
**State Government, Elections &
Information Technology Committee**

ESSB 5397

Brief Description: Concerning disclosure in initiatives, referenda, and recall petitions.

Sponsors: Senate Committee on State Government, Tribal Relations & Elections (originally sponsored by Senators Warnick, Lias, Walsh, Nelson, O'Ban, Billig, Kuderer, King, Honeyford, Wilson, Pedersen, Hunt, Wellman, Saldaña and Carlyle).

Brief Summary of Engrossed Substitute Bill

- Requires a ballot measure sponsor or political committee that employs, or expects to employ, any person to compensate individuals for gathering signatures on a state or local initiative, referendum, or recall petition to disclose certain information to the Public Disclosure Commission about the person retained to compensate individuals for signature gathering.
- Requires persons who directly compensate an individual to gather signatures to maintain certain information on file pertaining to each paid signature gatherer.
- Prohibits compensation to any signature gatherer circulating a petition who has been convicted of election law violations, fraud, forgery, or identity theft in the last five years.

Hearing Date: 2/20/18

Staff: Desiree Omli (786-7105).

Background:

Initiative, Referendum, and Recall.

The Washington Constitution affords the people the power to propose or reject laws through the initiative and referendum process. The following initiatives and referendum are authorized:

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.

- Initiatives to the People, where if petitions are certified to have a sufficient number of signatures by registered voters, the issue is submitted for a vote of the people at the next state general election;
- Initiatives to the Legislature, where if petitions are certified to have a sufficient number of signatures by registered voters, the issue is submitted to the Legislature at its next regular session; and
- Referendum measures, where laws recently passed by the Legislature are placed on the ballot after certification of petitions signed by registered voters.

The Constitution also subjects certain elective public officers to recall and discharge upon filing of a charge by a legal voter. The sponsor of a recall must circulate a petition and obtain a certain number of signatures.

Any legal voter of the state, either individually or on behalf of an organization, may petition the Legislature, submit a proposed initiative measure to the people, or order that a referendum of all or part of any law passed by the Legislature be submitted to the people. The voter must file with the Office of the Secretary of State (Secretary) a:

- copy of the measure proposed, or the act or part of such act on which the referendum is desired;
- signed affidavit or electronic submission, that the sponsor is a registered voter; and filing fee.

Public Disclosure Commission—Penalties.

The Public Disclosure Commission (PDC) may determine, after a hearing conducted pursuant to the Administrative Procedure Act, whether a violation under the campaign disclosure and contribution statute occurred, and may assess penalties of up to \$10,000. The PDC may also refer the matter to the Attorney General or other enforcement agency.

Summary of Bill:

Disclosure Requirements.

Any ballot measure sponsor or political committee that employs, or expects to employ, any person for the purpose of compensating individuals for gathering signatures on a state or local initiative, referendum, or recall petition, within 10 days, disclose the following to the PDC about each person retained to compensate individual signature gatherers:

- the name, address, phone number, and email address of the person retained; and
- a list of the measures for which signature gatherers will be paid.

The PDC must make the information disclosed available to the public within two days of receipt. The Secretary must post a link on its website to the PDC's website for each corresponding state initiative, referendum, or recall petition disclosing this information. Any person must update their disclosure statement within five days if he or she agrees to compensate for signatures on a measure that was not previously disclosed.

For two years after the certification date of any ballot measures for which an individual was compensated for gathering signatures, the ballot measure sponsor or political committee must

ensure that each person who directly compensates an individual to gather signatures retains the following information about the signature gatherer:

- the name, permanent address and a Washington address if the signature gatherer is from out-of-state, phone number, and email address;
- a digital photograph taken within the past 12 months;
- a copy of the signature gatherer's government-issued photo identification;
- a list of the measures for which the individual will gather, or has gathered, signatures;
- documentation that the signature gatherer completed a training program outlining the rights and responsibilities of voters, signature gatherers, and property owners; and
- a confirmation that a national background check was completed and that the individual has not been convicted of a crime involving fraud, forgery, or identity theft and has not violated election laws in the past five years.

The information must be provided to the PDC or any law enforcement agency in response to an active investigation, and is exempt from public disclosure requirements. The required training program must be available electronically, and the Secretary must provide references to applicable statutes and case law for inclusion in training programs for signature gatherers

Compensating Signature Gatherers.

An individual may not be compensated for gathering signatures on petitions if the individual has been convicted of a criminal offense involving elections, fraud, forgery, or identification theft in any jurisdiction in the past five years. An individual may not be compensated for gathering signatures on petitions if the individual has been found in violation of an election law statute in any jurisdiction in the past five years.

Compensation for gathering signatures may not be conditioned on gathering other signatures on other ballot measures for free.

Other Provisions.

Failure to comply with the provisions of the act subjects an individual, ballot measure sponsor, or political committee to the PDC's statutory penalty authority. The PDC may adopt certain rules to implement provisions in the act.

Appropriation: None.

Fiscal Note: Requested on February 16, 2018.

Effective Date: The bill takes effect on January 1, 2020.