

LEGISLATIVE BILL 39

Passed over the Governor's veto February 19, 2008.

Introduced by Schimek, 27; Mines, 18; Pahls, 31; Howard, 9

FOR AN ACT relating to petition circulators; to amend sections 32-628, 32-629, 32-630, 32-1303, 32-1404, 49-1455, and 49-1478, Reissue Revised Statutes of Nebraska; to require circulators of certain petitions to be electors; to prohibit paying petition circulators based on the number of signatures gathered; to change campaign reporting requirements related to petition circulators; to harmonize provisions; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 32-628, Reissue Revised Statutes of Nebraska, is amended to read:

32-628 (1) All petitions prepared or filed pursuant to the Election Act or any petition which requires the election commissioner or county clerk to verify signatures by utilizing the voter registration register shall provide a space at least two and one-half inches long for written signatures, a space at least two inches long for printed names, and sufficient space for date of birth and street name and number, city or village, and zip code. Lines on each petition shall not be less than one-fourth inch apart. Petitions may be designed in such a manner that lines for signatures and other information run the length of the page rather than the width. Petitions shall provide for no more than twenty signatures per page.

(2) For the purpose of preventing fraud, deception, and misrepresentation, every sheet of every petition containing signatures shall have upon it, above the signatures, the statements contained in this subsection, except that a petition for recall of an elected official shall also have the additional information specified in subsection (2) of section 32-1304. The statements shall be printed in boldface type in substantially the following form:

WARNING TO PETITION SIGNERS--VIOLATION OF ANY OF THE FOLLOWING PROVISIONS OF LAW MAY RESULT IN THE FILING OF CRIMINAL CHARGES: Any person who signs any name other than his or her own to any petition or who is not qualified to sign the petition shall be guilty of a Class I misdemeanor. Any person who falsely swears to a circulator's affidavit on a petition, who accepts money or other things of value for signing a petition, or who offers money or other things of value in exchange for a signature upon any petition shall be guilty of a Class IV felony.

(3) Every sheet of a petition which contains signatures shall have upon it, below the signatures, an affidavit as provided in this subsection, except that the affidavit for a petition for recall of an elected official shall also include the additional language specified in subsection (3) of section 32-1304. The affidavit shall be in substantially the following form:

STATE OF NEBRASKA)
) ss.
COUNTY OF .....

....., (name of circulator) being first duly sworn, deposes and says that he or she is the circulator of this petition containing ..... signatures, that he or she is an elector of the State of Nebraska, that each person whose name appears on the petition personally signed the petition in the presence of the affiant, that the date to the left of each signature is the correct date on which the signature was affixed to the petition and that the date was personally affixed by the person signing such petition, that the affiant believes that each signer has written his or her name, street and number or voting precinct, and city, village, or post office address correctly, that the affiant believes that each signer was qualified to sign the petition, and that the affiant stated to each signer the object of the petition as printed on the petition before he or she affixed his or her signature to the petition.

Circulator .....
Address .....

Subscribed and sworn to before me, a notary public, this ..... day of ..... 20.... at ....., Nebraska.

Notary Public .....

(4) Each sheet of a petition shall have upon its face and in plain view of persons who sign the petition a statement in letters not smaller than sixteen-point type in red print on the petition. If the petition is circulated by a paid circulator, the statement shall be as follows: This petition is

circulated by a paid circulator. If the petition is circulated by a circulator who is not being paid, the statement shall be as follows: This petition is circulated by a volunteer circulator.

Sec. 2. Section 32-629, Reissue Revised Statutes of Nebraska, is amended to read:

32-629 (1) Except as otherwise provided in section 32-1404 for initiative and referendum petitions, only a registered voter of the State of Nebraska shall qualify as a valid signer of a petition and may sign petitions under the Election Act.

(2) Only an elector of the State of Nebraska shall qualify as a valid circulator of a petition and may circulate petitions under the Election Act.

Sec. 3. Section 32-630, Reissue Revised Statutes of Nebraska, is amended to read:

32-630 (1) Each person who signs a petition shall, at the time of and in addition to signing, personally affix the date, print his or her last name and first name in full, and affix his or her date of birth and address, including the street and number or a designation of a rural route or voting precinct and the city or village or a post office address. A person signing a petition may use his or her initials in place of his or her first name if such person is registered to vote under such initials. No signer shall use ditto marks as a means of personally affixing the date or address to any petition. A wife shall not use her husband's first name when she signs a petition but shall personally affix her first name and her last name by marriage or her surname. Any signature using ditto marks as a means of personally affixing the date or address of any petition or any signature using a spouse's first name instead of his or her own shall be invalid.

(2) Each circulator of a petition shall personally witness the signatures on the petition and shall sign the circulator's affidavit.

