



Economic Expansion & Infrastructure Council

Meeting Packet

**March 8, 2007
4:30 pm – 6:00 pm
404 House Office Building**

**Marco Rubio
Speaker**

**Rep. Dean Cannon
Chair**

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB EEIC 07-01 Petition Procedures & Standards
SPONSOR(S): Economic Expansion & Infrastructure Council
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.: Economic Expansion & Infrastructure Council		Brown	Tinker
1) _____	_____	_____	_____
2) _____	_____	_____	_____
3) _____	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

This bill addresses the process by which citizens may propose amendments to the state constitution, particularly the procedures involving signature-gathering for these ballot initiatives. In sum, it will:

- Require paid circulators to wear a badge identifying themselves as paid circulators;
- Prohibit compensation of petition circulators on a "per signature" basis;
- Create a process for revoking one's own signature on a petition form;
- Prohibit entities from simultaneously claiming an undue financial burden *and* using paid circulators; and
- Protect private property owners' rights regarding signature gatherers.

The bill is effective August 1, 2007, except as otherwise expressly provided therein.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government – The bill may result in fewer additions to the state constitution by limiting the number of citizen initiatives.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

Ballot Initiative Process

The Florida Constitution has more methods of amendment than any other state constitution.¹ Article XI of the Florida Constitution allows voters to approve state constitutional amendments proposed via the following methods:²

- Proposal by joint resolution passed by a three-fifths vote of each house of the legislature;
- Proposal by the Constitution Revision Commission;
- Proposal by the Taxation and Budget Reform Commission; or
- Proposal by the citizen initiative petition.

Florida adopted the citizen initiative process in 1968.³ Originally created to enable citizens to amend their constitution,⁴ the process has evolved into an expensive undertaking dominated by special interest groups that pay professional signature gatherers to collect petition signatures.⁵ Current Florida law does not address compensation for signature gatherers.

Some of the recently adopted Constitutional amendments have created huge financial commitments for Florida's taxpayers. Legislative analysts estimate that one particular amendment will cost \$425 million to \$625 million a year for the next five years,⁶ while another will cost Florida's taxpayers an estimated \$20 billion to \$28 billion through the 2010-2011 fiscal year.⁷

¹ Representative Talbot "Sandy" D'Alemberte, *The Florida State Constitution – A Reference Guide*; cited in P.K. Jameson & Marsha Hosack, *Citizen Initiative in Florida: An Analysis of Florida's Constitutional Initiative Process, Issues, and Statutory Initiative Alternatives*, 23 Fla. St. U. L. Rev. 417 (1995) (hereinafter "Jameson & Hosack.")

² Art. XI, s. 1, Fla. Const. (legislature); Art. XI, s. 2, Fla. Const. (Revision Commission); Art. XI, s. 3, Fla. Const. (citizen initiative); Art. XI, s. 4, Fla. Const. (constitutional convention); Art. XI, s. 6, Fla. Const. (Taxation and Budget Reform Commission).

³ Art. XI, s. 3, Fla. Const.

⁴ The citizen initiative process is often referred to as 'direct democracy,' as opposed to the more traditional representative democracy. "Initiatives generally allow the public to bypass the Legislature and reserve direct lawmaking power in the voters of the state." Jameson & Hosack.

⁵ "Professional signature gatherers, carrying most or all of the nine [forms from rival signature-gathering firms], first ask people to sign the one paying the most." David S. Broder, "Collecting Signatures for a Price," *Washington Post*, April 12, 1998.

⁶ Electors passed the "Voluntary Universal Pre-Kindergarten" amendment in November of 2002 by a 59.2% majority. (Data available at <http://election.dos.state.fl.us/initiatives/index.shtml>). "Florida's first Constitutional Amendment Initiative Impact Conference estimated the annual cost would be from \$425 million to \$625 million." Dr. David Denslow and Carol Weissert, *Tough Choices: Shaping Florida's Future*, October 2005, p. 123.

