

AMENDED IN SENATE JUNE 26, 2013

AMENDED IN ASSEMBLY MAY 24, 2013

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~~ 9008, 9021, 9022, 9030, 9031, 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.~~ *Existing law requires that each section of a petition for an initiative or referendum measure have attached thereto the declaration of the person soliciting the signatures that includes specified information regarding the person and a statement 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. *The bill would require that the declaration include a statement of consent to jurisdiction of the state and service of process, as specified, by the person soliciting signatures if he or she is not a resident of the 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 that are required to qualify an initiative measure to be submitted on a petition or petition section that was circulated~~ *solicited* 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 that the declaration of such a person include additional content, 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 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 *or retained, directly or indirectly*, 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 *or retained, directly or indirectly*, as a paid circulator a certified statement, as specified. *The bill would prohibit a professional petition firm from hiring, retaining, or otherwise compensating a person, directly or indirectly, for soliciting signatures on an initiative or referendum petition if the person has been convicted, within the past 10 years, of specified criminal offenses.* 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~~ *person hired or retained, directly or indirectly, to circulate an initiative or referendum petition*, 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 that, if the statistical sampling shows that the number of valid signatures on a petition is within 95 to 110% of the number of signatures of qualified voters needed to declare the petition sufficient, the Secretary of State shall order the examination and

verification of each signature filed, and shall so notify the elections officials.

This bill, with regard to an initiative petition for which the statistical sampling shows that the number of valid signatures for all signatures submitted is more than 110% of the number of qualified voters needed to find the petition sufficient, but the number of valid signatures submitted for purposes of the 20% requirement described above is within 95 to 110% of the number of signatures needed to satisfy that requirement, would require the Secretary of State to order an examination and verification of each signature filed that would satisfy the 20% requirement.

(3)

(4) 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~~

This bill would require a petition for a proposed initiative measure to have printed in the one-inch space across the top of the first page of each section of the petition, in 18-point roman boldface type, the circulating title for the measure prepared by the Attorney General. The 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 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 purpose of obtaining signatures of electors to be printed on ~~bright yellow~~ paper of a color other than white 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)

(5) 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)

(6) Existing law provides that a person who engages in specified conduct in connection with the collection of signatures on any statewide initiative or referendum 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~~ *use of* the petition section for the purpose of determining 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 upon a showing 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)

(7) 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.

1 (2) The voters amended the California Constitution to reserve
2 for themselves the power of the initiative because financially
3 powerful interests, including railroad companies, exercised a
4 corrupting influence over state politics.

5 (3) The purpose of reserving the initiative power was to provide
6 individuals, communities, and coalitions a means to protect the
7 general interests of the State of California.

8 (4) For the past 30 years, a disturbing trend in the state's political
9 process has undermined the original intent of the initiative power.
10 Whereas the initiative was reserved by the voters for the purpose
11 of allowing voters to participate in direct democracy, now the
12 integrity of the initiative process has been corrupted by
13 well-financed special interests.

14 (5) Due to the growth of paid signature gathering, the presence
15 of an initiative measure on the ballot is no longer necessarily
16 viewed as an expression of a minimum amount of public support
17 but, rather, often is the result of a special interest willing to pay a
18 sufficient number of petition circulators to qualify the initiative
19 measure for the ballot.

20 (6) Whereas initiative petitions were originally circulated by
21 volunteer and grassroots organizations, well-funded individuals
22 and organizations that promote narrow interests may rely
23 exclusively on paid circulators to qualify an initiative measure that
24 does not have broad community support. In many cases, the
25 individuals and organizations supporting an initiative petition do
26 not reside in the state and will not be subject to the laws that they
27 propose.

28 (7) Professional petition firms hire paid circulators to gather as
29 many signatures as possible in the least amount of time. Often the
30 signatures are obtained without providing electors an explanation
31 of the true purpose and effect of the proposed initiative measure.
32 Paid circulators are also instructed to solicit signatures from
33 electors ~~who do~~ *even if an elector does* not understand the contents
34 of the petition. Due to the prevalence of professional petition firms
35 and paid circulators, special interests may qualify an initiative
36 measure for the ballot without the necessary minimum showing
37 of public support. As a result, the statewide election ballot is
38 increasingly cluttered with initiative measures that do not have
39 enough public support to justify the expenses of administering the
40 election for those particular proposals.

1 (8) As has been the case since the initiative power was created,
2 initiative measures that have broad public support continue to
3 qualify for the ballot through the efforts of volunteers and
4 organizations, but the sheer number and complexity of proposals
5 without broad public support have overwhelmed voters,
6 undermining the integrity of both the signature gathering and
7 electoral processes.

