

SECOND REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 1749
102ND GENERAL ASSEMBLY

3166H.02C

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal sections 116.030, 116.040, 116.050, 116.080, 116.090, 116.110, 116.130, 116.153, 116.190, 116.200, 116.332, and 116.334, RSMo, and to enact in lieu thereof twelve new sections relating to initiative petitions and referendums.

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

Section A. Sections 116.030, 116.040, 116.050, 116.080, 116.090, 116.110, 116.130, 116.153, 116.190, 116.200, 116.332, and 116.334, RSMo, are repealed and twelve new sections enacted in lieu thereof, to be known as sections 116.030, 116.040, 116.045, 116.050, 116.080, 116.090, 116.110, 116.130, 116.190, 116.200, 116.332, and 116.334, to read as follows:

116.030. The following shall be substantially the form of each page of referendum petitions on any law passed by the general assembly of the state of Missouri:

County _____

Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section ~~[560.024]~~ **558.002**, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any referendum petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

PETITION FOR REFERENDUM

To the Honorable _____, Secretary of State for the state of Missouri:

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.

15 We, the undersigned, registered voters of the state of Missouri and ___
 16 ___ County (or City of St. Louis), respectfully order that the Senate (or
 17 House) Bill No. _____ entitled (title of law), passed by the _____
 18 general assembly of the state of Missouri, at the _____ regular (or
 19 special) session of the _____ general assembly, shall be referred to the
 20 voters of the state of Missouri, for their approval or rejection, at the
 21 general election to be held on the _____ day of _____, _____,
 22 unless the general assembly shall designate another date, and each for
 23 himself or herself says: I have personally signed this petition; I am a
 24 registered voter of the state of Missouri and _____ County (or City of
 25 St. Louis); my registered voting address and the name of the city, town
 26 or village in which I live are correctly written after my name.

27 (Official Ballot title) _____

28 CIRCULATOR'S AFFIDAVIT

29 State Of Missouri,

30 County Of _____

31 I, _____, being first duly sworn, say (print or type names of signers)

32 REGISTERED

33	DATE	VOTING	ZIP	CONGR.	
34	NAME	SIGNED	ADDRESS	CODE	DIST. NAME
35	(Signature)		(Street) (City,		(Printed or
36			Town or Village)		Typed)

37 (Here follow numbered lines for signers)

38 signed this page of the foregoing petition, and each of them signed his
 39 or her name thereto in my presence; I believe that each has stated his or
 40 her name, registered voting address and city, town or village correctly,
 41 and that each signer is a registered voter of the state of Missouri and ___

42 ___ County. FURTHERMORE, I HEREBY SWEAR OR AFFIRM
 43 UNDER PENALTY OF PERJURY THAT ALL STATEMENTS
 44 MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE
 45 NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED
 46 GUILTY TO ANY OFFENSE INVOLVING FORGERY.

47 **I have met the qualifications of section 116.080 and** am at least 18
 48 years of age. I do _____ do not _____ (check one) expect to be paid
 49 for circulating this petition. If paid, list the payer _____

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Signature of Affiant
(Person obtaining signatures)

(Printed Name of Affiant)

Address of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D. _

Signature of Notary
Address of Notary

Notary Public (Seal)
My commission expires _____

65 If this form is followed substantially and the requirements of ~~[section]~~ **sections 116.045,**
66 **116.050,** and ~~[section]~~ **116.080** are met, it shall be sufficient, disregarding clerical and merely
67 technical errors.

116.040. The following shall be substantially the form of each page of each petition
2 for any law or amendment to the Constitution of the state of Missouri proposed by the
3 initiative:

County _____

(Optional) Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions
of section ~~[560.021]~~ **558.002**, RSMo, to the contrary, for a term of
imprisonment not to exceed one year in the county jail or a fine not to
exceed ten thousand dollars or both, for anyone to sign any initiative
petition with any name other than his or her own, or knowingly to sign
his or her name more than once for the same measure for the same
election, or to sign a petition when such person knows he or she is not a
registered voter.

INITIATIVE PETITION

To the Honorable _____, Secretary of State for the state of Missouri:
We, the undersigned, registered voters of the state of Missouri and ____
____ County (or City of St. Louis), respectfully order that the following
proposed law (or amendment to the constitution) shall be submitted to
the voters of the state of Missouri, for their approval or rejection, at the

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20 general election to be held on the _____ day of _____, _____, and
 21 each for himself or herself says: I have personally signed this petition; I
 22 am a registered voter of the state of Missouri and _____ County (or
 23 City of St. Louis); my registered voting address and the name of the
 24 city, town or village in which I live are correctly written after my name.

