

SECOND REGULAR SESSION

SENATE BILL NO. 817

96TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR PARSON.

Read 1st time February 21, 2012, and ordered printed.

TERRY L. SPIELER, Secretary.

5729S.02I

AN ACT

To repeal sections 116.080, 116.090, 116.120, 116.180, 116.332, and 116.334, RSMo, and to enact in lieu thereof nine new sections relating to initiative and referendum petitions, with existing penalty provisions, and an emergency clause for a certain section.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 116.080, 116.090, 116.120, 116.180, 116.332, and 116.334, RSMo, are repealed and nine new sections enacted in lieu thereof, to be known as sections 116.075, 116.080, 116.090, 116.120, 116.153, 116.180, 116.332, 116.333, and 116.334, to read as follows:

116.075. No person or organization shall compensate or offer to compensate any person, nor shall any person or organization receive compensation or agree to receive compensation, for collecting signatures on an initiative or referendum petition if such compensation is based on the number of signatures obtained. Nothing in this section shall prohibit compensation for collection of signatures on an initiative or referendum petition that is not based on the number of signatures obtained.

116.080. 1. Each petition circulator shall be at least eighteen years of age and registered with the secretary of state. **No person shall qualify as a petition circulator who has been convicted of, or found guilty of, or pled guilty to an offense involving forgery under the laws of this state, or an offense under the laws of any other jurisdiction if that offense would be considered forgery under the laws of this state.** Signatures collected by any circulator who has not registered with the secretary of state

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

8 pursuant to this chapter on or before 5:00 p.m. on the final day for filing petitions
9 with the secretary of state shall not be counted.

10 2. Each petition circulator shall supply the following information to the
11 secretary of state's office:

12 (1) Name of petition;

13 (2) Name of circulator;

14 (3) Residential address, including street number, city, state and zip code;

15 (4) Mailing address, if different;

16 (5) Have you been or do you expect to be paid for soliciting signatures for
17 this petition?

18 YES NO;

19 (6) If the answer to subdivision (5) is yes, then identify the payor;

20 (7) Signature of circulator.

21 3. The circulator information required in subsection 2 of this section shall
22 be submitted to the secretary of state's office with the following oath and
23 affirmation:

24 I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT
25 ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT, THAT I HAVE
26 NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY
27 TO ANY OFFENSE INVOLVING FORGERY AND THAT I HAVE NOT AND
28 WILL NOT ACCEPT COMPENSATION FOR COLLECTING SIGNATURES
29 BASED ON THE NUMBER OF SIGNATURES I OBTAIN.

30 4. Each petition circulator shall subscribe and swear to the proper
31 affidavit on each petition page such circulator submits before a notary public
32 commissioned in Missouri. When notarizing a circulator's signature, a notary
33 public shall sign his or her official signature and affix his or her official seal to
34 the affidavit only if the circulator personally appears before the notary and
35 subscribes and swears to the affidavit in his or her presence.

36 5. Any circulator who falsely swears to a circulator's affidavit knowing it
37 to be false is guilty of a class A misdemeanor punishable, notwithstanding the
38 provisions of section 560.021 to the contrary, for a term of imprisonment not to
39 exceed one year in the county jail or a fine not to exceed ten thousand dollars or
40 both.

116.090. 1. Any person who **knowingly** signs any name other than his
2 own to any petition[, or] **shall, upon conviction thereof, be guilty of a class**
3 **one election offense, as defined in section 115.631.**

4 **2. Any person** who knowingly signs his or her name more than once for
5 the same measure for the same election, or who knows he or she is not at the
6 time of signing or circulating the same a Missouri registered voter and a resident
7 of this state, shall, upon conviction thereof, be guilty of a class A misdemeanor
8 punishable, notwithstanding the provisions of section 560.021 to the contrary, for
9 a term of imprisonment not to exceed one year in the county jail or a fine not to
10 exceed ten thousand dollars or both.

11 [2.] **3.** Any person who knowingly accepts or offers money or anything of
12 value to another person in exchange for a signature on a petition is guilty of a
13 class A misdemeanor punishable, notwithstanding the provisions of section
14 [560.021] **560.016** to the contrary, for a term of imprisonment not to exceed one
15 year in the county jail or a fine not to exceed ten thousand dollars or both.