⁷ Electors passed the "Reduced Class Size" amendment in November of 2002 by a 52.4% majority. (Data available at <http://election.dos.state.fl.us/initiatives/index.shtml>). "The same Constitutional Amendment Initiative Impact Conference that estimated the cost of the pre-K amendment had an even tougher job: estimating the cost of the class size amendment. The figure they reached was a ten-year cost of \$20 billion to \$27.5 billion, with annual costs of \$2.5 billion from then on." Denslow and Weissert, *Tough Choices*, p. 124.

The procedure for placing an initiative on the ballot is provided in s. 100.371, F.S. To obtain ballot position:

- The sponsor of an amendment must register as a political committee pursuant to s. 106.03, F.S., and submit the text of the amendment with the form on which the signatures will be obtained;
- The Secretary of State must approve the submitted form before signatures are obtained;
- After signatures are obtained, the Secretary of State must determine the total number of valid signatures (signatures are valid for four years from the date when made) and the distribution from congressional districts;⁸
- The certification of ballot position must be completed by February 1 of the year the general election is held; and
- The Supreme Court must approve the validity of the proposal.

In 2006, 611,009 signatures were required for ballot certification. There are two citizen initiatives that made ballot position by the required February 1, 2006, deadline for the 2006 general election.⁹ The first amendment was approved by the voters and requires the legislature to annually use some of the state's tobacco settlement funds for a statewide tobacco education and prevention program targeted at youth.¹⁰ The second proposed amendment would have created a fifteen member commission to replace the legislature to apportion single-member legislative and congressional districts,¹¹ but was ordered to be excluded from the ballot by the Florida Supreme Court on March 23, 2006, because it did not meet the single subject requirement of Art. XI, s. 3, Fla. Const. Therefore, the court determined that the ballot summary was misleading and did not comply with s. 101.161, F.S.¹²

An amendment relating to the constitutional amendment process proposed by the Legislature was also adopted by the voters in 2006 and now requires that any proposed amendment to or revision of the State Constitution, regardless of the method by which it is proposed, must be approved by at least 60 percent of the voters of the state voting on the measure, rather than by a simple majority.¹³

Signatures are valid for four years from the time they are collected.¹⁴ According to data collected by the National Conference of State Legislatures, Florida's four year period is the longest determined circulation period among the 24 "initiative states."¹⁵

Signature Verification

The responsibility for signature verification belongs to supervisors of elections, pursuant to s. 99.097, F.S. This statute covers signatures gathered on behalf of a candidate seeking placement on a ballot and signatures gathered in support of ballot initiatives. For ballot initiatives, Art. XI, s. 3, Fla. Const., requires "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

⁸ Art. XI, s. 3, Fla. Const., requires that signatures be obtained in at least ½ of the state's congressional districts, and of the state as a whole, equal to eight percent of the voters casting ballots in the last Presidential election.

⁹ The February 1 deadline was approved in the 2004 general election and is contained in s. 5(b), Art. XI, Fla. Const.

¹⁰ Floridians for Youth Tobacco Education, Inc. The smoking education initiative began July 20, 2005, and collected 650,403 certified petition signatures. (Information collected from the Division of Elections web site).

¹¹ Committee for Fair Elections. The apportionment commission initiative began March 23, 2005, and collected 689,325 certified petition signatures. Information taken from the Division of Elections web site.

¹² Order Nos. SC05-1754 & SC05-1895, March 23, 2006.

¹³ Art. XI, s. 5(e), Fla. Const. Interestingly, the amendment was adopted by a 57% margin. See <http://election.dos.state.fl.us/initiatives>

¹⁴ S. 100.371(3), F.S.

¹⁵ See, "Table 11 – Circulation Periods," *Initiative and Referendum in the 21st Century: Final Report and Recommendations of the NCSL I&R Task Force*, National Conference of State Legislatures, July 2002.

respectively and in the state as a whole in the last preceding election in which presidential electors were chosen.”

