

FIRST REGULAR SESSION
[CORRECTED]
[PERFECTED]
SENATE SUBSTITUTE FOR
SENATE BILL NO. 455
90TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR STOLL.

Offered April 13, 1999.

Senate Substitute adopted, April 13, 1999.

Taken up for Perfection April 13, 1999. Bill declared Perfected and Ordered Printed, as amended.

TERRY L. SPIELER, Secretary.

S1714.03P

AN ACT

To repeal sections 116.060, 116.080, 116.090, 116.110, 116.120, 116.150 and 116.220, RSMo 1994, and sections 116.030, 116.040, 116.100, 116.130, 116.160, 116.170, 116.175, 116.180 and 116.190, RSMo Supp. 1998, and to enact in lieu thereof seventeen new sections relating to the procedures of ballot measures.

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

Section A. Sections 116.060, 116.080, 116.090, 116.110, 116.120, 116.150 and 116.220, RSMo 1994, and sections 116.030, 116.040, 116.100, 116.130, 116.160, 116.170, 116.175, 116.180 and 116.190, RSMo Supp. 1998, are repealed and seventeen new sections enacted in lieu thereof, to be known as sections 116.030, 116.040, 116.060, 116.080, 116.090, 116.100, 116.110, 116.120, 116.130, 116.150, 116.155, 116.160, 116.170, 116.175, 116.180, 116.190 and 116.220, to read as follows:

116.030. The following shall be substantially the form of each page of referendum petitions on any law passed by the general assembly of the state of Missouri:

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

County

Page No.

It is a class A misdemeanor **punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both**, for anyone to sign any referendum petition with any name other than his **or her** own, or knowingly to sign his **or her** name more than once for the same measure for the same election, or to sign a petition when [he] **such person** knows he **or she** is not a registered voter.

PETITION FOR REFERENDUM

To the Honorable, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and County (or city of St. Louis), respectfully order that the Senate (or House) Bill No. entitled (title of law), passed by the general assembly of the state of Missouri, at the regular (or special) session of the general assembly, shall be referred to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the day of, [19]...., unless the general assembly shall designate another date, and each for himself says: I have personally signed this petition; I am a registered voter of the state of Missouri and County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

CIRCULATOR'S AFFIDAVIT STATE OF MISSOURI, COUNTY OF I,, a Missouri registered voter and a resident of the state of Missouri, being first duly sworn, say (print or type names of signers)

REGISTERED VOTING

NAME	DATE	ADDRESS	ZIP	CONGR.	NAME
(Signature)	SIGNED	(Street) (City,	CODE	DIST.	(Printed
		Town or Village)			or Typed)

(Here follow numbered lines for signers)

signed this page of the foregoing petition, and each of them signed his **or her** name thereto in my presence; I believe that each has stated his **or her** name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and County.

.....
Signature of Affiant
(Person obtaining signatures)
.....

Address of Affiant

Subscribed and sworn to before me this day of, A.D. [19]..... .

.....

Signature of Notary

Address of Notary

Notary Public (Seal)

My commission expires

If this form is followed substantially and the requirements of section 116.050 are met, it shall be sufficient, disregarding clerical and merely technical errors.

116.040. The following shall be substantially the form of each page of each petition for any law or amendment to the Constitution of the State of Missouri proposed by the initiative:

County

Page No.

It is a class A misdemeanor **punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both**, for anyone to sign any initiative petition with any name other than his **or her** own, or knowingly to sign his name more than once for the same measure for the same election, or to sign a petition when **[he] such person** knows he **or she** is not a registered voter.

INITIATIVE PETITION

To the Honorable, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and County (or city of St. Louis), respectfully order that the following proposed law (or amendment to the constitution) shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the day of, [19]..., and each for himself says: I have personally signed this petition; I am a registered voter of the state of Missouri and County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

CIRCULATOR'S AFFIDAVIT STATE OF MISSOURI, COUNTY OF I,, a Missouri registered voter and a resident of the state of Missouri, being first duly sworn, say (print or type names of signers)

REGISTERED VOTING

NAME	DATE	ADDRESS	ZIP	CONGR.	NAME
(Signature)	Signed	(Street) (City,	CODE	DIST.	(Printed
		Town or Village)			or Typed)

(Here follow numbered lines for signers)

signed this page of the foregoing petition, and each of them signed his **or her** name thereto in my presence; I believe that each has stated his **or her** name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and County.

.....
Signature of Affiant
(Person obtaining signatures)
.....

.....
Address of Affiant

Subscribed and sworn to before me this day of, A.D. [19]..... .
.....

