
SUBSTITUTE SENATE BILL 5386

State of Washington

65th Legislature

2018 Regular Session

By Senate State Government, Tribal Relations & Elections (originally sponsored by Senators Pedersen, Miloscia, Hunt, Fain, Billig, Carlyle, Mullet, Kuderer, Saldaña, and Frockt)

READ FIRST TIME 02/01/18.

1 AN ACT Relating to strengthening the initiative process by
2 providing for more comprehensive review before initiatives receive
3 ballot titles; amending RCW 29A.72.010, 29A.72.020, 29A.72.030, and
4 43.07.120; adding new sections to chapter 29A.72 RCW; and creating a
5 new section.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7 NEW SECTION. **Sec. 1.** Article II, section 1 of the Washington
8 state Constitution states that the first power reserved by the people
9 is the initiative process.

10 However, that power has become undermined in recent years.
11 Initiatives passed by the people have been subsequently overturned by
12 courts due to deficiencies in the drafting of those measures. This
13 comes at expense to taxpayers and undermines public confidence in the
14 initiative process.

15 Initiatives must increasingly be supported by powerful special
16 interests to reach the ballot. This contravenes the original purpose
17 of the initiative process, which is to allow citizens to participate
18 in the legislative process.

19 The legislature finds that more robust review of proposed
20 initiative measures before filing is needed for the following
21 purposes: (1) To improve the quality of initiative drafting; (2) to

1 end the cycle of unconstitutional initiatives passed by voters, but
2 struck down by courts; (3) to reduce the burdens for ordinary
3 citizens seeking to file initiatives; and (4) to return initiatives
4 to their original purpose as a counterweight to powerful interests
5 who dominate the legislative process.

6 **Sec. 2.** RCW 29A.72.010 and 2015 c 72 s 10 are each amended to
7 read as follows:

8 If any legal voter of the state, either individually or on behalf
9 of an organization, desires to petition the legislature to enact a
10 proposed measure, or submit a proposed initiative measure to the
11 people, or order that a referendum of all or part of any act, bill,
12 or law, passed by the legislature be submitted to the people, he or
13 she shall file with the secretary of state:

14 (1) A legible copy of the measure proposed, or the act or part of
15 such act on which a referendum is desired;

16 (2) If the measure proposed is an initiative, a plain statement
17 of the intent of the measure;

18 (3) A signed affidavit, or electronic submission, that the
19 sponsor is a registered voter; and

20 ~~((3))~~ (4) A filing fee prescribed under RCW 43.07.120.

21 **Sec. 3.** RCW 29A.72.020 and 2003 c 111 s 1803 are each amended to
22 read as follows:

23 (1) Upon receipt of a proposed initiative measure, and before
24 giving it a serial number, the secretary of state shall submit a copy
25 ~~((thereof))~~ of the proposed initiative measure and the sponsor's
26 statement of intent to the office of the code reviser and give notice
27 to the sponsor of such transmittal.

28 (2) Upon receipt of the measure and the sponsor's statement of
29 intent, the assistant code reviser to whom it has been assigned may
30 confer with the sponsor and shall within ~~((seven-working))~~ twenty
31 days from its receipt, review the proposal and recommend to the
32 sponsor such revision or alteration of the measure as may be deemed
33 necessary and appropriate, including:

34 (a) Wording the initiative with simplicity and clarity so that
35 the effect of the measure is not misleading or likely to confuse
36 voters; and

1 (b) Wording the initiative to comply with requirements of
2 legislative drafting such as article II, section 19 and article II,
3 section 37 of the Washington state Constitution.

4 (3) The recommendations of the code reviser's office are advisory
5 only, and the sponsor may accept or reject them in whole or in part.
6 The code reviser shall issue a certificate of review certifying that
7 he or she has reviewed the measure and that any recommendations have
8 been communicated to the sponsor. The certificate must contain such
9 recommendations and be issued whether or not the sponsor accepts such
10 recommendations. ((Within fifteen working days after notification of
11 submittal of the proposed measure to the code reviser's office, the
12 sponsor, if he or she desires to proceed with sponsorship, shall file
13 the measure together with the certificate of review with the
14 secretary of state for assignment of a serial number, and the
15 secretary of state shall then submit to the code reviser's office a
16 certified copy of the measure filed. Upon submission of the proposal
17 to the secretary of state for assignment of a serial number, the
18 secretary of state shall refuse to make such assignment unless the
19 proposal is accompanied by a certificate of review.))

20 NEW SECTION. Sec. 4. A new section is added to chapter 29A.72
21 RCW to read as follows:

22 (1) After receipt of recommendations from the code reviser, the
23 sponsor may amend the proposed initiative measure. Within seven days
24 of receipt of the certificate of review under RCW 29A.72.020(3), the
25 sponsor, if he or she desires to proceed with sponsorship, must file
26 the proposed measure with the certificate of review with the
27 secretary of state, regardless of whether the sponsor has amended the
28 measure language in response to the recommendations of the code
29 reviser.

30 (2) Upon submission of the measure and the certificate of review
31 to the secretary of state, the secretary of state must publish the
32 draft measure, along with the sponsor's statement of intent and the
33 recommendations of the code reviser under RCW 29A.72.020(2), for a
34 public review and comment process. The public review and comment
35 process shall last ten days from submission of the measure and
36 certificates of review. Any interested person may provide comment on
37 the draft measure to the secretary of state.