Section 99.097(1), F.S., provides that supervisors are generally permitted to choose, “based on local conditions,” from two possible methods of signature verification. The first method involves a “name-by-name, signature-by-signature check of the number of authorized signatures.”¹⁶ The second method involves a “check of a random sample” of submitted signatures.¹⁷

In 1978, the Division of Elections issued a formal opinion to the Leon County Supervisor of Elections advising that the random sampling method contained in s. 99.097(1)(b), F.S., was not applicable to ballot initiatives because “the number of signatures required... is specifically and exactly spelled out [in the constitution]. It cannot be altered by statute.”¹⁸

Later that year, in the case of *Let's Help Florida v. Smathers*, 360 So.2d 494, (Fla. 1st DCA, 1978), an initiative sponsor sued the Department of State and the Supervisor of Elections for Leon County, demanding that the random sampling method be used on its collected signatures. The appellate court ruled in favor of the Secretary of State and the Supervisor, stating:

Section 99.097(1)(a) is consistent with exactitude and accuracy, and is therefore not constitutionally offensive if permissibly applied to Article XI, Section 3, Florida Constitution initiative proceedings.

However, Article XI, Section 3, having mandated that there shall be no less than eight percent of described electors who shall sign [initiative petitions], we do not presume that the Legislature intended to enact a law where, by a random or spot check, less than eight percent would become permissible. It has no authority to so legislate. It follows, therefore, that Section 99.097(1)(b) and (2) has no application to Article XI, Section 3, Florida Constitution, relating to proposed initiative amendment to the Constitution.

In 2003, the Division of Elections was again asked to issue a formal opinion regarding the subject of random sampling and signature verification. It opined:

Pursuant to Division of Elections Opinion DE-78-7 and the First District Court of Appeals in *Let's Help Florida v. Smathers* [citation omitted], random sampling cannot be used for constitutional initiative petition signature verification.... The Legislature did not have the authority to reduce the number of actual verified signatures required by the Florida Constitution.¹⁹

The supervisor is entitled to charge a fee of 10 cents per signature or the actual cost of checking each signature, whichever is less.²⁰ However, the initiative sponsor may certify under oath that the fee represents an “undue burden on personal resources or upon the resources otherwise available.” Upon filing such an oath, the sponsor is entitled to have the supervisor verify the signatures at no charge.²¹

¹⁶ S. 99.097(1)(a), F.S.

¹⁷ S. 99.097(1)(b), F.S.

¹⁸ Department of State, Division of Elections Opinion No. DE 78-07, January 23, 1978.

¹⁹ Department of State, Division of Elections Opinion No. DE 03-04, March 18, 2003.

²⁰ S. 99.097(4), F.S.

²¹ In this event, the Chief Financial Officer of the state is required to reimburse the supervisor's expenses, rather than the sponsor of the ballot initiative. S. 99.097(4), F.S.

Criminal Penalties

Certain criminal sanctions exist with regard to the voter registration and petition process. Paying a person to register to vote,²² paying someone to solicit voter registrations based upon the number of registrations obtained,²³ and altering a voter registration application are all third degree felonies.²⁴ Signing a petition for a particular issue more than once, or signing another person's name, or a fictitious name, to a petition, is a first degree misdemeanor.²⁵ Supervisors of elections are currently authorized to investigate fraudulent registrations and illegal voting, and may report their findings to the state attorney or the Florida Elections Commission.²⁶

During the 2004 election cycle, numerous stories appeared in newspapers throughout the State of Florida concerning alleged petition fraud. Two petition gatherers were arrested in Santa Rosa County for over 40 counts each of uttering a forged document.²⁷ Several other supervisors of elections found petitions signed with the names of dead voters.²⁸

The Florida Department of Law Enforcement issued a press release in October of 2004 indicating that it had received numerous complaints relating to voting irregularities regarding voter fraud and had initiated several investigations. While the FDLE did not reveal details of the investigations, it did say 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 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.²⁹

Property Rights

Nationwide, political activities such as handbill distribution and signature-gathering have generated legal conflicts when entities seek to gather signatures on the private property of others, particularly store-fronts and shopping malls.³⁰ There is an inherent tension between the First, Fifth, and Fourteenth Amendments to the U.S. Constitution in regard to an entity's political activities taking place on another entity's private property.

The recent Florida case of *Publix Super Markets, Inc. v. Tallahasseeans for Practical Law Enforcement, et al.*, 2005 WL 3673662 (Fla. 2d Cir. 2005) discusses this tension. In this case the circuit court frames the issue as follows:

²² S. 104.102(1), F.S.

²³ S. 104.102(3), F.S.

