SB 1365

Introduced by
Senator Quezada; Representative Andrade

AN ACT

AMENDING SECTIONS 19-101, 19-112, 19-121.01, 19-121.02, 19-121.04, 19-122, 19-127, 19-205 AND 19-208.02, ARIZONA REVISED STATUTES; RELATING TO INITIATIVE, REFERENDUM AND RECALL.

(TEXT OF BILL BEGINS ON NEXT PAGE)
Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 19-101, Arizona Revised Statutes, is amended to read:

19-101. Referendum petition; circulators; violation; classification

A. The following shall be the form for referring to the people by referendum petition a measure or item, section or part of a measure enacted by the legislature, or by the legislative body of an incorporated city, town or county:

Referendum Description
(Insert a description of no more than one hundred words of the principal provisions of the measure sought to be referred.)

Notice: This is only a description of the measure sought to be referred prepared by the sponsor of the measure. It may not include every provision contained in the measure. Before signing, make sure the title and text of the measure are attached. You have the right to read or examine the title and text before signing.

Petition for Referendum
To the secretary of state (or to the corresponding officer for or on local, county, city or town measures):
We, the undersigned citizens and qualified electors of the state of Arizona, respectfully order that the senate (or house) bill No. ___ (or other local, county, city or town measure) entitled (title of act or ordinance, and if the petition is against less than the whole act or ordinance then set forth here the item, section, or part, of any measure on which the referendum is used), passed by the ____________ session of the legislature of the state of Arizona, at the general (or special, as the case may be) session of said legislature, (or by a county, city or town legislative body) shall be referred to a vote of the qualified electors of the state, (county, city or town) for their approval or rejection at the next regular general election (or county, city or town election) and each for himself says:

I have personally signed this petition with my first and last names. I have not signed any other petition for the same measure. I am a qualified elector of the state of Arizona, county of (or city or town and county of, as the case may be) __________.

"Warning
It is a class 1 misdemeanor for any person to knowingly sign an initiative or referendum petition with a name other than his own, except in a circumstance where he signs for a person, in the presence of and at the specific request of such person, who is incapable of signing his own name because of physical infirmity, or to knowingly sign his name more than once for the
same measure, or to knowingly sign such petition when he is not
a qualified elector."

<table>
<thead>
<tr>
<th>Signature</th>
<th>Name</th>
<th>Actual Arizona</th>
<th>City or Date</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>post office town</td>
<td>signed</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(first and last name)</td>
<td>(if any)</td>
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<td></td>
<td></td>
<td>no. and if street &amp; address</td>
<td>zip</td>
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<td></td>
<td></td>
<td>no street code</td>
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</tr>
<tr>
<td></td>
<td></td>
<td>describe residence location</td>
<td></td>
</tr>
</tbody>
</table>

(Fifteen lines for signatures which shall be numbered)

The validity of signatures on this sheet must be sworn to
by the circulator before a notary public on the form appearing
on the back of the sheet.

Number ________________

B. Each petition sheet shall have printed on the top of each sheet the
following:

"It is unlawful to sign this petition before it has a
serial number."

C. Each petition sheet shall have printed in capital letters in no
less than twelve point bold-faced type in the upper right-hand corner of the
face of the petition sheet and below the statement prescribed in subsection B
of this section the following:

"_________ paid circulator"            "______________ volunteer".

D. A circulator of a referendum petition shall state whether he is a
paid circulator or volunteer by checking the appropriate line on the petition
form before circulating the petition for signatures.

E. Signatures obtained on referendum petitions in violation of
subsection D of this section are void and shall not be counted in determining
the legal sufficiency of the petition. The presence of signatures that are
invalidated under this subsection on a petition does not invalidate other
signatures on the petition that were obtained as prescribed by this section.

Sec. 2. Section 19-112, Arizona Revised Statutes, is amended to read:

19-112. Signatures and verification; attachment; circulator
statement

A. Every qualified elector signing a petition shall do so in the
presence of the person who is circulating the petition and who is to execute
the affidavit of verification. At the time of signing, the
qualified elector shall sign his first and last names in the spaces provided
and the elector so signing shall print his first and last names and write, in
the appropriate spaces following the signature, the signee's residence
address, giving street and number, and if he has no street address, a
description of his residence location. The elector so signing shall write,
in the appropriate spaces following the elector's address, the date on which
the elector signed the petition.
B. The signature sheets shall be attached at all times during circulation to a full and correct copy of the title and text of the measure or constitutional amendment proposed or referred by the petition. The title and text shall be in at least eight-point type and shall include both the original and the amended text. The text shall indicate material deleted, if any, by printing the material with a line drawn through the center of the letters of the material and shall indicate material added or new material by printing the letters of the material in capital letters.

