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CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 857

Introduced by Assembly Member Fong

February 21, 2013

An act to amend Sections *101*, 9008, ~~9021, 9022~~, 9030, ~~9031~~, and ~~18602 and 9031~~ of, and to add Sections 9009.5, 9009.6, 9022.5, 9036, 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~~ *require a person who solicits signatures for a proposed initiative measure and does not receive money or other valuable consideration for the specific purpose of soliciting signatures of electors to make additional declarations, as specified.*

(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%~~ 10% 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.

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%~~ 10% 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%~~ 10% 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 *provide that its provisions do not apply to any initiative petition for which the Attorney General issued a circulating title and summary before January 1, 2014, and 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~~ *additionally* require a statewide initiative, referendum, or recall petition to include ~~specified disclosures~~ *a disclosure* 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~~ *specified persons* 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.

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 (5) The presence of an initiative measure on the ballot is no
11 longer necessarily viewed as an expression of a minimum amount
12 of public support, but, instead, is often viewed as the result of a
13 special interest willing to pay the necessary amount of money to
14 qualify an initiative measure for the ballot. As a result, the integrity
15 of the initiative process is threatened by a crowded ballot with
16 confusing proposals and the perception of fraud and
17 misrepresentation in the signature gathering phase.

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

26 (7) As has been the case since the initiative power was created,
27 initiatives that have broad public support continue to qualify for
28 the ballot through the efforts of volunteers and grassroots
29 organizations, but the availability of paid circulators has led to an
30 excess of complex proposals that lack a broad level of public
31 support. Paid circulators gather as many signatures as possible in
32 the least amount of time, and may not provide electors with a full
33 explanation of the true purpose and effect of the proposed initiative
34 measure. Without a better measure of public support, special
35 interests may qualify an initiative measure for the ballot regardless
36 of the actual content of the proposal.

37 ~~(8) The prevalent influence of money in the process of soliciting~~
38 ~~signatures for initiative petitions has eroded public confidence in~~
39 ~~the initiative process. The most popular means of paying petition~~
40 ~~circulators is based on the number of signatures a person collects.~~

1 Under a payment-per-signature arrangement, a paid circulator does
2 not need an incentive to educate voters about an initiative petition
3 but, instead, may be motivated solely by financial reasons to gather
4 as many signatures as possible.

5 (9)

6 (8) Improving the measure of public support for a proposed
7 initiative measure will increase the public’s confidence and protect
8 the integrity of the initiative process. A volunteer and grassroots
9 effort to qualify an initiative measure for the ballot demonstrates
10 a significant level of public support. ~~By limiting the influence of~~
11 ~~money in the signature gathering phase, the public will have greater~~
12 ~~confidence in the actual merits of a proposed initiative measure.~~

13 (10)

14 (9) The Legislature is responsible for providing the manner in
15 which initiative petitions are circulated, presented, and certified.
16 Consistent with this constitutional duty, the Legislature must
17 provide for laws that are consistent with the intent of the voters in
18 reserving the power of the initiative; protect the integrity of the
19 initiative process; and prevent the occurrence of fraud and
20 misrepresentation in the circulation, presentation, and certification
21 of initiative petitions.

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

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

26 (2) Ensure that initiative petitions have sufficient public support
27 from informed voters to be placed on the ballot.

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

31 ~~SEC. 2.—Section 101 of the Elections Code is repealed.~~

32 *SEC. 2. Section 101 of the Elections Code is amended to read:*

33 101. Notwithstanding any other provision of law, any
34 ~~state or~~
35 local initiative petition required to be signed by voters shall contain
36 in 12-point type, prior to that portion of the petition for voters’
37 signatures, printed names, and residence addresses, the following
38 language:

39 “NOTICE TO THE PUBLIC

40

1 THIS PETITION MAY BE CIRCULATED BY A PAID
2 SIGNATURE GATHERER OR A VOLUNTEER. YOU HAVE
3 THE RIGHT TO ASK.”

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

5 9008. Each proposed initiative measure, prior to circulation,
6 shall have placed across the top of the petition all of the following:

7 (a) The Attorney General’s unique numeric identifier, in
8 12-point or larger roman boldface type, placed before the
9 circulating title and summary upon each page where the circulating
10 title and summary is to appear.

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

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

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

21 (c) The circulating title and summary prepared by the Attorney
22 General, as required by paragraph (2) of subdivision (b), shall be
23 preceded by the following statement in 12-point or larger roman
24 boldface type: “Initiative measure to be submitted directly to the
25 voters.”

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

27 9009.5. (a) A petition for a proposed initiative measure that
28 is circulated by a person who does not receive money or other
29 valuable consideration for the purpose of soliciting signatures of
30 electors, for purposes of Section 9036, shall be printed on white
31 paper in a contrasting color ink.