(3) No person shall:

(a) Sign any name other than his or her own to any petition;

(b) Knowingly sign his or her name more than once for the same petition effort or measure;

(c) Sign a petition if he or she is not a registered voter and qualified to sign the same except as provided in section 32-1404;

(d) Falsely swear to any signature upon any such petition;

(e) Accept money or other thing of value for signing any petition;

or

(f) Offer money or other thing of value in exchange for a signature upon any petition; or -

(g) Pay a circulator based on the number of signatures collected.

Sec. 4. Section 32-1303, Reissue Revised Statutes of Nebraska, is amended to read:

32-1303 (1) A petition demanding that the question of removing an elected official or member of a governing body listed in section 32-1302 be submitted to the registered voters shall be signed by registered voters equal in number to at least thirty-five percent of the total vote cast for that office in the last general election, except that (a) for an office for which more than one candidate is chosen, the petition shall be signed by registered voters equal in number to at least thirty-five percent of the number of votes cast for the person receiving the most votes for such office in the last general election, (b) for a member of a board of a Class I school district, the petition shall be signed by registered voters of the school district equal in number to at least twenty-five percent of the total number of registered voters residing in the district on the date that the recall petitions are first checked out from the filing clerk by the principal circulator, and (c) for a member of a governing body of a village, the petition shall be signed by registered voters equal in number to at least forty-five percent of the total vote cast for the person receiving the most votes for that office in the last general election. The signatures shall be affixed to petition papers and shall be considered part of the petition.

(2) Petition circulators shall conform to the requirements of ~~section~~ sections 32-629 and 32-630.

(3) The petition papers shall be procured from the filing clerk. Prior to the issuance of such petition papers, an affidavit shall be signed and filed with the filing clerk by at least one registered voter. Such voter or voters shall be deemed to be the principal circulator or circulators of the recall petition. The affidavit shall state the name and office of the official sought to be removed, shall include in typewritten form in concise language of sixty words or less the reason or reasons for which recall is sought, and shall request that the filing clerk issue initial petition papers to the principal circulator for circulation. The filing clerk shall notify the

official sought to be removed by any method specified in section 25-505.01 or, if notification cannot be made with reasonable diligence by any of the methods specified in section 25-505.01, by leaving a copy of the affidavit at the official's usual place of residence and mailing a copy by first-class mail to the official's last-known address. If the official chooses, he or she may submit a defense statement in typewritten form in concise language of sixty words or less for inclusion on the petition. Any such defense statement shall be submitted to the filing clerk within twenty days after the official receives the copy of the affidavit. The filing clerk shall notify the principal circulator or circulators that the necessary signatures must be gathered within thirty days from the date of issuing the petitions.

(4) The filing clerk, upon issuing the initial petition papers or any subsequent petition papers, shall enter in a record, to be kept in his or her office, the name of the principal circulator or circulators to whom the papers were issued, the date of issuance, and the number of papers issued. The filing clerk shall certify on the papers the name of the principal circulator or circulators to whom the papers were issued and the date they were issued. No petition paper shall be accepted as part of the petition unless it bears such certificate. The principal circulator or circulators who check out petitions from the filing clerk may distribute such petitions to persons who may act as circulators of such petitions.

(5) Petition signers shall conform to the requirements of sections 32-629 and 32-630. Each signer of a recall petition shall be a registered voter and qualified by his or her place of residence to vote for the office in question.

Sec. 5. Section 32-1404, Reissue Revised Statutes of Nebraska, is amended to read:

32-1404 A signer of an initiative and referendum petition shall be a registered voter of the State of Nebraska on or before the date on which the petition is required to be filed with the Secretary of State and shall meet the requirements of section 32-630. A person who circulates initiative and referendum petitions ~~need not be a registered voter but~~ shall comply with the requirements of section 32-629 and subsection (2) of section 32-630 and with the prohibitions contained in subdivisions (3)(a), (d), and (f), and (g) of section 32-630.

Sec. 6. Section 49-1455, Reissue Revised Statutes of Nebraska, is amended to read:

49-1455 (1) The campaign statement of a committee, other than a political party committee, shall contain the following information:

(a) The filing committee's name, address, and telephone number and the full name, residential and business addresses, and telephone numbers of its committee treasurer;

(b) Under the heading RECEIPTS, the total amount of contributions received during the period covered by the campaign statement; under the heading EXPENDITURES, the total amount of expenditures made during the period covered by the campaign statement; and the cumulative amount of those totals for the election period. If a loan was repaid during the period covered by the campaign statement, the amount of the repayment shall be subtracted from the total amount of contributions received. Forgiveness of a loan shall not be included in the totals. Payment of a loan by a third party shall be recorded and reported as a contribution by the third party but shall not be included in the totals. In-kind contributions or expenditures shall be listed at fair market value and shall be reported as both contributions and expenditures;

