

SECOND REGULAR SESSION

HOUSE BILL NO. 2180

95TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES NIEVES (Sponsor), SCHOELLER, SMITH (150), HARRIS, JONES (89), EMERY, COOPER, SCHAAF, FISHER (125), ALLEN, GUEST, RUESTMAN, JONES (117), DAVIS, DEEKEN, McGHEE AND MUNZLINGER (Co-sponsors).

5127L.01I

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 116.010, 116.020, 116.050, 116.060, 116.080, 116.090, 116.100, 116.120, 116.130, 116.175, 116.180, 116.190, 116.320, and 116.332, RSMo, and to enact in lieu thereof fourteen new sections relating to initiative and referendum petitions, with penalty provisions.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 116.010, 116.020, 116.050, 116.060, 116.080, 116.090, 116.100, 116.120, 116.130, 116.175, 116.180, 116.190, 116.320, and 116.332, RSMo, are repealed and fourteen new sections enacted in lieu thereof, to be known as sections 116.010, 116.020, 116.050, 116.060, 116.080, 116.090, 116.100, 116.120, 116.130, 116.175, 116.180, 116.190, 116.320, and 116.332, to read as follows:

116.010. As used in this chapter, unless the context otherwise indicates, **the following terms mean:**

(1) "County" [means] , any one of the several counties of this state or the city of St. Louis;

(2) "**Day**", a calendar day, including weekends and holidays;

(3) "Election authority" [means] , a county clerk or board of election commissioners, as established by section 115.015, RSMo;

[(3)] (4) "General election" [means] , the first Tuesday after the first Monday in November in even-numbered years;

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

10 [(4)] (5) "Official ballot title" [means] , the summary statement and fiscal note summary
11 prepared for all statewide ballot measures in accordance with the provisions of this chapter
12 which shall be placed on the ballot and, when applicable, shall be the petition title for initiative
13 or referendum petitions;

14 [(5)] (6) "Statewide ballot measure" [means] , a constitutional amendment submitted by
15 initiative petition, the general assembly or a constitutional convention; a statutory measure
16 submitted by initiative or referendum petition; the question of holding a constitutional
17 convention; and a constitution proposed by a constitutional convention;

18 [(6)] (7) "Voter" [means] , a person registered to vote in accordance with section
19 115.151, RSMo.

116.020. 1. This chapter shall apply to elections on statewide ballot measures. The
2 election procedures contained in chapter 115, RSMo, shall apply to elections on statewide ballot
3 measures, except to the extent that the provisions of chapter 116 directly conflict, in which case
4 chapter 116 shall prevail, and except to the extent that a constitutional convention's provisions
5 under section 3(c) of article XII of the constitution directly conflict, in which case the
6 convention's provisions shall prevail.

7 **2. The power reserved by the people of this state under section 49, article III,**
8 **Constitution of Missouri, to propose and enact or reject laws and amendments to the**
9 **Constitution of Missouri by the initiative, independent of the general assembly, and to**
10 **approve or reject by referendum any act of the general assembly, shall be inviolate. No**
11 **mistake, error, omission by parties other than a person signing a petition under this**
12 **chapter, including but not limited to petition circulators, proponents of a petition, any**
13 **person involved in the gathering of signatures for and the filing of a petition, and any**
14 **government official or employee, shall invalidate the signature of any person signing a**
15 **petition as long as the person's intent in signing the petition is reasonably clear.**

116.050. 1. Initiative and referendum petitions filed under the provisions of this chapter
2 shall consist of pages of a uniform size. Each page, excluding the text of the measure, shall be
3 no larger than eight and one-half by fourteen inches. Each page of an initiative petition shall be
4 attached to or shall contain a full and correct text of the proposed measure. Each page of a
5 referendum petition shall be attached to or shall contain a full and correct text of the measure on
6 which the referendum is sought.

7 2. The full and correct text of all initiative and referendum petition measures shall:

8 (1) Contain all matter which is to be deleted included in its proper place enclosed in
9 brackets **or in a strike-through font**, and all new matter shown underlined;

10 (2) Include all sections of existing law or of the constitution which would be **explicitly**
11 repealed by the measure; and

12 (3) Otherwise conform to the provisions of article III, section 28 and article III, section
13 50 of the constitution and those of this chapter.