Signature of Notary
Address of Notary

Notary Public (Seal)

My commission expires.....

If this form is followed substantially and the requirements of section 116.050 **and section 116.080** are met, it shall be sufficient, disregarding clerical and merely technical errors.

116.060. Any registered voter of the state of Missouri may sign initiative and referendum petitions. However, each page of an initiative or referendum petition shall contain signatures of voters from only one county. **Each petition page filed with the secretary of state shall have the county where the signers are registered designated in the upper right-hand corner of such page.** Signatures of voters from counties other than the one designated by the circulator **in the upper right hand corner** on a given page shall not be counted as valid.

116.080. **1.** Each petition circulator [must be a Missouri registered voter and a resident of Missouri.] **shall be at least eighteen years of age and registered with the secretary of state. Signatures collected by any circulator who has not registered with the secretary of state pursuant to this chapter on or before 5:00 p.m. on the final day for filing petitions with the secretary of state shall not be counted.**

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

- (1) Name of petition;**
- (2) Name of circulator;**
- (3) Residential address, including street number, city, state and zip code;**
- (4) Mailing address, if different;**

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

G YES

G NO

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

(7) Signature of circulator.

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

I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT.

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

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

116.090. **1. Any person who signs any name other than his own to any petition, or who knowingly signs his name more than once for the same measure for the same election, or who knows he is not at the time of signing or circulating the same a Missouri registered voter and a resident of this state, shall, upon conviction thereof, be guilty of a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both.**

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

116.100. The secretary of state shall not accept any referendum petition submitted later than 5:00 p.m. on the final day for filing referendum petitions. The secretary of state shall not accept any initiative petition submitted later than 5:00 p.m. on the final day for filing initiative petitions. **All pages shall be submitted at one time.** When an initiative or referendum petition is submitted to the secretary of state, the signature pages shall be in order and numbered sequentially by county, except in counties that include multiple congressional districts, the

signatures may be ordered and numbered using an alternate numbering scheme approved in writing by the secretary of state prior to submission of the petition. Any petition that is not submitted in accordance with this section, disregarding clerical and merely technical errors, shall be rejected as insufficient. After verifying the count of signature pages, the secretary of state shall issue a receipt indicating the number of pages presented from each county. When a person submits a petition he **or she** shall designate to the secretary of state the name and the address of the person to whom any notices shall be sent under sections 116.140 and 116.180. [No initiative petition shall be accepted by the secretary of state until 8:00 a.m. on the second Tuesday of January in even-numbered years for access to the general election ballot in those years.]

116.110. Any voter who has signed an initiative or referendum petition may withdraw his **or her** signature from that petition by submitting to the secretary of state, before the petition is [certified as sufficient or insufficient, an affidavit] **filed with the secretary of state, a sworn statement** requesting that his **or her** signature be withdrawn[. If the secretary of state receives such an affidavit before the day he certifies the petition he shall strike the signature and not count it.] **and affirming the name of the petition signed, the name the voter used when signing the petition, the address of the voter and the county of residence. It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, to knowingly file a false withdrawal statement with the secretary of state.**

116.120. 1. When an initiative or referendum petition is submitted to the secretary of state, he **or she** shall examine the petition to determine whether it complies with the Constitution of Missouri and with this chapter. **Signatures on petition pages that have been collected by any person who is not properly registered with the secretary of state as a circulator shall not be counted as valid. Signatures on petition pages that do not have the official ballot title affixed to the page shall not be counted as valid.** The secretary of state may verify the signatures on the petition by use of random sampling. The random sample of signatures to be verified shall be drawn in such a manner that every signature **properly** filed with the secretary of state shall be given an equal opportunity to be included in the sample. **The process for establishing the random sample and determining the statistically valid result shall be established by the secretary of state.** Such a random sampling shall include an examination of five percent of the signatures.

2. If the random sample verification establishes that the number of valid signatures is less than ninety percent of the number of qualified voters needed to find the petition sufficient in a congressional district, the petition shall be deemed to have failed to qualify in that district. In

finding a petition insufficient, the secretary of state does not need to verify all congressional districts on each petition submitted if verification of only one or more districts establishes the petition as insufficient.

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

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

116.130. 1. The secretary of state may send copies of petition pages to election authorities to verify that the persons whose names are listed as signers to the petition are registered voters. Such verification may either be of each signature or by random sampling as provided in section 116.120, as the secretary shall direct. If copies of the petition pages are sent to an election authority for verification, such copies shall be sent [not later than two weeks after the petition is submitted if the election authority is to verify each signature and not later than three weeks after the petition is submitted if verification is to occur by random sampling as provided in section 116.120] **pursuant to the following schedule:**

(1) Not later than two weeks after one petition is filed in the office of the secretary of state;

(2) Not later than three weeks after two petitions are filed in the office of the secretary of state;

(3) Not later than four weeks after three or more petitions are filed in the office of the secretary of state.

