

LEGISLATIVE BILL 460

Approved by the Governor June 10, 1997

Introduced by Robinson, 16; Coordsen, 32; Kristensen, 37; Schellpeper, 18; Schimek, 27; Warner, 25; Withem, 14

AN ACT relating to elections; to amend sections 32-628, 32-630, 32-631, 32-716, 32-1401, 32-1402, 32-1404, 32-1409, and 32-1411, Revised Statutes Supplement, 1996; to change provisions relating to petitions, petition signers and circulators, and initiative and referendum procedures; to harmonize provisions; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 32-628, Revised Statutes Supplement, 1996, is amended to read:

32-628. (1) All petitions prepared or filed pursuant to the Election Act or any petition which requires the election commissioner or county clerk to verify signatures by utilizing the permanent registration register shall provide a space at least two and one-half inches long for written signatures, a space at least two inches long for printed names, and sufficient space for date of birth and street name and number, city or village, and zip code. Lines on each petition shall not be less than one-fourth inch apart. Petitions may be designed in such a manner that lines for signatures and other information run the length of the page rather than the width. Petitions shall provide for no more than twenty signatures per page.

(2) For the purpose of preventing fraud, deception, and misrepresentation, every sheet of every petition containing signatures shall have upon it, above the signatures, statements printed in boldface type in substantially the following form:

WARNING TO PETITION SIGNERS--VIOLATION OF ANY OF THE FOLLOWING PROVISIONS OF LAW MAY RESULT IN THE FILING OF CRIMINAL CHARGES: Any person who signs any name other than his or her own to any petition or who is not, at the time of signing or circulating the petition, a registered voter and qualified to sign or circulate the petition except as provided for initiative and referendum petitions shall be guilty of a Class I misdemeanor. Any person who falsely swears to a circulator's affidavit on a petition, who accepts money or other things of value for signing a petition, or who offers money or other things of value in exchange for a signature upon any petition shall be guilty of a Class IV felony.

(3) Every sheet of a petition which contains signatures shall have upon it, below the signatures, an affidavit in substantially the following form:

STATE OF NEBRASKA )
) ss.
COUNTY OF ..... )
....., (name of circulator) being first duly sworn, deposes and says that he or she is the circulator of this petition containing ..... signatures, that he or she is a registered voter of the State of Nebraska, that each person whose name appears on the petition personally signed the petition in the presence of the affiant, that the date to the left of each signature is the correct date on which the signature was affixed to the petition and that the date was personally affixed by the person signing such petition, that the affiant believes that each signer has written his or her name, street and number or voting precinct, and city, village, or post office address correctly, that the affiant believes that each signer was qualified to sign the petition, and that the affiant stated to each signer the object of the petition as printed on the petition before he or she affixed his or her signature the purpose of this to the petition.

.....
Circulator

.....
Address

Subscribed and sworn to before me, a notary public, this ..... day of ..... 19.... at ....., Nebraska.

.....
Notary Public

(4) Each sheet of a petition shall have upon its face and in plain view of persons who sign the petition a statement in letters not smaller than

sixteen-point type in red print on the petition. If the petition is circulated by a paid circulator, the statement shall be as follows: This petition is circulated by a paid circulator. If the petition is circulated by a circulator who is not being paid, the statement shall be as follows: This petition is circulated by a volunteer circulator.

Sec. 2. Section 32-630, Revised Statutes Supplement, 1996, is amended to read:

32-630. (1) Each person who signs a petition shall, at the time of and in addition to signing, personally affix the date, print his or her last name and first name in full, and affix his or her date of birth and address, including the street and number or a designation of a rural route or voting precinct and the city or village or a post office address. A person signing a petition may use his or her initials in place of his or her first name if such person is registered to vote under such initials. No signer shall use ditto marks as a means of personally affixing the date or address to any petition. A wife shall not use her husband's first name when she signs a petition but shall personally affix her first name and her last name by marriage or her surname. Any signature using ditto marks as a means of personally affixing the date or address of any petition or any signature using a spouse's first name instead of his or her own shall be invalid.

(2) Each circulator of a petition shall personally witness the signatures on the petition and shall sign the circulator's affidavit.

