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CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 857**

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**Introduced by Assembly Member Fong**

February 21, 2013

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An act to amend Sections 9008, 9021, 9022, 9030, 9031, and 18602 of, ~~and to add Sections 9009.5, 9009.6, 9036, 9037, 9038, and 9039 and 9037 to, and to repeal Section 101 of,~~ 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. 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 that are required to qualify an initiative measure to be 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 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 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 *only* order an examination and verification of each signature filed that would satisfy the 20% requirement.

(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 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 paper of a color other than white in a contrasting color ink.

(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 *delete that requirement and 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.

(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 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.

(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.  
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~~

1 integrity of the initiative process has been corrupted by  
2 well-financed special interests.

3 (5) ~~Due to the growth of paid signature gathering, the~~*The*  
4 presence of an initiative measure on the ballot is no longer  
5 necessarily viewed as an expression of a minimum amount of  
6 public support ~~but, rather, often, but, instead, is often viewed as~~  
7 the result of a special interest willing to pay a sufficient number  
8 ~~of petition circulators~~ *the necessary amount of money to qualify*  
9 ~~the~~ *an* initiative measure for the ballot. *As a result, the integrity*  
10 *of the initiative process is threatened by a crowded ballot with*  
11 *confusing proposals and the perception of fraud and*  
12 *misrepresentation in the signature gathering phase.*

13 (6) Whereas initiative petitions ~~were originally~~ circulated by  
14 volunteer and grassroots ~~organizations,~~ *organizations demonstrate*  
15 *significant public support for a proposed law,* well-funded  
16 individuals and organizations that promote narrow interests may  
17 rely exclusively on paid circulators to qualify an initiative measure  
18 that does not have broad community support. In many cases, the  
19 individuals and organizations supporting an initiative petition do  
20 not reside in the state and will not be subject to the laws that they  
21 propose.

22 (7) ~~Professional petition firms hire paid~~ *As has been the case*  
23 *since the initiative power was created, initiatives that have broad*  
24 *public support continue to qualify for the ballot through the efforts*  
25 *of volunteers and grassroots organizations, but the availability of*  
26 *paid circulators has led to an excess of complex proposals that*  
27 *lack a broad level of public support. Paid circulators to gather as*  
28 *many signatures as possible in the least amount of time. Often the*  
29 *signatures are obtained without providing electors an explanation*  
30 *of, and may not provide electors with a full explanation of the true*  
31 *purpose and effect of the proposed initiative measure. Paid*  
32 *circulators are also instructed to solicit signatures from electors*  
33 *even if an elector does not understand the contents of the petition.*  
34 ~~Due to the prevalence of professional petition firms and paid~~  
35 ~~circulators,~~ *Without a better measure of public support,* special  
36 interests may qualify an initiative measure for the ballot ~~without~~  
37 ~~the necessary minimum showing of public support. As a result,~~  
38 ~~the statewide election ballot is increasingly cluttered with initiative~~  
39 ~~measures that do not have enough public support to justify the~~

1 expenses of administering the election for those particular  
2 proposals: *regardless of the actual content of the proposal.*

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

10 (9)

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

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

29 (11)

30 (9) ~~Unlike paid circulators, a widespread~~ *Improving the measure*  
31 *of public support for a proposed initiative measure will increase*  
32 *the public's confidence and protect the integrity of the initiative*  
33 *process. A volunteer and grassroots effort to qualify an initiative*  
34 *measure for the ballot demonstrates a significant level of public*  
35 *support. Improving the measure of public support for a proposed*  
36 *initiative measure will increase the public's confidence in the*  
37 *integrity of the initiative process. By limiting the influence of money*  
38 *in the signature gathering phase, the public will have greater*  
39 *confidence in the actual merits of a proposed initiative measure.*

40 (12)