8 (9) The prevalence of paid circulators has also led to instances
9 of fraud and misrepresentation, and the erosion of public
10 confidence in the initiative process. The most popular means of
11 paying petition circulators is based on the number of signatures a
12 person collects. Under a payment-per-signature arrangement, a
13 paid circulator does not need an incentive to educate voters about
14 an initiative petition but, instead, may be motivated solely by
15 financial reasons to gather as many signatures as possible. In their
16 quest for economic gain, paid circulators often purposefully
17 mislead voters and leave the public in the dark about the true
18 content of initiative petitions.

19 (10) Because the use of paid circulators is no longer a sufficient
20 means of measuring the necessary public support for an initiative
21 measure to appear on the ballot and has been associated with
22 coercive and misleading tactics to collect signatures, the public is
23 dissatisfied with the initiative process and the means by which a
24 petition is circulated to qualify a measure for the ballot.

25 (11) Unlike paid circulators, a widespread volunteer effort to
26 qualify an initiative measure for the ballot demonstrates a
27 significant level of public support. Improving the measure of public
28 support for a proposed initiative measure will increase the public's
29 confidence in the integrity of the initiative process.

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

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

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

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

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

8 *SEC. 2. Section 9008 of the Elections Code is amended to read:*

9 9008. ~~Every~~*Each* proposed initiative measure, prior to
10 circulation, shall have placed across the top of the petition ~~in~~
11 ~~12-point or larger roman boldface type~~, all of the following:

12 (a) The Attorney General’s unique numeric identifier, *in*
13 *12-point or larger roman boldface type*, placed before the
14 circulating title and summary upon each page where the circulating
15 title and summary is to appear.

16 (b) (1) The circulating title and summary prepared by the
17 Attorney General, *in 12-point or larger roman boldface type*, upon
18 each page of the petition on which signatures are to appear.

19 ~~(e)~~

20 (2) The circulating title and summary prepared by the Attorney
21 General, *in 12-point or larger roman boldface type*, upon each
22 section of the petition preceding the text of the measure.

23 (3) *Notwithstanding Section 9013, on the first page of each*
24 *section of the petition, the circulating title prepared by the Attorney*
25 *General shall be placed in the one-inch space across the top of*
26 *the page in 18-point roman boldface type.*

27 ~~(d)~~

28 (c) The circulating title and summary prepared by the Attorney
29 General, as required by ~~subdivision (e) paragraph (2) of~~
30 *subdivision (b)*, shall be preceded by the following statement *in*
31 *12-point or larger roman boldface type*: “Initiative measure to be
32 submitted directly to the voters.”

33 ~~SEC. 2.~~

34 *SEC. 3. Section 9009.5 is added to the Elections Code, to read:*

35 9009.5. (a) A petition for a proposed initiative measure that
36 is circulated by a person who does not receive money or other
37 valuable consideration for the purpose of soliciting signatures of
38 electors, for purposes of Section 9036, shall be printed on white
39 paper in a contrasting color ink.

1 (b) A petition for a proposed initiative measure that is circulated
2 by a person who receives money or other valuable consideration
3 for the purpose of soliciting signatures of electors shall be printed
4 on ~~bright yellow~~ paper *of a color other than white* in a contrasting
5 color ink.

6 ~~SEC. 3.~~

7 *SEC. 4.* Section 9009.6 is added to the Elections Code, to read:

8 9009.6. (a) Notwithstanding any other provision of law, a
9 petition for a proposed initiative measure that is circulated by a
10 person who receives money or other valuable consideration for
11 the specific purpose of soliciting signatures of electors shall include
12 the following statement immediately prior to the portion of the
13 petition for voters' signatures, printed names, and residence
14 addresses, printed in 18-point boldface type:

15 "NOTICE TO THE PUBLIC: THIS PETITION IS BEING
16 CIRCULATED BY A PERSON PAID TO OBTAIN YOUR
17 SIGNATURE. YOU ARE ENCOURAGED TO READ THE
18 CONTENTS OF THIS PETITION BEFORE SIGNING."
19

20 (b) On each state initiative petition, immediately prior to that
21 portion of the petition for voters' signatures, printed names, and
22 residence addresses, but after the language required by subdivision
23 (a), where applicable, shall be printed a disclosure statement, in
24 14-point boldface type, that includes the following language:
25

26 "The political committee paying for this petition to be circulated
27 is (insert full name of committee as registered with the Secretary
28 of State pursuant to Section 84101 of the Government Code).