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

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

37 9009.6. ~~(a)~~ Notwithstanding any other provision of law, a
38 petition for a proposed initiative measure that is circulated by a
39 person who receives money or other valuable consideration for
40 the specific purpose of soliciting signatures of electors, *except as*

1 *provided by paragraph (1) of subdivision (b) of Section 9036, shall*
2 *include the following statement immediately prior to the portion*
3 *of the petition for voters' signatures, printed names, and residence*
4 *addresses, printed in ~~18-point~~ 12-point boldface type:*

5 *“NOTICE TO THE PUBLIC: THIS PETITION IS BEING*
6 *CIRCULATED BY A PERSON PAID TO OBTAIN YOUR*
7 *SIGNATURE. YOU ARE ENCOURAGED TO READ THE*
8 *CONTENTS OF THIS PETITION BEFORE SIGNING.”*

9
10 ~~(b) On each state initiative petition, immediately prior to that~~
11 ~~portion of the petition for voters' signatures, printed names, and~~
12 ~~residence addresses, but after the language required by subdivision~~
13 ~~(a), where applicable, shall be printed a disclosure statement, in~~
14 ~~14-point boldface type, that includes the following language:~~

15
16 ~~“The political committee paying for this petition to be circulated~~
17 ~~is (insert full name of committee as registered with the Secretary~~
18 ~~of State pursuant to Section 84101 of the Government Code).~~

19 ~~The following donors have contributed \$50,000 or more to the~~
20 ~~(insert full name of committee as registered with the Secretary of~~
21 ~~State pursuant to Section 84101 of the Government Code) within~~
22 ~~six months of the printing of this petition: (insert name of each of~~
23 ~~the top three donors who have contributed fifty thousand dollars~~
24 ~~(\$50,000) or more and, if an individual, his or her occupation and~~
25 ~~the identity of his or her employer).” If there are no such donors,~~
26 ~~insert “none.”~~

27
28 ~~(c) If the information for the disclosure statement described in~~
29 ~~subdivision (b) changes, the disclosure statement on the petition~~
30 ~~shall be updated within 14 days of the date of receipt of a~~
31 ~~contribution that caused the information in the disclosure statement~~
32 ~~to change.~~

33 ~~(d) Failure to comply with subdivision (b) shall not constitute~~
34 ~~grounds for an elections official to refuse to receive or file an~~
35 ~~initiative petition under Section 9015 and shall not render invalid~~
36 ~~any signature on an initiative petition.~~

37 ~~SEC. 6. Section 9021 of the Elections Code is amended to read:~~

38 ~~9021. Each section of a petition for a proposed initiative or~~
39 ~~referendum measure shall bear the name of a county or city and~~
40 ~~county, and only qualified registered voters of that county or city~~

1 and county may sign that section. The circulator may sign the
2 section he or she is circulating as provided in Section 106.

3 SEC. 7. Section 9022 of the Elections Code is amended to read:

4 9022. (a) Each section of a petition for a proposed initiative
5 or referendum measure shall have attached thereto the declaration
6 of the person soliciting the signatures setting forth the information
7 required by Section 104.

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

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

16 (2) To the best of his or her knowledge, the signatures on the
17 petition sections circulated by him or her should be counted
18 towards the requirement set forth in subdivision (a) of Section
19 9036.

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

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

28 SEC. 6. Section 9022.5 is added to the Elections Code, to read:

29 9022.5. In addition to the information required by Sections
30 104 and 9022, the declaration of a person who solicits signatures
31 for a proposed initiative measure and does not receive money or
32 other valuable consideration for the specific purpose of soliciting
33 signatures of electors pursuant to Section 9036 shall declare all
34 of the following:

35 (a) The person does not receive money or other valuable
36 consideration for soliciting signatures of electors for purposes of
37 subdivision (a) of Section 9036.

38 (b) To the best of his or her knowledge, the signatures on the
39 petition sections circulated by him or her should be counted

1 *towards the requirement set forth in subdivision (a) of Section*
2 *9036.*

3 ~~SEC. 8.~~

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

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

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

26 (c) If the number of signatures filed with all elections officials
27 is 100 percent or more of the number of qualified voters needed
28 to declare the petition sufficient and, in the case of an initiative
29 petition, the ~~percentage~~ *number* of signatures submitted for
30 purposes of subdivision (a) of Section 9036 is equal to or greater
31 than the total number needed to satisfy the requirement of that
32 subdivision, the Secretary of State shall immediately so notify the
33 elections officials.

34 (d) (1) Within 35 days after this notification, excluding
35 Saturdays, Sundays, and holidays, the elections official shall
36 determine the number of qualified voters who have signed the
37 petition and the number of qualified voters who have signed a
38 section of the petition that satisfies the requirement of subdivision
39 (a) of Section 9036.