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

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

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

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

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

18 *SEC. 2. Section 101 of the Elections Code is repealed.*

19 ~~101. Notwithstanding any other provision of law, any state or  
20 local initiative petition required to be signed by voters shall contain  
21 in 12-point type, prior to that portion of the petition for voters’  
22 signatures, printed names, and residence addresses, the following  
23 language:~~

~~“NOTICE TO THE PUBLIC~~

~~-~~

~~THIS PETITION MAY BE CIRCULATED BY A PAID  
27 SIGNATURE GATHERER OR A VOLUNTEER. YOU HAVE  
28 THE RIGHT TO ASK.”~~

~~SEC. 2.~~

30 *SEC. 3. Section 9008 of the Elections Code is amended to read:*

31 9008. Each proposed initiative measure, prior to circulation,  
32 shall have placed across the top of the petition all of the following:

33 (a) The Attorney General’s unique numeric identifier, in  
34 12-point or larger roman boldface type, placed before the  
35 circulating title and summary upon each page where the circulating  
36 title and summary is to appear.

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



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

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

8 (c) The circulating title and summary prepared by the Attorney  
9 General, as required by paragraph (2) of subdivision (b), shall be  
10 preceded by the following statement in 12-point or larger roman  
11 boldface type: "Initiative measure to be submitted directly to the  
12 voters."

13 ~~SEC. 3.~~

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

15 9009.5. (a) A petition for a proposed initiative measure that  
16 is circulated by a person who does not receive money or other  
17 valuable consideration for the purpose of soliciting signatures of  
18 electors, for purposes of Section 9036, shall be printed on white  
19 paper in a contrasting color ink.

20 (b) A petition for a proposed initiative measure that is circulated  
21 by a person who receives money or other valuable consideration  
22 for the purpose of soliciting signatures of electors shall be printed  
23 on paper of a color other than white in a contrasting color ink.

24 ~~SEC. 4.~~

25 *SEC. 5.* Section 9009.6 is added to the Elections Code, to read:

26 9009.6. (a) Notwithstanding any other provision of law, a  
27 petition for a proposed initiative measure that is circulated by a  
28 person who receives money or other valuable consideration for  
29 the specific purpose of soliciting signatures of electors shall include  
30 the following statement immediately prior to the portion of the  
31 petition for voters' signatures, printed names, and residence  
32 addresses, printed in 18-point boldface type:

33 "NOTICE TO THE PUBLIC: THIS PETITION IS BEING  
34 CIRCULATED BY A PERSON PAID TO OBTAIN YOUR  
35 SIGNATURE. YOU ARE ENCOURAGED TO READ THE  
36 CONTENTS OF THIS PETITION BEFORE SIGNING."  
37

38 (b) On each state initiative petition, immediately prior to that  
39 portion of the petition for voters' signatures, printed names, and  
40 residence addresses, but after the language required by subdivision

1 (a), where applicable, shall be printed a disclosure statement, in  
 2 14-point boldface type, that includes the following language:

3  
 4 “The political committee paying for this petition to be circulated  
 5 is (insert full name of committee as registered with the Secretary  
 6 of State pursuant to Section 84101 of the Government Code).

7 The following donors have contributed \$50,000 or more to the  
 8 (insert full name of committee as registered with the Secretary of  
 9 State pursuant to Section 84101 of the Government Code) within  
 10 six months of the printing of this petition: (insert name of each of  
 11 the top three donors who have contributed fifty thousand dollars  
 12 (\$50,000) or more and, if an individual, his or her occupation and  
 13 the identity of his or her employer).” *If there are no such donors,*  
 14 *insert “none.”*

15  
 16 (c) If the information for the disclosure statement described in  
 17 subdivision (b) changes, the disclosure statement on the petition  
 18 shall be updated within 14 days *of the date of receipt of a*  
 19 *contribution that caused the information in the disclosure statement*  
 20 *to change.*

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

25 ~~SEC. 5.~~

26 *SEC. 6.* Section 9021 of the Elections Code is amended to read:  
 27 9021. Each section of a petition for a proposed initiative or  
 28 referendum measure shall bear the name of a county or city and  
 29 county, and only qualified registered voters of that county or city  
 30 and county may sign that section. The circulator may sign the  
 31 section he or she is circulating as provided in Section 106.