Each election authority shall check the signatures against voter registration records in the election authority's jurisdiction, but the election authority shall count as valid only the signatures of persons registered as voters in the county named in the circulator's affidavit. **Signatures shall not be counted as valid if they have been struck through or crossed out.**

2. If the election authority is requested to verify the petition by random sampling, such verification [must] **shall** be completed and certified not later than two weeks from the date **that** the election authority receives the petition from the secretary of state. If the election authority is to verify each signature, such verification must be completed, certified and delivered to the secretary of state by 5:00 p.m. on the [eleventh] **last Tuesday in July** prior to the election. **In the event of complete verification of signatures after a failed random sample, full verification shall be completed, certified and delivered to the secretary of state by 5:00**

p.m. on the last Tuesday in July or by 5:00 p.m. on the Friday of the fifth week after receipt of the signatures by the local election authority, whichever is later.

[2.] **3.** If the election authority or the secretary of state determines that the congressional district number written after the signature of any voter is not the congressional district of which the voter is a resident, the election authority or the secretary of state shall correct the congressional district number on the petition page. Failure of a voter to give the voter's correct congressional district number shall not by itself be grounds for not counting the voter's signature.

[3.] **4.** The election authority shall return the copies of the petition pages to the secretary of state with annotations regarding any invalid or questionable signatures which the election authority has been asked to check by the secretary of state. The election authority shall verify the number of pages received for that county, and also certify the total number of valid signatures of voters from each congressional district which the election authority has been asked to check by the secretary of state.

[4.] **5.** The secretary of state is authorized to adopt rules to ensure uniform, complete, and accurate checking of petition signatures either by actual count or random sampling. No rule or portion of a rule promulgated [under the authority of] **pursuant to** this section shall become effective unless it has been promulgated pursuant to the provisions of section 536.024, RSMo.

[5.] **6.** After a period of three years from the time of submission of the petitions to the secretary of state, the secretary of state, if the secretary determines that retention of such petitions is no longer necessary, may destroy such petitions [or return them to the person submitting them upon written request from such person. Returned petitions shall be stamped by the secretary of state to indicate that such petitions are no longer valid].

116.150. 1. After the secretary of state makes [his] **a** determination on the sufficiency of the petition and if [he] **the secretary of state** finds it sufficient, [he] **the secretary of state** shall issue a certificate setting forth that the petition contains a sufficient number of valid signatures to comply with the Constitution of Missouri and with this chapter.

2. The secretary of state shall issue a certificate only for a petition approved pursuant to section 116.332. If the secretary of state finds the petition insufficient, [he] **the secretary of state** shall issue a certificate stating the reason for the insufficiency.

3. The secretary of state shall issue a certificate pursuant to this section not later than 5:00 p.m. on the thirteenth Tuesday prior to the general election or two weeks after the date the election authority certifies the results of a petition verification pursuant to subsection 2 of section 116.130, whichever is later.

116.155. 1. The general assembly may include the official summary statement and a fiscal note summary in any statewide ballot measure that it refers to the voters.

2. The official summary statement approved by the general assembly shall, taken together with the approved fiscal note summary, be the official ballot title and such summary statement shall contain no more than fifty words, excluding articles. The title shall be a true and impartial statement of the purposes of the proposed measure in language neither intentionally argumentative nor likely to create prejudice either for or against the proposed measure.

3. The fiscal note summary approved by the general assembly shall contain no more than fifty words, excluding articles, which shall summarize the fiscal note prepared for the measure in language neither argumentative nor likely to create prejudice for or against the proposed measure.

116.160. 1. [After] **If the general assembly adopts a joint resolution proposing a constitutional amendment or a bill without a fiscal note summary**, which is to be referred to a vote of the people [and it has been delivered to the secretary of state], the secretary of state shall promptly forward the resolution or bill to the state auditor. **If the general assembly adopts a joint resolution proposing a constitutional amendment or a bill without an official summary statement, which is to be referred to a vote of the people**, within twenty days after receipt of the resolution or bill, the secretary of state shall prepare and transmit to the attorney general a summary statement of the measure **as the proposed summary statement**. The secretary of state may seek the advice of the legislator who introduced the constitutional amendment or bill and the speaker of the house or the president pro tem of the legislative chamber that originated the measure. The summary statement may be distinct from the legislative title of the proposed constitutional amendment or bill. The attorney general shall within ten days approve the legal content and form of the proposed statement.

