



ARIZONA STATE SENATE
Fifty-First Legislature, First Regular Session

FINAL AMENDED
FACT SHEET FOR H.B. 2305

initiatives; filings; circulators

Purpose

Permits any political committee to submit to the Secretary of State (SOS) a list of all petition circulators and a copy of a criminal records check performed on each circulator. Modifies certain requirements with regard to the initiative, referendum and recall petition process. Permits the county recorder or other officer in charge of elections to send a prescribed notice, by December 1 of each even-numbered year, to voters on the PEVL who did not vote an early ballot in both the primary and general election for the two most recent general elections for federal office, with certain exceptions.

Background

According to statute, any voter is permitted to request to be included on a permanent list of voters to receive an early ballot for any election for which the county voter registration roll is used to prepare the election register. The county recorder of each county is required to maintain the Permanent Early Voting List (PEVL) as part of the voter registration roll. In order to be included on the PEVL, the voter is required to make a written request that the voter's name be added to the PEVL for all elections in which the voter is eligible to vote. Currently, a PEVL request form requires the voter to provide the voter's name, residence address, mailing address in the voter's county of residence, date of birth and signature. Additionally, a PEVL request form requires a statement attesting that the voter is a registered voter who is eligible to vote in the county of residence (Arizona Revised Statutes (A.R.S.) § 16-544).

According to A.R.S. §§ 19-112(C), 19-114 and 19-118, any person who is qualified to register to vote is permitted to circulate petitions and any person who is not qualified to register to vote is prohibited from circulating petitions. A petition circulator is not required to be a resident of this state but otherwise must be qualified to register to vote in this state. Additionally, petition circulators that are not residents of this state are required to register as a circulator with the SOS. Statute also details the requirements that must be met in order for petition signatures to be valid and counted, notably including the following: a) a petition circulator must indicate which petition is being circulated by listing the official serial number assigned to the petition; b) a petition circulator must indicate the address the circulator agrees to accept service of process, if different than the residential address provided; c) a petition circulator is required to sign the Affidavit of Circulator in the presence of a notary public; and d) a petition circulator must state on an initiative or referendum petition whether the circulator is a paid or volunteer circulator by checking the appropriate line on the petition prior to circulation (A.R.S. §§ 19-101, 19-102 and 19-112). The SOS is required to remove petition signature sheets and petition signatures that do not meet certain specified requirements (A.R.S § 19-121.01).

There is no anticipated fiscal impact to the state General Fund associated with this legislation.

Provisions

1. Permits the county recorder or other officer in charge of elections to send a prescribed notice, by December 1 of each even-numbered year, to voters on the PEVL who did not vote an early ballot in both the primary and general election for the two most recent general elections for federal office, with certain exceptions.
2. Requires the notice to inform the voter that if the voter wishes to remain on the PEVL the voter is required to do both of the following:
 - a) confirm in writing the voter's desire to remain on the PEVL; and
 - b) return the completed notice containing the voter's signature, address and date of birth, to the county officer in charge of elections within 30 days after receipt.
3. Requires the county officer in charge of elections to remove a voter's name from the PEVL if the voter fails to respond to the notice as required, with certain exceptions.
4. Requires, beginning January 1, 2015, that PEVL request forms distributed by a candidate, political committee or other organization include a prescribed statement.
5. Specifies that PEVL request forms distributed by a candidate, political committee or other organization and submitted without the prescribed statement are valid for the purpose of requiring that the voter be sent an early ballot for the immediately succeeding election, but prohibits that voter's name from being placed on PEVL.
6. Permits a voter to designate any person to return their early ballot to the appropriate elections official or polling place, with exceptions for the following:
 - a) any paid or volunteer worker of any political committee; and
 - b) any other group or organization on whose behalf an individual is directed to collect or return a ballot.
7. Establishes that any person who knowingly violates the aforementioned requirements with regard to designating an individual to collect and return early ballots is guilty of a class 1 misdemeanor.
8. Specifies that a precinct committeeman is not presumed to be acting on behalf of a political committee.
9. Modifies the early ballot affidavit to include language related to the return of early ballots, and directs a person who assists a voter by returning their early ballot to complete the affidavit.
10. Requires the application and petition for a recall petition to be submitted as a single document.