116.060. Any registered voter of the state of Missouri may sign initiative and referendum
2 petitions. However, each page of an initiative or referendum petition shall contain signatures of
3 voters from only one county. Each petition page filed with the secretary of state shall have the
4 county where the signers are registered designated in the upper right-hand corner of such page.
5 Signatures of voters from counties other than the one designated by the circulator in the upper
6 right-hand corner on a given page shall not be counted as valid **unless such voter, or the**
7 **proponent of the petition, properly identifies the voter's county of residence and shows**
8 **proof of the voter's registration within thirty days of the issuance of the certificate of**
9 **sufficiency or insufficiency by the secretary of state.**

116.080. 1. Each petition circulator shall be at least eighteen years of age and registered
2 with the secretary of state. Signatures collected by any circulator who has not registered with
3 the secretary of state pursuant to this chapter on or before 5:00 p.m. on the final day for filing
4 petitions with the secretary of state shall not be counted **unless proof of the authenticity of the**
5 **signatures is provided within thirty days of the issuance of the certificate of sufficiency or**
6 **insufficiency by the secretary of state.**

7 2. Each petition circulator shall supply the following information to the secretary of
8 state's office:

- 9 (1) Name of petition;
10 (2) Name of circulator;
11 (3) Residential address, including street number, city, state and zip code;
12 (4) Mailing address, if different;
13 (5) Have you been or do you expect to be paid for soliciting signatures for this petition?
14 ☐ YES ☐ NO;
15 (6) If the answer to subdivision (5) is yes, then identify the payor;
16 (7) Signature of circulator.

17 3. The circulator information required in subsection 2 of this section shall be submitted
18 to the secretary of state's office with the following oath and affirmation:

19 I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL
20 STATEMENTS MADE BY ME ARE TRUE AND CORRECT.

21 4. Each petition circulator shall subscribe and swear to the proper affidavit on each
22 petition page such circulator submits before a notary public commissioned in Missouri. When
23 notarizing a circulator's signature, a notary public shall sign his or her official signature and affix
24 his or her official seal to the affidavit only if the circulator personally appears before the notary
25 and subscribes and swears to the affidavit in his or her presence.

26 5. Any circulator who falsely swears to a circulator's affidavit knowing it to be false is
27 guilty of a class A misdemeanor punishable, notwithstanding the provisions of section [560.021]
28 **560.016**, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county
29 jail or a fine not to exceed ten thousand dollars or both.

 116.090. 1. Any person who signs any name other than his own to any petition, or who
2 knowingly signs his or her name more than once for the same measure for the same election, or
3 who knows he or she is not at the time of signing or circulating the same a Missouri registered
4 voter and a resident of this state, shall, upon conviction thereof, be guilty of a class A
5 misdemeanor punishable, notwithstanding the provisions of section [560.021] **560.016**, RSMo,
6 to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not
7 to exceed ten thousand dollars or both.

8 2. Any person who knowingly accepts or offers money or anything of value to another
9 person in exchange for a signature on a petition is guilty of a class A misdemeanor punishable,
10 notwithstanding the provisions of section [560.021] **560.016**, RSMo, to the contrary, for a term
11 of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand
12 dollars or both.

13 **3. (1) A person commits the crime of intentional misrepresentation of a petition if**
14 **the person knowingly and fraudulently gathers signatures for a petition under this chapter.**
15 **As used in this subsection, "fraudulently gathering signatures" includes:**

16 **(a) Causing a voter to sign a petition other than the one the voter intended to sign;**
17 **(b) Forging or falsifying signatures.**

18 **(2) Notwithstanding provisions of section 560.016 to the contrary, intentional**
19 **misrepresentation of a petition is a misdemeanor punishable by a term of imprisonment**
20 **not to exceed one year in the county jail, or by a fine not to exceed ten thousand dollars,**
21 **or both such imprisonment and fine.**

22 **4. (1) A person commits the crime of malicious obstruction of the signing of a**
23 **petition if the person maliciously intimidates, obstructs, or otherwise prevents a voter from**
24 **signing a petition under this chapter, or if the person attempts to intimidate, obstruct, or**
25 **otherwise prevent a voter from signing a petition under this chapter.**

26 **(2) Notwithstanding provisions of section 560.016 to the contrary, malicious**
27 **obstruction of the signing of a petition is a misdemeanor punishable by a term of**
28 **imprisonment not to exceed one year in the county jail, or by a fine not to exceed ten**
29 **thousand dollars, or both such imprisonment and fine.**

30 **(3) No reasonable effort to inform or educate a potential signer of a petition shall**
31 **be construed to be malicious obstruction of the signing of a petition under this section.**

