

AMENDED IN ASSEMBLY MAY 30, 2006

AMENDED IN ASSEMBLY APRIL 26, 2006

AMENDED IN ASSEMBLY APRIL 5, 2006

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 2946

Introduced by Assembly Member Leno

February 24, 2006

An act to amend Sections 101 and 9050 of, and to add Sections 102.5, 102.6, 336.7, 357.3, 9011.5, 9050.5, 13281.5, and 18606 to, the Elections Code, relating to initiatives.

LEGISLATIVE COUNSEL'S DIGEST

AB 2946, as amended, Leno. Initiative petitions.

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

This bill instead would require an initiative, referendum, or recall petition to reflect, in specified language, whether it is being circulated by a paid circulator or by a volunteer.

This bill would define “volunteer” and “paid circulator.”

(2) Under existing law, any person who is a voter or is qualified to register to vote in this state may circulate an initiative or referendum petition, and any person who is a voter may circulate a recall petition.

This bill would provide that it is a misdemeanor for any person to pay or to receive money or any other thing of value based on the number of signatures obtained on a state or local initiative, referendum, or recall petition, or to pay or receive money or other

thing of value based on the number of affidavits or applications obtained or completed when assisting with voter registration or the distribution of absentee ballot applications.

The bill would additionally provide that any signatures collected in violation of ~~law~~ *any provision of state law relating to the circulation of a statewide initiative, referendum, or recall petition* are invalid and cannot count towards the qualification of the initiative, referendum, or recall. The bill would also provide that the doctrine of substantial compliance may not be used to excuse a violation of these provisions, except for nonsubstantive grammar and spelling errors. This bill would provide that a proponent of an initiative, referendum, or recall petition may submit a petition prior to circulation to the Attorney General for approval.

(3) Existing law requires a short title, in 20 words or less, showing the nature and subject of the petition to be printed across the top of each page, after the first page, of every referendum petition or section of a referendum petition.

This bill would additionally require any state or local initiative, referendum, or recall petition circulated by a paid circulator who is paid by a committee, as defined, to include a disclosure statement identifying the names of the persons from whom the committee received the 3 largest cumulative contributions in support of the measure, as specified. The bill would require a committee that employs one or more paid circulators for the purpose of circulating an initiative, referendum, or recall petition to submit a disclosure statement, and any updates to that statement, to the Secretary of State to post that statement on his or her Internet Web site. The bill would require any committee that employs one or more paid circulators to print on the petition its name and identify itself using a name or phrase that clearly identifies the economic or other special interest of its major donors of \$50,000 or more.

By imposing additional requirements on local elections officials with respect to petitions, this bill would impose a state-mandated local program.

(4) Existing law provides that it is a misdemeanor for a person circulating an initiative, referendum, or initiative petition, to intentionally misrepresent or make any false statement concerning the contents or purported effect of the initiative, referendum, or recall petition to obtain a signature or to make any false statement with regard to whether the circulator is a paid signature gatherer or

volunteer. It is also a misdemeanor for any person working for the proponent or proponents of an initiative, referendum, or recall petition to refuse to allow a prospective signer to read the measure or petition, to obscure the summary of the measure or to offer or give money or other valuable consideration in exchange for a signature.

This bill would provide that if a proponent of a statewide initiative or referendum petition has knowledge of a violation of any provision of law, relating to the circulation of a statewide initiative or referendum petition committed by a person obtaining signatures on the proponent's petition, that violation shall be conclusively construed as a violation by the proponent. This bill would provide that a proponent shall not be held liable under these provisions if the proponent notifies the Secretary of State in writing not less than one business day after obtaining knowledge of the potential violation. *The bill would make the Attorney General responsible for enforcing a violation of these provisions.*

(5) Existing law provides that the Attorney General shall provide and return to the Secretary of State a ballot title for each measure submitted to the voters of the whole state. Existing law provides that the Attorney General shall prepare the ballot label for statewide measures and the ballot label shall be a condensed statement of the ballot title prepared by him or her.

