

The Florida Senate
PROFESSIONAL STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: Judiciary Committee

BILL: CS/SB 900

INTRODUCER: Judiciary Committee and Senator Posey

SUBJECT: Initiative Petitions

DATE: April 18, 2007

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Rubinas	Rubinas	EE	Fav/4 Amendments
2.	Cibula	Maclure	JU	Fav/CS
3.				
4.				
5.				
6.				

I. Summary:

This bill creates a process by which electors may revoke a signature on an initiative petition to amend the Florida Constitution.

This bill amends section 100.371, Florida Statutes.

II. Present Situation:

During the 2004 election cycle, numerous stories appeared in newspapers concerning fraud in the petition process to place constitutional amendments on the ballot. Two petition gatherers were arrested in Santa Rosa County for over 40 counts each of uttering a forged document.¹ Several other elections supervisors found petitions signed with the names of dead voters.²

The Florida Department of Law Enforcement (FDLE) issued a press release in October of 2004 indicating that it had received numerous complaints relating to voting irregularities and had initiated several investigations. Specifically, the FDLE created regional elections task forces to address the issue of voter fraud in a statewide manner. While the FDLE did not reveal details of the investigations, it noted that the investigations focused on the following conduct:

In some cases, persons who believed they were signing petitions later found out that their signatures or possible forged signatures were used to complete a fraudulent voter registration. In other instances, it appears that workers hired to

¹ See Derek Pivnick, "Two Pace residents accused in voter scam," PENSACOLA NEWS JOURNAL, July 2, 2004, p. 1A.

² See Joni James and Lucy Morgan, "Names of the dead found on petitions," ST. PETERSBURG TIMES, September 28, 2004.

obtain legitimate voter registrations filled in the information on the registration forms that should have been completed by the registrants. On several occasions, workers appear to have signed multiple voter registrations themselves using information obtained during the registration drive. In many of the situations complained about, the workers were being paid on the basis of each registration form submitted.³

Petitions

Petitions signed by the requisite number of voters may be used to place an issue⁴ before the voters and for several other purposes.⁵ Most notably, petitions are used to secure ballot position for constitutional amendments proposed by citizen initiatives. Article XI, section 3 of the Florida Constitution, which authorizes citizen initiatives, states:

The power to propose the revision or amendment of any portion or portions of this constitution by initiative is reserved to the people, provided that, any such revision or amendment, except for those limiting the power of government to raise revenue, shall embrace but one subject and matter directly connected therewith. It may be invoked by filing with the custodian of state records a petition containing a copy of the proposed revision or amendment, signed by a number of electors in each of one half of the congressional districts of the state, and of the state as a whole, equal to eight percent of the votes cast in each of such districts respectively and in the state as a whole in the last preceding election in which presidential electors were chosen.

Accordingly, signatures equal to 8 percent of the votes cast in the last presidential election must be gathered to place a citizen initiative amendment on the ballot. For the 2008 General Election Ballot, 611,009 signatures are required.⁶

Citizen Initiative Petition Form

Rule 1S-2.009(2) of the *Florida Administrative Code* provides that a constitutional initiative petition form must:

(a) [Be] printed on separate cards or individual sheets of paper. The minimum size of such forms shall be 3 inches by 5 inches and the maximum shall be 8 1/2 inches by 11 inches.

³ Press Release, Florida Department of Law Enforcement, "FDLE Investigates Statewide Voter Fraud" (Oct. 21, 2004) (on file with the staff of the Committee on Judiciary).

⁴ Under s. 106.011(7), F.S., the term "'issue' means any proposition which is required by the State Constitution, by law or resolution of the Legislature, or by the charter, ordinance, or resolution of any political subdivision of this state to be submitted to the electors for their approval or rejection at an election, or any proposition for which a petition is circulated in order to have such proposition placed on the ballot at any election."

⁵ Petitions may be used to place an issue before the voters, for a candidate to qualify for office, to recall a local elected official, to change the method of the selection of trial court judges. *See* FLA. CONST. art. XI, § 3.; ss. 99.095, 100.371, 105.035, and 100.361, F.S.

⁶ FLORIDA DEPARTMENT OF STATE, DIVISION OF ELECTIONS, INITIATIVE PETITION PROCESS: CONGRESSIONAL DISTRICT REQUIREMENTS, <http://election.dos.state.fl.us/initiatives/congres.shtml> (last visited Apr. 14, 2007).

(b) [Be] clearly and conspicuously entitled at the top of the form “Constitutional Amendment Petition Form.”