²⁴ S. 104.012(4), F.S.

²⁵ S. 104.185, F.S.

²⁶ S. 104.42, F.S.

²⁷ See, "Two Pace residents accused in voter scam," Derek Pivnick, *Pensacola News Journal*, page 1A, July 2, 2004.

²⁸ See, "Names of dead persons found on petitions," Joni James and Lucy Morgan, *St. Petersburg Times*, September 28, 2004.

²⁹ "FDLE Investigates Statewide Voter Fraud," press release, Florida Department of Law Enforcement, October 21, 2004.

³⁰ See, e.g., *Batchelder v. Allied Stores International, Inc.*, 388 Mass. 83 (1983) (A "free elections" provision in Massachusetts constitution protected signature gatherers at a private mall (but see *Commonwealth v. Hood*, 452 N.E.2d 188 (Mass. 1983) in which the same court declined to extend state protection to speech unrelated to a pending election that was expressed on private property)); and *New Jersey Coalition Against the War in the Middle East v. JMB Realty Corp.*, 138 N.J. 326 (1994) (New Jersey's state constitution contained 'enhanced' free speech rights entitling pamphleteers to distribute materials in shopping centers subject to reasonable restrictions).

The issue presented in this litigation is whether Publix, which invites the public onto its premises primarily for the purpose of grocery-shopping... has the right to exclude persons in a non-discriminatory manner where such persons seek to use the property for purposes other than shopping.

The court answers this question in the affirmative, summarily noting that the First Amendment of the U.S. Constitution and Art. I, s. 4 of the Florida Constitution “only protect against government infringement of an individual’s right to engage in free speech.”³¹ Because Publix stores are located on privately-owned or leased properties, the court determined that it “can find no authority to support Defendants’ contention that they have a constitutional right to solicit at such properties over Publix’s objection.”³²

The court recognized that a state “may provide greater protection under its state constitution for free expression on private property, so long as such protection does not conflict with... federally protected... rights” of the owner.³³ In *New Jersey Coalition Against the War in the Middle East v. JMB Realty Corp.*, 138 N.J. 326 (1994), and the California case of *Pruneyard Shopping Center v. Robins*, 447 U.S. 74 (1980), the relevant state constitution was deemed to have ‘enhanced’ free speech rights beyond those contained in the federal Constitution. However, the circuit court noted that “the Florida Supreme Court has held that the scope of the Florida Constitution’s protection of freedom of speech is the same as that required under the First Amendment [citation omitted],”³⁴ and that Florida courts “must apply the principles of freedom of speech announced in the decisions of the United States Supreme Court [citations omitted].”³⁵

In finalizing its review of the relevant case law in Florida, other states, and the Supreme Court, the Court states:

Owners of private property have the right to allow... periodic use of their premises by civic groups without waiving or otherwise forfeiting their right to exclude other groups seeking to use the premises for political speech, solicitation of petition signatures, or other non-shopping purposes. [Previous case law has] rejected claims that the retailers were improperly discriminating based on such action....

Defendants are not entitled under the First Amendment or the Florida Constitution to solicit signatures... on Publix’s privately owned property without Publix’s permission.³⁶

Proposed Changes

Signature Verification

The bill amends s. 100.371, F.S., to make the following clarifications and amendments regarding signature verification:

- Requiring that signatures be submitted to the supervisor of elections within 30 days of being collected, and requiring supervisors to verify signatures within 30 days of submission;

³¹ *Publix Super Markets, Inc. v. Tallahasseans for Practical Law Enforcement, et al.*, at 3.

³² *Id.*

³³ *Id.* at 4.

³⁴ *Id.*

³⁵ *Id.*

³⁶ *Id.* at 5.

- Requiring supervisors of elections to record the date an elector's signature form is received and the date the signature is verified by the supervisor;
- Requiring the signature form to contain the elector's original signature, the date signed (as recorded by the elector), and the elector's address and voter identification number (or date of birth);
- Providing a process allowing an elector to revoke a previously verified petition signature; the revocation process is intended to operate just as the signature gathering process, including any applicable time frames; and
- Providing that supervisors may allow deficiencies in a petition to be corrected by the elector and verify the signature after such corrections.