2. The official summary statement shall contain no more than fifty words, **excluding articles**. The title shall be a true and impartial statement of the purposes of the proposed measure in language neither intentionally argumentative nor likely to create prejudice either for or against the proposed measure.

116.170. [After] **If the general assembly adopts a joint resolution proposing a constitutional amendment or a bill without a fiscal note summary**, which is to be referred to a vote of the people [and it has been delivered to the state auditor], the state auditor shall, within thirty days **of delivery to the auditor**, prepare and file with the secretary of state a fiscal note and a fiscal note summary for the proposed measure in accordance with the provisions of section 116.175.

116.175. 1. **Except as provided in section 116.155**, upon receipt from the secretary of state's office of any petition sample sheet, joint resolution or bill, the auditor shall assess the fiscal

impact of the proposed measure. The state auditor may consult with the state departments, local government entities, the general assembly and others with knowledge pertinent to the cost of the proposal. Proponents or opponents of any proposed measure may submit to the state auditor a proposed statement of fiscal impact estimating the cost of the proposal in a manner consistent with the standards of the governmental accounting standards board and section 23.140, RSMo, provided that all such proposals are received by the state auditor within ten days of his or her receipt of the proposed measure from the secretary of state.

2. Within twenty days of receipt of a petition sample sheet, joint resolution or bill from the secretary of state, the state auditor shall prepare a fiscal note and a fiscal note summary for the proposed measure and forward both to the attorney general.

3. The fiscal note and fiscal note summary shall state the measure's estimated cost or savings, if any, to state or local governmental entities. The fiscal note summary shall contain no more than fifty words, **excluding articles**, which shall summarize the fiscal note in language neither argumentative nor likely to create prejudice either for or against the proposed measure.

4. The attorney general shall, within ten days of receipt of the fiscal note and the fiscal note summary, approve the legal content and form of the fiscal note summary prepared by the state auditor and shall forward notice of such approval to the state auditor.

116.180. Within three days after receiving the official summary statement the approved fiscal note summary and the fiscal note relating to any statewide ballot measure from the state auditor, **and within thirty-three days after the presiding officer of each house of the general assembly has signed a bill or resolution that includes an official summary statement or fiscal note summary**, the secretary of state shall certify the official ballot title in separate paragraphs with the fiscal note summary immediately following the summary statement of the measure and shall deliver a copy of the official ballot title and the fiscal note to the speaker of the house or the president pro tem of the legislative chamber that originated the measure or, in the case of initiative or referendum petitions, to the person whose name and address are designated under section 116.332. Persons circulating the petition shall affix the official ballot title to each page of the petition prior to circulation and signatures shall not be counted if the official ballot title is not affixed to the page containing such signatures.

116.190. 1. Any citizen who wishes to challenge the official ballot title or the fiscal note prepared for a proposed constitutional amendment submitted by the general assembly, by initiative petition, or by constitutional convention, or for a statutory initiative or referendum measure, may bring an action in the circuit court of Cole County. The action must be brought within ten days after the official ballot title is certified by the secretary of state in accordance with the provisions of this chapter.

2. The secretary of state shall be named as a party defendant in any action challenging the official ballot title **prepared by the secretary of state**. When the action challenges the fiscal note or the fiscal note summary **prepared by the auditor**, the state auditor shall also be named as a party defendant. **The president pro tem of the senate, the speaker of the house and the sponsor of the measure and the secretary of state shall be the named party defendants in any action challenging the official summary statement, fiscal note or fiscal note summary prepared pursuant to section 116.155.**

3. The petition shall state the reason or reasons why the official ballot title is insufficient or unfair and shall request a different official ballot title.

4. The action shall be placed at the top of the civil docket. The court shall consider the petition, hear arguments, and in its decision certify the official ballot title to the secretary of state. Any party to the suit may appeal to the supreme court within ten days after a circuit court decision. In making the legal notice to election authorities under section 116.240, the secretary of state shall certify the language which the court certifies to him.

116.220. The secretary of state shall label statutory initiative and referendum measures alphabetically in the order in which they are submitted by petition **or in the order in which they are passed by the general assembly**. [He] **The secretary of state** shall label the first as "Proposition A", and so on consecutively through the letter Z, and then begin labeling as "Proposition AA" and so on. A new series of letters shall be started after each general election. **In the event a measure is labeled prior to, but not voted on at the next succeeding general election, the letter assigned to such measure shall not be reassigned until after such measure has been voted on by the people.**

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