(c) Include[] adequate space for the signer’s name, legal residential street address, city, county, date of birth, signature, and date of signature.

(d) Contain[] the ballot title that shall not exceed 15 words and the ballot summary of the proposed amendment or other public measure that shall not exceed 75 words in length

(e) Conspicuously contain[] the full text of the amendment being proposed including the article and section being created or amended, preceded by a ballot title and ballot summary. If the text must be printed on both sides of the form, it shall be clearly indicated that the text is continued or begins on the other side.

(f) Contain[] space for only one elector’s signature. The Division [of Elections] will not approve petition forms providing for multiple signatures per page.

(g) [Be] marked, in accordance with Section 106.143, F.S., governing political disclaimers, with “paid political advertisement” or contain[] the abbreviation “pd. pol. adv.” and identif[y] the name of the sponsoring political committee, and the name of the entity paying for the advertisement if different from the name of the sponsoring political committee.

(h) Contain[] space, in accordance with Section 106.19(3), F.S., for the name and address of a paid petition circulator, in the event the petition form is gathered by a paid petition circulator.

Verification

County supervisors of election must verify signatures on constitutional initiative petitions.⁷ An initiative sponsor must pay the verification cost of 10 cents per signature or the actual cost, whichever is less.⁸ Supervisors of elections must verify the signatures on a name-by-name basis.⁹ Signatures will be verified free of charge if the cost imposes an undue burden on an initiative sponsor.

To verify a signature on a petition, a supervisor of elections must compare the signature with the voter’s signature in the registration books.¹⁰ If the signer lists an address that is different than his or her registered address, the petition is treated as if the registered address was listed.¹¹ Additionally, a supervisor must:

ensure that each person signing [a] petition form is a registered elector in that county and that the date the elector signed the petition form is not more than four years prior to the date the Supervisor verified the petition. The Supervisor shall not verify a signature on an initiative petition form unless all of the following information is contained on the petition form:

(a) The signer’s name,

⁷ Section 99.097, F.S.

⁸ Section 99.097(4), F.S.

⁹ See *Let’s Help Florida v. Smathers*, 360 So. 2d 494, 496 (Fla. 1st DCA 1978).

¹⁰ Section 99.097(3)(a), F.S.

¹¹ Section 99.097(3)(b), F.S.

- (b) The signee's residential street address (including city and county),
- (c) The signee's date of birth,
- (d) The signee's signature, and
- (e) The date the elector signed the petition.¹²

Certification of Petitions

Upon completion of the verification . . . , the Supervisors of Elections shall submit to the Division of Elections a certificate indicating the total number of signatures checked, the number of signatures verified, the number verified as registered electors and the distribution by congressional district. Each Supervisor of Elections shall submit a copy of one petition showing the text of the constitutional amendment with each certificate of verification. All certifications must be received by the Division of Elections no later than 5:00 p.m. on February 1 of the year in which the election is held.¹³

Certificate of Ballot Position

Upon a determination that the constitutionally requisite number of signatures and distribution of signatures by congressional districts has been obtained, the Secretary of State shall issue a certificate of ballot position to the sponsoring political committee.¹⁴

Revocation of Petitions

There is currently no statutory mechanism for a signed petition to be revoked by an elector who signs a petition.

III. Effect of Proposed Changes:

Under the bill, an elector may submit a petition-revocation form to a supervisor of elections to revoke a signature on an initiative petition to amend the Florida Constitution. The form must be adopted by rule of the Division of Elections. Petition-revocation forms are to be verified by a supervisor of elections in the same manner as initiative petition forms. Supervisors of elections must be paid an advance fee to verify petition-revocation forms. As a result, the bill appears to contemplate the existence of organized petition-revocation drives.

The bill provides an effective date of August 1, 2007.

¹² FLA. ADMIN. CODE ANN. r. 1S-2.0091(2).

¹³ FLORIDA DEPARTMENT OF STATE, DIVISION OF ELECTIONS, INITIATIVE PETITION PROCESS: PETITION VERIFICATION, <http://election.dos.state.fl.us/initiatives/petit.shtml> (last visited Apr. 14, 2007).

¹⁴ *Id.*

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

The bill requires the payment, in advance, to a supervisor of elections of the lesser of 10 cents or the actual cost to verify a petition-revocation form.

C. Government Sector Impact:

The Division of Elections of the Department of State will incur costs to adopt a petition-revocation form by rule. Supervisors of elections will incur costs to verify petition-revocation forms and to make petition-revocation forms available to the public.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Summary of Amendments:

None.

This Senate Professional Staff Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