116.100. The secretary of state shall not accept any referendum petition submitted later than 5:00 p.m. on the final day for filing referendum petitions. The secretary of state shall not accept any initiative petition submitted later than 5:00 p.m. on the final day for filing initiative petitions. All pages shall be submitted at one time. When an initiative or referendum petition is submitted to the secretary of state, the signature pages shall be in order and numbered sequentially by county, except in counties that include multiple congressional districts, the signatures may be ordered and numbered using an alternate numbering scheme approved in writing by the secretary of state prior to submission of the petition. **Signature pages shall be arranged in file folders, with no more than one hundred pages in each folder. Each file folder shall be labeled with the contents, indicating the county in which the signatures were gathered and the page numbers of the signature pages in the folder.** Any [petition] folder that is not submitted in accordance with this section, disregarding clerical and merely technical errors, shall be rejected as insufficient. **All folders submitted in substantial compliance with this section shall be accepted.** After verifying the count of signature pages, the secretary of state shall issue a receipt indicating the number of pages presented from each county. When a person submits a petition he or she shall designate to the secretary of state the name and the address of the person to whom any notices shall be sent under sections 116.140 and 116.180.

116.120. 1. When an initiative or referendum petition is submitted to the secretary of state, he or she shall examine the petition to determine whether it complies with the Constitution of Missouri and with this chapter. **Except as provided in section 116.080,** signatures on petition pages that have been collected by any person who is not properly registered with the secretary of state as a circulator shall not be counted as valid. **Except as provided in section 116.190,** signatures on petition pages that do not have the official ballot title affixed to the page shall not be counted as valid. The secretary of state may verify the signatures on the petition by use of random sampling. The random sample of signatures to be verified shall be drawn in such a manner that every signature properly filed with the secretary of state shall be given an equal opportunity to be included in the sample. The process for establishing the random sample and determining the statistically valid result shall be established by the secretary of state. Such a random sampling shall include an examination of five percent of the signatures.

2. If the random sample verification establishes that the number of valid signatures is less than ninety percent of the number of qualified voters needed to find the petition sufficient in a congressional district, the petition shall be deemed to have failed to qualify in that district. In finding a petition insufficient, the secretary of state does not need to verify all congressional districts on each petition submitted if verification of only one or more districts establishes the petition as insufficient.

19 3. If the random sample verification establishes that the number of valid signatures total
20 more than one hundred ten percent of the number of qualified voters needed to find the petition
21 sufficient in a congressional district, the petition shall be deemed to qualify in that district.

22 4. If the random sampling shows the number of valid signatures within a congressional
23 district is within ninety to one hundred ten percent of the number of signatures of qualified voters
24 needed to declare the petition sufficient in that district, the secretary of state shall order the
25 examination and verification of each signature filed.

 116.130. 1. The secretary of state may send copies of petition pages to election
2 authorities to verify that the persons whose names are listed as signers to the petition are
3 registered voters. Such verification may either be of each signature or by random sampling as
4 provided in section 116.120, as the secretary shall direct. If copies of the petition pages are sent
5 to an election authority for verification, such copies shall be sent pursuant to the following
6 schedule:

7 (1) Copies of all pages from not less than one petition shall be received in the office of
8 the election authority not later than two weeks after the petition is filed in the office of secretary
9 of state;

10 (2) Copies of all pages of a total of three petitions shall be received in the office of the
11 election authority not later than three weeks after the petition is filed in the office of the secretary
12 of state;

13 (3) If more than three petitions are filed, all copies of petition pages, including those
14 petitions selected for verification by random sample pursuant to section 116.120, shall be
15 received in the office of the election authority not later than the fourth week after the petition is
16 filed in the office of the secretary of state.

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18 Each election authority shall check the signatures against voter registration records in the election
19 authority's jurisdiction, but the election authority shall count as valid only the signatures of
20 persons registered as voters in the county named in the circulator's affidavit. **Signatures of**
21 **registered voters from other counties may be reclaimed under section 116.060.** Signatures
22 shall not be counted as valid if they have been struck through or crossed out.

23 2. If the election authority is requested to verify the petition by random sampling, such
24 verification shall be completed and certified not later than thirty days from the date that the
25 election authority receives the petition from the secretary of state. If the election authority is to
26 verify each signature, such verification must be completed, certified and delivered to the
27 secretary of state by 5:00 p.m. on the last Tuesday in July prior to the election, or in the event of
28 complete verification of signatures after a failed random sample, full verification shall be
29 completed, certified and delivered to the secretary of state by 5:00 p.m. on the last Tuesday in

30 July or by 5:00 p.m. on the Friday of the fifth week after receipt of the signatures by the local
31 election authority, whichever is later.