These clarifications are also referenced in s. 99.097, F.S., which contains procedural matters relating to signature verification, among which is the 'undue burden' fee waiver. The waiver requirement is amended to provide that any sponsor of an initiative drive who claims that having to pay for signature verification would impose an 'undue burden' on the sponsor shall not utilize paid signature gatherers unless the supervisor or the General Revenue fund are reimbursed for verification fees. As discussed below, these clarifications also apply to the petition-revocation process.

Signature Revocation

Florida's 4-year circulation period is the longest determined circulation period among the 24 states with an initiative process. The recommendations contained in the National Conference of State Legislatures' *Initiative and Referendum in the 21st Century* report suggest that states seek to strike a balance between circulation periods that are too short (for example, Massachusetts provides only a 60-day period) and those that are too long, allowing a voter to move out of the jurisdiction (thereby invalidating the signature) or change positions on the subject.³⁷

The bill retains Florida's 4-year period, but creates a revocation process whereby an elector may take affirmative steps to revoke his or her signature. The petition-revocation process mirrors the petition process, including the requirements for signature gatherers and subsequent verification by supervisors of elections. The bill also requires supervisors of elections to make petition-revocation forms available to the public at main and branch offices.

Signature Gatherers

The bill requires paid petition gatherers and petition-revocation gatherers to wear identifying badges and requires the elector to note the signature gatherer's identity on the signature form.

It is currently a third-degree felony for a person to pay another person to collect *voter registrations* based on the number of registrations gathered.³⁸ The bill furthers this concept by preventing initiative petition gatherers from being paid based on the number of signatures collected, but imposes no specific criminal penalty for such behavior.³⁹

Private Property and Signature Gathering

Within the bounds of the ballot-initiative procedure statute, the bill codifies the judicial decision contained in *Publix v. Tallahasseeans for Practical Law Enforcement, et al.*, discussed in detail above. The bill states that owners of private property, as well as private leaseholders exercising lawful control over the property, may prohibit ballot initiative activities.

³⁷ *Initiative and Referendum in the 21st Century*, pp. 36 -37.

³⁸ S. 104.102(3), F.S.

³⁹ However, S. 104.41, F.S. provides that "[a]ny violation of this [Florida Election] code not otherwise provided for is a misdemeanor of the first degree, punishable as provided in s. 775.082 or 775.083."

C. SECTION DIRECTORY:

- Section 1.** Amends s. 99.097, F.S., clarifying supervisors of elections' obligation to verify signatures on petitions for validity and providing that sponsors claiming an 'undue burden' may not utilize paid signature gatherers unless the supervisor or the General Revenue fund are reimbursed for verification fees.
- Section 2.** Amends s. 100.371, F.S., regarding citizen initiatives. The section:
- Requires supervisors of elections to record the date an elector's signature form is received and the date the signature is verified by the supervisor;
 - Requires the signature form to contain the elector's original signature, the date signed (as recorded by the elector), and the elector's address and voter identification number (or date of birth);
 - Provides a process allowing an elector to revoke a previously verified petition signature;
 - Requires both petition signatures and revocation signatures to be submitted to supervisors of elections within 30 days;
 - Requires supervisors of elections to verify both petition signatures and revocation signatures within 30 days;
 - Requires paid petition gatherers to wear identifying badges;
 - Requires the elector to identify, on a petition or petition-revocation form, the fact that a petition gatherer approached them to complete the form;
 - Prevents paid signature gatherers from being paid on a "per-signature" basis;
 - Provides that supervisors may allow deficiencies in a petition to be corrected by the elector and verify the signature after such corrections.
 - Confirms the rights of private property owners to exclude signature gatherers supporting or opposing initiative amendments.
- Section 3.** Provides that signatures collected prior to the effective date of August 1, 2007, may be verified under the previous controlling law.
- Section 4.** Provides a severability clause for the bill.
- Section 5.** Provides an effective date of August 1, 2007, except as otherwise provided therein.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:
N/A
2. Expenditures:
N/A

