
**State Government & Tribal
Affairs Committee**

HB 1087

Brief Description: Prohibiting the payment of signature gatherers on a per-signature basis.

Sponsors: Representatives Appleton, Jarrett, Haigh, Hudgins, Hasegawa, Green, Hurst, McDermott, Hunt, Dickerson, Darneille, Simpson, Flannigan, O'Brien, Upthegrove, Eddy, Williams, Kirby, Goodman, Roberts, Walsh, Campbell, Curtis, Wallace, Eickmeyer, Dunshee, Conway, Sommers, Rolfes, Haler, Takko, Pedersen, Chase, Sells, Ormsby, Schual-Berke, Kenney, Springer, Moeller, Wood and Santos.

Brief Summary of Bill

- Prohibits payment of initiative or referendum signature gatherers on a per-signature basis.

Hearing Date: 1/26/07

Staff: Alison Hellberg (786-7152).

Background:

Initiative and Referendum Process

Washington adopted processes for initiatives and referenda in 1912. Through these processes citizens may petition the Legislature to enact a proposed measure, submit a proposed initiative measure to voters, or order that a referendum of all or part of any act, bill, or law, passed by the Legislature be submitted to voters.

The Washington State Constitution specifies how many legally registered Washington voters must sign an initiative or referendum petition. Initiative petitions require 8 percent of the total number of votes cast for the office of Governor at the last regular state gubernatorial election. For referendum petitions it is 4 percent. Based on the 2004 gubernatorial election, initiatives require 224,880 valid signatures and referendum petitions require 112,440 valid signatures.

Relevant Caselaw

In *Meyer v. Grant*, 486 U.S. 414 (1988), the U.S. Supreme Court found a Colorado law

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banning the payment of signature gatherers unconstitutional on First Amendment grounds. Based on *Meyer*, a state may not require signature gatherers to be volunteers.

In *Limit v. Maleng*, 874 F. Supp. 1138 (W.D. WA 1994), a U.S. District Court judge invalidated Washington's ban on paying signature gatherers on a per-signature basis on First Amendment grounds. Absent actual evidence of fraud or a threat to confidence in government that would provide a compelling justification, "the right of public discussion of issues may not be infringed by laws restricting expenditures on referenda and initiative campaigns."

In 2002, Oregon voters approved State Measure No. 26, which amended the Oregon Constitution to prohibit payment of signature gatherers based on the number of signatures collected. The law was challenged on First Amendment grounds, but the 9th Circuit Court of Appeals upheld it in *Prete v. Bradbury*, 438 F.3d 949 (2006).

The court in *Prete* rejected the claim that Oregon's law imposed a burden similar to the Colorado law at issue in *Meyer*. The court held that Measure 26 imposed a "lesser burden" on First Amendment rights and that Oregon had an important regulatory interest in preventing fraud and the appearance of fraud in the electoral process. Oregon also produced evidence of actual fraud committed by signature gatherers paid on a per-signature basis.

Summary of Bill:

The Legislature finds that paying signature gatherers on a per-signature basis increases the possibility of fraud.

The Legislature further finds that this practice may encourage the signature gatherer to:

- misrepresent a ballot measure;
- apply undue pressure on a person to sign a petition that the person is not qualified to sign;
- encourage signing even if the person has previously signed; or
- invite forgery.

A person who pays or receives consideration based on the number of signatures obtained on an initiative or referendum petition is guilty of a misdemeanor.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.