32 3. If the election authority or the secretary of state determines that the congressional
33 district number written after the signature of any voter is not the congressional district of which
34 the voter is a resident, the election authority or the secretary of state shall correct the
35 congressional district number on the petition page. Failure of a voter to give the voter's correct
36 congressional district number shall not by itself be grounds for not counting the voter's signature.

37 4. The election authority shall return the copies of the petition pages to the secretary of
38 state with annotations regarding any invalid or questionable signatures which the election
39 authority has been asked to check by the secretary of state. The election authority shall verify
40 the number of pages received for that county, and also certify the total number of valid signatures
41 of voters from each congressional district which the election authority has been asked to check
42 by the secretary of state.

43 5. The secretary of state is authorized to adopt rules to ensure uniform, complete, and
44 accurate checking of petition signatures either by actual count or random sampling. No rule or
45 portion of a rule promulgated pursuant to this section shall become effective unless it has been
46 promulgated pursuant to the provisions of chapter 536, RSMo.

47 6. After a period of three years from the time of submission of the petitions to the
48 secretary of state, the secretary of state, if the secretary determines that retention of such petitions
49 is no longer necessary, may destroy such petitions.

116.175. 1. Except as provided in section 116.155, upon receipt from the secretary of
2 state's office of any petition sample sheet, joint resolution or bill, the auditor shall assess the
3 fiscal impact of the proposed measure. The state auditor may consult with the state departments,
4 local government entities, the general assembly and others with knowledge pertinent to the cost
5 of the proposal. Proponents or opponents of any proposed measure may submit to the state
6 auditor a proposed statement of fiscal impact estimating the cost of the proposal in a manner
7 consistent with the standards of the governmental accounting standards board and section
8 23.140, RSMo, provided that all such proposals are received by the state auditor within ten days
9 of his or her receipt of the proposed measure from the secretary of state.

10 2. Within twenty days of receipt of a petition sample sheet, joint resolution or bill from
11 the secretary of state, the state auditor shall prepare a fiscal note and a fiscal note summary for
12 the proposed measure and forward both to the attorney general.

13 3. The fiscal note and fiscal note summary shall state the measure's estimated cost or
14 savings, if any, to state or local governmental entities. The fiscal note summary shall contain no
15 more than fifty words, excluding articles, which shall summarize the fiscal note in language
16 neither argumentative nor likely to create prejudice either for or against the proposed measure.

17 4. The attorney general shall, within ten days of receipt of the fiscal note and the fiscal
18 note summary, approve the legal content and form of the fiscal note summary prepared by the
19 state auditor and shall forward notice of such approval to the state auditor.

20 [5. If the attorney general or the circuit court of Cole County determines that the fiscal
21 note or the fiscal note summary does not satisfy the requirements of this section, the fiscal note
22 and the fiscal note summary shall be returned to the auditor for revision. A fiscal note or fiscal
23 note summary that does not satisfy the requirements of this section also shall not satisfy the
24 requirements of section 116.180.]

 116.180. Within three days after receiving the official summary statement the approved
2 fiscal note summary and the fiscal note relating to any statewide ballot measure, the secretary of
3 state shall certify the official ballot title in separate paragraphs with the fiscal note summary
4 immediately following the summary statement of the measure and shall deliver a copy of the
5 official ballot title and the fiscal note to the speaker of the house or the president pro tem of the
6 legislative chamber that originated the measure or, in the case of initiative or referendum
7 petitions, to the person whose name and address are designated under section 116.332. Persons
8 circulating the petition shall affix the official ballot title to each page of the petition prior to
9 circulation [and] . **Except as provided in section 116.190**, signatures shall not be counted if the
10 official ballot title is not affixed to the page containing such signatures.

 116.190. 1. Any citizen who wishes to challenge the official ballot title or the fiscal note
2 prepared for a proposed constitutional amendment submitted by the general assembly, by
3 initiative petition, or by constitutional convention, or for a statutory initiative or referendum
4 measure, may bring an action in the circuit court of Cole County. The action [must] **shall** be
5 brought within ten days after the official ballot title is certified by the secretary of state in
6 accordance with the provisions of this chapter. **Changes to the official ballot title resulting**
7 **from actions brought later than ten days after the official ballot title is certified by the**
8 **secretary of state shall have no effect on the validity of signatures collected on petition**
9 **sheets that contain the original official ballot title.**

10 2. The secretary of state shall be named as a party defendant in any action challenging
11 the official ballot title prepared by the secretary of state. When the action challenges the fiscal
12 note or the fiscal note summary prepared by the auditor, the state auditor shall also be named as
13 a party defendant. **If the challenged ballot title is from an initiative or referendum, and a**
14 **party other than the proponent of the measure initiates the challenge, the proponent shall**
15 **receive copies of all communications and court documents relating to the challenge as if the**
16 **proponent were a party defendant, and shall be allowed to intervene in the case if the**
17 **proponent seeks to intervene.** The president pro tem of the senate, the speaker of the house and
18 the sponsor of the measure and the secretary of state shall be the named party defendants in any

19 action challenging the official summary statement, fiscal note or fiscal note summary prepared
20 pursuant to section 116.155.