This bill would provide that the ballot title and summary and the ballot label prepared by the Attorney General must be stated in complete sentences and written in a manner that the average voter will easily understand the purpose of the measure.

(6) 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:

SECTION 1. Section 101 of the Elections Code is amended to read:

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

(a) If the petition is circulated by a paid circulator, the phrase "PAID CIRCULATOR" shall appear in 24-point type above the following language, which shall appear in 12-point type:

"NOTICE TO THE PUBLIC

THIS PETITION IS BEING CIRCULATED BY A PERSON WHO IS BEING PAID TO COLLECT SIGNATURES"

(b) If the petition is being circulated by a volunteer, the phrase "VOLUNTEER CIRCULATOR" shall appear in 24-point type above the following language, which shall appear in 12-point type:

"NOTICE TO THE PUBLIC

THIS PETITION IS BEING CIRCULATED BY A VOLUNTEER"

SEC. 2. Section 102.5 is added to the Elections Code, to read:

102.5. (a) It shall be unlawful for any person to pay or to receive money or any other thing of value based on the number of signatures obtained on a state or local initiative, referendum, or recall petition, or to pay or receive money or any other thing of value based on the number of affidavits or applications obtained or completed when assisting with voter registration or the distribution of absentee ballot applications. Nothing herein prohibits the payment for signature gathering, voter registration, or distribution of absentee ballot applications not based, either directly or indirectly, on the number of signatures obtained, voter

1 registration affidavits obtained or completed, or absentee ballot
2 applications obtained or completed.

3 (b) Violation of this section shall be a misdemeanor.

4 SEC. 3. Section 102.6 is added to the Elections Code, to read:

5 102.6. (a) Any signatures collected in violation of any
6 ~~section of this code~~ *provision of state law relating to the*
7 *circulation of a statewide initiative, referendum, or recall*
8 *petition* shall be invalid and shall not count towards qualification
9 of the initiative, referendum, or recall.

10 (b) The doctrine of substantial compliance shall not be used by
11 any elections official or court to excuse a violation of any ~~section~~
12 ~~of this code~~ *provision of state law relating to the circulation of a*
13 *statewide initiative, referendum, or recall petition*, except for
14 nonsubstantive grammatical and spelling errors.

15 (c) Any proponent of a statewide initiative ~~or referendum,~~
16 ~~referendum, or recall petition~~ may submit a petition prior to
17 circulation to the Attorney General for approval. Upon receipt,
18 the Attorney General shall review the petition for compliance
19 with this code. Within 10 business days, the Attorney General
20 shall notify the proponent in writing as to whether or not the
21 petition complies with the requirements of this code. If the
22 Attorney General determines the petition does not comply, he or
23 she shall notify the proponent as to why the petition does not
24 comply and afford the proponent another opportunity to submit
25 any corrected petition for approval.

26 SEC. 4. Section 336.7 is added to the Elections Code, to read:

27 336.7. "Paid circulator," for the purpose of circulating an
28 initiative, referendum, or recall petition, means any person who
29 is compensated in any manner for collecting petition signatures
30 to qualify a state or local initiative, referendum, or recall
31 measure.

32 SEC. 5. Section 357.3 is added to the Elections Code, to read:

33 357.3. "Volunteer," for the purpose of circulating an
34 initiative, referendum, or recall petition, means a person who is
35 not a paid circulator.

36 SEC. 6. Section 9011.5 is added to the Elections Code, to
37 read:

38 9011.5. (a) Notwithstanding any other provision of law, any
39 state or local initiative, referendum, or recall petition required to
40 be signed by voters and circulated by a paid circulator who is

1 paid by a committee formed pursuant to Section 82013 of the
2 Government Code shall include, in 12-point type at the top of the
3 petition, a disclosure statement identifying the names of the
4 persons from whom the committee received the three largest
5 cumulative contributions. *This requirement and the requirement*
6 *in paragraph (4) of subdivision (a) may also be satisfied by*
7 *attaching a separate disclosure statement to the top of the*
8 *petition, so long as it is readily visible to the voter.*

9 (1) The disclosure statement shall include, in addition to the
10 name of the person, the nature of the person's business interests.