116.120. 1. When an initiative or referendum petition is submitted to the
2 secretary of state, he or she shall examine the petition to determine whether it
3 complies with the Constitution of Missouri and with this chapter. Signatures on
4 petition pages that have been collected by any person who is not properly
5 registered with the secretary of state as a circulator shall not be counted as
6 valid. Signatures on petition pages that do not have the official ballot title
7 affixed to the page shall not be counted as valid. **Signatures previously**
8 **verified on a proposed initiative or referendum under section 116.333**
9 **shall not be included in the calculation under this section for the**
10 **purpose of verifying whether the petition contains the required number**
11 **of signatures.** The secretary of state may verify the signatures on the petition
12 by use of random sampling. The random sample of signatures to be verified shall
13 be drawn in such a manner that every signature properly filed with the secretary
14 of state shall be given an equal opportunity to be included in the sample. The
15 process for establishing the random sample and determining the statistically
16 valid result shall be established by the secretary of state. Such a random
17 sampling shall include an examination of five percent of the signatures.

18 2. If the random sample verification establishes that the number of valid
19 signatures is less than ninety percent of the number of qualified voters needed
20 to find the petition sufficient in a congressional district, the petition shall be
21 deemed to have failed to qualify in that district. In finding a petition insufficient,
22 the secretary of state does not need to verify all congressional districts on each
23 petition submitted if verification of only one or more districts establishes the
24 petition as insufficient.

25 3. If the random sample verification establishes that the number of valid
26 signatures total more than one hundred ten percent of the number of qualified
27 voters needed to find the petition sufficient in a congressional district, the
28 petition shall be deemed to qualify in that district.

29 4. If the random sampling shows the number of valid signatures within
30 a congressional district is within ninety to one hundred ten percent of the number
31 of signatures of qualified voters needed to declare the petition sufficient in that
32 district, the secretary of state shall order the examination and verification of each
33 signature filed.

**116.153. Within thirty days of issuing certification that the
2 petition contains a sufficient number of valid signatures pursuant to
3 section 116.150, the joint committee on legislative research shall hold
4 an informational public hearing in Jefferson City to take the public
5 testimony of those in support and in opposition to the contents of the
6 petition. Such hearing shall be a public meeting under chapter 610.**

116.180. 1. Within three days after receiving the official summary
2 statement the approved fiscal note summary and the fiscal note relating to any
3 statewide ballot measure, the secretary of state shall certify the official ballot
4 title in separate paragraphs with the fiscal note summary immediately following
5 the summary statement of the measure and shall deliver a copy of the official
6 ballot title and the fiscal note to the speaker of the house or the president pro
7 tem of the legislative chamber that originated the measure or, in the case of
8 initiative or referendum petitions, to the person whose name and address are
9 designated under section 116.332. Persons circulating the petition shall affix the
10 official ballot title to each page of the petition prior to circulation and signatures
11 shall not be counted if the official ballot title is not affixed to the page containing
12 such signatures.

**13 2. Signatures obtained prior to the date the official ballot title
14 is certified by the secretary of state shall not be counted.**

116.332. 1. Before a constitutional amendment petition, a statutory
2 initiative petition, or a referendum petition may be circulated for signatures, a
3 sample sheet must be submitted to the secretary of state in the form in which it
4 will be circulated. When a person submits a sample sheet of a petition he or she
5 shall designate to the secretary of state the name and address of the person to
6 whom any notices shall be sent pursuant to sections 116.140 and 116.180 **and
7 submit a copy of the filed statement of committee organization required**

8 **under subsection 5 of section 130.021 showing the date the statement**
9 **was filed.** The secretary of state shall refer a copy of the petition sheet to the
10 attorney general for his approval and to the state auditor for purposes of
11 preparing a fiscal note and fiscal note summary. The secretary of state and
12 attorney general must each review the petition for sufficiency as to form and
13 approve or reject the form of the petition, stating the reasons for rejection, if any.

14 2. Upon receipt of a petition from the office of the secretary of state, the
15 attorney general shall examine the petition as to form. If the petition is rejected
16 as to form, the attorney general shall forward his or her comments to the
17 secretary of state within ten days after receipt of the petition by the attorney
18 general. If the petition is approved as to form, the attorney general shall forward
19 his or her approval as to form to the secretary of state within ten days after
20 receipt of the petition by the attorney general.

21 3. The secretary of state shall review the comments and statements of the
22 attorney general as to form and make a final decision as to the approval or
23 rejection of the form of the petition. The secretary of state shall send written
24 notice to the person who submitted the petition sheet of the approval within
25 [thirty] **fifteen** days after submission of the petition sheet. The secretary of
26 state shall send written notice if the petition has been rejected, together with
27 reasons for rejection, within [thirty] **fifteen** days after submission of the petition
28 sheet.

