

LEGISLATIVE BILL 637

Approved by the Governor April 20, 1989

Introduced by Baack, 47

AN ACT relating to elections; to amend sections 32-704, 32-705, 49-1461, and 49-1474.01, Reissue Revised Statutes of Nebraska, 1943; to change provisions regarding the filing of initiative and referendum petitions; to provide deadlines for filing such petitions; to change a provision relating to the payment of petition circulators; to provide for the filing of campaign statements as prescribed; to harmonize provisions; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. That section 32-704, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

32-704. (1) Upon each sheet for petitioners' signatures shall be printed a full and correct copy of the title and text of the law or amendment to the constitution so proposed or the measure sought to be referred to the electors by the initiative or referendum petition, as the case may be, but such petition may be filed with the Secretary of State in numbered sections for convenience in handling. Not more than twenty signatures on one sheet shall be counted.

(2) Prior to obtaining any signatures to the petition, a copy of the form to be used shall be filed with the Secretary of State, together with a sworn statement containing the name or names and street addresses of every person, corporation, or association sponsoring the petition, or contributing or pledging contribution of money or other things of value for the purpose of defraying the cost of the preparation, printing, or circulation thereof. For the purpose of preventing fraud, deception, and misrepresentation, the person presenting the petition shall, at the same time, file with the Secretary of State an itemized verified statement containing the then-known names and addresses of all persons, associations of persons, and corporations contributing money or other things of value toward, and receiving money or other things of value for, the preparation, circulation, or printing thereof.

showing the total amount to date contributed, pledged, or received by each.

(3) Within sixty days after all signed petitions have been filed with the Secretary of State, the person presenting the petition shall file with the Secretary of State a final supplemental itemized verified statement containing all known names and addresses of all persons, associations of persons, and corporations contributing money or other things of value toward, and receiving money or other things of value for, the preparation, circulation, or printing thereof, showing the total amount contributed, pledged, or received by each, at the end of each calendar month, up to and including the month prescribed in section 2 of this act as the deadline for filing such petitions, any additions, corrections, or other changes to the information required in the sworn statement filed pursuant to this section. Such additions, corrections, or other changes shall be filed regardless of whether or not petitions have or will be filed with the Secretary of State.

(3) (4) Upon the presentation of such petition for filing pursuant to section 2 of this act, the Secretary of State, with the aid and assistance of the county clerks or the election commissioners, shall determine its validity and sufficiency.

To determine the validity and sufficiency of signatures on the pages of the filed petition, the Secretary of State shall have the authority to deliver the various pages of such filed petition to the county clerk or election commissioner for the county stated on each page of the petition. The pages of the petition may be delivered to each county clerk or election commissioner by hand carrier, by use of law enforcement officials, or by certified mail return receipt requested. Upon receipt of the pages of the petition, the county clerk or election commissioner shall issue to the Secretary of State a written receipt that the pages of the petition are in the custody of the county clerk or election commissioner. The county clerk or election commissioner shall forthwith compare each signature of the persons signing and the circulator upon each of such pages of the petition with the voter registration records to determine if the circulators were registered voters on the date of signing the petition and to determine if the signers were registered voters on or before the date on which the petition was required to be filed with the Secretary of State for signature verification. In addition, the county clerk or election

commissioner shall compare the signer's street and street number or voting precinct and city, village, or post office address with the voter registration records to determine whether the signer was a registered voter in the precinct for which he or she was registered. All signatures and addresses shall be presumed to be valid signatures and addresses if the county clerk or election commissioner has found the signers to be registered voters on or before the date on which the petition was required to be filed with the Secretary of State for signature verification, except that this presumption shall not be conclusive and may be rebutted by any credible evidence which the county clerk or election commissioner finds sufficient. The express purpose of the comparison of signatures and addresses with the voter registration records, in addition to helping to determine validity of such petition, the sufficiency of such petition, and the electoral qualifications of the signers, shall be to prevent fraud, deception, and misrepresentation in the petition process.