(3) No person shall:

(a) Sign any name other than his or her own to any petition;  
 (b) Knowingly sign his or her name more than once for the same petition effort or measure;  
 (c) Sign or circulate a petition if he or she is not a registered voter and qualified to sign or circulate the same except as provided in section 32-629;

(d) Falsely swear to any signature upon any such petition;

(e) Accept money or other thing of value for signing any petition;

or  
 (f) Offer money or other thing of value in exchange for a signature upon any petition.

Sec. 3. Section 32-631, Revised Statutes Supplement, 1996, is amended to read:

32-631. (1) All petitions that are presented to the election commissioner or county clerk for signature verification shall be retained in the election office and shall be open to public inspection. Upon receipt of the pages of a petition, the election commissioner or county clerk shall issue a written receipt indicating the number of pages of the petition in his or her custody to the person presenting the petition for signature verification. Petitions shall be destroyed twenty-two months after they are filed.

(2) The election commissioner or county clerk shall determine the validity and sufficiency of such petition by comparing the names, dates of birth if applicable, and addresses of the signers and circulators with the voter registration records to determine if the signers and circulators were registered voters on the date of signing the petition. If it is determined that a signer has affixed his or her signature more than once to any petition and that only one person is registered by that name, the election commissioner or county clerk shall strike from the pages of the petition all but one such signature. Only one of the duplicate signatures shall be added to the total number of valid signatures. All signatures, dates of birth, and addresses shall be presumed to be valid if the election commissioner or county clerk has found the signers to be registered voters on or before the date on which the petition was signed. This presumption shall not be conclusive and may be rebutted by any credible evidence which the election commissioner or county clerk finds sufficient.

(3) If the election commissioner or county clerk verifies signatures in excess of one hundred ten percent of the number necessary for the issue to be placed on the ballot, the election commissioner or county clerk may cease verifying signatures and certify the number of signatures verified to the person who delivered the petitions for verification.

(4) If the number of signatures verified does not equal or exceed the number necessary to place the issue on the ballot upon completion of the comparison of names and addresses with the voter registration records, the election commissioner or county clerk shall prepare in writing a certification under seal setting forth the name and address of each signer or circulator found not to be a registered voter and the petition page number and line number where the signature is found. If the signature or address is challenged for a reason other than the nonregistration of the signer, the election commissioner or county clerk shall set forth the reasons for the

challenge of the signature.

Sec. 4. Section 32-716, Revised Statutes Supplement, 1996, is amended to read:

32-716. (1) Any person, group, or association desiring to form a new political party shall present to the Secretary of State petitions containing signatures totaling not less than one percent of the total votes cast for Governor at the most recent general election for such office. The signatures of registered voters on such petitions shall be so distributed as to include registered voters totaling at least one percent of the votes cast for Governor in the most recent gubernatorial election in each of the three congressional districts in this state. Petition signers and petition circulators shall conform to the requirements of sections 32-629 and 32-630. The petitions shall be filed with the Secretary of State no later than February 1 before any statewide primary election for the new political party to be entitled to have ballot position in the primary election of that year. If the new political party desires to be established and have ballot position for the general election and not in the primary election of that year, the petitions shall be filed with the Secretary of State on or before August 1 of that year. Prior to the circulation of petitions to form a new political party, a sample copy of the petitions shall be filed with the Secretary of State by the person, group, or association seeking to establish the new party. The sample petition shall be accompanied by the name and address of the person or the names and addresses of the members of the group or association sponsoring the petition to form a new political party.

(2) The petition shall conform to the requirements of section 32-628. The Secretary of State shall prescribe the form of the petition for the formation of a new political party. The petition shall be addressed to and filed with the Secretary of State and shall state its purpose and the name of the party to be formed, but the name of any political party then in existence or any word forming any part of the name of any political party then in existence shall not be adopted. The petition shall contain a statement substantially as follows:

We, the undersigned registered voters of the State of Nebraska and the county of ....., being severally qualified to sign this petition, respectfully request that the above-named new political party be formed in the State of Nebraska, and each for himself or herself says: I have personally signed this petition on the date opposite my name; I am a registered voter of the State of Nebraska and county of ..... and am qualified to sign this petition; and my date of birth and city, village, or post office address and my street and number or voting precinct are correctly written after my name.

Sec. 5. Section 32-1401, Revised Statutes Supplement, 1996, is amended to read:

32-1401. The form of a petition for initiating any law or any amendment to the Constitution of Nebraska shall comply with the requirements of sections 32-628 and 32-1403 and shall be substantially as follows:

Initiative Petition

The object of this petition is to ..... (Print a concise statement in large type of the legal effect of the filing of the petition and the object sought to be secured by submitting the measure to the voters).