29 The following donors have contributed \$50,000 or more to the
30 (insert full name of committee as registered with the Secretary of
31 State pursuant to Section 84101 of the Government Code) within
32 six months of the printing of this petition: (insert name of each of
33 the top three donors who have contributed fifty thousand dollars
34 (\$50,000) or more and, if an individual, his or her occupation and
35 the identity of his or her employer)."
36

37 (c) If the information for the disclosure statement described in
38 subdivision (b) changes, the disclosure statement on the petition
39 shall be updated within 14 days.

1 (d) Failure to comply with subdivision (b) shall not constitute
2 grounds for an elections official to refuse to receive or file an
3 initiative petition under Section 9015 and shall not render invalid
4 any signature on an initiative petition.

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

6 9012. ~~(a) A petition for a proposed initiative or referendum~~
7 ~~measure may be presented in sections, but each section shall~~
8 ~~contain a full and correct copy of the circulating title and summary~~
9 ~~and text of the proposed measure.~~

10 (b) ~~Each section of a petition for a proposed initiative measure~~
11 ~~shall bear a unique identifying number.~~

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

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

15 9021. Each section of a petition for a proposed initiative or
16 referendum measure shall bear the name of a county or city and
17 county, and only qualified registered voters of that county or city
18 and county may sign that section. The circulator may sign the
19 section he or she is circulating as provided in Section 106.

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

21 9022. (a) Each section of a petition for a proposed initiative
22 or referendum measure shall have attached thereto the declaration
23 of the person soliciting the signatures setting forth the information
24 required by Section 104. *If the person soliciting the signatures is*
25 *not a resident of this state, the declaration shall also state that the*
26 *person consents to both of the following:*

27 (1) *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 he or she submits.*

30 (2) *Service of process for any legal action pertaining to an*
31 *investigation or prosecution by any state or local agency regarding*
32 *the validity of the signatures he or she submits.*

33 (b) ~~A~~ *In addition to the information required by Section 104,*
34 *the declaration of a person who solicits signatures for a proposed*
35 *initiative measure and does not receive money or other valuable*
36 *consideration for the specific purpose of soliciting signatures of*
37 *electors shall sign an affidavit that is prepared by the Secretary of*
38 *State and that declares declare all of the following:*

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

4 (2) To the best of his or her knowledge, the signatures on the
5 petition sections circulated by him or her should be counted
6 towards the requirement set forth in subdivision (a) of Section
7 9036.

8 (3) The person's unique identifying number assigned pursuant
9 to subdivision ~~(g)~~ (h) of Section 9037.

10 ~~(4) The person's current place of permanent residence.~~

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

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

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

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

24 (d) Petitions so verified shall be prima facie evidence that the
25 signatures thereon are genuine and that the persons signing are
26 qualified voters.

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

28 9030. (a) Each section of the petition shall be filed with the
29 elections official of the county or city and county in which it was
30 circulated, but all sections circulated in any county or city and
31 county shall be filed at the same time. Once filed, no petition
32 section shall be amended except by order of a court of competent
33 jurisdiction.

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

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

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

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

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

1 petition and the certificate to the Secretary of State. A copy of this
2 certificate shall be filed in the elections official's office.

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

13 (g) If the certificates received from all elections officials by the
14 Secretary of State total more than 110 percent of the number of
15 qualified voters needed to find the petition sufficient and, in the
16 case of an initiative petition, the number of valid signatures
17 submitted for purposes of subdivision (a) of Section 9036 total
18 more than 110 percent of the number of qualified voters needed
19 to satisfy the requirement of that subdivision, the petition shall be
20 deemed to qualify as of the date of receipt by the Secretary of State
21 of certificates showing the petition received more than 110 percent
22 of the qualified voters needed, and the Secretary of State shall
23 immediately so notify the proponents and the elections officials.

24 (h) The Secretary of State shall enact regulations consistent with
25 this section.

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

27 9031. (a) (1) If the statistical sampling shows that the number
28 of valid signatures is within 95 to 110 percent of the number of
29 signatures of qualified voters needed to declare the petition
30 sufficient ~~or, in the case of an initiative petition, the number of~~
31 ~~valid signatures submitted for purposes of subdivision (a) of~~
32 ~~Section 9036 is within 95 to 110 percent of the number of~~
33 ~~signatures needed to satisfy the requirement of that subdivision,~~
34 the Secretary of State shall order the examination and verification
35 of each signature filed, and shall so notify the elections officials.