11. Establishes that when a petition and application for an initiative, referendum or recall petition is received by the SOS and marked by the SOS with an official time and date of receipt, the time-and-date marked petition constitutes the official full and correct copy of the text of the petition, is required to be used in all instances as the text of the petition, and is the only valid copy of the text of the petition for circulation for signatures.
12. Requires the following, if any change in the text of the petition is made by the applicant:
 - a) the applicant file a new application and petition;
 - b) the applicant be assigned a new official serial number for the petition; and
 - c) the applicant use, as the text of the petition, the new petition text as marked by the SOS with the official date and time of receipt of the new text.
13. Stipulates that initiative, referendum and recall petition signatures collected with any copy of a measure, constitutional amendment or general statement, other than a facsimile of the time-and-date marked copy with a title and text that is identical to the time-and-date marked copy, are invalid.
14. Requires the political committee that files petitions with the SOS to organize and group the signature sheets as follows:
 - a) by the county of residence of the majority of the persons signing the signature sheet;
 - b) by circulator; and
 - c) by the notary public who notarized the circulator's signature on the sheet.
15. Permits the SOS to return as unfiled any signature sheets that are not grouped and organized as prescribed, if certain requirements are met.
16. Requires the SOS, prior to returning petition signature sheets as unfiled, to make a reasonable cause finding that the filing committee failed to comply with petition signature sheet organization requirements and to refer the matter to the Attorney General (AG).
17. Permits the AG to issue a compliance order directing the filing committee to reorganize the petitions as required.
18. Specifies that the political committee that is the proponent of the petition is solely responsible for compliance with petition grouping and organization requirements, and any required reorganization does not extend the time for filing the petition.
19. Permits any political committee to submit to the SOS, 45 days before the deadline for filing a petition, a list of all petition circulators and a copy of a criminal records check verified through source documents performed on each circulator.
20. Specifies that a criminal records check is one that is verified through source documents and performed by a licensed entity.
21. Stipulates that, if the background check was performed and provided by a person or entity who was engaged in an *arm's length transaction* with the political committee, a rebuttable presumption arises and in any challenge to those petition circulators the presumption must be

overcome by a showing of a preponderance of the evidence that the circulator was not eligible to register to vote in this state.

22. Permits the SOS to adopt by rule appropriate standards for determining whether a transaction between a political committee and the person or entity providing the circulators' background checks constitutes an *arm's length transaction*.
23. Requires a filing officer for campaign finance reports who has made a reasonable cause finding regarding certain specified violations of campaign finance requirements to refer the matter to the prescribed office, as follows:
 - a) if regarding a violation by the AG, to the county attorney;
 - b) if regarding a violation by the county attorney, to the AG;
 - c) if regarding the city or town attorney, to the respective county attorney.
24. Requires, for a petition that fails to meet or exceed the minimum signature requirement, that the SOS retain the original petition signature sheets until after the conclusion of any litigation regarding a petition measure, or until the time has expired for litigation.
25. Requires that a nomination petition for a candidate for the office of United States Senator or for a state office, excluding members of the legislature and superior court judges, be signed by a number of qualified electors equal to at least 1/6 of 1 percent of the voter registration in at least three counties in the state, but no more than 10 percent of the total voter registration in the state.
26. Requires that a nomination petition for a candidate for the office of Representative in Congress be signed by a number of qualified electors equal to at least 1/3 of 1 percent, but no more than 10 percent, of the total voter registration in the district from which the representative may be elected.
27. Requires that a nomination petition for a candidate for the office of member of the legislature be signed by a number of qualified electors equal to at least 1/3 of 1 percent, but not more than 3 percent, of the total voter registration in the district from which the member may be elected.
28. Defines *arm's length transaction*.
29. Defines *affiliate*.
30. Contains session law that directs the SOS to implement a statewide voter outreach program to educate and inform voters regarding the PEVL.
31. Contains an applicability clause, a retroactive applicability clause and a severability clause.
32. Contains a legislative findings and intent clause with regard to the initiative and referendum petition process.
33. Contains a legislative findings and intent clause with regard to the recall petition process.