To the Honorable ....., Secretary of State for the State of Nebraska:

We, the undersigned residents of the State of Nebraska and the county of ....., respectfully demand that the following proposed law (or amendment to the Constitution of Nebraska as the case may be) shall be referred to the registered voters of the state for their approval or rejection at the general election to be held on the .... day of ..... 19.., and each for himself or herself says:

I have personally signed this petition on the date opposite my name; I am a registered voter of the State of Nebraska and county of ..... and am qualified to sign this petition or I will be so registered and qualified on or before the date on which this petition is required to be filed with the Secretary of State; and

My printed name, date of birth, street and number or voting precinct, and city, village, or post office address are correctly written after my signature.

(Here follow numbered lines for signature, printed name, date of birth, date, street and number or voting precinct, and city, village, or post office address.)

Sec. 6. Section 32-1402, Revised Statutes Supplement, 1996, is amended to read:

32-1402. The form of a petition for ordering a referendum upon any act or any part of any act passed by the Legislature of the State of Nebraska shall comply with the requirements of sections 32-628 and 32-1403 and shall be substantially as follows:

Referendum Petition

The object of this petition is to .....  
(Print a concise statement in large type of the legal effect of the filing of the petition and the object sought to be secured by submitting the measure to the voters).

To the Honorable ....., Secretary of State for the State of Nebraska:

We, the undersigned residents of the State of Nebraska and the county of ....., respectfully order that Legislative Bill No. .... entitled ..... (title of act and, if the petition is against less than the whole act, then set forth here the part or parts on which the referendum is sought), passed by the ..... Legislature of the State of Nebraska at its ..... Session, shall be referred to the registered voters of the state for retention or repeal at the general election to be held on the .... day of ..... 19.., and each for himself or herself says:

I have personally signed this petition on the date opposite my name; I am a registered voter of the State of Nebraska and county of ..... and am qualified to sign this petition or I will be so registered and qualified on or before the date on which this petition is required to be filed with the Secretary of State; and

My printed name, date of birth, street and number or voting precinct, and city, village, or post office address are correctly written after my signature.

(Here follow numbered lines for signature, printed name, date, date of birth, street and number or voting precinct, and city, village, or post office address.)

Sec. 7. Section 32-1404, Revised Statutes Supplement, 1996, is amended to read:

32-1404. Signers and circulators of initiative and referendum petitions shall meet the requirements of sections 32-629 and 32-630. ~~A circulator shall have been registered to vote in Nebraska for one month prior to circulating an initiative or referendum petition.~~ A registered voter who intends to circulate initiative and referendum petitions outside of his or her county of residence shall register with the Secretary of State on forms provided by the Secretary of State prior to circulating initiative and referendum petitions outside of his or her county of residence. The Secretary of State shall make available to the counties a list of registered circulators for each petition drive.

Sec. 8. Section 32-1409, Revised Statutes Supplement, 1996, is amended to read:

32-1409. (1) Upon the receipt of the petitions, the Secretary of State, with the aid and assistance of the election commissioner or county clerk, shall determine the validity and sufficiency of signatures on the pages of the filed petition. The Secretary of State shall deliver the various pages of the filed petition to the election commissioner or county clerk by hand carrier, by use of law enforcement officials, or by certified mail, return receipt requested. Upon receipt of the pages of the petition, the election commissioner or county clerk shall issue to the Secretary of State a written receipt that the pages of the petition are in the custody of the election commissioner or county clerk. The election commissioner or county clerk shall compare the signature of each person signing ~~and the circulator~~ upon each of the pages of the petition with the voter registration records to determine if ~~the circulator was a registered voter one month prior to the date of circulating and signing the petition and to determine if~~ each signer was a registered voter on or before the date on which the petition was required to be filed with the Secretary of State. The election commissioner or county clerk shall also compare the signer's printed name, date of birth, street and number or voting precinct, and city, village, or post office address with the voter registration records to determine whether the signer was a registered voter. The signature, date of birth, and address shall be presumed to be valid only if the election commissioner or county clerk finds the printed name, date of birth, street and number or voting precinct, and city, village, or post office address to match the registration records and that the registration was received on or before the date on which the petition was required to be filed with the Secretary of State. Any signature which is not accompanied by the information required by section 32-630 shall be invalid. The finding of the election commissioner or county clerk may be rebutted by any credible evidence which the Secretary of State finds sufficient. The

express purpose of the comparison of names and addresses with the voter registration records, in addition to helping to determine the validity of such petition, the sufficiency of such petition, and the qualifications of the signer, shall be to prevent fraud, deception, and misrepresentation in the petition process.