(4) (5) Upon completion of the comparison of signatures and addresses with the voter registration records, the county clerk or election commissioner shall prepare in writing a certification under seal setting forth the name and address of each signer or circulator, along with the petition page number and line number, found not to be a registered voter, and if the reason for the challenge of the signature or address is other than the nonregistration of such signer, the county clerk or election commissioner shall set forth the reason for the challenge of the signature. If the county clerk or election commissioner determines that a signer has affixed his or her signature more than once to any page or pages of such petition and that only one person is registered by that name, the county clerk or election commissioner shall certify the names of the duplicate signatures to the Secretary of State under seal in the same manner as provided in this section. The Secretary of State shall strike from the pages of the petition all such duplicate signatures, and these signatures shall not be added to the total number of valid signatures. The county clerk or election commissioner shall forthwith deliver the pages of the petition and certification to the Secretary of State. Such delivery shall be by hand carrier, by use of law enforcement officials, or by certified mail return receipt requested. Upon receipt of such pages of the petition from the county clerk or election commissioner, the Secretary of State shall issue a written receipt

indicating the number of pages of the petition that are in his or her custody. The county clerk or election commissioner shall return all pages of the petition to the Secretary of State within forty days after the receipt of such pages from the Secretary of State. The Secretary of State may grant to the county clerk or election commissioner an additional ten days to return all pages of the petition in extraordinary circumstances.

~~(5)~~ ~~(6)~~ When all petitions and certifications have been received by the Secretary of State, he or she shall total the valid signatures and determine if constitutional and statutory requirements have been met. A copy of every such determination shall immediately be served by certified or registered mail by the Secretary of State upon the person filing such initiative or referendum petition. If the petition is found to be valid and sufficient, the Secretary of State shall proceed to place the measure on the general election ballot according to the provisions of law. The Secretary of State shall have the authority to adopt and promulgate by rule and regulation all necessary forms and procedural instructions to carry out the intent and provisions of this section.

~~(6)~~ ~~(7)~~ If any such measure shall, at the ensuing election, be approved by the people, then the copies of the petition filed with the Secretary of State and a certified copy of the Governor's proclamation declaring the same to have been approved by the people shall be identified and preserved. The Secretary of State shall cause every such measure and amendment to the Nebraska Constitution so approved by the people to be printed with the general laws enacted by the next ensuing session of the Legislature with the date of the Governor's proclamation declaring the same to have been approved by the people.

Sec. 2. (1) Petitions invoking referendum shall be filed in the office of the Secretary of State within ninety days after the Legislature at which the act sought to be referred was passed has adjourned sine die or has adjourned for more than ninety days.

(2) Initiative petitions shall be filed in the office of the Secretary of State not less than four months prior to the general election at which the proposal is to be voted on.

Sec. 3. That section 32-705, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

32-705. Every sheet of every petition

mentioned in sections 32-702 to 32-704 containing signatures shall have upon it and below the signatures an affidavit in substantially the following form:

STATE OF NEBRASKA)
) ss.
COUNTY OF)

..... being first duly sworn,

Name of Circulator

deposes and says that he or she is the circulator of the foregoing petition containing signatures; that he or she is a registered voter of the State of Nebraska; that each person whose name appears on the petition sheet personally signed the petition in the presence of affiant; that the date to the left of each signature is the correct date on which the signature was affixed to the petition and that the date was personally affixed by the person signing such petition; that affiant believes that each signer has stated his or her name, street, and street number or voting precinct; and his or her city, village, or post office address correctly; that affiant believes that each petitioner was a registered voter of the state and county at the time of signing the petition or will be a registered voter of the state and county on or before the date on which the petition is required to be filed with the Secretary of State for signature verification and qualified to sign the petition; and that affiant stated to each petitioner before he or she affixed his or her signature the purpose of such petition.

.....
Circulator

.....
Address

Subscribed and sworn to before me, a notary public, this day of 19...., at, Nebraska.