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:
N/A

2. Expenditures:

N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Pursuant to Art VII, s. 18(d), Fla. Const., as it relates to elections laws, this bill is exempt from the unfunded mandate provisions of Art. VII, s. 18(a), Fla. Const.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The Department of State's current grant of rulemaking authority contained in s. 100.371(6), F.S., is renumbered and amended to include the additional requirements provided by Section 1 of the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

D. STATEMENT OF THE SPONSOR

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

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A bill to be entitled
 An act relating to petition procedures and standards;
 amending s. 99.097; revising terminology relating to
 verification of signatures on petitions; requiring name-
 by-name, signature-by-signature verification of initiative
 petitions and related petition revocations; providing
 requirements for initiative sponsors filing a certificate
 of undue burden; amending s. 100.371, F.S.; revising
 procedures for placing an initiative on the ballot;
 providing requirements for information to be contained in
 petition forms; providing procedure for revocation of a
 petition signature; providing regulation of initiative
 petition circulators; providing private property rights
 relating to activity on the property that supports or
 opposes ballot initiatives; providing for verification of
 signatures gathered before the effective date of the
 changes made by this act to ss. 99.097 and 100.371, F.S.;
 providing for severability; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Effective August 1, 2007, subsections (1), (3),
 and (4) of section 99.097, Florida Statutes, are amended to read:

99.097 Verification of signatures on petitions.--

(1) As determined by each supervisor, based upon local
 conditions, the verifying ~~e~~checking of signatures ~~names~~ on
 petitions may be based on the most inexpensive and
 administratively feasible of either of the following methods of
 verification:

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30 (a) A name-by-name, signature-by-signature check of the
 31 number of valid ~~authorized~~ signatures on the petitions; or
 32 (b) A check of a random sample, as provided by the
 33 Department of State, of names and signatures on the petitions.
 34 The sample must be such that a determination can be made as to
 35 whether or not the required number of valid signatures ~~has~~ have
 36 been obtained with a reliability of at least 99.5 percent. Rules
 37 and guidelines for this method of petition verification shall be
 38 promulgated by the Department of State, which may include a
 39 requirement that petitions bear an additional number of names and
 40 signatures, not to exceed 15 percent of the names and valid
 41 signatures otherwise required. If the petitions do not meet such
 42 criteria, then the use of the verification method described in
 43 this paragraph shall not be available to supervisors.

44
 45 Notwithstanding subsection (2) or any other provision of law,
 46 petitions to secure ballot placement for an initiative and
 47 petition revocations directed thereto pursuant to s. 100.371 must
 48 be verified by the method provided in paragraph (a).

49 (3) (a) A signature name on a petition ~~of a,~~ which name that
 50 is not in substantially the same form as a name on the voter
 51 registration books, shall be counted as a valid signature if,
 52 after comparing the signature on the petition with the signature
 53 of the alleged signer as shown on the registration books, the
 54 supervisor determines that the person signing the petition and
 55 the person who registered to vote are one and the same. In any
 56 situation in which this code requires the form of the petition to
 57 be prescribed by the division, no signature shall be counted
 58 toward the number of signatures required unless it is on a

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59 petition form prescribed by the division.

60 (b) If a voter signs a petition and lists an address other
 61 than the legal residence where the voter is registered, the
 62 supervisor shall treat the signature as if the voter had listed
 63 the address where the voter is registered.

64 (4) (a) The supervisor shall be paid in advance the sum of
 65 10 cents for each signature verified ~~echecked~~ or the actual cost
 66 of verifying ~~echecking~~ such signature, whichever is less, by the
 67 candidate or, in the case of a petition to have an issue placed
 68 on the ballot by initiative, by the initiative sponsor ~~person or~~
 69 ~~organization submitting the petition~~. However, if a candidate or
 70 initiative sponsor, ~~person, or organization seeking to have an~~
 71 ~~issue placed upon the ballot~~ cannot pay such charges without
 72 imposing an undue burden on personal resources or upon the
 73 resources otherwise available to such candidate or initiative
 74 sponsor, ~~person, or organization~~, such candidate or initiative
 75 sponsor, ~~person, or organization~~ shall, upon written
 76 certification of such inability given under oath to the
 77 supervisor, be entitled to have the signatures verified at no
 78 charge. In the event a candidate or initiative sponsor, ~~person,~~
 79 ~~or organization submitting a petition to have an issue placed~~
 80 ~~upon the ballot~~ is entitled to have the signatures verified at no
 81 charge, the supervisor of elections of each county in which the
 82 signatures are verified at no charge shall submit the total
 83 number of such signatures checked in the county to the Chief
 84 Financial Officer no later than December 1 of the general
 85 election year, and the Chief Financial Officer shall cause such
 86 supervisor of elections to be reimbursed from the General Revenue
 87 Fund in an amount equal to 10 cents for each signature verified

