

SECOND REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR

SENATE BILLS NOS. 817 & 774
96TH GENERAL ASSEMBLY

Reported from the Committee on Financial and Governmental Organizations and Elections, April 12, 2012, with recommendation that the Senate Committee Substitute do pass.

TERRY L. SPIELER, Secretary.

5729S.06C

AN ACT

To repeal sections 116.080, 116.090, 116.120, 116.180, 116.190, 116.332, and 116.334, RSMo, and to enact in lieu thereof nine new sections relating to initiative and referendum petitions, with existing penalty provisions, and an emergency clause for a certain section.

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

Section A. Sections 116.080, 116.090, 116.120, 116.180, 116.190, 116.332, 2 and 116.334, RSMo, are repealed and nine new sections enacted in lieu thereof, 3 to be known as sections 116.080, 116.090, 116.120, 116.153, 116.180, 116.190, 4 116.332, 116.333, and 116.334, to read as follows:

116.080. 1. Each petition circulator shall be at least eighteen years of age 2 and registered with the secretary of state. **No person shall qualify as a 3 petition circulator who has been convicted of, or found guilty of, or 4 pled guilty to an offense involving forgery under the laws of this state, 5 or an offense under the laws of any other jurisdiction if that offense 6 would be considered forgery under the laws of this state.** Signatures 7 collected by any circulator who has not registered with the secretary of state 8 pursuant to this chapter on or before 5:00 p.m. on the final day for filing petitions 9 with the secretary of state shall not be counted.

10 2. Each petition circulator shall supply the following information to the 11 secretary of state's office:

- 12 (1) Name of petition;
- 13 (2) Name of circulator;
- 14 (3) Residential address, including street number, city, state and zip code;

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

15 (4) Mailing address, if different;

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

18 YES NO;

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

20 (7) Signature of circulator.

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

24 I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT
25 ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT, THAT I HAVE
26 NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY
27 TO ANY OFFENSE INVOLVING FORGERY.

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

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

116.090. 1. Any person who **knowingly** signs any name other than his
2 own to any petition[, or] **shall, upon conviction thereof, be guilty of a class**
3 **one election offense, as defined in section 115.631.**

4 **2. Any person** who knowingly signs his or her name more than once for
5 the same measure for the same election, or who knows he or she is not at the
6 time of signing or circulating the same a Missouri registered voter and a resident
7 of this state, shall, upon conviction thereof, be guilty of a class A misdemeanor
8 punishable, notwithstanding the provisions of section 560.021 to the contrary, for
9 a term of imprisonment not to exceed one year in the county jail or a fine not to
10 exceed ten thousand dollars or both.

11 **[2.] 3.** Any person who knowingly accepts or offers money or anything of
12 value to another person in exchange for a signature on a petition is guilty of a

13 class A misdemeanor punishable, notwithstanding the provisions of section
14 [560.021] **560.016** to the contrary, for a term of imprisonment not to exceed one
15 year in the county jail or a fine not to exceed ten thousand dollars or both.

116.120. 1. When an initiative or referendum petition is submitted to the
2 secretary of state, he or she shall examine the petition to determine whether it
3 complies with the Constitution of Missouri and with this chapter. Signatures on
4 petition pages that have been collected by any person who is not properly
5 registered with the secretary of state as a circulator shall not be counted as
6 valid. Signatures on petition pages that do not have the official ballot title
7 affixed to the page shall not be counted as valid. **Signatures previously**
8 **verified on a proposed initiative or referendum under section 116.333**
9 **shall not be included in the calculation under this section for the**
10 **purpose of verifying whether the petition contains the required number**
11 **of signatures.** The secretary of state may verify the signatures on the petition
12 by use of random sampling. The random sample of signatures to be verified shall
13 be drawn in such a manner that every signature properly filed with the secretary
14 of state shall be given an equal opportunity to be included in the sample. The
15 process for establishing the random sample and determining the statistically
16 valid result shall be established by the secretary of state. Such a random
17 sampling shall include an examination of five percent of the signatures.

18 2. If the random sample verification establishes that the number of valid
19 signatures is less than ninety percent of the number of qualified voters needed
20 to find the petition sufficient in a congressional district, the petition shall be
21 deemed to have failed to qualify in that district. In finding a petition insufficient,
22 the secretary of state does not need to verify all congressional districts on each
23 petition submitted if verification of only one or more districts establishes the
24 petition as insufficient.