1 (2) (A) If more than 500 names have been signed on sections
2 of the petition filed with an elections official, the elections official
3 shall use a random sampling technique for verification of
4 signatures, as determined by the Secretary of State. The random
5 sample of signatures to be verified shall be drawn from all petition
6 sections in such a manner that every signature filed with the
7 elections official shall be given an equal opportunity to be included
8 in the sample.

9 (B) For initiative petitions, a second random sample of
10 signatures shall be drawn from all petition sections submitted to
11 satisfy subdivision (a) of Section 9036 and verified according to
12 the procedures set forth by the Secretary of State. The verification
13 of signatures that are submitted for purposes of subdivision (a) of
14 Section 9036 shall be consistent with subdivision (g) of that
15 section.

16 (C) In each case, the random sampling shall include an
17 examination of at least 500 or 3 percent of the signatures on the
18 respective petitions or sections of petitions, whichever is greater.

19 (3) In determining from the records of registration the number
20 of qualified voters who have signed the petition, the elections
21 official may use the duplicate file of affidavits of registered voters
22 or the facsimiles of voters' signatures, provided that the method
23 of preparing and displaying the facsimiles complies with law.

24 (e) The elections official, upon the completion of the
25 examination, shall immediately attach to the petition, except the
26 signatures thereto appended, a properly dated certificate showing
27 the result of the examination and shall immediately transmit the
28 petition and the certificate to the Secretary of State. A copy of this
29 certificate shall be filed in the elections official's office.

30 (f) If the certificates received from all elections officials by the
31 Secretary of State establish that the number of valid signatures
32 does not equal 95 percent of the number of qualified voters needed
33 to find the petition sufficient or, in the case of an initiative petition,
34 that the number of valid signatures submitted for purposes of
35 subdivision (a) of Section 9036 does not equal 95 percent of the
36 number of qualified voters needed to satisfy the requirement of
37 that subdivision, the petition shall be deemed to have failed to
38 qualify, and the Secretary of State shall immediately so notify the
39 proponents and the elections officials.

1 (g) If the certificates received from all elections officials by the
 2 Secretary of State total more than 110 percent of the number of
 3 qualified voters needed to find the petition sufficient and, in the
 4 case of an initiative petition, the number of valid signatures
 5 submitted for purposes of subdivision (a) of Section 9036 total
 6 more than 110 percent of the number of qualified voters needed
 7 to satisfy the requirement of that subdivision, the petition shall be
 8 deemed to qualify as of the date of receipt by the Secretary of State
 9 of certificates showing the petition received more than 110 percent
 10 of the qualified voters needed, and the Secretary of State shall
 11 immediately so notify the proponents and the elections officials.

12 (h) The Secretary of State shall ~~enact~~ *adopt* regulations
 13 consistent with this section. *The initial regulations may be adopted*
 14 *as emergency regulations in accordance with Chapter 3.5*
 15 *(commencing with Section 11340) of Part 1 of Division 3 of Title*
 16 *2 of the Government Code, and shall be deemed necessary for the*
 17 *immediate preservation of the public peace, health, safety, or*
 18 *general welfare.*

19 ~~SEC. 9.~~

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

21 9031. (a) (1) If the statistical sampling shows that the number
 22 of valid signatures on all petition sections, including those
 23 submitted to satisfy subdivision (a) of Section 9036, is within 95
 24 to 110 percent of the number of signatures of qualified voters
 25 needed to declare the petition sufficient, the Secretary of State
 26 shall order the examination and verification of each signature filed,
 27 and shall so notify the elections officials.

28 (2) In the case of an initiative petition, if the statistical sampling
 29 shows that the number of valid signatures for all signatures
 30 submitted is more than 110 percent of the number of qualified
 31 voters needed to find the petition sufficient, but the number of
 32 valid signatures submitted for purposes of subdivision (a) of
 33 Section 9036 is within 95 to 110 percent of the number of
 34 signatures needed to satisfy the requirement of that subdivision,
 35 the Secretary of State shall only order an examination and
 36 verification of each signature filed to satisfy the requirement of
 37 subdivision (a) of Section 9036.

38 (b) (1) Within 35 days, excluding Saturdays, Sundays, and
 39 holidays, after receipt of the order, the elections official or registrar
 40 of voters shall determine from the records of registration the

1 number of qualified voters who have signed a section of the petition
2 that is subject to examination under subdivision (a) and, if
3 necessary, the board of supervisors shall allow the elections official
4 or registrar additional assistance for the purpose of examining the
5 petition and provide for their compensation. In determining from
6 the records of registration the number of qualified voters who have
7 signed the petition, the elections official or registrar of voters may
8 use any file or list of registered voters maintained by his or her
9 office, or the facsimiles of voters' signatures, provided that the
10 method of preparing and displaying the facsimiles complies with
11 law.