25 (Official Ballot title) _____

26 CIRCULATOR'S AFFIDAVIT

27 State Of Missouri,

28 County Of _____

29 I, _____, being first duly sworn, say (print or type names of signers)

30 REGISTERED

31	DATE	VOTING	ZIP	CONGR.	
32	NAME	SIGNED	ADDRESS	CODE	DIST. NAME
33	(Signature)		(Street) (City,		(Printed or
34			Town or		
35			Village)		Typed)

36 (Here follow numbered lines for signers)

37 signed this page of the foregoing petition, and each of them signed his
 38 or her name thereto in my presence; I believe that each has stated his or
 39 her name, registered voting address and city, town or village correctly,
 40 and that each signer is a registered voter of the state of Missouri and __
 41 _____ County.

42 FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER
 43 PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME
 44 ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN
 45 CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO
 46 ANY OFFENSE INVOLVING FORGERY.

47 I **have met the qualifications of section 116.080 and** am at least 18
 48 years of age. I do _____ do not _____ (check one) expect to be paid
 49 for circulating this petition. If paid, list the payer _____

50 _____
 51 Signature of Affiant
 52 (Person obtaining signatures)

53 _____
 54 (Printed Name of Affiant)

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Address of Affiant
Subscribed and sworn to before me this _____ day of _____, A.D. _

Signature of Notary
Address of Notary
Notary Public (Seal)
My commission expires _____

65 If this form is followed substantially and the requirements of ~~[section]~~ **sections 116.045,**
66 **116.050, and ~~[section]~~ 116.080** are met, it shall be sufficient, disregarding clerical and merely
67 technical errors.

**116.045. Initiative petition and referendum petition signature pages shall be
2 printed on a form as prescribed by the secretary of state that shall include all of the
3 information and statements required by section 116.030 or 116.040, as applicable, and
4 comply with section 116.050. The form shall be made available in electronic format to
5 be used for printing petitions for circulating.**

116.050. 1. Initiative and referendum petitions filed under the provisions of this
2 chapter shall consist of pages of a uniform size. Each page, excluding the text of the measure,
3 shall be no larger than eight and one-half by fourteen inches. **The text of the proposed
4 measure shall be in a font that is not smaller than twelve-point Times New Roman and
5 have a top, bottom, left, and right margin of not less than one inch. Page numbers may
6 appear in the bottom margin.** Each page of an initiative petition shall be attached to or shall
7 contain a full and correct text of the proposed measure. Each page of a referendum petition
8 shall be attached to or shall contain a full and correct text of the measure on which the
9 referendum is sought.

10 2. The full and correct text of all initiative and referendum petition measures shall:
11 (1) Contain all matter which is to be deleted included in its proper place enclosed in
12 brackets and all new matter shown underlined;

13 (2) Include all sections of existing law or of the constitution which would be repealed
14 by the measure; and

15 (3) Otherwise conform to the provisions of ~~[Article III, Section 28 and]~~ Article III,
16 ~~[Section]~~ **Sections 28, 49, 50, 51, and 52(a)** of the **Missouri** Constitution and those of this
17 chapter.

18 **3. The full and correct text of all initiative petition measures shall not purport**
19 **to:**

- 20 **(1) Declare any federal statute, regulation, executive order, or court decision to**
21 **be void or in violation of the United States Constitution;**
22 **(2) Amend any federal law or the United States Constitution; or**
23 **(3) Accomplish an act that the United States Constitution requires to be**
24 **accomplished by the general assembly.**

116.080. 1. Each petition circulator shall be **a citizen of the United States, [at least]**
2 **eighteen years of age or older, a resident of this state or physically present in this state for**
3 **at least thirty consecutive days prior to the collection of signatures,** and registered with
4 the secretary of state. **No petition circulator shall be paid anything of value that is based**
5 **on the number of signatures collected.** Signatures collected by any circulator who has not
6 registered with the secretary of state pursuant to this chapter on or before 5:00 p.m. on the
7 final day for filing petitions with the secretary of state shall not be counted. A petition
8 circulator shall be deemed registered at the time such circulator delivers a signed circulator's
9 affidavit pursuant to section 116.030, with respect to a referendum petition, or section
10 116.040, with respect to an initiative petition, to the office of the secretary of state. No person
11 shall qualify as a petition circulator who has been convicted of, found guilty of, or pled guilty
12 to an offense involving forgery under the laws of this state or an offense under the laws of any
13 other jurisdiction if that offense would be considered forgery under the laws of this state.