36 (2) *In the case of an initiative petition, if the statistical sampling*
37 *shows that the number of valid signatures for all signatures*
38 *submitted is more than 110 percent of the number of qualified*
39 *voters needed to find the petition sufficient, but the number of valid*
40 *signatures submitted for purposes of subdivision (a) of Section*

1 9036 is within 95 to 110 percent of the number of signatures needed
2 to satisfy the requirement of that subdivision, the Secretary of State
3 shall order an examination and verification of each signature filed
4 to satisfy the requirement of subdivision (a) of Section 9036.

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

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

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

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

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

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

1 9036. (a) At least 20 percent of the signatures ~~submitted to~~
2 ~~satisfy the requirements of~~ *required under* Section 9035 shall be
3 presented on a petition or section of a petition that was circulated
4 by a person who does not receive money or other valuable
5 consideration exclusively or primarily for the specific purpose of
6 soliciting signatures of electors on the petition.

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

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

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

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

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

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

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

39 (c) Signatures that are solicited by a person who is a registered
40 voter of a political party, a member of a political party committee

1 as defined in Section 85205 of the Government Code, or an
2 employee of a political party or a political party committee and
3 who receives money or other valuable consideration for soliciting
4 signatures on an initiative petition from the political party or
5 political party committee do not count towards the number of
6 signatures needed to satisfy the requirement of subdivision (a).

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

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

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

29 (f) *Verification of a petition pursuant to Section 9022 shall be*
30 *prima facie evidence that the signatures thereon satisfy the*
31 *requirement of subdivision (a).*

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

33 9037. (a) For purposes of this section, "professional petition
34 firm" means ~~an entity~~ *a business* that is created and maintained
35 for the exclusive or primary purpose of paying individuals, *directly*
36 *or indirectly*, to circulate initiative and referendum petitions for
37 the purpose of gathering signatures to qualify an initiative or
38 referendum measure for a state election ballot.

39 (b) ~~(1)~~ A professional petition firm shall register annually with
40 the Secretary of State. The registration form shall include the full

1 name, address, and partners, owners, or officers of the firm, and
2 shall be accompanied by a registration fee established by the
3 Secretary of State. The Secretary of State shall adopt regulations
4 providing procedures for registration pursuant to this subdivision,
5 including the denial and revocation of registration.

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

10 (d) A professional petition firm shall provide training to each
11 ~~paid person hired or retained, directly or indirectly, to circulate~~
12 ~~an initiative or referendum petition-circulator~~, individually or in
13 a group, that includes a review of all applicable laws related to
14 obtaining signatures on a petition, including any prohibitions, and
15 shall submit a copy of the training materials to the Secretary of
16 State. The training materials shall be consistent with the regulations
17 adopted by the Secretary of State pursuant to subdivision ~~(h)~~ (m).

18 (e) Prior to soliciting signatures for an initiative or referendum
19 petition, a professional petition firm shall obtain from each person
20 hired *or retained, directly or indirectly*, as a paid circulator a
21 statement that includes all of the following:

22 (1) The full name and any assumed name of the person.

23 (2) The residential street address of the person.

24 (3) An example of the signature of the person.

25 (4) A list of the initiative or referendum petitions for which the
26 person will solicit signatures.

27 (5) If the person has been convicted of a criminal offense
28 involving fraud, forgery, identification theft, or a violation of the
29 Elections Code, information relating to the circumstances of the
30 conviction, as required by the Secretary of State.

31 (6) A statement signed by the person acknowledging that he or
32 she has received training and has read a summary of applicable
33 laws pertaining to the soliciting of signatures for an initiative or
34 referendum measure, as prepared by the Secretary of State or
35 required by the Secretary of State by regulation.

36 (7) Proof that the person has completed the training required
37 by subdivision (d).

38 (8) A photograph of the person that meets all of the following
39 requirements:

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

1 (B) Shows the face or the face, neck, and shoulders of the
2 person.

3 (C) Is prepared and processed for printing in a format prescribed
4 by the Secretary of State.

5 (9) If the person is not a resident of the state, a statement that
6 he or she consents to both of the following:

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

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

12 (10) Each person hired by a professional petition firm to
13 circulate a state initiative or referendum petition shall certify the
14 truth and correctness of the contents of the statement required by
15 this subdivision under penalty of perjury under the laws of the
16 State of California, with his or her signature. The certification shall
17 state the date and the place of execution immediately preceding
18 the person's signature.