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

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

116.153. **Within thirty days of issuing certification that the**
2 **petition contains a sufficient number of valid signatures pursuant to**
3 **section 116.150, the joint committee on legislative research shall hold**
4 **an informational public hearing in Jefferson City to take the public**
5 **testimony of those in support and in opposition to the contents of the**
6 **petition. Such hearing shall be a public meeting under chapter 610.**

116.180. 1. Within three days after receiving the official summary
2 statement the approved fiscal note summary and the fiscal note relating to any
3 statewide ballot measure, the secretary of state shall certify the official ballot
4 title in separate paragraphs with the fiscal note summary immediately following
5 the summary statement of the measure and shall deliver a copy of the official
6 ballot title and the fiscal note to the speaker of the house or the president pro
7 tem of the legislative chamber that originated the measure or, in the case of
8 initiative or referendum petitions, to the person whose name and address are
9 designated under section 116.332. Persons circulating the petition shall affix the
10 official ballot title to each page of the petition prior to circulation and signatures
11 shall not be counted if the official ballot title is not affixed to the page containing
12 such signatures.

13 **2. Signatures obtained prior to the date the official ballot title**
14 **is certified by the secretary of state shall not be counted.**

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

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

16 3. The petition shall state the reason or reasons why the summary

17 statement portion of the official ballot title is insufficient or unfair and shall
18 request a different summary statement portion of the official ballot
19 title. Alternatively, the petition shall state the reasons why the fiscal note or the
20 fiscal note summary portion of the official ballot title is insufficient or unfair and
21 shall request a different fiscal note or fiscal note summary portion of the official
22 ballot title.

23 4. The action shall be placed at the top of the civil docket. Insofar as the
24 action challenges the summary statement portion of the official ballot title, the
25 court shall consider the petition, hear arguments, and in its decision certify the
26 summary statement portion of the official ballot title to the secretary of
27 state. Insofar as the action challenges the fiscal note or the fiscal note summary
28 portion of the official ballot title, the court shall consider the petition, hear
29 arguments, and in its decision, either certify the fiscal note or the fiscal note
30 summary portion of the official ballot title to the secretary of state or remand the
31 fiscal note or the fiscal note summary to the auditor for preparation of a new
32 fiscal note or fiscal note summary pursuant to the procedures set forth in section
33 116.175. Any party to the suit may appeal to the supreme court within ten days
34 after a circuit court decision. In making the legal notice to election authorities
35 under section 116.240, and for the purposes of section 116.180, the secretary of
36 state shall certify the language which the court certifies to him.

37 **5. Any person bringing an action pursuant to this section shall**
38 **take all necessary steps to have it presented for dispositive resolution**
39 **within one hundred twenty days of filing such action. If the action is**
40 **not disposed of within that time, it shall be dismissed with prejudice**
41 **for failure to prosecute unless the circuit court of Cole County enters**
42 **an order expressly stating that the sole cause for delay was the court's**
43 **unavailability. Any person whose action is dismissed pursuant to this**
44 **subsection shall be assessed all costs of defense, including attorney fees**
45 **incurred in its defense.**

116.332. 1. Before a constitutional amendment petition, a statutory
2 initiative petition, or a referendum petition may be circulated for signatures,
3 **with the exception of sponsoring signatures under section 116.333,** a
4 sample sheet must be submitted to the secretary of state in the form in which it
5 will be circulated. When a person submits a sample sheet of a petition he or she
6 shall designate to the secretary of state the name and address of the person to
7 whom any notices shall be sent pursuant to sections 116.140 and 116.180 **and**

8 **submit a copy of the filed statement of committee organization required**
9 **under subsection 5 of section 130.021 showing the date the statement**
10 **was filed.** The secretary of state shall refer a copy of the petition sheet to the
11 attorney general for his approval and to the state auditor for purposes of
12 preparing a fiscal note and fiscal note summary. The secretary of state and
13 attorney general must each review the petition for sufficiency as to form and
14 approve or reject the form of the petition, stating the reasons for rejection, if any.

15 2. **Within two days of receipt of any such petition, the secretary**
16 **of state shall conspicuously post the petition on its website with the full**
17 **text of the proposed measure, a disclaimer stating that such text may**
18 **not constitute the full and correct text as required by section 116.050,**
19 **and the name of the individual or organization submitting the**
20 **petition. The secretary of state's failure to comply with this section**
21 **shall be considered a violation under subsection 3 of section 610.027.**

22 3. Upon receipt of a petition from the office of the secretary of state, the
23 attorney general shall examine the petition as to form. If the petition is rejected
24 as to form, the attorney general shall forward his or her comments to the
25 secretary of state within ten days after receipt of the petition by the attorney
26 general. If the petition is approved as to form, the attorney general shall forward
27 his or her approval as to form to the secretary of state within ten days after
28 receipt of the petition by the attorney general.