14 2. Each petition circulator shall subscribe and swear to the proper affidavit on each
15 petition page such circulator submits before a notary public commissioned in Missouri.
16 When notarizing a circulator's signature, a notary public shall sign his or her official signature
17 and affix his or her official seal to the affidavit only if the circulator personally appears before
18 the notary and subscribes and swears to the affidavit in his or her presence.

19 3. Any circulator who falsely swears to a circulator's affidavit knowing it to be false is
20 guilty of a class A misdemeanor punishable, notwithstanding the provisions of section
21 ~~[560.021]~~ **558.002** to the contrary, for a term of imprisonment not to exceed one year in the
22 county jail or a fine not to exceed ten thousand dollars or both.

116.090. 1. Any person who commits any of the following actions is guilty of the
2 crime of petition signature fraud:

- 3 (1) Signs any name other than his or her own to any petition, or who knowingly signs
4 his or her name more than once for the same measure for the same election, or who knows he
5 or she is not at the time of signing or circulating the same a Missouri registered voter and a
6 resident of this state; or
7 (2) Intentionally submits petition signature sheets with the knowledge that the person
8 whose name appears on the signature sheet did not actually sign the petition; or
9 (3) Causes a voter to sign a petition other than the one the voter intended to sign; or
10 (4) Forges or falsifies signatures; or

11 (5) Knowingly accepts or offers money or anything of value to another person in
12 exchange for a signature on a petition.

13 2. Any person who knowingly causes a petition circulator's signatures to be submitted
14 for counting, and who either knows that such circulator has violated subsection 1 of this
15 section or, after receiving notice of facts indicating that such person may have violated
16 subsection 1 of this section, causes the signatures to be submitted with reckless indifference
17 as to whether such circulator has complied with subsection 1 of this section, shall also be
18 deemed to have committed the crime of petition signature fraud.

19 3. A person who violates subsection 1 or 2 of this section, shall, upon conviction
20 thereof, be guilty of a class A misdemeanor punishable, notwithstanding the provisions of
21 section ~~[560.021]~~ **558.002** to the contrary, by a term of imprisonment not to exceed one year
22 in the county jail or a fine not to exceed ten thousand dollars or both.

23 4. Any person employed by or serving as an election authority, that has reasonable
24 cause to suspect a person has committed petition signature fraud, shall immediately report or
25 cause a report to be made to the appropriate prosecuting authorities. Failure to so report or
26 cause a report to be made shall be a class A misdemeanor.

116.110. Any voter who has signed an initiative or referendum petition may withdraw
2 his or her signature from that petition by submitting to the secretary of state, before the
3 petition is filed with the secretary of state, a sworn statement requesting that his or her
4 signature be withdrawn and affirming the name of the petition signed, the name the voter used
5 when signing the petition, the address of the voter and the county of residence. It is a class A
6 misdemeanor punishable, notwithstanding the provisions of section ~~[560.021]~~ **558.002** to the
7 contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to
8 exceed ten thousand dollars or both, to knowingly file a false withdrawal statement with the
9 secretary of state.

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
5 sent to an election authority for verification, such copies shall be sent pursuant to the
6 following schedule:

7 (1) Copies of all pages from not less than one petition shall be received in the office
8 of the election authority not later than two weeks after the petition is filed in the office of
9 secretary 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
12 secretary 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
16 is 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
19 election authority's jurisdiction, but the election authority shall count as valid only the
20 signatures of persons registered as voters in the county named in the circulator's affidavit.
21 Signatures shall not be counted as valid if they have been struck through or crossed out.
22 **Signatures shall be recorded using a black or dark ink.**

23 2. If the election authority is requested to verify the petition by random sampling,
24 such verification shall be completed and certified not later than thirty days from the date that
25 the election authority receives the petition from the secretary of state. If the election authority
26 is to verify each signature, such verification ~~must~~ **shall** be completed, certified and
27 delivered to the secretary of state by 5:00 p.m. on the last Tuesday in July prior to the
28 election, or in the event of complete verification of signatures after a failed random sample,
29 full verification shall be completed, certified and delivered to the secretary of state by 5:00
30 p.m. on the last Tuesday in July or by 5:00 p.m. on the Friday of the fifth week after receipt
31 of the signatures by the local 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
34 which 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
36 correct congressional district number shall not by itself be grounds for not counting the voter's
37 signature.