19 *(f) A professional petition firm shall not hire, retain, or*
20 *otherwise compensate a person, directly or indirectly, for soliciting*
21 *signatures on an initiative or referendum petition if the person has*
22 *been convicted, within the past 10 years, of a misdemeanor or*
23 *felony offense defined in this code or a felony involving fraud,*
24 *forgery, or identification theft.*

25 (f)
26 (g) Within 14 days of the date of execution of the certified
27 statement described in subdivision (e), a professional petition firm
28 shall provide to the Secretary of State the name and unique
29 identifying number of each ~~paid circulator~~ *person who is hired or*
30 *retained, directly or indirectly, to circulate an initiative or*
31 *referendum petition and is assigned pursuant to subdivision* ~~(g)~~

32 *(h) and shall retain copies of each certified statement for not less*
33 *than two years after the petition is filed or two years after the*
34 *deadline for submission of the petition to the elections officials,*
35 *whichever is later. The Secretary of State may inspect the records*
36 *under reasonable conditions during normal business hours at any*
37 *time before the deadline for filing the petition or during the period*
38 *specified for retention. For purposes of this subdivision, normal*
39 *business hours means those hours that the proponent of the*
40 *initiative or referendum measure is normally open for business to*

1 the public. The right of inspection may be enforced by writ of
2 mandamus issued by a court of competent jurisdiction.

3 ~~(g)~~

4 (h) The Secretary of State shall assign a unique three-letter code
5 to each professional petition firm. Each professional petition firm
6 shall assign a unique four-digit identifying number to each person
7 hired *or retained, directly or indirectly*, to circulate a state initiative
8 or referendum petition. The professional petition firm shall include
9 the seven-digit alphanumeric code consisting of the three-letter
10 code of the professional petition firm followed by the four-digit
11 identifying number of the paid circulator on the top of the first
12 page of the statement required by subdivision (e).

13 ~~(h)~~

14 (i) A person hired *or retained, directly or indirectly*, by a
15 professional petition firm to solicit signatures on a state initiative
16 or referendum petition shall wear a badge provided by the
17 professional petition firm when the person is soliciting signatures
18 on the proposed initiative or referendum petition. The badge shall
19 be worn in a conspicuous place and contain the person's
20 photograph and the seven-digit alphanumeric code consisting of
21 the three-letter code of the professional petition firm followed by
22 the four-digit identifying number of the paid circulator pursuant
23 to subdivision ~~(g)~~ (h).

24 ~~(i)~~

25 (j) (1) If a person receives money or other valuable
26 consideration, *directly or indirectly*, from a professional petition
27 firm for the purpose of soliciting signatures of electors on an
28 initiative or referendum petition and was not duly trained and
29 certified pursuant to the requirements of this section at the time
30 the signatures were solicited, the signatures presented on the
31 petition or sections of the petition circulated by that person shall
32 not count towards satisfying the requirements of Sections 9030,
33 9031, ~~and~~ 9035, *and* 9036.

34 (2) The Secretary of State shall provide to each county elections
35 official a list of the names and unique identifying numbers for ~~paid~~
36 ~~circulators~~ *persons hired or retained, directly or indirectly, as*
37 *provided pursuant to this section*. The county elections officials
38 shall not count signatures on a petition or sections of a petition
39 circulated by paid circulators if the name and unique identifying
40 number of the paid circulator on the petition pursuant to paragraph

1 (3) of subdivision (b) of Section 9022 does not appear on the list
2 provided by the Secretary of State.

3 ~~(j)~~

4 (k) The certified statement of a petition circulator required by
5 subdivision (e) shall be effective for two years from the date of
6 execution. If the information in a person's statement changes during
7 the two-year effective period of the statement, the professional
8 petition firm shall obtain an amended statement and provide it to
9 the Secretary of State within 10 business days or before the person
10 continues to circulate initiative or referendum petitions, whichever
11 comes first.

12 ~~(k)~~

13 (l) The Secretary of State shall revoke the registration of a
14 professional petition firm registered under this section that, in the
15 course of circulating an initiative or referendum petition or hiring
16 individuals to circulate an initiative or referendum petition, engages
17 in fraud, misrepresentation, or any conduct described in Section
18 18600, 18601, or 18602.

19 ~~(l)~~

20 (m) The Secretary of State shall adopt regulations necessary to
21 implement this section, including, but not limited to, regulations
22 that do both of the following:

23 (1) Establish procedures for registering professional petition
24 firms.

