

LEGISLATURE OF NEBRASKA

ONE HUNDREDTH LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 39

FINAL READING

Introduced by Schimek, 27; Mines, 18; Pahls, 31; Howard, 9

Read first time January 04, 2007

Committee: Government, Military and Veterans Affairs

A BILL

1 FOR AN ACT relating to petition circulators; to amend sections
2 32-628, 32-629, 32-630, 32-1303, 32-1404, 49-1455,
3 and 49-1478, Reissue Revised Statutes of Nebraska; to
4 require circulators of certain petitions to be electors;
5 to prohibit paying petition circulators based on the
6 number of signatures gathered; to change campaign
7 reporting requirements related to petition circulators;
8 to harmonize provisions; and to repeal the original
9 sections.

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

1 Section 1. Section 32-628, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 32-628 (1) All petitions prepared or filed pursuant to
4 the Election Act or any petition which requires the election
5 commissioner or county clerk to verify signatures by utilizing the
6 voter registration register shall provide a space at least two and
7 one-half inches long for written signatures, a space at least two
8 inches long for printed names, and sufficient space for date of
9 birth and street name and number, city or village, and zip code.
10 Lines on each petition shall not be less than one-fourth inch
11 apart. Petitions may be designed in such a manner that lines for
12 signatures and other information run the length of the page rather
13 than the width. Petitions shall provide for no more than twenty
14 signatures per page.

15 (2) For the purpose of preventing fraud, deception,
16 and misrepresentation, every sheet of every petition containing
17 signatures shall have upon it, above the signatures, the statements
18 contained in this subsection, except that a petition for recall
19 of an elected official shall also have the additional information
20 specified in subsection (2) of section 32-1304. The statements
21 shall be printed in boldface type in substantially the following
22 form:

23 WARNING TO PETITION SIGNERS--VIOLATION OF ANY OF THE
24 FOLLOWING PROVISIONS OF LAW MAY RESULT IN THE FILING OF CRIMINAL
25 CHARGES: Any person who signs any name other than his or her own to

1 any petition or who is not qualified to sign the petition shall be
 2 guilty of a Class I misdemeanor. Any person who falsely swears to
 3 a circulator's affidavit on a petition, who accepts money or other
 4 things of value for signing a petition, or who offers money or
 5 other things of value in exchange for a signature upon any petition
 6 shall be guilty of a Class IV felony.

7 (3) Every sheet of a petition which contains signatures
 8 shall have upon it, below the signatures, an affidavit as provided
 9 in this subsection, except that the affidavit for a petition for
 10 recall of an elected official shall also include the additional
 11 language specified in subsection (3) of section 32-1304. The
 12 affidavit shall be in substantially the following form:

13 STATE OF NEBRASKA)
 14) ss.
 15 COUNTY OF)
 16, (name of circulator) being
 17 first duly sworn, deposes and says that he or she is the circulator
 18 of this petition containing signatures, that he or she
 19 is an elector of the State of Nebraska, that each person whose
 20 name appears on the petition personally signed the petition in
 21 the presence of the affiant, that the date to the left of each
 22 signature is the correct date on which the signature was affixed
 23 to the petition and that the date was personally affixed by the
 24 person signing such petition, that the affiant believes that each
 25 signer has written his or her name, street and number or voting

1 precinct, and city, village, or post office address correctly, that
 2 the affiant believes that each signer was qualified to sign the
 3 petition, and that the affiant stated to each signer the object of
 4 the petition as printed on the petition before he or she affixed
 5 his or her signature to the petition.

6 Circulator

7 Address

8 Subscribed and sworn to before me, a notary public, this
 9 day of 20.... at, Nebraska.

10 Notary Public

11 (4) Each sheet of a petition shall have upon its face
 12 and in plain view of persons who sign the petition a statement in
 13 letters not smaller than sixteen-point type in red print on the
 14 petition. If the petition is circulated by a paid circulator, the
 15 statement shall be as follows: This petition is circulated by a
 16 paid circulator. If the petition is circulated by a circulator who
 17 is not being paid, the statement shall be as follows: This petition
 18 is circulated by a volunteer circulator.

19 Sec. 2. Section 32-629, Reissue Revised Statutes of
 20 Nebraska, is amended to read:

21 32-629 (1) Except as otherwise provided in section
 22 32-1404 for initiative and referendum petitions, only a registered
 23 voter of the State of Nebraska shall qualify as a valid signer of a
 24 petition and may sign petitions under the Election Act.

25 (2) Only an elector of the State of Nebraska shall

1 qualify as a valid circulator of a petition and may circulate
2 petitions under the Election Act.

3 Sec. 3. Section 32-630, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 32-630 (1) Each person who signs a petition shall, at
6 the time of and in addition to signing, personally affix the date,
7 print his or her last name and first name in full, and affix his
8 or her date of birth and address, including the street and number
9 or a designation of a rural route or voting precinct and the city
10 or village or a post office address. A person signing a petition
11 may use his or her initials in place of his or her first name if
12 such person is registered to vote under such initials. No signer
13 shall use ditto marks as a means of personally affixing the date or
14 address to any petition. A wife shall not use her husband's first
15 name when she signs a petition but shall personally affix her first
16 name and her last name by marriage or her surname. Any signature
17 using ditto marks as a means of personally affixing the date or
18 address of any petition or any signature using a spouse's first
19 name instead of his or her own shall be invalid.