38 (3) At the end of the public review and comment process, the
39 secretary of state shall provide all comments received on the

1 proposed measure to the sponsor. The sponsor may amend the proposed
2 initiative measure in response to comments received during the public
3 review and comment process. Upon request, the office of the code
4 reviser may assist the sponsor.

5 (4) After the close of the public review and comment process, the
6 sponsor, if he or she desires to proceed with sponsorship, must file
7 the measure with the secretary of state. The secretary of state shall
8 assign the measure a serial number and then submit to the code
9 reviser's office a certified copy of the measure filed.

10 NEW SECTION. **Sec. 5.** A new section is added to chapter 29A.72
11 RCW to read as follows:

12 Any person may seek a declaratory judgment that a proposed
13 initiative measure is unconstitutional on its face within thirty days
14 after a measure is submitted to the secretary of state for assignment
15 of a serial number. The action must be filed in the superior court of
16 Thurston county. The action may only allege that the measure is
17 unconstitutional on its face and may not require issues of fact to be
18 resolved or the development of a record. The superior court shall
19 issue its decision within ninety days of the filing of the action.

20 **Sec. 6.** RCW 29A.72.030 and 2003 c 111 s 1804 are each amended to
21 read as follows:

22 (1) Initiative measures proposed to be submitted to the people
23 must be filed with the secretary of state within (~~ten~~) eighteen
24 months prior to the election at which they are to be submitted, and
25 the signature petitions must be filed with the secretary of state not
26 less than four months before the next general statewide election.

27 (2) Initiative measures proposed to be submitted to the
28 legislature must be filed with the secretary of state within (~~ten~~)
29 fifteen months prior to the next regular session of the legislature
30 at which they are to be submitted, and the signature petitions must
31 be filed with the secretary of state not less than ten days before
32 such regular session of the legislature.

33 (3) A referendum measure petition ordering that any act or part
34 of an act passed by the legislature be referred to the people must be
35 filed with the secretary of state within ninety days after the final
36 adjournment of the legislative session at which the act was passed.
37 It may be submitted at the next general statewide election or at a
38 special election ordered by the legislature.

1 (4) A proposed initiative or referendum measure may be filed no
2 earlier than the opening of the secretary of state's office for
3 business pursuant to RCW 42.04.060 on the first day filings are
4 permitted, and any initiative or referendum petition must be filed
5 not later than the close of business on the last business day in the
6 specified period for submission of signatures. If a filing deadline
7 falls on a Saturday, the office of the secretary of state must be
8 open for the transaction of business under this section from 8:00
9 a.m. to 5:00 p.m. on that Saturday.

10 (5) For purposes of this section, a proposed initiative measure
11 is considered filed with the secretary of state when the sponsor
12 complies with the requirements of RCW 29A.72.010.

13 (6) Collection of signatures may start no earlier than one week
14 after the general election before the measure is intended to be on
15 the ballot.

16 **Sec. 7.** RCW 43.07.120 and 2015 c 176 s 8101 are each amended to
17 read as follows:

18 (1) The secretary of state must establish by rule and collect the
19 fees in this subsection:

20 (a) For a copy of any law, resolution, record, or other document
21 or paper on file in the secretary's office;

22 (b) For any certificate under seal;

23 (c) For filing and recording trademark;

24 (d) For each deed or patent of land issued by the governor;

25 (e) For recording miscellaneous records, papers, or other
26 documents.

27 (2) The secretary of state may adopt rules under chapter 34.05
28 RCW establishing reasonable fees for the following services rendered
29 under chapter 23.95 RCW, Title 23B RCW, chapter 18.100, 19.09, 19.34,
30 19.77, 23.86, 23.90, 24.03, 24.06, 24.12, 24.20, 24.24, 24.28, 24.36,
31 25.04, 25.15, 25.10, 25.05, or 26.60 RCW:

32 (a) Any service rendered in-person at the secretary of state's
33 office;

34 (b) Any expedited service;

35 (c) The electronic or facsimile transmittal of information from
36 corporation records or copies of documents;

37 (d) The providing of information by micrographic or other
38 reduced-format compilation;

1 (e) The handling of checks, drafts, or credit or debit cards upon
2 adoption of rules authorizing their use for which sufficient funds
3 are not on deposit; and

4 (f) Special search charges.

5 (3) For each initiative to the people or initiative to the
6 legislature, the secretary of state shall collect a filing fee of two
7 hundred dollars. If the initiative is certified, one hundred dollars
8 of the filing fee will be refunded.

9 (4) To facilitate the collection of fees, the secretary of state
10 may establish accounts for deposits by persons who may frequently be
11 assessed such fees to pay the fees as they are assessed. The
12 secretary of state may make whatever arrangements with those persons
13 as may be necessary to carry out this section.

14 ((+4)) (5) The secretary of state may adopt rules for the use of
15 credit or debit cards for payment of fees.

16 ((+5)) (6) No member of the legislature, state officer, justice
17 of the supreme court, judge of the court of appeals, or judge of the
18 superior court may be charged for any search relative to matters
19 pertaining to the duties of his or her office; nor may such official
20 be charged for a certified copy of any law or resolution passed by
21 the legislature relative to his or her official duties, if such law
22 has not been published as a state law.

--- END ---