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

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

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

116.190. 1. Any ~~[citizen]~~ **Missouri registered voter** who wishes to challenge the
2 official ballot title or the fiscal note prepared for a proposed constitutional amendment
3 submitted by the general assembly, by initiative petition, or by constitutional convention, or
4 for a statutory initiative or referendum measure, may bring an action in the circuit court of
5 Cole County. The action must be brought within ten days after the official ballot title is
6 certified by the secretary of state in accordance with the provisions of this chapter.

7 2. The secretary of state shall be named as a party defendant in any action challenging
8 the official ballot title prepared by the secretary of state. When the action challenges the
9 fiscal note or the fiscal note summary prepared by the auditor, the state auditor shall also be
10 named as a party defendant. The president pro tem of the senate, the speaker of the house and
11 the sponsor of the measure and the secretary of state shall be the named party defendants in
12 any action challenging the official summary statement, fiscal note or fiscal note summary
13 prepared pursuant to section 116.155.

14 3. The petition shall state the reason or reasons why the summary statement portion of
15 the official ballot title is insufficient or unfair and shall request a different summary statement
16 portion of the official ballot title. Alternatively, the petition shall state the reasons why the
17 fiscal note or the fiscal note summary portion of the official ballot title is insufficient or unfair
18 and shall request a different fiscal note or fiscal note summary portion of the official ballot
19 title.

20 4. The action shall be placed at the top of the civil docket. Insofar as the action
21 challenges the summary statement portion of the official ballot title, the court shall consider
22 the petition, hear arguments, and in its decision certify the summary statement portion of the
23 official ballot title to the secretary of state. Insofar as the action challenges the fiscal note or
24 the fiscal note summary portion of the official ballot title, the court shall consider the petition,
25 hear arguments, and in its decision, either certify the fiscal note or the fiscal note summary
26 portion of the official ballot title to the secretary of state or remand the fiscal note or the fiscal
27 note summary to the auditor for preparation of a new fiscal note or fiscal note summary
28 pursuant to the procedures set forth in section 116.175. Any party ~~[to the suit]~~ may appeal ~~[to~~
29 ~~the supreme court]~~ within ten days after ~~[a circuit court decision]~~ **the entry of the judgment**
30 **by the circuit court.** In making the legal notice to election authorities under section 116.240,
31 and for the purposes of section 116.180, the secretary of state shall certify the language which
32 the court certifies to him.

33 5. Any action brought under this section that is not fully and finally adjudicated
34 within one hundred eighty days of filing, and more than fifty-six days prior to **the** election in

35 which the measure is to appear, including all appeals, shall be extinguished, unless a court,
36 **before the expiration of the foregoing periods**, extends such period upon [a] **an express**
37 finding of good cause for such extension, **but no extension shall cause the final**
38 **adjudication to occur less than eight weeks before the date of the election**. Such good
39 cause shall consist only of court-related scheduling issues and shall not include requests for
40 continuance by the parties. **No court, including any appellate court, shall have the**
41 **authority to issue any form of relief after the expiration of the foregoing periods**.

116.200. 1. After the secretary of state certifies a petition as sufficient or insufficient,
2 any [citizen] **Missouri registered voter** may apply to the circuit court of Cole County to
3 compel [him] **the secretary of state** to reverse his **or her** decision. The action must be
4 brought within ten days after the certification is made. All such suits shall be advanced on the
5 court docket and heard and decided by the court as quickly as possible.

6 2. If the court decides the petition is sufficient, the secretary of state shall certify it as
7 sufficient and attach a copy of the judgment. If the court decides the petition is insufficient,
8 the court shall enjoin the secretary of state from certifying the measure and all other officers
9 from printing the measure on the ballot.

10 3. **Any party may appeal** within ten days after [~~a decision is rendered, any party may~~
11 ~~appeal it to the supreme court~~] **the entry of the judgment by the circuit court**.