20 (2) Each circulator of a petition shall personally
21 witness the signatures on the petition and shall sign the
22 circulator's affidavit.

23 (3) No person shall:

24 (a) Sign any name other than his or her own to any
25 petition;

1 (b) Knowingly sign his or her name more than once for the
2 same petition effort or measure;

3 (c) Sign a petition if he or she is not a registered
4 voter and qualified to sign the same except as provided in section
5 32-1404;

6 (d) Falsely swear to any signature upon any such
7 petition;

8 (e) Accept money or other thing of value for signing any
9 petition; ~~or~~

10 (f) Offer money or other thing of value in exchange for a
11 signature upon any petition; or -

12 (g) Pay a circulator based on the number of signatures
13 collected.

14 Sec. 4. Section 32-1303, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 32-1303 (1) A petition demanding that the question of
17 removing an elected official or member of a governing body listed
18 in section 32-1302 be submitted to the registered voters shall be
19 signed by registered voters equal in number to at least thirty-five
20 percent of the total vote cast for that office in the last general
21 election, except that (a) for an office for which more than one
22 candidate is chosen, the petition shall be signed by registered
23 voters equal in number to at least thirty-five percent of the
24 number of votes cast for the person receiving the most votes for
25 such office in the last general election, (b) for a member of a

1 board of a Class I school district, the petition shall be signed
2 by registered voters of the school district equal in number to at
3 least twenty-five percent of the total number of registered voters
4 residing in the district on the date that the recall petitions
5 are first checked out from the filing clerk by the principal
6 circulator, and (c) for a member of a governing body of a village,
7 the petition shall be signed by registered voters equal in number
8 to at least forty-five percent of the total vote cast for the
9 person receiving the most votes for that office in the last general
10 election. The signatures shall be affixed to petition papers and
11 shall be considered part of the petition.

12 (2) Petition circulators shall conform to the
13 requirements of ~~section~~ sections 32-629 and 32-630.

14 (3) The petition papers shall be procured from the
15 filing clerk. Prior to the issuance of such petition papers, an
16 affidavit shall be signed and filed with the filing clerk by
17 at least one registered voter. Such voter or voters shall be
18 deemed to be the principal circulator or circulators of the recall
19 petition. The affidavit shall state the name and office of the
20 official sought to be removed, shall include in typewritten form
21 in concise language of sixty words or less the reason or reasons
22 for which recall is sought, and shall request that the filing
23 clerk issue initial petition papers to the principal circulator
24 for circulation. The filing clerk shall notify the official sought
25 to be removed by any method specified in section 25-505.01 or,

1 if notification cannot be made with reasonable diligence by any
2 of the methods specified in section 25-505.01, by leaving a copy
3 of the affidavit at the official's usual place of residence and
4 mailing a copy by first-class mail to the official's last-known
5 address. If the official chooses, he or she may submit a defense
6 statement in typewritten form in concise language of sixty words
7 or less for inclusion on the petition. Any such defense statement
8 shall be submitted to the filing clerk within twenty days after the
9 official receives the copy of the affidavit. The filing clerk shall
10 notify the principal circulator or circulators that the necessary
11 signatures must be gathered within thirty days from the date of
12 issuing the petitions.

13 (4) The filing clerk, upon issuing the initial petition
14 papers or any subsequent petition papers, shall enter in a record,
15 to be kept in his or her office, the name of the principal
16 circulator or circulators to whom the papers were issued, the date
17 of issuance, and the number of papers issued. The filing clerk
18 shall certify on the papers the name of the principal circulator
19 or circulators to whom the papers were issued and the date they
20 were issued. No petition paper shall be accepted as part of the
21 petition unless it bears such certificate. The principal circulator
22 or circulators who check out petitions from the filing clerk may
23 distribute such petitions to persons who may act as circulators of
24 such petitions.

25 (5) Petition signers shall conform to the requirements

1 of sections 32-629 and 32-630. Each signer of a recall petition
2 shall be a registered voter and qualified by his or her place of
3 residence to vote for the office in question.

4 Sec. 5. Section 32-1404, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 32-1404 A signer of an initiative and referendum petition
7 shall be a registered voter of the State of Nebraska on or
8 before the date on which the petition is required to be filed
9 with the Secretary of State and shall meet the requirements of
10 section 32-630. A person who circulates initiative and referendum
11 petitions ~~need not be a registered voter but~~ shall comply with the
12 requirements of section 32-629 and subsection (2) of section 32-630
13 and with the prohibitions contained in subdivisions (3)(a), (d),
14 ~~and (f), and (g)~~ of section 32-630.