116.333. 1. **If the form of the petition is approved, within forty-**
2 **five days of the date notice of the approval of form is sent to the person**
3 **who submitted the sample petition sheet, such person shall submit to**
4 **the secretary of state at least one thousand but no more than two**
5 **thousand sponsoring signatures of registered voters of the state in**
6 **support of the initiative. If such person fails to submit sponsoring**
7 **signatures pursuant to the provisions of this section, the secretary of**
8 **state shall send notice that the petition has been rejected.**

9 2. **For the purposes of this section:**

10 (1) **Sponsoring signatures shall be gathered and submitted on**
11 **pages in the form that was approved by the secretary of state under**
12 **section 116.332, except that each signature page shall also contain the**
13 **following statement:**

14 **We, the undersigned, registered voters of the state of**
15 **Missouri and County (or city of St. Louis),**

16 respectfully request that the following proposed law (or
17 amendment to the constitution) shall be submitted to the
18 Secretary of State for certification of an Official Ballot
19 Title, and each for himself or herself says: I have
20 personally signed this petition; I am a registered voter of
21 the state of Missouri and County (or city of St. Louis);
22 my registered voting address and the name of the city,
23 town or village in which I live are correctly written after
24 my name.

25 (2) Each petition page shall contain sponsoring signatures of
26 voters from only one county, which shall be designated in the upper
27 right-hand corner of the page. All pages shall be submitted at one time
28 and shall be in order and numbered sequentially by county. Sponsoring
29 signatures on pages that do not comply with these requirements shall
30 not be counted as valid.

31 (3) Each person gathering sponsoring signatures shall meet the
32 requirements of section 116.080 except that signatures collected by any
33 circulator who has not registered with the secretary of state pursuant
34 to section 116.080 on or before 5:00 p.m. on the day the sponsoring
35 signatures are submitted to the secretary of state shall not be counted.

36 3. Within five days of receipt of sponsoring signature pages
37 under this section, the secretary of state may send copies of the pages
38 to election authorities to verify that the persons whose names are listed
39 as sponsoring signers to the petition are registered voters. Such
40 verification may either be of each signature or by random sampling as
41 provided in section 116.120, as the secretary shall direct. Each election
42 authority shall check the signatures against voter registration records
43 in the election authority's jurisdiction pursuant to the rules adopted by
44 the secretary of state under subsection 5 of section 116.130.

45 4. Such verification shall be completed and certified to the
46 secretary of state not later than fifteen days from the date the election
47 authority receives the sponsoring signature pages.

116.334. 1. If [the petition form is approved,] at least one thousand
2 sponsoring signatures are verified as registered voters, within three
3 days of the receipt of such certification, the secretary of state shall notify
4 the person who submitted the sponsoring signatures, make a copy of
5 the sample petition available on the secretary of state's website and

6 refer a copy of the sample petition to the state auditor for purposes of
7 preparing a fiscal note and fiscal note summary. For a period of fifteen
8 days after the sample petition is made available on the secretary of
9 state's website, the secretary of state shall accept public comments
10 regarding the proposed measure and provide copies of such comments
11 upon request. Within [ten] twenty-three days of receipt of such
12 certification, the secretary of state shall prepare and transmit to the
13 attorney general a summary statement of the measure which shall be a concise
14 statement not exceeding one hundred words. This statement shall be in the form
15 of a question using language neither intentionally argumentative nor likely to
16 create prejudice either for or against the proposed measure. The attorney general
17 shall within ten days approve the legal content and form of the proposed
18 statement.

19 2. [Signatures obtained prior to the date the official ballot title is certified
20 by the secretary of state shall not be counted] **If the election authority
21 certifies that less than one thousand sponsoring signatures have been
22 verified as registered voters, within three days of receipt of the
23 certification from the election authority, the secretary of state shall
24 notify the person who submitted the signatures that the petition has
25 been rejected.**

Section B. Because of the need to ensure proper vetting of initiative and
2 referendum petitions prior to circulation, the enactment of section 116.153 of this
3 act is deemed necessary for the immediate preservation of the public health,
4 welfare, peace and safety, and is hereby declared to be an emergency act within
5 the meaning of the constitution, and the enactment of section 116.153 of this act
6 shall be in full force and effect upon its passage and approval.

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