32 ~~SEC. 6.~~

33 *SEC. 7.* Section 9022 of the Elections Code is amended to read:  
 34 9022. (a) Each section of a petition for a proposed initiative  
 35 or referendum measure shall have attached thereto the declaration  
 36 of the person soliciting the signatures setting forth the information  
 37 required by Section 104. ~~If the person soliciting the signatures is~~  
 38 ~~not a resident of this state, the declaration shall also state that the~~  
 39 ~~person consents to both of the following:~~

1 ~~(1) The jurisdiction of the state for purposes of an investigation~~  
2 ~~or prosecution by any state or local agency regarding the validity~~  
3 ~~of the signatures he or she submits.~~

4 ~~(2) Service of process for any legal action pertaining to an~~  
5 ~~investigation or prosecution by any state or local agency regarding~~  
6 ~~the validity of the signatures he or she submits.~~

7 (b) In addition to the information required by Section 104, the  
8 declaration of a person who solicits signatures for a proposed  
9 initiative measure and does not receive money or other valuable  
10 consideration for the specific purpose of soliciting signatures of  
11 electors *pursuant to Section 9036* shall declare all of the following:

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

15 (2) To the best of his or her knowledge, the signatures on the  
16 petition sections circulated by him or her should be counted  
17 towards the requirement set forth in subdivision (a) of Section  
18 9036.

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

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

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

29 ~~SEC. 7.~~

30 *SEC. 8.* Section 9030 of the Elections Code is amended to read:

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

37 (b) Within 10 days after the filing of the petition, excluding  
38 Saturdays, Sundays, and holidays, the elections official shall  
39 determine the total number of signatures affixed to the petition  
40 and, in the case of an initiative petition, the total number of

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

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

20 (d) (1) Within 35 days after this notification, excluding  
21 Saturdays, Sundays, and holidays, the elections official shall  
22 determine the number of qualified voters who have signed the  
23 petition and the number of qualified voters who have signed a  
24 section of the petition that satisfies the requirement of subdivision  
25 (a) of Section 9036. ~~ff~~

26 (2) (A) *If more than 500 names have been signed on sections*  
27 *of the petition filed with an elections official, the elections official*  
28 *shall use a random sampling technique for verification of*  
29 *signatures, as determined by the Secretary of State. The random*  
30 *sample of signatures to be verified shall be drawn from all petition*  
31 *sections in such a manner that every signature filed with the*  
32 *elections official shall be given an equal opportunity to be included*  
33 *in the sample.* ~~The~~

34 (B) *For initiative petitions, a second random sample of*  
35 *signatures shall be drawn from all petition sections submitted to*  
36 *satisfy subdivision (a) of Section 9036 and verified according to*  
37 *the procedures set forth by the Secretary of State. The verification*  
38 *of signatures that are submitted for purposes of subdivision (a) of*  
39 *Section 9036 shall be consistent with subdivision (g) of that section.*  
40 ~~random~~

1 (C) *In each case, the random sampling shall include an*  
2 *examination of at least 500 or 3 percent of the signatures;*  
3 *signatures on the respective petitions or sections of petitions,*  
4 *whichever is greater.* ~~In~~

5 (3) *In determining from the records of registration the number*  
6 *of qualified voters who have signed the petition, the elections*  
7 *official may use the duplicate file of affidavits of registered voters*  
8 *or the facsimiles of voters' signatures, provided that the method*  
9 *of preparing and displaying the facsimiles complies with law.*

10 (e) *The elections official, upon the completion of the*  
11 *examination, shall immediately attach to the petition, except the*  
12 *signatures thereto appended, a properly dated certificate showing*  
13 *the result of the examination and shall immediately transmit the*  
14 *petition and the certificate to the Secretary of State. A copy of this*  
15 *certificate shall be filed in the elections official's office.*