(2) Upon completion of the comparison of names and addresses with the voter registration records, the election commissioner or county clerk shall prepare in writing a certification under seal setting forth the name and address of each signer ~~or circulator~~ found not to be a registered voter and the petition page number and line number where the name is found, and if the reason for the invalidity of the signature or address is other than the nonregistration of the signer, ~~or circulator~~, the election commissioner or county clerk shall set forth the reason for the invalidity of the signature. If the election commissioner or county clerk determines that a signer has affixed his or her signature more than once to any page or pages of the petition and that only one person is registered by that name, the election commissioner or county clerk shall prepare in writing a certification under seal setting forth the name of the duplicate signature and shall count only the earliest dated signature. The election commissioner or county clerk shall deliver all pages of the petition and the certifications to the Secretary of State within forty days after the receipt of such pages from the Secretary of State. The delivery shall be by hand carrier, by use of law enforcement officials, or by certified mail, return receipt requested. The Secretary of State may grant to the election commissioner or county clerk an additional ten days to return all pages of the petition in extraordinary circumstances.

(3) Upon receipt of the pages of the petition, the Secretary of State shall issue a written receipt indicating the number of pages of the petition that are in his or her custody. When all the petitions and certifications have been received by the Secretary of State, he or she shall strike from the pages of the petition all but the earliest dated signature of any duplicate signatures and such stricken signatures shall not be added to the total number of valid signatures. Not more than twenty signatures on one sheet shall be counted. All signatures secured in a manner contrary to sections 32-1401 to 32-1416 shall not be counted. Clerical and technical errors in a petition shall be disregarded if the forms prescribed in sections 32-1401 to 32-1403 are substantially followed. The Secretary of State shall total the valid signatures and determine if constitutional and statutory requirements have been met. The Secretary of State shall immediately serve a copy of such determination by certified or registered mail upon the person filing the initiative or referendum petition. If the petition is found to be valid and sufficient, the Secretary of State shall proceed to place the measure on the general election ballot.

(4) The Secretary of State may adopt and promulgate rules and regulations for the issuance of all necessary forms and procedural instructions to carry out this section.

Sec. 9. Section 32-1411, Revised Statutes Supplement, 1996, is amended to read:

32-1411. (1) The Secretary of State shall number the measures proposed by initiative or referendum to be voted upon at the next general election. Beginning with the 1986 general election, the first measure shall be numbered 400 and the succeeding measures shall be numbered consecutively 401, 402, 403, 404, 405, and so on.

(2) When any initiative or referendum petition is regularly and legally filed with the Secretary of State, he or she shall, at the next general election, cause to be printed on an official ballot in a nonpartisan manner the ballot title and number of the measure. The ballot titles shall be printed on the official ballot in the a random order in which the petitions are filed in the office of as determined by the Secretary of State. The statement prepared by the Attorney General shall be printed in italics immediately preceding the ballot title on the official ballot. Measures proposed by initiative petition shall be designated and distinguished on the ballot by the heading Proposed by Initiative Petition. Measures referred by petition shall be designated Referendum ordered by Petition of the People. All initiative and referendum measures shall be submitted in a nonpartisan manner without any indication or suggestion on the ballot that they have been approved or endorsed by any political party or organization.

(3) At the time the Secretary of State furnishes to the election commissioners or county clerks certified copies of the names of the candidates for state and other offices, the Secretary of State shall furnish to each election commissioner or county clerk a certified copy of the ballot titles and numbers of the measures proposed by initiative or referendum to be voted upon at the next general election. The election commissioner or county clerk

shall print such ballot titles and numbers upon the official ballot in the order presented by the Secretary of State and the relative position required by this section.

Sec. 10. Original sections 32-628, 32-630, 32-631, 32-716, 32-1401, 32-1402, 32-1404, 32-1409, and 32-1411, Revised Statutes Supplement, 1996, are repealed.