11 (2) For committees as defined in Section 82013 of the
12 Government Code, the disclosure statement shall identify the
13 persons and the nature of their business interests from whom the
14 committee received the two largest cumulative contributions in
15 excess of ten thousand dollars (\$10,000).

16 (3) If more than three donors meet this disclosure threshold at
17 identical contribution levels, the three highest donations shall be
18 disclosed according to chronological sequence beginning with
19 the most recent contribution.

20 (4) The disclosure statement shall be updated within 14 days
21 of any change in the three largest cumulative contributors.

22 (5) A committee that employs one or more paid circulators to
23 circulate ~~an~~ a statewide initiative, referendum, or recall petition
24 shall submit the disclosure statement and any updates to that
25 statement to the Secretary of State, who shall post that statement
26 on his or her Internet Web site.

27 (b) Any committee that employs one or more paid circulators
28 to circulate an initiative, referendum, or recall petition shall print
29 on the petition, immediately following the disclosure statement
30 required pursuant to subdivision (a), its name and identify itself
31 using a name or phrase that clearly identifies the economic or
32 other special interest of its major donors of fifty thousand dollars
33 (\$50,000) or more.

34 (c) If the major donors share a common employer, the identity
35 of the employer shall also be disclosed.

36 (d) As used in this section, "cumulative contributions" means
37 the cumulative amount of contributions received by a committee
38 beginning 12 months prior to the date the committee made its
39 first expenditure to qualify or support the measure.

1 (e) As used in this section, “nature of the individual’s business
2 interest” means a term or words which accurately describe the
3 person’s principal business activity, source of income, or activity.

4 (f) This section shall not be construed to require a local
5 elections official to verify the accuracy of the information
6 required by subdivision (a), (b), or (c) or to reapprove the petition
7 upon the update required by paragraph (3) of subdivision (a).

8 SEC. 7. Section 9050 of the Elections Code is amended to
9 read:

10 9050. The Attorney General shall provide and return to the
11 Secretary of State a ballot title and summary for each measure
12 submitted to the voters of the whole state.

13 SEC. 8. Section 9050.5 is added to the Elections Code, to
14 read:

15 9050.5. The ballot title and summary prepared by the
16 Attorney General shall be stated in complete sentences and
17 written in a manner that the average voter will easily understand
18 the purpose of the measure.

19 SEC. 9. Section 13281.5 is added to the Elections Code, to
20 read:

21 13281.5. The ballot label prepared by the Attorney General
22 shall be stated in complete sentences and written in a manner that
23 the average voter will easily understand the purpose of the
24 measure.

25 SEC. 10. Section 18606 is added to the Elections Code, to
26 read:

27 18606. (a) If a proponent of a statewide initiative—~~or~~
28 ~~referendum—petition, referendum, or recall petition~~ has
29 knowledge of a violation of any provision of state law relating to
30 the circulation of a statewide initiative or referendum petition
31 committed by a person obtaining signatures on the proponent’s
32 petition, the violation by the person obtaining the signatures shall
33 be conclusively considered a violation by the proponent.

34 (b) A proponent shall not be liable under subdivision (a) if the
35 proponent notifies the Secretary of State in writing not later than
36 one business day after the proponent obtains knowledge of
37 potential violation. The notice shall state all of the following:

38 (1) That a potential violation has occurred.

39 (2) The nature of the potential violation.

1 (3) All specific information known to the proponent regarding
2 the potential violation.

3 (c) If a statewide initiative or referendum petition has more
4 than one proponent, each proponent with knowledge may be held
5 liable under subdivision (a).

6 (d) This section does not apply to a violation of law that is
7 subject to a criminal penalty.

8 (e) *The Attorney General shall be responsible for enforcing*
9 *this section.*

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