C. The person before whom the signatures, names and addresses were written on the signature sheet, on the affidavit STATEMENT OF VERIFICATION form pursuant to this section, shall subscribe and swear before a notary public that each of the names on the sheet was signed and the name and address were printed by the elector and the circulator on the date indicated, that in his belief each signer was a qualified elector of a certain county of the state, or, in the case of a city, town or county measure, of the city, town or county affected by the measure on the date indicated, and that at all times during circulation of the signature sheet a copy of the title and text was attached to the signature sheet. All signatures of petitioners on a signature sheet shall be those of qualified electors who are registered to vote in the same county. However, if signatures from more than one county appear on the same signature sheet, only the valid signatures from the same county that are most numerous on the signature sheet shall be counted. Signature and handwriting comparisons may be made.

D. The affidavit STATEMENT OF VERIFICATION shall be in the following form printed on the reverse side of each signature sheet:

Affidavit STATEMENT of VERIFICATION BY Circulator

State of Arizona     )
) ss.:
County of ___________)
(Where notarized)

I, __________ (print name), a person who is not required to be a resident of this state but who is otherwise qualified to register to vote in the county of __________, in the state of Arizona at all times during my circulation of this petition sheet, and under the penalty of a class 1 misdemeanor, depose and say that subject to section 19-115, Arizona Revised Statutes, each individual printed the individual's own name and address and signed this sheet of the foregoing petition in my presence on the date indicated and I believe that each signer's name and residence address or post office address are correctly stated and that each signer is a qualified elector of the state of Arizona (or in the case of a city, town or county measure, of the city, town or county affected by the measure proposed to be initiated or referred to the people) and that at all times during circulation of this signature sheet a copy of the title and text was attached to the signature sheet.
E. The eight-point type required by subsection B of this section shall DOES not apply to maps, charts or other graphics.

Sec. 3. Section 19-121.01, Arizona Revised Statutes, is amended to read:

19-121.01. Secretary of state; removal of petition and ineligible signatures; facsimile sheets; random sample

A. Within twenty days, excluding Saturdays, Sundays and other legal holidays, of the date of filing of an initiative or referendum petition and issuance of the receipt, the secretary of state shall:

1. Remove the following:

(a) Those sheets not attached to a copy of the title and text of the measure.

(b) The copy of the title and text from the remaining petition sheets.

(c) Those sheets not bearing the petition serial number in the lower right-hand corner of each side.

(d) Those sheets containing a circulator's affidavit STATEMENT OF VERIFICATION that is not completed or signed.

(e) Those sheets on which the affidavit of the circulator is not notarized, the notary's signature is missing, the notary's commission has expired or the notary's seal is not affixed.

(f) Those sheets on which the signatures of the circulator or the notary are dated earlier than the dates on which the electors signed the face of the petition sheet.

(g) Those sheets that are circulated by a circulator who is prohibited from participating in any election, initiative, referendum or recall campaign pursuant to section 19-119.01.

(h) For statewide ballot measures only, those sheets on which the circulator is required to be registered with the secretary of state pursuant to section 19-118 and the circulator is not properly registered.
2. After completing the steps in paragraph 1 of this subsection, review each sheet to determine the county of the majority of the signers and shall:

(a) Place a three or four letter abbreviation designating that county in the upper right-hand corner of the face of the petition.

(b) Remove all signatures of those not in the county of the majority on each sheet by marking an "SS" in red ink in the margin to the right of the signature line.

(c) Cause all signature sheets to be grouped together by county of registration of the majority of those signing and attach them to one or more copies of the title and text of the measure. If the sheets are too bulky for convenient grouping by the secretary of state in one volume by county, they may be bound in two or more volumes with those in each volume attached to a single printed copy of the measure. The remaining detached copies of the title and text of the measure shall be delivered to the applicant.

3. After completing the steps in paragraph 2 of this subsection, remove the following signatures that are not eligible for verification by marking an "SS" in red ink in the margin to the right of the signature line:

(a) If the signature of the qualified elector is missing.

(b) If the residence address or the description of residence location is missing.

(c) If the date on which the petitioner signed is missing.

(d) Signatures in excess of the fifteen signatures permitted per petition.

(e) Signatures withdrawn pursuant to section 19-113.