29 [3.] 4. The secretary of state shall review the comments and statements
30 of the attorney general as to form and make a final decision as to the approval
31 or rejection of the form of the petition. The secretary of state shall send written
32 notice to the person who submitted the petition sheet of the approval within
33 [thirty] **fifteen** days after submission of the petition sheet. The secretary of
34 state shall send written notice if the petition has been rejected, together with
35 reasons for rejection, within [thirty] **fifteen** days after submission of the petition
36 sheet.

116.333. 1. **Persons submitting a sample sheet under section**
2 **116.332 shall also submit, at the same time the sample sheet is**
3 **submitted, at least one thousand sponsoring signatures of registered**
4 **voters of the state in support of the initiative. If such person fails to**
5 **submit sponsoring signatures pursuant to the provisions of this section,**
6 **the secretary of state shall send notice that the petition has been**
7 **rejected.**

8 **2. (1) Sponsoring signatures shall be gathered and submitted on**
9 **pages in the form that shall be submitted for approval by the secretary**
10 **of state under section 116.332, except that each signature page shall**
11 **also contain the following statement:**

12 **We, the undersigned, registered voters of the state of**
13 **Missouri and County (or city of St. Louis),**
14 **respectfully request that the following proposed law (or**
15 **amendment to the constitution) shall be submitted to the**
16 **Secretary of State for certification of an Official Ballot**
17 **Title, and each for himself or herself says: I have**
18 **personally signed this petition; I am a registered voter of**
19 **the state of Missouri and County (or city of St. Louis);**
20 **my registered voting address and the name of the city,**
21 **town or village in which I live are correctly written after**
22 **my name.**

23 **(2) Each petition page shall contain sponsoring signatures of**
24 **voters from only one county, which shall be designated in the upper**
25 **right-hand corner of the page. All pages shall be submitted at one time**
26 **and shall be in order and numbered sequentially by county. Sponsoring**
27 **signatures on pages that do not comply with these requirements shall**
28 **not be counted as valid.**

29 **(3) Each person gathering sponsoring signatures shall meet the**
30 **requirements of section 116.080 except that signatures collected by any**
31 **circulator who has not registered with the secretary of state pursuant**
32 **to section 116.080 on or before 5:00 p.m. on the day the sponsoring**
33 **signatures are submitted to the secretary of state shall not be counted.**

34 **3. Within five days of receipt of sponsoring signature pages**
35 **under this section, the secretary of state shall send copies of the pages**
36 **to election authorities to verify that the persons whose names are listed**
37 **as sponsoring signers to the petition are registered voters. Such**
38 **verification may either be of each signature or by random sampling as**
39 **provided in section 116.120, as the secretary of state shall direct. Each**
40 **election authority shall check the signatures against voter registration**
41 **records in the election authority's jurisdiction pursuant to the rules**
42 **adopted by the secretary of state under subsection 5 of section 116.130.**

43 **4. Such verification shall be completed and certified to the**
44 **secretary of state not later than fifteen days from the date the election**

45 authority receives the sponsoring signature pages.

46 5. If the election authorities certify that less than one thousand
47 sponsoring signatures have been verified as registered voters, within
48 three days of receipt of the certification, the secretary of state shall
49 notify the person who submitted the signatures that the petition has
50 been rejected.

116.334. [1.] If the petition form is approved[,] and at least one
2 thousand sponsoring signatures are verified as registered voters,
3 within three days of the receipt of the certification of the sponsoring
4 signatures, the secretary of state shall notify the person who submitted the
5 sponsoring signatures that the sponsoring signatures have been
6 certified. The secretary of state shall then make a copy of the sample
7 petition available on the secretary of state's website and refer a copy
8 of the sample petition to the state auditor for purposes of preparing a
9 fiscal note and fiscal note summary. For a period of fifteen days after
10 the sample petition is made available on the secretary of state's
11 website, the secretary of state shall accept public comments regarding
12 the proposed measure and provide copies of such comments upon
13 request. Within [ten] twenty-three days of receipt of certification of the
14 sponsoring signatures, the secretary of state shall prepare and transmit
15 to the attorney general a summary statement of the measure which shall be a
16 concise statement not exceeding one hundred words. This statement shall be in
17 the form of a question using language neither intentionally argumentative nor
18 likely to create prejudice either for or against the proposed measure. The
19 attorney general shall within ten days approve the legal content and form of the
20 proposed statement.

21 [2. Signatures obtained prior to the date the official ballot title is certified
22 by the secretary of state shall not be counted.]

Section B. Because of the need to ensure proper vetting of initiative and
2 referendum petitions prior to circulation, the enactment of section 116.153 of this
3 act is deemed necessary for the immediate preservation of the public health,
4 welfare, peace and safety, and is hereby declared to be an emergency act within
5 the meaning of the constitution, and the enactment of section 116.153 of this act
6 shall be in full force and effect upon its passage and approval.

✓