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

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

37 (h) *The Secretary of State shall enact regulations consistent with*  
38 *this section.*

39 ~~SEC. 8.~~

40 *SEC. 9. Section 9031 of the Elections Code is amended to read:*

1 9031. (a) (1) If the statistical sampling shows that the number  
2 of valid signatures *on all petition sections, including those*  
3 *submitted to satisfy subdivision (a) of Section 9036*, is within 95  
4 to 110 percent of the number of signatures of qualified voters  
5 needed to declare the petition sufficient, the Secretary of State  
6 shall order the examination and verification of each signature filed,  
7 and shall so notify the elections officials.

8 (2) In the case of an initiative petition, if the statistical sampling  
9 shows that the number of valid signatures for all signatures  
10 submitted is more than 110 percent of the number of qualified  
11 voters needed to find the petition sufficient, but the number of  
12 valid signatures submitted for purposes of subdivision (a) of  
13 Section 9036 is within 95 to 110 percent of the number of  
14 signatures needed to satisfy the requirement of that subdivision,  
15 the Secretary of State shall *only* order an examination and  
16 verification of each signature filed to satisfy the requirement of  
17 subdivision (a) of Section 9036.

18 (b) (1) Within 35 days, excluding Saturdays, Sundays, and  
19 holidays, after receipt of the order, the elections official or registrar  
20 of voters shall determine from the records of registration the  
21 number of qualified voters who have signed ~~the a section of the~~  
22 ~~petition and, in the case of an initiative petition, the number of~~  
23 ~~qualified voters who have signed sections of the petition submitted~~  
24 ~~for purposes of subdivision (a) of Section 9036, that is subject to~~  
25 *examination under subdivision (a) and, if necessary, the board of*  
26 *supervisors shall allow the elections official or registrar additional*  
27 *assistance for the purpose of examining the petition and provide*  
28 *for their compensation. In determining from the records of*  
29 *registration the number of qualified voters who have signed the*  
30 *petition, the elections official or registrar of voters may use any*  
31 *file or list of registered voters maintained by his or her office, or*  
32 *the facsimiles of voters' signatures, provided that the method of*  
33 *preparing and displaying the facsimiles complies with law.*

34 (2) *The examination of signatures that are submitted to satisfy*  
35 *subdivision (a) of Section 9036 shall be made pursuant to*  
36 *subdivision (g) of that section.*

37 (c) The elections official or registrar, upon the completion of  
38 the examination, shall immediately attach to the petition, except  
39 the signatures thereto appended, an amended certificate properly  
40 dated, showing the result of the examination and shall immediately

1 transmit the petition, together with the amended certificate, to the  
2 Secretary of State. A copy of the amended certificate shall be filed  
3 in the elections official's office.

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

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

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

16 ~~SEC. 9.~~

17 *SEC. 10.* Section 9036 is added to the Elections Code, to read:

18 9036. (a) At least 20 percent of the signatures required under  
19 Section 9035 shall be presented on a petition or section of a petition  
20 that was circulated by a person who does not receive money or  
21 other valuable consideration exclusively or primarily for the  
22 specific purpose of soliciting signatures of electors on the petition.

23 (b) (1) A person who is an employee or member of a nonprofit  
24 organization, other than an organization in the business of soliciting  
25 signatures on initiative petitions, who receives money or other  
26 valuable consideration from the organization and as part of that  
27 employment or membership solicits signatures for the qualification  
28 of an initiative measure shall be deemed to be a person who does  
29 not receive money or other valuable consideration for the specific  
30 purpose of soliciting signatures of electors, unless a primary  
31 purpose of that employment or membership is to solicit signatures  
32 on an initiative petition.

33 (2) For purposes of this subdivision, "member" means any of  
34 the following:

35 (A) A person who, pursuant to a specific provision of an  
36 organization's articles of incorporation or bylaws, has the right to  
37 vote directly or indirectly for the election of a director or directors,  
38 or an officer or officers, or on a disposition of all or substantially  
39 all of the assets of the organization, or on a merger or a dissolution.