(f) Signatures for which the secretary of state determines that the petition circulator has printed the elector's first and last names or other information in violation of section 19-112.

4. After the removal of petition sheets and signatures, count the number of signatures for verification on the remaining petition sheets and note that number in the upper right-hand corner of the face of each petition sheet immediately above the county designation.

5. Number the remaining petition sheets that were not previously removed and that contain signatures eligible for verification in consecutive order on the front side of each petition sheet in the upper left-hand corner.

6. Count all remaining petition sheets and signatures not previously removed and issue a receipt to the applicant of this total number eligible for verification.

B. If the total number of signatures for verification as determined pursuant to subsection A, paragraph 6 of this section equals or exceeds the constitutional minimum, the secretary of state, during the same twenty day period provided in subsection A of this section, shall select, at random, five percent of the total signatures eligible for verification by the county recorders of the counties in which the persons signing the petition claim to be qualified electors. The random sample of signatures to be verified shall be drawn in such a manner that every signature eligible for verification is included.
verification has an equal chance of being included in the sample. The random sample produced shall identify each signature selected by petition page and line number. The signatures selected shall be marked according to the following procedure:

1. Using red ink, mark the selected signature by circling the line number and drawing a line from the base of the circle extending into the left margin.

2. If a signature line selected for the random sample is found to be blank or was removed from the verification process pursuant to subsection A of this section and is marked with an "SS", then the next line down, even if that requires going to the next petition sheet in sequence, on which an eligible signature appears shall be selected as a substitute if that line has not already been selected for the random sample. If the next eligible line is already being used in the random sample, the secretary of state shall proceed back up the page from the signature line originally selected for the random sample to the next previous signature line eligible for verification. If that line is already being used in the random sample, the secretary of state shall continue moving down the page or to the next page from the line originally selected for the random sample and shall select the next eligible signature as its substitute for the random sample. The secretary of state shall use this process of alternately moving forward and backward until a signature eligible for verification and not already included in the random sample can be selected and substituted.

C. After the selection of the random sample and the marking of the signatures selected on the original petition sheets pursuant to subsection B of this section, the secretary of state shall reproduce a facsimile of the front of each signature sheet on which a signature included in the random sample appears. The secretary of state shall clearly identify those signatures marked for verification by color highlighting or other similar method and shall transmit by personal delivery or certified mail to each county recorder a facsimile sheet of each signature sheet on which a signature appears of any individual who claims to be a qualified elector of that county and whose signature was selected for verification as part of the random sample.

D. The secretary of state shall retain in custody all signature sheets removed pursuant to this section except as otherwise prescribed in this title.

Sec. 4. Section 19-121.02, Arizona Revised Statutes, is amended to read:

19-121.02. Certification by county recorder

A. Within fifteen days, excluding Saturdays, Sundays and other legal holidays, after receiving the facsimile signature sheets from the secretary of state pursuant to section 19-121.01, the county recorder shall determine which signatures of individuals whose names were transmitted shall be disqualified for any of the following reasons:
1. No residence address or description of residence location is provided.

2. No date of signing is provided.

3. The signature is illegible and the signer is otherwise unidentifiable.

4. The address provided is illegible or nonexistent.

5. The individual was not a qualified elector on the date of signing the petition.

6. The individual was a registered voter but was not at least eighteen years of age on the date of signing the petition or affidavit STATEMENT OF VERIFICATION.

7. The signature was disqualified after comparison with the signature on the affidavit of registration STATEMENT OF VERIFICATION.

8. If a petitioner signed more than once, all but one otherwise valid signature shall be disqualified.

9. For the same reasons any signatures or entire petition sheets could have been removed by the secretary of state pursuant to section 19-121.01, subsection A, paragraph 3.

B. Within the same time period provided in subsection A of this section, the county recorder shall certify to the secretary of state the following:

1. The name of any individual whose signature was included in the random sample and disqualified by the county recorder together with the petition page and line number of the disqualified signature.

2. The total number of signatures selected for the random sample and transmitted to the county recorder for verification and the total number of random sample signatures disqualified.

C. The secretary of state shall prescribe the form of the county recorder's certification.

D. At the time of the certification, the county recorder shall:

1. Return the facsimile signature sheets to the secretary of state.

2. Send notice of the results of the certification by mail to the person or organization that submitted the initiative or referendum petitions and to the secretary of state.

