

SENATE BILL NO. 935

103RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR CIERPIOT.

3347S.011

KRISTINA MARTIN, Secretary

AN ACT

To repeal sections 116.190 and 116.334, RSMo, and to enact in lieu thereof two new sections relating to ballot measures.

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

Section A. Sections 116.190 and 116.334, RSMo, are
2 repealed and two new sections enacted in lieu thereof, to be
3 known as sections 116.190 and 116.334, to read as follows:

116.190. 1. Any citizen who wishes to challenge the
2 official ballot title or the fiscal note prepared for a
3 proposed constitutional amendment submitted by the general
4 assembly, by initiative petition, or by constitutional
5 convention, or for a statutory initiative or referendum
6 measure, may bring an action in the circuit court of Cole
7 County. The action shall be brought within ten days after
8 the official ballot title is certified by the secretary of
9 state in accordance with the provisions of this chapter, in
10 the case of an initiative petition and not later than the
11 twenty-second Tuesday prior to the general election at which
12 the ballot measure will be submitted to the voters, in the
13 case of all other statewide ballot measures.

14 2. The secretary of state shall be named as a party
15 defendant in any action challenging the official ballot
16 title prepared by the secretary of state. When the action
17 challenges the fiscal note or the fiscal note summary

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

18 prepared by the auditor, the state auditor shall also be
19 named as a party defendant. The president pro tem of the
20 senate, the speaker of the house and the sponsor of the
21 measure and the secretary of state shall be the named party
22 defendants in any action challenging the official summary
23 statement, fiscal note or fiscal note summary prepared
24 pursuant to section 116.155.

25 3. The petition shall state the reason or reasons why
26 the summary statement portion of the official ballot title
27 is insufficient or unfair **or, in the case of an initiative**
28 **petition, incomplete, unconcise, unclear, and inaccurate.**
29 Alternatively, the petition shall state the reasons why the
30 fiscal note or the fiscal note summary portion of the
31 official ballot title is insufficient or unfair and shall
32 request a different fiscal note or fiscal note summary
33 portion of the official ballot title.

34 4. (1) The action shall be placed at the top of the
35 civil docket.

36 (2) (a) Insofar as the action challenges the summary
37 statement portion of the official ballot title, the court
38 shall consider the petition, hear arguments, and in its
39 decision certify the summary statement portion of the
40 official ballot title to the secretary of state as
41 originally written if the court finds the summary statement
42 to be sufficient and fair **or, in the case of an initiative**
43 **petition, complete, concise, clear, and accurate.** If the
44 court finds the summary statement to be insufficient or
45 unfair **or, in the case of an initiative petition,**
46 **incomplete, unconcise, unclear, and inaccurate,** the court
47 may offer suggested revisions for the summary statement to
48 remedy the legal flaws, but it shall, in its decision, order
49 the secretary of state to write a first revised summary

50 statement that is sufficient and fair **or, in the case of an**
51 **initiative petition, complete, concise, clear, and accurate.**

52 (b) The secretary of state shall submit a first
53 revised summary statement to the court within seven days.
54 If, after submission to the court of a first revised summary
55 statement by the secretary of state, the court finds the
56 first revised summary statement to be sufficient and fair
57 **or, in the case of an initiative petition, complete,**
58 **concise, clear, and accurate,** the court shall certify to the
59 secretary of state that statement and order it to appear on
60 the ballot. If the court finds the first revised summary
61 statement to be insufficient or unfair **or, in the case of an**
62 **initiative petition, incomplete, unconcise, unclear, or**
63 **inaccurate,** the court may offer suggested revisions for the
64 statement to remedy the legal flaws, but it shall, in its
65 decision, order the secretary of state to write a second
66 revised summary statement that is sufficient and fair **or, in**
67 **the case of an initiative petition, complete, concise,**
68 **clear, and accurate.**

69 (c) The secretary of state shall submit a second
70 revised summary statement to the court within five days.
71 If, after submission to the court of a second revised
72 summary statement by the secretary of state, the court finds
73 the second revised summary statement to be sufficient and
74 fair **or, in the case of an initiative petition, complete,**
75 **concise, clear, and accurate,** the court shall certify to the
76 secretary of state that statement and order it to appear on
77 the ballot. If the court finds the second revised summary
78 statement to be insufficient or unfair **or, in the case of an**
79 **initiative petition, incomplete, unconcise, unclear, and**
80 **inaccurate,** the court may offer suggested revisions for the
81 statement to remedy the legal flaws, but it shall, in its

82 decision, order the secretary of state to write a third
83 revised summary statement that is sufficient and fair **or, in**
84 **the case of an initiative petition, complete, concise,**
85 **clear, and accurate.**

86 (d) The secretary of state shall submit a third
87 revised summary statement to the court within three days.
88 If, after submission to the court of a third revised summary
89 statement by the secretary of state, the court finds the
90 third revised summary statement to be sufficient and fair
91 **or, in the case of an initiative petition, complete,**
92 **concise, clear, and accurate,** the court shall certify to the
93 secretary of state that statement and order it to appear on
94 the ballot. If the court finds the third revised summary
95 statement to be insufficient or unfair **or, in the case of an**
96 **initiative petition, incomplete, unconcise, unclear, and**
97 **inaccurate,** or if the secretary of state neglects or refuses
98 to submit any of the revised summary statements within the
99 times mandated by this subdivision when so ordered, the
100 court shall revise the summary statement in a manner that is
101 sufficient and fair **or, in the case of an initiative**
102 **petition, complete, concise, clear, and accurate** and order
103 the secretary of state to place that summary statement on
104 the ballot with the measure.

