
Government Operations & Elections Committee

HI 517

Brief Description: Initiative and referendum.

Sponsors: .

Brief Summary of Bill

- Changes the time period for filing an initiative from 10 months to 16 months prior to the election.
- Changes violations for interfering with signature gathering from a gross misdemeanor to a misdemeanor, and such violations are subject to anti-harassment procedures, civil penalties, and prosecution for disorderly conduct.
- Permits signature gathering on sidewalks and walkways in front of store entrances and exits, and inside or outside of public buildings.
- Requires any state or local initiative validly submitted to be presented for a vote by the people.

Hearing Date: 3/5/13

Staff: Marsha Reilly (786-7135).

Background:

State Initiatives and Referenda.

The Washington Constitution reserves the right of initiative and referendum to the people. The Legislature adopted processes for initiative and referendum in 1912. The law allows:

- Initiatives to the People, where the issue is submitted for a vote of the people at the next state general election;
- Initiatives to the Legislature, where the issue is submitted to the Legislature at its next regular session;

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- Referendum Measures, where laws recently passed by the Legislature are placed on the ballot; and
- Referendum Bills, where voters adopt laws proposed by the Legislature.

Under the state Constitution, initiative petitions require signatures from 8 percent of the total number of votes cast for the Office of Governor at the last regular gubernatorial election; referendum measures require 4 percent. Initiative measures to be submitted to the people must be filed with the Secretary of State (Secretary) 10 months prior to the election, and the signature petitions must be filed not less than four months before the next general election.

A referendum measure petition must be filed with the Secretary within 90 days after the final adjournment of session in which the act is passed. It may be submitted at the next general statewide election or at a special election ordered by the Legislature.

Initiative measures proposed to the Legislature must be filed with the Secretary within 10 months prior to the election, and the signature petitions filed not less than 10 days before the regular session of the Legislature. Once submitted, the Legislature must take one of the following three actions:

- the Legislature can adopt the initiative as proposed, in which case it becomes law without a vote of the people;
- the Legislature can reject or refuse to act on the proposed initiative, in which case the initiative must be placed on the ballot at the next state general election; or
- the Legislature can approve an alternative to the proposed initiative, in which case both the original proposal and the Legislature's alternative must be placed on the ballot at the next state general election.

State and Local Initiatives and Referenda.

The state Constitution provides for initiatives and referenda only at the state level. Cities and counties that adopt home rule charters may include provisions for local initiatives and referenda. The Legislature has provided non-charter code cities with the option of adopting initiatives and referenda for local purposes. At least 60 cities and six counties in Washington have authorized initiatives and referenda. Local initiative and referendum powers may be limited by statute. In 2012 the Washington Supreme Court (Court) ruled that because the Legislature expressly granted local legislative authorities, including city councils, exclusive power to legislate on use of automated traffic safety cameras, a city initiative seeking to limit that authority was not within the local initiative power.

Interference With Signature Gathering.

The law provides penalties for violations of election law related to gathering signatures for initiatives. A person is guilty of a gross misdemeanor if he or she interferes with, or attempts to interfere with, the right of a person to sign or not sign an initiative through the use of threats, intimidation, or any other corrupt means or practice. A gross misdemeanor is punishable by imprisonment of up to 364 days or a fine of not more than \$5,000, or both.

Places for Signature Gathering.

The Court has ruled that signature gathering for initiatives may take place on private property that functions as the equivalent of a "public forum." Reasonable time, place, and manner regulations may be enforced as long as the regulations are not unreasonably restrictive.

Additional restrictions, such as an absolute prohibition on a particular type of expression, will be upheld only if narrowly drawn to accomplish a compelling governmental interest.

The access right applies to large regional shopping malls, but does not apply in small "stand-alone" grocery stores that do not invite public use for any noncommercial purpose, do not provide public services, entertainment, or meeting space, and have not previously allowed signature gathering. The Washington Court of Appeals has held that a property owner may restrict petitioning activity to a designated free-speech area.

Summary of Bill:

The Period for Filing Initiatives.

The time period for filing initiatives to the people and initiatives to the Legislature with the Secretary is changed from 10 to 16 months prior to the election at which they are submitted, allowing an additional six months for gathering signatures.

State and Local Initiatives and Referenda.

Any state or local initiative for which sufficient valid voter signatures are submitted, within the time period required, must be submitted to a vote of the people at the next election date. Government officials must facilitate, and may not obstruct, processing of initiative petitions and public votes on initiatives. Local government officials must comply with the requirements of the act for any initiative, regardless of its subject matter. The term "local legislative authority" must be construed to include the people via local initiative regardless of the subject matter of the ballot measure.

Interference With Signature Gathering.

A person interfering with a person gathering signatures or trying to sign a petition, or retaliating against or stalking any person gathering signatures or signing a petition, is subject to the anti-harassment procedures, civil penalties, and prosecution for disorderly conduct, a misdemeanor offense. Interfering with includes, but is not limited to, pushing, shoving, touching, spitting, throwing objects, yelling, screaming, being verbally abusive, other tumultuous conduct, blocking or intimidating, or maintaining an intimidating presence within 25 feet of any person gathering signatures and any person trying to sign a petition.

Public Places for Purposes of Signature Gathering.

Signature gathering and petition signing for an officially filed and processed initiative or referendum is protected activity on sidewalks and walkways, including those in front of store entrances and exits and inside or outside public buildings such as public sports stadiums, convention or exhibition centers, and public fairs.

Appropriation: None.

Fiscal Note: Not requested.