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88 ~~name checked~~ or the actual cost of verifying ~~checking~~ such
 89 signatures, whichever is less. In no event shall such
 90 reimbursement of costs be deemed or applied as extra compensation
 91 for the supervisor. Petitions shall be retained by the
 92 supervisors for a period of 1 year following the election for
 93 which the petitions were circulated.

94 (b) An initiative sponsor that has filed a certification of
 95 undue burden under paragraph (a) may not provide compensation to
 96 any paid petition circulator, as defined in s. 100.371, unless
 97 the initiative sponsor first pays all supervisors for each
 98 signature verified or reimburses the General Revenue Fund for
 99 such costs. If an initiative sponsor subject to this paragraph
 100 provides compensation to a paid petition circulator before the
 101 date the initiative sponsor pays all supervisors for each
 102 signature verified or reimburses the General Revenue Fund for
 103 such costs, no signature on a petition circulated by the paid
 104 petition circulator before that date may be counted toward the
 105 number of valid signatures required for ballot placement until
 106 the initiative sponsor pays all supervisors for each signature
 107 verified or reimburses the General Revenue Fund for such costs.

108 Section 2. Effective August 1, 2007, subsections (1) and
 109 (3) of section 100.371, Florida Statutes, are amended, subsection
 110 (6) is renumbered as subsection (10) and amended, and new
 111 subsections (6) through (9) are added to that section, to read:

112 100.371 Initiatives; procedure for placement on ballot;
 113 private property rights.--

114 (1) Constitutional amendments proposed by initiative shall
 115 be placed on the ballot for the general election, provided the
 116 initiative petition has been filed with the Secretary of State no

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117 later than February 1 of the year the general election is held. A
 118 petition shall be deemed to be filed with the Secretary of State
 119 upon the date the secretary determines that valid and verified
 120 ~~the petition forms have~~ has been signed by the constitutionally
 121 required number and distribution of electors pursuant to this
 122 code, subject to the right of revocation established in this
 123 section.

124 (3) (a) Each signature shall be dated when made and shall be
 125 valid for a period of 4 years after ~~following~~ such date, provided
 126 all other requirements of law are met. The sponsor shall submit
 127 signed and dated forms to the appropriate supervisor of elections
 128 for verification as to the number of registered electors whose
 129 valid signatures appear thereon. The supervisor shall promptly
 130 verify the signatures within 30 days after receipt of the
 131 petition forms and upon payment of the fee required by s. 99.097.
 132 The supervisor shall promptly record ~~each valid signature~~ in the
 133 statewide voter registration system, in the manner prescribed by
 134 the Secretary of State, the date each form is received by the
 135 supervisor and the date the signature on the form is verified as
 136 valid. The supervisor shall verify that the signature on a form
 137 is valid only if the form complies with the following:

138 1. The form shall contain the original signature of the
 139 purported elector.

140 2. The purported elector shall accurately record on the
 141 form the date on which he or she signed the form.

142 3. The date the purported elector signed the form, as
 143 recorded by the purported elector, shall be no more than 30 days
 144 before the date the form is received by the supervisor of
 145 elections.

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146 4. The form shall accurately set forth the purported
 147 elector's name, legal residence address, county, and voter
 148 registration number or date of birth.

149 5. The purported elector shall be, at the time he or she
 150 signs the form, a duly qualified and registered elector
 151 authorized to vote in the county in which his or her signature is
 152 submitted.

153 (b) The supervisor shall retain the signature forms for at
 154 least 1 year after following the election in which the issue
 155 appeared on the ballot or until the Division of Elections
 156 notifies the supervisors of elections that the committee which
 157 circulated the petition is no longer seeking to obtain ballot
 158 position.