1 (B) A person who is designated in an organization's articles of  
2 incorporation or bylaws as a member and, pursuant to a specific  
3 provision of the articles of incorporation or bylaws, has the right  
4 to vote on changes to the articles of incorporation or bylaws.

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

9 (3) For purposes of this subdivision, a member of a local union  
10 is a member of any national or international union of which the  
11 local union is a part and of any federation with which the local,  
12 national, or international union is affiliated.

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

16 (c) Signatures that are solicited by a person who is a registered  
17 voter of a political party, a member of a political party committee  
18 as defined in Section 85205 of the Government Code, or an  
19 employee of a political party or a political party committee and  
20 who receives money or other valuable consideration for soliciting  
21 signatures on an initiative petition from the political party or  
22 political party committee do not count towards the number of  
23 signatures needed to satisfy the requirement of subdivision (a).

24 (d) (1) Signatures on an initiative petition that are solicited  
25 through direct mail do not count towards the number of signatures  
26 needed to satisfy the requirement of subdivision (a) if the person  
27 soliciting the signatures through direct mail, or any other person  
28 who organizes, pays for, or arranges for the direct mail, receives  
29 money or other valuable consideration primarily for the purpose  
30 of soliciting signatures of electors, unless the person is an employee  
31 or member of a nonprofit organization as described in subdivision  
32 (b).

33 (2) This subdivision shall not be construed to preclude an  
34 organization that has a primary purpose other than soliciting  
35 signatures on initiative petitions from soliciting signatures from  
36 the organization's members through direct mail and relying on  
37 those signatures for purposes of satisfying the requirement set forth  
38 in subdivision (a).

39 (e) This section shall not be construed to preclude a person who  
40 receives nominal benefits other than money, ~~including~~ such as



1 food, transportation, or lodging, from qualifying under this section  
2 as 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 a petition for a proposed  
5 initiative measure.

6 (f) Verification of a petition pursuant to Section 9022 shall be  
7 prima facie evidence that the signatures thereon satisfy the  
8 requirement of subdivision (a).

9 (g) *For purposes of verifying signatures under Sections 9030*  
10 *and 9031 and the procedures set forth by the Secretary of State,*  
11 *if the signature of a qualified voter appears once on a petition or*  
12 *section of a petition submitted to satisfy subdivision (a) of this*  
13 *section, and the same voter's signature appears on a petition or*  
14 *section of a petition that does not satisfy subdivision (a), the*  
15 *qualified voter's signature shall only be counted once and shall*  
16 *be counted towards satisfying subdivision (a).*

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

18 ~~9037. (a) For purposes of this section, "professional petition~~  
19 ~~firm" means a business that is created and maintained for the~~  
20 ~~exclusive or primary purpose of paying individuals, directly or~~  
21 ~~indirectly, to circulate initiative and referendum petitions for the~~  
22 ~~purpose of gathering signatures to qualify an initiative or~~  
23 ~~referendum measure for a state election ballot.~~

24 ~~(b) A professional petition firm shall register annually with the~~  
25 ~~Secretary of State. The registration form shall include the full~~  
26 ~~name, address, and partners, owners, or officers of the firm, and~~  
27 ~~shall be accompanied by a registration fee established by the~~  
28 ~~Secretary of State. The Secretary of State shall adopt regulations~~  
29 ~~providing procedures for registration pursuant to this subdivision,~~  
30 ~~including the denial and revocation of registration.~~

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

35 ~~(d) A professional petition firm shall provide training to each~~  
36 ~~person hired or retained, directly or indirectly, to circulate an~~  
37 ~~initiative or referendum petition, individually or in a group, that~~  
38 ~~includes a review of all applicable laws related to obtaining~~  
39 ~~signatures on a petition, including any prohibitions, and shall~~  
40 ~~submit a copy of the training materials to the Secretary of State.~~