105 (e) During all revisions as provided in this
106 subdivision, the case shall remain open.

107 (f) Any nonprevailing party may make appeals as
108 provided by law only following:

109 a. The finding of the circuit court that a summary
110 statement was sufficient and fair **or, in the case of an**
111 **initiative petition, complete, concise, clear, and accurate;**
112 or

113 b. The circuit court ordering its own summary
114 statement to be placed on the ballot pursuant to paragraph
115 (d) of this subdivision.

116 (g) Any action brought pursuant to this section
117 challenging a statewide ballot measure appearing on the
118 ballot at an election called by the governor pursuant to
119 Article XII, Section 2(b), Missouri Constitution, whether at
120 the primary election or at a special election, or at a
121 special election for a referendum petition measure called by
122 the general assembly pursuant to Article III, Section 52(b),
123 Missouri Constitution, shall be expedited by the court to
124 bring a resolution of the matter prior to the printing of
125 ballots. The court may shorten any timeframe under this
126 section to achieve this purpose.

127 **(h) If at any time a court finds that a summary**
128 **statement for an initiative petition is not complete,**
129 **concise, clear, and accurate and that a complete, concise,**
130 **clear, and accurate statement cannot possibly be written in**
131 **one hundred or less words due to a violation of the single**
132 **subject requirement in Article III, Section 50, of the**
133 **Missouri Constitution, the court shall enjoin the measure**
134 **from being circulated for further signatures or, in the**
135 **event that the measure has been certified to be placed on**
136 **the ballot, the court shall enjoin the secretary of state**
137 **from certifying the measure and all other officers from**
138 **printing the measure on the ballot.**

139 (3) Insofar as the action challenges the fiscal note
140 or the fiscal note summary portion of the official ballot
141 title, the court shall consider the petition, hear
142 arguments, and in its decision, either certify the fiscal
143 note or the fiscal note summary portion of the official
144 ballot title to the secretary of state or remand the fiscal

145 note or the fiscal note summary to the auditor for
146 preparation of a new fiscal note or fiscal note summary
147 pursuant to the procedures set forth in section 116.175.
148 Any party to the suit may appeal to the supreme court within
149 ten days after a circuit court decision pursuant to this
150 subdivision.

151 5. Any action brought under this section that is not
152 fully and finally adjudicated within one hundred eighty days
153 of filing, and more than seventy days prior to election in
154 which the measure is to appear, including all appeals, shall
155 be extinguished, unless a court extends such period upon a
156 finding of good cause for such extension. Such good cause
157 shall consist only of court-related scheduling issues and
158 shall not include requests for continuance by the parties.

116.334. 1. If the petition form is approved, the
2 secretary of state shall make a copy of the sample petition
3 available on the secretary of state's website. For a period
4 of fifteen days after the petition is approved as to form,
5 the secretary of state shall accept public comments
6 regarding the proposed measure and provide copies of such
7 comments upon request. Within twenty-three days of receipt
8 of such approval, the secretary of state shall prepare and
9 transmit to the attorney general a summary statement of the
10 measure which shall be a **complete, concise, clear, and**
11 **accurate** statement not exceeding one hundred words. This
12 statement shall be in the form of a question using language
13 neither intentionally argumentative nor likely to create
14 prejudice either for or against the proposed measure. The
15 attorney general shall within ten days approve the legal
16 content and form of the proposed statement.

17 2. Signatures obtained prior to the date the official
18 ballot title is certified by the secretary of state shall

19 not be counted. Once the secretary of state certifies the
20 official ballot title, signatures may be collected, even if
21 the ballot title is subject to an action in court
22 challenging the [sufficiency and fairness of the] ballot
23 title **pursuant to section 116.190**. If a court orders a
24 change that alters the content of the official ballot title,
25 then all signatures gathered before such change occurred
26 shall not be invalidated based upon the fact that one or
27 more signatures were gathered prior to the alteration of the
28 official ballot title, regardless of whether those
29 signatures were gathered on petition pages that displayed
30 what was previously the official ballot title as certified
31 by the secretary of state. Nothing in this subsection shall
32 prohibit the invalidation of a signature for a reason
33 otherwise allowed by this chapter.

34 3. Signatures for statutory initiative petitions shall
35 be filed not later than six months prior to the general
36 election during which the petition's ballot measure is
37 submitted for a vote, and shall also be collected not
38 earlier than the day after the day upon which the previous
39 general election was held.

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