.....
Notary Public

Every sheet of every petition mentioned in sections 32-702 to 32-704 containing signatures shall have upon it and above the signatures a statement in substantially the following form:

WARNING: Any person willfully and knowingly signing any name other than his or her own to any petition, any person willfully and knowingly signing his or her name more than once for the same measure at one election, any person who willfully and knowingly circulates a petition if he or she is not, at the time of circulating the same, a registered voter and

qualified to circulate the same, any person who willfully and knowingly signs a petition if he or she is not a registered voter at the time of signing the petition or will not be a registered voter on or before the date on which the petition is required to be filed with the Secretary of State for signature verification and qualified to sign the petition, any person who willfully and knowingly falsely swears to any signature upon any such petition, any person who willfully and knowingly accepts money or other things of value for signing the petition, or any circulator who willfully and knowingly offers money or other things of value in exchange for a signature upon any such petition shall be guilty of a felony. Such statement shall be printed in boldface type.

Every circulator of a petition shall be of the constitutionally prescribed age or upwards and a resident and a registered voter of the State of Nebraska. Every circulator circulating petitions pursuant to sections 32-702 to 32-713 outside of the county in which he or she is registered to vote shall be registered with the Secretary of State who shall provide forms for this purpose. The Secretary of State shall make available to the counties a list of registered circulators for each petition drive. Any person willfully and knowingly circulating a petition outside of the county in which he or she is registered to vote without registering with the Secretary of State shall be guilty of a Class I misdemeanor. Any person who willfully and knowingly hires or pays another or receives payment from another in money, goods, or other benefit as remuneration for circulating a petition, except for the payment of lawful expenses, shall be guilty of a Class IV felony. Any circulator circulating petitions under sections 32-702 to 32-713 shall not be hired and salaried for the express purpose of circulating petitions. A circulator may be paid for his or her expenses incident to circulation of petitions, such as meals, travel, and lodging. All signatures secured in a manner contrary to sections 32-702 to 32-713 shall not be counted. Clerical and technical errors in a petition shall be disregarded if the forms herein prescribed in this section are substantially followed.

Sec. 4. That section 49-1461, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

49-1461. In addition to the campaign statements required to be filed pursuant to the

provisions of section 49-1459 sections 49-1459 and 49-1462, a ballot question committee shall file a campaign statement as required by sections 49-1461 to 49-147138 within thirty-five days after the final deadline for which certification is to be made by the Secretary of State, the closing date of which shall be the thirtieth day following such deadline: the Nebraska Political Accountability and Disclosure Act according to the following schedule:

(1) The first campaign statement shall be filed not later than fifty-five days before the deadline for filing petitions with the Secretary of State as provided in section 2 of this act. The closing date for the campaign statement shall be sixty days before the deadline for filing such petitions;

(2) The second campaign statement shall be filed not later than the deadline for filing petitions with the Secretary of State as provided in section 2 of this act. The closing date for the campaign statement shall be five days before the deadline for filing such petitions; and

(3) A final campaign statement shall be filed not later than thirty days after the deadline for filing petitions with the Secretary of State as provided in section 2 of this act. The closing date for the campaign statement shall be twenty-five days after the deadline for filing such petitions.

The campaign statements required to be filed pursuant to this section shall be filed whether or not petitions have or will be filed with the Secretary of State. Any person who fails to file a campaign statement with the commission pursuant to this section shall be subject to late filing fees as provided in section 49-1463.

Sec. 5. That section 49-1474.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

49-1474.01. (1) The person who pays for the production, distribution, or posting of a billboard, placard, poster, pamphlet, or other printed matter relating to a candidate or ballot ~~issue~~ question shall cause a disclaimer containing the name and street address of the person to appear on such matter. The person who pays for a radio or television advertisement relating to a candidate or ballot ~~issue~~ question shall cause a disclaimer containing the name of such person to be included in the advertisement, and the radio or television station shall, for a period of at least six months, keep the street address of such person on file

and divulge it to any person upon request.

(2) The size and placement of the disclaimer shall be determined by rules and regulations adopted and promulgated by the commission. The rules and regulations shall exempt from the disclaimer required by this section windshield stickers, yard signs, bumper stickers, campaign buttons, and balloons and may also exempt other items relating to a candidate or committee which are printed or reproduced at the request of such candidate or committee.

(3) Any person who knowingly violates the provisions of this section shall be guilty of a Class IV misdemeanor.

Sec. 6. That original sections 32-704, 32-705, 49-1461, and 49-1474.01, Reissue Revised Statutes of Nebraska, 1943, are repealed.