1 ~~The training materials shall be consistent with the regulations~~  
2 ~~adopted by the Secretary of State pursuant to subdivision (m).~~  
3 ~~(e) Prior to soliciting signatures for an initiative or referendum~~  
4 ~~petition, a professional petition firm shall obtain from each person~~  
5 ~~hired or retained, directly or indirectly, as a paid circulator a~~  
6 ~~statement that includes all of the following:~~  
7 ~~(1) The full name and any assumed name of the person.~~  
8 ~~(2) The residential street address of the person.~~  
9 ~~(3) An example of the signature of the person.~~  
10 ~~(4) A list of the initiative or referendum petitions for which the~~  
11 ~~person will solicit signatures.~~  
12 ~~(5) If the person has been convicted of a criminal offense~~  
13 ~~involving fraud, forgery, identification theft, or a violation of the~~  
14 ~~Elections Code, information relating to the circumstances of the~~  
15 ~~conviction, as required by the Secretary of State.~~  
16 ~~(6) A statement signed by the person acknowledging that he or~~  
17 ~~she has received training and has read a summary of applicable~~  
18 ~~laws pertaining to the soliciting of signatures for an initiative or~~  
19 ~~referendum measure, as prepared by the Secretary of State or~~  
20 ~~required by the Secretary of State by regulation.~~  
21 ~~(7) Proof that the person has completed the training required~~  
22 ~~by subdivision (d).~~  
23 ~~(8) A photograph of the person that meets all of the following~~  
24 ~~requirements:~~  
25 ~~(A) Is a conventional photograph with a plain background.~~  
26 ~~(B) Shows the face or the face, neck, and shoulders of the~~  
27 ~~person.~~  
28 ~~(C) Is prepared and processed for printing in a format prescribed~~  
29 ~~by the Secretary of State.~~  
30 ~~(9) If the person is not a resident of the state, a statement that~~  
31 ~~he or she consents to both of the following:~~  
32 ~~(A) The jurisdiction of the state for purposes of an investigation~~  
33 ~~or prosecution by any state or local agency regarding the validity~~  
34 ~~of the signatures submitted by him or her.~~  
35 ~~(B) Service of process for any legal action pertaining to the~~  
36 ~~validity of the signatures submitted by him or her.~~  
37 ~~(10) Each person hired by a professional petition firm to~~  
38 ~~circulate a state initiative or referendum petition shall certify the~~  
39 ~~truth and correctness of the contents of the statement required by~~  
40 ~~this subdivision under penalty of perjury under the laws of the~~

1 State of California, with his or her signature. The certification shall  
2 state the date and the place of execution immediately preceding  
3 the person's signature.

4 (f) ~~A professional petition firm shall not hire, retain, or otherwise  
5 compensate a person, directly or indirectly, for soliciting signatures  
6 on an initiative or referendum petition if the person has been  
7 convicted, within the past 10 years, of a misdemeanor or felony  
8 offense defined in this code or a felony involving fraud, forgery,  
9 or identification theft.~~

10 (g) ~~Within 14 days of the date of execution of the certified  
11 statement described in subdivision (e), a professional petition firm  
12 shall provide to the Secretary of State the name and unique  
13 identifying number of each person who is hired or retained, directly  
14 or indirectly, to circulate an initiative or referendum petition and  
15 is assigned pursuant to subdivision (h) and shall retain copies of  
16 each certified statement for not less than two years after the petition  
17 is filed or two years after the deadline for submission of the petition  
18 to elections officials, whichever is later. The Secretary of State  
19 may inspect the records under reasonable conditions during normal  
20 business hours at any time before the deadline for filing the petition  
21 or during the period specified for retention. For purposes of this  
22 subdivision, normal business hours means those hours that the  
23 proponent of the initiative or referendum measure is normally open  
24 for business to the public. The right of inspection may be enforced  
25 by writ of mandamus issued by a court of competent jurisdiction.~~