159 (6) (a) An elector's signature on a petition form may be
 160 revoked by submitting to the appropriate supervisor of elections
 161 a signed petition-revocation form adopted by rule for this
 162 purpose by the division.

163 (b) The petition-revocation form and the manner in which
 164 signatures are obtained, submitted, and verified shall be subject
 165 to the same relevant requirements and timeframes as the
 166 corresponding petition form and processes under this code and
 167 shall be approved by the Secretary of State before any signature
 168 on a petition-revocation form is obtained.

169 (c) Supervisors of elections shall provide petition-
 170 revocation forms to the public at all main and branch offices.

171 (d) The petition-revocation form shall be filed with the
 172 supervisor of elections by February 1 preceding the next general
 173 election or, if the initiative amendment is not certified for
 174 ballot position in that election, by February 1 preceding the

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175 next successive general election. The supervisor of elections
 176 shall promptly verify the signature on the petition-revocation
 177 form and process such revocation upon payment, in advance, of a
 178 fee of 10 cents or the actual cost of verifying such signature,
 179 whichever is less. The supervisor shall promptly record each
 180 valid and verified petition-revocation form in the statewide
 181 voter registration system in the manner prescribed by the
 182 Secretary of State.

183 (7) (a) If a person is presented with a petition form or
 184 petition-revocation form for his or her possible signature by a
 185 petition circulator, the person shall record this fact on the
 186 form and the name and address of the petition circulator shall
 187 legibly appear on the form before the signature on the form may
 188 be verified by the supervisor. For purposes of this subsection,
 189 the term "petition circulator" means any person who, in the
 190 context of a direct face-to-face conversation, presents to
 191 another person for his or her possible signature a petition form
 192 or petition-revocation form regarding ballot placement for an
 193 initiative.

194 (b) A paid petition circulator shall, when engaged in the
 195 activities of a petition circulator described in paragraph (a),
 196 wear a prominent badge, in a form and manner prescribed by rule
 197 by the division, identifying him or her as a paid petition
 198 circulator. For purposes of this subsection, the term "paid
 199 petition circulator" means a petition circulator who receives any
 200 compensation as a direct or indirect consequence of the
 201 activities of a petition circulator described in paragraph (a).

202 (c) No petition circulator may receive, and no person may
 203 provide to a petition circulator, compensation that is based,

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204 directly or indirectly, upon the number of signatures obtained on
 205 petition or petition-revocation forms.

206 (8) A signed petition form or petition-revocation form
 207 regarding ballot placement for an initiative that does not fully
 208 comply with the applicable provisions of this code or the rules
 209 adopted under this code, or that was obtained in violation of the
 210 applicable provisions of this code or the rules adopted under
 211 this code, may be verified by the supervisor of elections and
 212 counted toward the number of valid signatures required for ballot
 213 placement only if those deficiencies or violations are corrected
 214 prior to the date specified in subsection (1).

215 (9) No provision of this code shall be deemed to prohibit a
 216 private person exercising lawful control over privately owned
 217 property, including property held open to the public for the
 218 purposes of a commercial enterprise, from excluding from such
 219 property persons seeking to engage in activity supporting or
 220 opposing initiative amendments.

221 (10)(6) The Department of State may adopt rules in
 222 accordance with s. 120.54 to carry out the provisions of
 223 subsections (1)-(9) ~~(1)-(5)~~.

224 Section 3. Any signature gathered on a previously approved
 225 initiative petition form that has been submitted for verification
 226 before August 1, 2007, may be verified and counted, if otherwise
 227 valid. However, any initiative petition form that is submitted
 228 for verification on or after that date may be verified and
 229 counted only if it complies with this act and has been approved
 230 by the Secretary of State before obtaining elector signatures.

231 Section 4. If any provision of this act or its application
 232 to any person or circumstance is held invalid, the invalidity

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233 | does not affect other provisions or applications of the act that
234 | can be given effect without the invalid provision or application,
235 | and to this end the provisions of this act are severable.

236 | Section 5. Except as otherwise expressly provided in this
237 | act, this act shall take effect upon becoming a law.