under reasonable conditions during normal business hours at any
39 time before the deadline for filing the petition or during the period
40 specified for retention of the accounts under ~~subdivision (e)~~

1 *paragraph (2) of subdivision (b).* For purposes of this subdivision,
 2 normal business hours means those hours that the proponent of
 3 the initiative or referendum measure is normally open for business
 4 to the public. The right of inspection may be enforced by writ of
 5 mandamus issued by a court of competent jurisdiction.

6 ~~(e) A proponent of an initiative or referendum measure shall~~
 7 ~~preserve the accounts pertaining to an initiative or referendum~~
 8 ~~petition for at least two years after the deadline for filing the~~
 9 ~~petition for verification of signatures or at least two years after the~~
 10 ~~date the petition is filed under Section 9030, whichever is later.~~

11 ~~(f)~~
 12 ~~(e) If a proponent of an initiative or referendum measure~~
 13 ~~professional petition firm does not produce accounts upon demand~~
 14 ~~of the Secretary of State, both of the following shall apply:~~

15 (1) There is a rebuttable presumption that a violation of Section
 16 9037 has occurred.

17 (2) ~~The proponent professional petition firm shall not solicit~~
 18 ~~additional signatures on the petition until the proponent~~
 19 ~~professional petition firm makes the accounts available to the~~
 20 ~~Secretary of State for inspection. Any signatures solicited in~~
 21 ~~violation of this paragraph shall not be counted towards satisfying~~
 22 ~~the requirements of Sections 9030, 9031, 9035, and 9036.~~

23 ~~(g)~~
 24 (f) This section shall not be construed to require that accounts
 25 be available for inspection by the public.

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

27 9039. (a) An initiative or referendum petition section shall be
 28 deemed invalid and shall not be used by an elections official for
 29 the purpose of determining if *whether* the initiative or referendum
 30 measure qualifies for the ballot if the signatures are solicited and
 31 submitted by a person who, *in connection with the circulation of*
 32 *the initiative or referendum petition, intentionally* engages in fraud,
 33 misrepresentation, or any conduct described in Section 18600,
 34 18601, or 18602.

35 (b) *The relief provided for in subdivision (a) may be obtained*
 36 *through a civil action brought by the Secretary of State or any*
 37 *elector may enforce this section by a civil action in which the*
 38 *plaintiff has the burden of showing a violation of this section upon*
 39 *a showing by clear and convincing evidence that the requirements*
 40 *for invalidation described in subdivision (a) have been satisfied.*

1 Any civil action brought pursuant to this section shall have priority
2 over all other matters.

3 (c) The relief provided for in subdivision (a) shall not be
4 available after the Secretary of State has certified that an initiative
5 or referendum petition has qualified for the ballot.

6 (d) If a local elections official is notified of or discovers any
7 conduct described in subdivision (a), the local elections official
8 shall promptly notify the Secretary of State.

9 ~~SEC. 13.~~ Section 18601 of the Elections Code is amended to
10 read:

11 18601. (a) A person working for the proponent or proponents
12 of an initiative or referendum measure or recall petition who refuses
13 to allow a prospective signer to read the measure or petition is
14 guilty of a misdemeanor.

15 (b) (1) An arrest or conviction pursuant to this section in
16 connection with a local initiative or referendum measure or local
17 recall petition shall not invalidate or otherwise affect the validity
18 of any signature solicited by the person arrested or convicted.

19 (2) A conviction pursuant to this section in connection with a
20 statewide initiative or referendum measure or statewide recall
21 petition shall invalidate the signatures solicited by the person
22 convicted.

23 ~~SEC. 14.~~

24 ~~SEC. 13.~~ Section 18602 of the Elections Code is amended to
25 read:

26 18602. A person working for the proponent or proponents of
27 a statewide initiative or referendum measure who covers or
28 otherwise obscures the summary of the measure prepared by the
29 Attorney General or the disclosure statement printed on the petition
30 pursuant to Section 9009.6 from the view of a prospective signer
31 is guilty of a misdemeanor.

32 ~~SEC. 15.~~

33 ~~SEC. 14.~~ The provisions of this act shall take effect January 1,
34 2014, and shall apply to any initiative or referendum petition for
35 which the Attorney General issued a circulating title and summary
36 on or after October 1, 2013.

37 ~~SEC. 16.~~

38 ~~SEC. 15.~~ If the Commission on State Mandates determines that
39 this act contains costs mandated by the state, reimbursement to
40 local agencies and school districts for those costs shall be made

- 1 pursuant to Part 7 (commencing with Section 17500) of Division
- 2 4 of Title 2 of the Government Code.

O