34. Makes technical and conforming changes.

35. Becomes effective on the general effective date.

Amendments Adopted by Committee

- Modifies the deadline a political committee may submit to the SOS a list of all petition circulators and a copy of a criminal records check performed on each circulator.

Amendments Adopted by Committee of the Whole

- Specifies that a presumption arises if the petition circulators' background checks were performed and provided by a person or entity engaged in an arm's length transaction with the political committee, and requires that any challenge to those petition circulators must be rebutted by a showing of the preponderance of the evidence.

Amendments Adopted by Conference Committee

1. Modifies the number of nomination petition signatures required for the elected offices of United States Senator, United States Representative, state offices and legislative offices.
2. Permits the county recorder or other officer in charge of elections to send a notice, as prescribed, to certain specified voters on the PEVL, with certain exceptions.
3. Requires the notice to inform the voter the voter must confirm their desire to remain on the PEVL and return the notice as prescribed.
4. Permits the county recorder or other officer in charge of elections to remove a voter's name from the PEVL if the voter receives a notice and fails to respond as required, with certain exceptions.
5. Requires, beginning January 1, 2015, that PEVL request forms distributed by a candidate, political committee or other organization include a prescribed statement.
6. Modifies the early ballot affidavit to include language related to the return of ballots.
7. Requires a filing officer for campaign finance reports who has made a reasonable cause finding regarding certain specified violations of campaign finance requirements to refer the matter as prescribed.
8. Permits a voter to designate any person to return their early ballot, with certain exceptions.
9. Establishes that a person who knowingly violates requirements related to the return or collection of early ballots is guilty of a class 1 misdemeanor.

10. Establishes that the text of an initiative, referendum or recall petition, as time-and-date-marked by the SOS, constitutes the official, full and correct copy of the petition and is the only valid copy for circulation.
11. Requires, for any change in the text of an initiative, referendum or recall petition, that the applicant file a new application and text and be assigned a new petition serial number.
12. Invalidates petition signatures collected without a facsimile copy of the time-and-date-marked initiative, referendum or recall petition text.
13. Requires the SOS, prior to returning petition signature sheets as unfiled, to make a reasonable cause finding that a filing committee failed to comply with petition signature sheet organization requirements and to refer the matter to the AG.
14. Requires, for a petition that fails to meet or exceed the minimum signature requirement, that the SOS retain the original petition signature sheets until after the conclusion of any litigation regarding a petition measure, or until the time has expired for litigation.
15. Requires the application and petition for a recall petition to be submitted as a single document.
16. Contains session law that directs the SOS to implement a statewide voter outreach program to educate and inform voters regarding the PEVL.
17. Contains a legislative findings and intent clause.
18. Contains an applicability clause, a retroactive applicability clause and a severability clause.
19. Makes technical and conforming changes.

House Action

Senate Action

JUD	1/31/13	DPA	7-0-0-1	ELEC	3/5/13	DPA	5-2-0-0
3 rd Read	2/20/13		53-5-2-0	3 rd Read	4/2/13		16-12-2-0
Final Read	6/13/13		33-26-1-0	Final Read	6/13/13		13-16-1-0
				Final Read #2	6/13/13		16-13-1-0

Signed by the Governor 6/19/13

Chapter 209

Prepared by Senate Research

June 25, 2013

CRS/tf