Sec. 5. Section 19-121.04, Arizona Revised Statutes, is amended to read:

19-121.04. Disposition of petitions by secretary of state

A. Within seventy-two hours, excluding Saturdays, Sundays and other legal holidays, after receipt of the facsimile signature sheets and the certification of each county recorder, the secretary of state shall determine the total number of valid signatures by subtracting from the total number of eligible signatures determined pursuant to section 19-121.01, subsection A, paragraph 6 in the following order:

1. All signatures on petitions containing a defective circulator's affidavit STATEMENT OF VERIFICATION.
2. All signatures that were found ineligible by the county recorders and that were not subtracted pursuant to paragraph 1 of this subsection.

3. After determining the percentage of all signatures found to be invalid in the random sample, a like percentage from those signatures remaining after the subtractions performed pursuant to paragraphs 1 and 2 of this subsection.

B. If the actual number of signatures on the remaining sheets after any such subtraction equals or exceeds the minimum number required by the constitution or if the number of valid signatures as projected from the random sample pursuant to subsection A of this section is at least one hundred percent of the minimum number required by the constitution, the secretary of state shall issue the following receipt to the person or organization that submitted them:

___________________ signature pages bearing _____________ signatures for initiative (referendum) petition serial number ___ have been refused for filing in this office because the person circulating them was a county recorder or justice of the peace at the time of circulating the petition or due to defects in the circulator's affidavit STATEMENT OF VERIFICATION. A total of ______________ signatures included on the remaining petition sheets were found to be ineligible. Of the total random sample of ______________ signatures, a total of ________ signatures were invalidated by the county recorders resulting in a failure rate of _________ percent PERCENT. The actual number of remaining signatures for such initiative (referendum) petition number ________ are equal to or in excess of the minimum required by the constitution to place a measure on the general election ballot. The number of valid signatures filed with this petition, based on the random sample, appears to be at least one hundred five percent PERCENT of the minimum required or through examination of each signature has been certified to be greater than the minimum required by the constitution.

Date:_______________________   _______________________________

Secretary of State
(Seal)

The secretary of state shall then forthwith notify the governor that a sufficient number of signatures has been filed and that the initiative or referendum shall be placed on the ballot in the manner provided by law.

C. If the number of valid signatures as projected from the random sample is less than one hundred percent of the minimum number required by the constitution or if the actual number of signatures on the remaining sheets after any such subtraction from the random sample or after certification fails to equal or exceed the minimum required by the constitution, the secretary of state shall immediately return the original signature sheets, in the form filed by him under section 19-121, to the
person or organization that submitted them, together with a certified statement that, for the following reasons, the petition lacks the minimum number of signatures to place it on the general election ballot:

1. Signature sheets bearing secretary of state page numbers _________________ and bearing signatures of ____________ persons appeared on petitions containing a defective circulator's affidavit STATEMENT OF VERIFICATION.

2. A total of _______ signatures on the remaining petition sheets were found to be ineligible.

3. A total of ____________ signatures included in the random sample have been certified by the county recorders as ineligible at the time such petition was signed and a projection from such random sample has indicated that ____________ more signatures are ineligible to appear on the petition.

A facsimile of the certifications of the county recorders under section 19-121.02 shall accompany the signature sheets returned to the person or organization that submitted them.

Sec. 6. Section 19-122, Arizona Revised Statutes, is amended to read:

19-122. Refusal of secretary of state to file petition or transmit facsimiles of signature sheets or circulator statements of verification; writ of mandamus; venue

A. If the secretary of state refuses to accept and file a petition for the initiative or referendum, or proposal for a constitutional amendment that has been presented within the time prescribed, or if the secretary of state refuses to transmit the facsimiles of a signature sheet or sheets or affidavits STATEMENTS OF VERIFICATION of circulators to the county recorders for certification under section 19-121.01, the secretary of state shall provide the person who submitted the petition, proposal, signature sheet or affidavit STATEMENT OF VERIFICATION with a written statement of the reason for the refusal. Within five calendar days after the refusal any citizen may apply to the superior court for a writ of mandamus to compel the secretary of state to file the petition or proposal or transmit the facsimiles, or the citizen may file a complaint with the county attorney or attorney general. The county attorney or attorney general may apply, within five calendar days after the complaint is made, to the superior court for a writ of mandamus to compel the secretary of state to file the petition or proposal or transmit the facsimiles. The action shall be advanced on the calendar and heard and decided by the court as soon as possible. Either party may appeal to the supreme court within five calendar days after judgment. If the court finds that the petition is legally sufficient, the secretary of state shall then file it, with a certified copy of the judgment attached as of the date on which it was originally offered for filing in the secretary of state's office.