21 3. The petition shall state the reason or reasons why the summary statement portion of
22 the official ballot title is insufficient or unfair and shall request a different summary statement
23 portion of the official ballot title. Alternatively, the petition shall state the reasons why the fiscal
24 note or the fiscal note summary portion of the official ballot title is insufficient or unfair and
25 shall request a different fiscal note or fiscal note summary portion of the official ballot title.

26 4. The action shall be placed at the top of the civil docket. Insofar as the action
27 challenges the summary statement portion of the official ballot title, the court shall consider the
28 petition, hear arguments, and in its decision certify the summary statement portion of the official
29 ballot title to the secretary of state **within fifty-five days of the original certification by the**
30 **secretary of state.** Insofar as the action challenges the fiscal note or the fiscal note summary
31 portion of the official ballot title, the court shall consider the petition, hear arguments, and in its
32 decision[, either] certify the fiscal note or the fiscal note summary portion of the official ballot
33 title to the secretary of state [or remand the fiscal note or the fiscal note summary to the auditor
34 for preparation of a new fiscal note or fiscal note summary pursuant to the procedures set forth
35 in section 116.175] **within fifty-five days of the original certification by the secretary of**
36 **state.** Any party to the suit may appeal [to the supreme court] within ten days after a circuit
37 court decision. **The court of appeals shall render a decision within thirty days of the filing**
38 **of such appeal. Any party to the suit may appeal to the supreme court within ten days of**
39 **the appeals court's decision. The supreme court shall render a decision within thirty days**
40 **of the filing of such appeal.** In making the legal notice to election authorities under section
41 116.240, and for the purposes of section 116.180, the secretary of state shall certify the language
42 [which] **certified by the court [certifies] to [him] the secretary of state within twenty-four**
43 **hours.**

116.320. 1. Each statewide ballot measure receiving a majority of affirmative votes is
2 adopted.

3 2. If voters approve two or more conflicting statutes at the same election, the statute
4 receiving the largest affirmative vote shall prevail, even if that statute did not receive the greatest
5 majority of affirmative votes.

6 3. If voters approve two or more conflicting constitutional amendments at the same
7 election, the amendment receiving the largest affirmative vote shall prevail, even if that
8 amendment did not receive the greatest majority of affirmative votes.

9 4. **Any portion of any ballot measure approved by the voters that does not conflict**
10 **with another ballot measure approved by the voters at the same election shall be adopted.**

116.332. 1. Before a constitutional amendment petition, a statutory initiative petition,
2 or a referendum petition may be circulated for signatures, a sample sheet must be submitted to
3 the secretary of state in the form in which it will be circulated. When a person submits a sample
4 sheet of a petition he or she shall designate to the secretary of state the name and address of the
5 person to whom any notices shall be sent pursuant to sections 116.140 and 116.180. The
6 secretary of state shall refer a copy of the petition sheet to the attorney general **within forty-eight**
7 **hours of the submission of the petition** for his **or her** approval and to the state auditor **within**
8 **forty-eight hours of the submission of the petition** for purposes of preparing a fiscal note and
9 fiscal note summary. The secretary of state and attorney general [must] **shall** each review the
10 petition for sufficiency as to form and approve or reject the form of the petition, stating the
11 reasons for rejection, if any.

2. Upon receipt of a petition from the office of the secretary of state, the attorney general
13 shall examine the petition as to form. If the petition is rejected as to form, the attorney general
14 shall forward his or her comments to the secretary of state within ten days after receipt of the
15 petition by the attorney general. If the petition is approved as to form, the attorney general shall
16 forward his or her approval as to form to the secretary of state within ten days after receipt of the
17 petition by the attorney general.

3. The secretary of state shall review the comments and statements of the attorney
19 general as to form and make a final decision as to the approval or rejection of the form of the
20 petition. The secretary of state shall send written notice to the person who submitted the petition
21 sheet of the approval within [thirty] **fifteen** days after submission of the petition sheet. The
22 secretary of state shall send written notice if the petition has been rejected, together with reasons
23 for rejection, within [thirty] **fifteen** days after submission of the petition sheet.

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