

SENATE BILL REPORT

SB 5356

As of January 31, 2007

Title: An act relating to paid petition signature gathering.

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

Sponsors: Senators Kline, Fairley, Fraser, Kohl-Welles, Pridemore, Regala, Poulsen, Keiser, Tom and McAuliffe.

Brief History:

Committee Activity: Government Operations & Elections: 1/30/07.

SENATE COMMITTEE ON GOVERNMENT OPERATIONS & ELECTIONS

Staff: Sharon Swanson (786-7447)

Background: In *Limit v. Maleng*, 874 F. Supp. 1138 (W.D. WA 1994), a federal district court invalidated Washington's 1993 ban on paying signature gatherers on a per-signature basis. The court invalidated the statute on political speech grounds. "Unless there is some proof of fraud or actual threat to citizen's confidence in government which 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. In *Prete v. Bradbury*, 438 F.3d 949 (9th Cir. 2006), a federal district court upheld State Measure No. 26. The court ruled that the measure and the Secretary of State's ruling implementing it were narrowly tailored to serve an important state interest in protecting the integrity of the initiative and referendum process. The court cited evidence that described numerous instances of forged signatures and false certifications submitted by petition gatherers who were paid on commission.

Summary of Bill: The Legislature's finding that payment on a per signature basis of signature gatherers for initiative and referendum petitions encourages fraud and is amended to say that this form of payment has been shown in the state and the region to be an incentive for obtaining invalid signatures and forging signatures.

It is the Legislature's intent to provide consistency between voter registration workers and initiative and referendum workers since Washington state bars per-signature payment when registering voters.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

The section of the statute is reenacted that includes payments on a per signature basis among a number of initiative and referendum petition violations that are made punishable as gross misdemeanors.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: It is important that citizens of this state ensure against fraud whether fraud has actually occurred or not. Prevention is the key. Allowing signature gatherers to be paid per signature provides incentives for fraud. It is important to allow people to be paid for the work they do but to pay by signature creates an incentive for fraudulent behavior. The initiative process is very important and it must remain a healthy, honest process for the voters of our state to have a voice in the political process. The initiative process is of the people and by the people and is a vital tool that has been in existence for nearly 100 years.

CON: There is no record of initiative gatherers committing fraud or forgery in Washington State between 1999 and 2006. The results of the Oregon law have been horrible. Initiatives in Oregon cost more, have higher incidents of fraud and forgery, and the rate of invalid petitions has increased. The distinction here is that unlike Oregon, Washington cannot demonstrate a problem with fraud or forgery. Do not fix what is not broke. What this proposed change in law is really about is preventing signature gatherers from getting sufficient signatures for valid initiatives. The Legislature wants to provide disincentives for signature gatherers to gathering as many signatures as possible. This bill is a violation of our rights.

Persons Testifying: PRO: Senator Adam Kline, prime sponsor; Steve Zemke, Taxpayers for Washington Future; Diane McDaniel, Washington State Labor Council; Shane Hamlin, Katie Blinn, Office of the Secretary of State.

CON: Tim Eyman, activist; Barbara Smith, citizen; Robert D. Baker, Washingtonians For Immigration Reform; Jonathan Bechth, Evergreen Freedom Foundation.