26 (h) ~~The Secretary of State shall assign a unique three-letter code  
27 to each professional petition firm. Each professional petition firm  
28 shall assign a unique four-digit identifying number to each person  
29 hired or retained, directly or indirectly, to circulate a state initiative  
30 or referendum petition. The professional petition firm shall include  
31 the seven-digit alphanumeric code consisting of the three-letter  
32 code of the professional petition firm followed by the four-digit  
33 identifying number of the paid circulator on the top of the first  
34 page of the statement required by subdivision (e).~~

35 (i) ~~A person hired or retained, directly or indirectly, by a  
36 professional petition firm to solicit signatures on a state initiative  
37 or referendum petition shall wear a badge provided by the  
38 professional petition firm when the person is soliciting signatures  
39 on the proposed initiative or referendum petition. The badge shall  
40 be worn in a conspicuous place and contain the person's~~

1 photograph and the seven-digit alphanumeric code consisting of  
2 the three-letter code of the professional petition firm followed by  
3 the four-digit identifying number of the paid circulator pursuant  
4 to subdivision (h).

5 (j) (1) If a person receives money or other valuable  
6 consideration, directly or indirectly, from a professional petition  
7 firm for the purpose of soliciting signatures of electors on an  
8 initiative or referendum petition and was not duly trained and  
9 certified pursuant to the requirements of this section at the time  
10 the signatures were solicited, the signatures presented on the  
11 petition or sections of the petition circulated by that person shall  
12 not count towards satisfying the requirements of Sections 9030,  
13 9031, 9035, and 9036.

14 (2) The Secretary of State shall provide to each county elections  
15 official a list of the names and unique identifying numbers for  
16 persons hired or retained, directly or indirectly, as provided  
17 pursuant to this section. The county elections officials shall not  
18 count signatures on a petition or sections of a petition circulated  
19 by paid circulators if the name and unique identifying number of  
20 the paid circulator on the petition pursuant to paragraph (3) of  
21 subdivision (b) of Section 9022 does not appear on the list provided  
22 by the Secretary of State.

23 (k) The certified statement of a petition circulator required by  
24 subdivision (c) shall be effective for two years from the date of  
25 execution. If the information in a person's statement changes during  
26 the two-year effective period of the statement, the professional  
27 petition firm shall obtain an amended statement and provide it to  
28 the Secretary of State within 10 business days or before the person  
29 continues to circulate initiative or referendum petitions, whichever  
30 comes first.

31 (l) The Secretary of State shall revoke the registration of a  
32 professional petition firm registered under this section that, in the  
33 course of circulating an initiative or referendum petition or hiring  
34 individuals to circulate an initiative or referendum petition, engages  
35 in fraud, misrepresentation, or any conduct described in Section  
36 18600, 18601, or 18602.

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

1 ~~(1) Establish procedures for registering professional petition~~  
2 ~~firms.~~

3 ~~(2) Establish criteria for a training program for persons hired~~  
4 ~~or retained, directly or indirectly, by a professional petition firm~~  
5 ~~to solicit signatures of electors on an initiative or referendum~~  
6 ~~petition. The training program shall include, but is not limited to,~~  
7 ~~instruction to circulators regarding how to avoid fraud,~~  
8 ~~misrepresentation, and other misconduct in the circulation of~~  
9 ~~petitions and instruction on compliance with, and consequences~~  
10 ~~for violations of, the requirements of this section.~~

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

12 9038. ~~(a) As used in this section, “accounts” means all of the~~  
13 ~~following:~~

14 ~~(1) A contract entered into for the specific purpose of soliciting~~  
15 ~~signatures on a petition.~~

16 ~~(2) An employment manual or training materials provided to~~  
17 ~~persons who solicit signatures on a petition.~~

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

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

25 ~~(5) Copies of petition sections circulated by persons who receive~~  
26 ~~money or other valuable consideration for the specific purpose of~~  
27 ~~soliciting signatures of electors on a petition.~~