12 (2) The examination of signatures that are submitted to satisfy
13 subdivision (a) of Section 9036 shall be made pursuant to
14 subdivision (g) of that section.

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

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

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

30 (e) The Secretary of State shall adopt regulations consistent
31 with this section. *The initial regulations may be adopted as*
32 *emergency regulations in accordance with Chapter 3.5*
33 *(commencing with Section 11340) of Part 1 of Division 3 of Title*
34 *2 of the Government Code, and shall be deemed necessary for the*
35 *immediate preservation of the public peace, health, safety, or*
36 *general welfare.*

37 ~~SEC. 10.~~

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

39 9036. (a) At least ~~20~~ 10 percent of the signatures required
40 under Section 9035 shall be presented on a petition or section of

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

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

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

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

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

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

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

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

38 (5) *For purposes of this subdivision, whether an organization,*
39 *or a member or employee of an organization, has the primary*

1 *purpose of soliciting signatures on an initiative petition shall be*
2 *determined based on the totality of the circumstances.*

3 (c) Signatures that are solicited by a person who is a registered
4 voter of a political party, a member of a political party committee
5 as defined in Section 85205 of the Government Code, or an
6 employee of a political party or a political party committee and
7 who receives money or other valuable consideration for soliciting
8 signatures on an initiative petition from the political party or
9 political party committee do not count towards the number of
10 signatures needed to satisfy the requirement of subdivision (a).

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

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

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

33 (f) Verification of a petition *that contains a declaration* pursuant
34 to Section ~~9022~~ 9022.5 shall be prima facie evidence that the
35 signatures thereon satisfy the requirement of subdivision (a).

36 (g) For purposes of verifying signatures under Sections 9030
37 and 9031 and the procedures set forth by the Secretary of State, if
38 the signature of a qualified voter appears once on a petition or
39 section of a petition submitted to satisfy subdivision (a) of this
40 section, and the same voter's signature appears on a petition or

1 section of a petition that does not satisfy subdivision (a), the
 2 qualified voter's signature shall only be counted once and shall be
 3 counted towards satisfying subdivision (a).

4 *(h) A person who receives money or other valuable*
 5 *consideration for the specific purpose of soliciting signatures on*
 6 *an initiative petition shall not circulate a petition or a section of*
 7 *a petition for purposes of satisfying the requirement of subdivision*
 8 *(a) for the same initiative measure.*

9 ~~SEC. 11.~~

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

11 9037. (a) The signatures on an initiative petition section shall
 12 be deemed invalid and shall not be used ~~by an elections official~~
 13 for the purpose of determining whether the initiative measure
 14 qualifies for the ballot if the signatures thereon were solicited by
 15 a person who, in connection with the circulation of the initiative
 16 petition, intentionally engages in fraud, misrepresentation, or any
 17 conduct described in Section 18600, 18601, or 18602, or by a
 18 person who falsely claims to have not received money or other
 19 valuable consideration for the specific purpose of soliciting
 20 signatures of electors pursuant to Section 9036.

21 (b) This section may be enforced by a civil action brought by
 22 the Secretary of State, *the Attorney General, a district attorney, a*
 23 *city attorney of a city with a population greater than 750,000,* or
 24 any elector. The signatures on a petition section shall be invalidated
 25 only upon a showing, by clear and convincing evidence, that the
 26 person who solicited or obtained the signatures did so through
 27 intentional fraud, misrepresentation, or other conduct described
 28 in Sections 18600, 18601, and 18602, or that the person falsely
 29 claims to have not received money or other valuable consideration
 30 for the specific purpose of soliciting signatures of electors pursuant
 31 to Section 9036. Any civil action brought pursuant to this section
 32 shall have priority over all other *civil* matters.

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

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

39 *(e) This section does not permit a local elections official who*
 40 *is notified of or discovers any conduct described in subdivision*

1 (a) to refuse to examine or to stop the examination of the petition
2 or petition sections.

3 ~~SEC. 12.~~ Section 18602 of the Elections Code is amended to
4 read:

5 18602. A person working for the proponent or proponents of
6 a statewide initiative or referendum measure who covers or
7 otherwise obscures the summary of the measure prepared by the
8 Attorney General or the disclosure statement printed on the petition
9 pursuant to Section 9009.6 from the view of a prospective signer
10 is guilty of a misdemeanor.

11 *SEC. 11.* The provisions of this act do not apply to an initiative
12 petition for which the Attorney General issued a circulating title
13 and summary before January 1, 2014.

14 ~~SEC. 13.~~

15 *SEC. 12.* If the Commission on State Mandates determines that
16 this act contains costs mandated by the state, reimbursement to
17 local agencies and school districts for those costs shall be made
18 pursuant to Part 7 (commencing with Section 17500) of Division
19 4 of Title 2 of the Government Code.