25 (2) Establish criteria for a training program for persons hired
26 *or retained, directly or indirectly*, by a professional petition firm
27 to solicit signatures of electors on an initiative or referendum
28 petition. The training program shall include, but is not limited to,
29 instruction to circulators regarding how to avoid fraud,
30 misrepresentation, and other misconduct in the circulation of
31 petitions and instruction on compliance with, and consequences
32 for violations of, the requirements of this section.

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

34 9038. (a) As used in this section, "accounts" means all of the
35 following:

36 (1) A contract entered into for the specific purpose of soliciting
37 signatures on a petition.

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

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

4 (4) Records identifying the amount and purpose of each payment
5 received from a proponent of an initiative or referendum measure
6 or from any other person who pays the professional petition firm
7 for signatures on a petition.

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

11 (b) A professional petition firm, as defined in subdivision (a)
12 of Section 9037, that pays any person money or other valuable
13 consideration for the specific purpose of soliciting signatures of
14 electors on an initiative or referendum petition shall keep detailed
15 accounts, as follows:

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

19 (2) (A) The accounts shall be preserved for at least two years
20 after the deadline for filing the petition for verification of signatures
21 or at least two years after the date the petition is filed under Section
22 9030, whichever is later.

23 (B) *The records in the accounts described in paragraph (5) of*
24 *subdivision (a) shall be stored in a secure location and destroyed*
25 *at the end of the period described in subparagraph (A).*

26 (c) The Secretary of State may review the accounts of each
27 professional petition firm described in subdivision (b) in the
28 manner prescribed by regulations adopted by the Secretary of State.

29 (d) The Secretary of State may inspect the accounts of a
30 professional petition firm described in subdivision (b) under
31 reasonable conditions during normal business hours at any time
32 before the deadline for filing the petition or during the period
33 specified for retention of the accounts under paragraph (2) of
34 subdivision (b). For purposes of this subdivision, normal business
35 hours means those hours that the proponent of the initiative or
36 referendum measure is normally open for business to the public.
37 The right of inspection may be enforced by writ of mandamus
38 issued by a court of competent jurisdiction.

1 (e) If a professional petition firm does not produce accounts
2 upon demand of the Secretary of State, both of the following shall
3 apply:

4 (1) There is a rebuttable presumption that a violation of Section
5 9037 has occurred.

6 (2) The professional petition firm shall not solicit additional
7 signatures on the petition until the professional petition firm makes
8 the accounts available to the Secretary of State for inspection. Any
9 signatures solicited in violation of this paragraph shall not be
10 counted towards satisfying the requirements of Sections 9030,
11 9031, 9035, and 9036.

12 (f) This section shall not be construed to require that accounts
13 be available for inspection by the public.

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

15 9039. (a) An initiative or referendum petition section shall be
16 deemed invalid and shall not be used by an elections official for
17 the purpose of determining whether the initiative or referendum
18 measure qualifies for the ballot if the *requirements of Section 9036,*
19 *9037, or 9038 are not satisfied or if* signatures are solicited and
20 submitted by a person who, in connection with the circulation of
21 the initiative or referendum petition, intentionally engages in fraud,
22 misrepresentation, or any conduct described in Section 18600,
23 18601, or 18602.

24 (b) The relief provided for in subdivision (a) may be obtained
25 through a civil action brought by the Secretary of State or any
26 elector upon a showing by clear and convincing evidence that the
27 requirements for invalidation described in subdivision (a) have
28 been satisfied. Any civil action brought pursuant to this section
29 shall have priority over all other matters.

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

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

36 SEC. 13. Section 18602 of the Elections Code is amended to
37 read:

38 18602. A person working for the proponent or proponents of
39 a statewide initiative or referendum measure who covers or
40 otherwise obscures the summary of the measure prepared by the

1 Attorney General or the disclosure statement printed on the petition
2 pursuant to Section 9009.6 from the view of a prospective signer
3 is guilty of a misdemeanor.

4 ~~SEC. 14. The provisions of this act shall take effect January~~
5 ~~1, 2014, and shall apply to any initiative or referendum petition~~
6 ~~for which the Attorney General issued a circulating title and~~
7 ~~summary on or after October 1, 2013.~~

8 ~~SEC. 15.~~

9 *SEC. 14.* If the Commission on State Mandates determines that
10 this act contains costs mandated by the state, reimbursement to
11 local agencies and school districts for those costs shall be made
12 pursuant to Part 7 (commencing with Section 17500) of Division
13 4 of Title 2 of the Government Code.