28 ~~(b) A professional petition firm, as defined in subdivision (a)~~  
29 ~~of Section 9037, that pays any person money or other valuable~~  
30 ~~consideration for the specific purpose of soliciting signatures of~~  
31 ~~electors on an initiative or referendum petition shall keep detailed~~  
32 ~~accounts, as follows:~~

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

36 ~~(2) (A) The accounts shall be preserved for at least two years~~  
37 ~~after the deadline for filing the petition for verification of signatures~~  
38 ~~or at least two years after the date the petition is filed under Section~~  
39 ~~9030, whichever is later.~~

1 ~~(B) The records in the accounts described in paragraph (5) of~~  
2 ~~subdivision (a) shall be stored in a secure location and destroyed~~  
3 ~~at the end of the period described in subparagraph (A):~~

4 ~~(e) The Secretary of State may review the accounts of each~~  
5 ~~professional petition firm described in subdivision (b) in the~~  
6 ~~manner prescribed by regulations adopted by the Secretary of State.~~

7 ~~(d) The Secretary of State may inspect the accounts of a~~  
8 ~~professional petition firm described in subdivision (b) under~~  
9 ~~reasonable conditions during normal business hours at any time~~  
10 ~~before the deadline for filing the petition or during the period~~  
11 ~~specified for retention of the accounts under paragraph (2) of~~  
12 ~~subdivision (b). For purposes of this subdivision, normal business~~  
13 ~~hours means those hours that the proponent of the initiative or~~  
14 ~~referendum measure is normally open for business to the public.~~  
15 ~~The right of inspection may be enforced by writ of mandamus~~  
16 ~~issued by a court of competent jurisdiction.~~

17 ~~(e) If a professional petition firm does not produce accounts~~  
18 ~~upon demand of the Secretary of State, both of the following shall~~  
19 ~~apply:~~

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

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

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

30 ~~SEC. 12.~~

31 ~~SEC. 11.~~ Section 90399037 is added to the Elections Code, to  
32 read:

33 ~~9039.~~

34 ~~9037.~~ (a) ~~An~~ *The signatures on an initiative or referendum*  
35 *petition section shall be deemed invalid and shall not be used by*  
36 *an elections official for the purpose of determining whether the*  
37 *initiative or referendum measure qualifies for the ballot if the*  
38 *requirements of Section 9036, 9037, or 9038 are not satisfied or*  
39 *if signatures are thereon were solicited and submitted by a person*  
40 *who, in connection with the circulation of the initiative or*

1 referendum petition, intentionally engages in fraud,  
 2 misrepresentation, or any conduct described in Section 18600,  
 3 18601, or 18602, *or by a person who falsely claims to have not*  
 4 *received money or other valuable consideration for the specific*  
 5 *purpose of soliciting signatures of electors pursuant to Section*  
 6 *9036.*

7 ~~(b) The relief provided for in subdivision (a) may be obtained~~  
 8 ~~through a~~ *This section may be enforced by a civil action brought*  
 9 *by the Secretary of State or any elector. The signatures on a*  
 10 *petition section shall be invalidated only upon a showing, by clear*  
 11 *and convincing evidence, that the requirements for invalidation*  
 12 ~~described in subdivision (a) have been satisfied.~~ *person who*  
 13 *solicited or obtained the signatures did so through intentional*  
 14 *fraud, misrepresentation, or other conduct described in Sections*  
 15 *18600, 18601, and 18602, or that the person falsely claims to have*  
 16 *not received money or other valuable consideration for the specific*  
 17 *purpose of soliciting signatures of electors pursuant to Section*  
 18 *9036. Any civil action brought pursuant to this section shall have*  
 19 *priority over all other matters.*

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

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

26 ~~SEC. 13.~~

27 *SEC. 12.* Section 18602 of the Elections Code is amended to  
 28 read:

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

35 ~~SEC. 14.~~

36 *SEC. 13.* If the Commission on State Mandates determines that  
 37 this act contains costs mandated by the state, reimbursement to  
 38 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