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~~] **shall** be
3 submitted to the secretary of state in the form in which it will be circulated. **Sample sheets**
4 **may be submitted to the secretary of state any time after a general election until six**
5 **months prior to the next general election**. When a person submits a sample sheet of a
6 petition he or she shall designate to the secretary of state the name and address of the person
7 to whom any notices shall be sent pursuant to sections 116.140 and 116.180 and, if a
8 committee or person, except the individual submitting the sample sheet, is funding any
9 portion of the drafting or submitting of the sample sheet, the person submitting the sample
10 sheet shall submit a copy of the filed statement of committee organization required under
11 subsection 5 of section 130.021 showing the date the statement was filed. The secretary of
12 state shall refer a copy of the petition sheet to the attorney general for his approval and to the
13 state auditor for purposes of preparing a fiscal note and fiscal note summary. The secretary of
14 state and attorney general [~~must~~] **shall** each review the petition for [~~sufficiency as to form~~]
15 **compliance with section 116.050 and Article III, Sections 28, 49, 50, 51, and 52(a) of the**
16 **Missouri Constitution** and approve or reject the form of the petition, stating the reasons for
17 rejection, if any.

18 2. Within two business days of receipt of any such sample sheet, the office of the
19 secretary of state shall conspicuously post on its website the text of the proposed measure, a

20 disclaimer stating that such text may not constitute the full and correct text as required under
21 section 116.050, and the name of the person or organization submitting the sample sheet. The
22 secretary of state's failure to comply with such posting shall be considered a violation of
23 chapter 610 and subject to the penalties provided under subsection 3 of section 610.027. The
24 posting shall be removed within three days of either the withdrawal of the petition under
25 section 116.115 or the rejection for any reason of the petition.

26 3. Upon receipt of a petition from the office of the secretary of state, the attorney
27 general shall examine the petition ~~[as to form]~~ **and determine whether it complies with**
28 **section 116.050 and Article III, Sections 28, 49, 50, 51, and 52(a) of the Missouri**
29 **Constitution.** If the petition is rejected ~~[as to form]~~, the attorney general shall forward his or
30 her comments to the secretary of state within ten days after receipt of the petition by the
31 attorney general. If the petition is approved ~~[as to form]~~, the attorney general shall forward
32 his or her approval ~~[as to form]~~ to the secretary of state within ten days after receipt of the
33 petition by the attorney general.

34 4. The secretary of state shall review the comments and statements of the attorney
35 general ~~[as to form]~~ and make a final decision as to the approval or rejection ~~[of the form]~~ of
36 the petition. The secretary of state shall send written notice to the person who submitted the
37 petition sheet of the approval within fifteen days after submission of the petition sheet. The
38 secretary of state shall send written notice if the petition has been rejected, together with
39 reasons for rejection, within fifteen days after submission of the petition sheet.

116.334. 1. If the petition ~~[form]~~ is approved **under section 116.332**, the secretary of
2 state shall make a copy of the sample petition available on the secretary of state's website.
3 For a period of fifteen days after the petition is approved ~~[as to form]~~ **under section 116.332**,
4 the secretary of state shall accept public comments regarding the proposed measure and
5 provide copies of such comments upon request. Within twenty-three days of receipt of such
6 approval, the secretary of state shall prepare and transmit to the attorney general a summary
7 statement of the measure which shall be a concise statement not exceeding one hundred
8 words. This statement shall ~~[be in the form of a question using]~~ **use** language neither
9 intentionally argumentative nor likely to create prejudice either for or against the proposed
10 measure. The attorney general shall within ten days approve the legal content and form of the
11 proposed statement.

12 2. Signatures obtained prior to the date the official ballot title is certified by the
13 secretary of state shall not be counted. **If a court orders a change that substantially alters**
14 **the content of the official ballot title under subsection 4 of section 116.190, the court**
15 **shall expressly find in its order, judgment, or mandate that a substantial alteration has**
16 **occurred. All signatures gathered before such change occurred shall be invalidated,**

17 **regardless of whether those signatures were gathered on petition pages that displayed**
18 **what was previously the official ballot title as certified by the secretary of state.**

19 3. Signatures for statutory initiative petitions shall be filed not later than six months
20 prior to the general election during which the petition's ballot measure is submitted for a vote,
21 and shall also be collected not earlier than the day after the day upon which the previous
22 general election was held.

2 ~~[116.153. Within thirty days of issuing certification that the petition~~
3 ~~contains a sufficient number of valid signatures pursuant to section 116.150,~~
4 ~~the joint committee on legislative research shall hold a public hearing in~~
5 ~~Jefferson City to take public comments concerning the proposed measure.~~
6 ~~Such hearing shall be a public meeting under chapter 610. Within five~~
7 ~~business days after the end of the public hearing, the joint committee on~~
8 ~~legislative research shall provide a summary of the hearing to the secretary of~~
9 ~~state or his or her designee and the secretary of state shall post a copy of the~~
~~summary on the website of the office of the secretary of state.]~~

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