(c) The balance of cash and cash equivalents on hand at the beginning and the end of the period covered by the campaign statement;

(d) The full name of each individual from whom contributions totaling more than two hundred fifty dollars are received during the period covered by the report, together with the individual's street address, the amount contributed, the date on which each contribution was received, and the cumulative amount contributed by that individual for the election period;

(e) The full name of each person, except those individuals reported under subdivision (1)(d) of this section, which contributed a total of more than two hundred fifty dollars during the period covered by the report together with the person's street address, the amount contributed, the date on which each contribution was received, and the cumulative amount contributed by the person for the election period;

(f) The name of each committee which is listed as a contributor shall include the full name of the committee's treasurer;

(g) Except as otherwise provided in subsection (3) of this section: The full name and street address of each person to whom expenditures totaling more than two hundred fifty dollars were made, together with the date and amount of each separate expenditure to each such person during the period

covered by the campaign statement; the purpose of the expenditure; and the full name and street address of the person providing the consideration for which any expenditure was made if different from the payee;

(h) The amount and the date of expenditures for or against a candidate or ballot question during the period covered by the campaign statement and the cumulative amount of expenditures for or against that candidate or ballot question for the election period. An expenditure made in support of more than one candidate or ballot question, or both, shall be apportioned reasonably among the candidates or ballot questions, or both; and

(i) The total amount of funds disbursed by a separate segregated political fund, by state, for the purpose of supporting or opposing candidates and committees in elections in states other than Nebraska and candidates for federal office, including independent expenditures made in such elections.

(2) For purposes of this section, election period means (a) the period beginning January 1 of the calendar year prior to the year of the election in which the candidate is seeking office through the end of the calendar year of such election for candidate committees of candidates seeking covered elective offices as defined in subdivision (1)(a) of section 32-1603, (b) the period beginning July 1 of the calendar year prior to the year of the election in which the candidate is seeking office through the end of the calendar year of such election for candidate committees of candidates seeking covered elective offices so defined in subdivision (1)(b) of section 32-1603, and (c) the calendar year of the election for all other committees.

(3) A campaign statement shall include the total amount paid to individual petition circulators during the reporting period, if any, but shall not include the name, address, or telephone number of any individual petition circulator if the only payment made to such individual was for services as a petition circulator.

Sec. 7. Section 49-1478, Reissue Revised Statutes of Nebraska, is amended to read:

49-1478 (1) An expenditure shall not be made, other than for overhead or normal operating expenses, by an agent or an independent contractor, including an advertising agency, on behalf of or for the benefit of a person unless the expenditure is reported by the committee as if the expenditure were made directly by the committee, or unless the agent or independent contractor files an agent's expenditure report as provided in subsection (3) of this section. The agent or independent contractor shall make known to the committee all information required to be reported by the committee. Any person violating this subsection shall be guilty of a Class III misdemeanor.

(2) An expenditure shall not be made, other than for overhead or normal operating expenses, by ~~an individual or entity~~ a person gathering petition signatures on behalf of or for the benefit of a person, including a ballot question committee, unless the expenditure is reported by the ballot question committee as if the expenditure were made directly by the committee, or unless the person ~~or entity~~ gathering petition signatures files an agent's expenditure report as provided in subsection (3) of this section. ~~The individual or entity~~ person gathering petition signatures shall make known to the committee all information required to be reported by the committee. For purposes of this section, petition signature means a signature affixed to a petition for the purpose of qualifying a ballot question to appear on a ballot. Any person violating this subsection shall be guilty of a Class III misdemeanor.

(3) ~~An individual or entity~~ A person gathering petition signatures, an agent, or an independent contractor who is required to file an agent's report shall file a separate agent's report for each person on whose behalf an expenditure is made. An agent's report shall be filed with the commission within ten days after the end of the calendar month in which the expenditure is made. An agent's report shall include:

(a) The name, permanent address, temporary address, permanent telephone number, and temporary telephone number of the ~~individual or entity~~ person making expenditures for the purpose of gathering signatures, the agent, or the independent contractor;

(b) The name, address, and telephone number of the person on whose behalf the expenditure is made;

(c) The name, permanent address, and temporary address of the person to whom the expenditure is made, except that if the expenditure is solely for the services of an individual circulating petitions, such individual's name and address shall not be included;

(d) The date and amount of each expenditure; and

(e) A description of the goods or services purchased and the purpose of the goods or services.

(4) A person required to report under subsection (3) of this section shall include in the report the total amount paid to individual petition circulators during the reporting period but shall not include the name, address, or telephone number of any individual petition circulator if the only payment made to such individual was for services as a petition circulator.

Sec. 8. Original sections 32-628, 32-629, 32-630, 32-1303, 32-1404, 49-1455, and 49-1478, Reissue Revised Statutes of Nebraska, are repealed.