B. The most current version of the general county register statewide voter registration database at the time of filing a court action challenging an initiative or referendum petition shall constitute the official record to
be used to determine on a prima facie basis by the challenger that the signer  
of a petition was not registered to vote at the address given on the date of  
signing the petition. If the address of the signer given on the date of  
signing the petition is different from that on the most current version of  
the general county register, the county recorder shall examine the version of  
the general county register that was current on the date the signer signed  
the petition to determine the validity of the signature and to determine  
whether the person was eligible to sign the petition at the time of  
signing. This subsection does not preclude introducing into evidence a  
certified copy of the affidavit of registration of any signer dated prior to  
BEFORE the signing of the petition if the affidavit is in the possession of  
the county recorder but has not yet been filed in the general county  
register.

C. Notwithstanding section 19-121.04, if any petition filed is not  
legally sufficient, the court, in an action brought by any citizen, may  
enjoin the secretary OF STATE or other officers from certifying or printing  
on the official ballot for the ensuing election the amendment or measure  
proposed or referred. The action shall be advanced on the calendar and heard  
and decided by the court as soon as possible. Either party may appeal to the  
supreme court within five days after judgment.

D. The superior court in Maricopa county shall have jurisdiction of  
actions relating to measures and amendments to be submitted to the electors  
of the state at large. With respect to actions relating to local and special  
measures, the superior court in the county, or in one of the counties, in  
which the measures are to be voted on shall have jurisdiction.

Sec. 7. Section 19-127, Arizona Revised Statutes, is amended to read:

19-127. Preservation and publication of approved measures

A. If a measure or proposed constitutional amendment, at the ensuing  
election, is approved by the people, the preserved copies with the sheets,  
signatures and affidavits STATEMENTS OF VERIFICATION, and a certified copy of  
the governor's proclamation declaring them to have been approved by the  
people, shall be bound together in such form that they may be conveniently  
identified and preserved.

B. The secretary of state shall cause every measure or constitutional  
amendment submitted under the initiative and approved by the people to be  
printed with the general laws enacted by the next ensuing session of the  
legislature, with the date of the governor's proclamation declaring them to  
have been approved by the people.

Sec. 8. Section 19-205, Arizona Revised Statutes, is amended to read:

19-205. Signatures and verification

A. Every qualified elector signing a petition for a recall election  
shall do so in the presence of the person who is circulating the petition and  
who is to execute the affidavit STATEMENT of verification on the reverse side  
of the signature sheet. At the time of signing, the qualified elector shall  
sign and print his first and last name and the elector so signing shall  
write, in the appropriate spaces following the signature, his residence
address, giving street and number or, if the elector has no street address, a
description of his residence location, and the date on which he signed the
petition.

B. The person before whom the signatures were written on the signature
sheet shall, in an affidavit subscribed and A STATEMENT OF VERIFICATION sworn
to by him before a notary public, SHALL verify that each of the names on the
sheet was signed in his presence on the date indicated, and that in his
belief each signer was a qualified elector of the election district on the
date indicated in which such recall election will be conducted. All
signatures of petitioners on a signature sheet shall be those of qualified
electors who are registered to vote in the same county. However, If
signatures from more than one county appear on the same signature sheet, only
the valid signatures from the same county which THAT are most numerous on the
signature sheet shall be counted. In the absence of a legible signature, the
name as it is printed shall be the name used to determine the validity of the
signature.

C. The affidavit STATEMENT OF VERIFICATION shall be in the form
prescribed for initiative and referendum. In addition it shall also require
a statement by the circulator that the circulator believes that the
circulator is qualified to register to vote and all signers thereof are
qualified to vote in the recall election.

Sec. 9. Section 19-208.02, Arizona Revised Statutes, is amended to
read:

19-208.02. Certification by county recorder
A. Within sixty days after receipt of the signature sheets from the
receiving officer, the county recorder shall determine the number of
signatures or affidavits of individuals whose names were transmitted that
must be disqualified for any of the reasons set forth in section 19-121.02,
subsection A, and the county recorder shall certify such THAT number to the
receiving officer in the form prescribed by the secretary of state.
B. At the time of such certification, the county recorder shall:
1. Return the original signature sheets to the receiving officer,
obtaining a dated, signed receipt therefor.
2. Send notice of the results of certification by mail to the person
or organization that submitted the recall petitions and to the secretary of
state.