15 Sec. 6. Section 49-1455, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 49-1455 (1) The campaign statement of a committee, other
18 than a political party committee, shall contain the following
19 information:

20 (a) The filing committee's name, address, and telephone
21 number and the full name, residential and business addresses, and
22 telephone numbers of its committee treasurer;

23 (b) Under the heading RECEIPTS, the total amount of
24 contributions received during the period covered by the campaign
25 statement; under the heading EXPENDITURES, the total amount of

1 expenditures made during the period covered by the campaign
2 statement; and the cumulative amount of those totals for the
3 election period. If a loan was repaid during the period covered
4 by the campaign statement, the amount of the repayment shall
5 be subtracted from the total amount of contributions received.
6 Forgiveness of a loan shall not be included in the totals. Payment
7 of a loan by a third party shall be recorded and reported as a
8 contribution by the third party but shall not be included in the
9 totals. In-kind contributions or expenditures shall be listed at
10 fair market value and shall be reported as both contributions and
11 expenditures;

12 (c) The balance of cash and cash equivalents on hand at
13 the beginning and the end of the period covered by the campaign
14 statement;

15 (d) The full name of each individual from whom
16 contributions totaling more than two hundred fifty dollars are
17 received during the period covered by the report, together with
18 the individual's street address, the amount contributed, the date
19 on which each contribution was received, and the cumulative amount
20 contributed by that individual for the election period;

21 (e) The full name of each person, except those
22 individuals reported under subdivision (1)(d) of this section,
23 which contributed a total of more than two hundred fifty dollars
24 during the period covered by the report together with the person's
25 street address, the amount contributed, the date on which each

1 contribution was received, and the cumulative amount contributed by
2 the person for the election period;

3 (f) The name of each committee which is listed as
4 a contributor shall include the full name of the committee's
5 treasurer;

6 (g) Except as otherwise provided in subsection (3) of
7 this section: The full name and street address of each person
8 to whom expenditures totaling more than two hundred fifty dollars
9 were made, together with the date and amount of each separate
10 expenditure to each such person during the period covered by the
11 campaign statement; the purpose of the expenditure; and the full
12 name and street address of the person providing the consideration
13 for which any expenditure was made if different from the payee;

14 (h) The amount and the date of expenditures for or
15 against a candidate or ballot question during the period covered
16 by the campaign statement and the cumulative amount of expenditures
17 for or against that candidate or ballot question for the election
18 period. An expenditure made in support of more than one candidate
19 or ballot question, or both, shall be apportioned reasonably among
20 the candidates or ballot questions, or both; and

21 (i) The total amount of funds disbursed by a separate
22 segregated political fund, by state, for the purpose of supporting
23 or opposing candidates and committees in elections in states
24 other than Nebraska and candidates for federal office, including
25 independent expenditures made in such elections.

1 (2) For purposes of this section, election period means
2 (a) the period beginning January 1 of the calendar year prior
3 to the year of the election in which the candidate is seeking
4 office through the end of the calendar year of such election for
5 candidate committees of candidates seeking covered elective offices
6 as defined in subdivision (1)(a) of section 32-1603, (b) the period
7 beginning July 1 of the calendar year prior to the year of the
8 election in which the candidate is seeking office through the end
9 of the calendar year of such election for candidate committees
10 of candidates seeking covered elective offices so defined in
11 subdivision (1)(b) of section 32-1603, and (c) the calendar year of
12 the election for all other committees.

13 (3) A campaign statement shall include the total amount
14 paid to individual petition circulators during the reporting
15 period, if any, but shall not include the name, address, or
16 telephone number of any individual petition circulator if the only
17 payment made to such individual was for services as a petition
18 circulator.

19 Sec. 7. Section 49-1478, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 49-1478 (1) An expenditure shall not be made, other than
22 for overhead or normal operating expenses, by an agent or an
23 independent contractor, including an advertising agency, on behalf
24 of or for the benefit of a person unless the expenditure is
25 reported by the committee as if the expenditure were made directly

1 by the committee, or unless the agent or independent contractor
2 files an agent's expenditure report as provided in subsection (3)
3 of this section. The agent or independent contractor shall make
4 known to the committee all information required to be reported by
5 the committee. Any person violating this subsection shall be guilty
6 of a Class III misdemeanor.

7 (2) An expenditure shall not be made, other than for
8 overhead or normal operating expenses, by ~~an individual or entity~~
9 a person gathering petition signatures on behalf of or for the
10 benefit of a person, including a ballot question committee, unless
11 the expenditure is reported by the ballot question committee as
12 if the expenditure were made directly by the committee, or unless
13 the person ~~or entity~~ gathering petition signatures files an agent's
14 expenditure report as provided in subsection (3) of this section.
15 The ~~individual or entity~~ person gathering petition signatures
16 shall make known to the committee all information required to
17 be reported by the committee. For purposes of this section,
18 petition signature means a signature affixed to a petition for the
19 purpose of qualifying a ballot question to appear on a ballot. Any
20 person violating this subsection shall be guilty of a Class III
21 misdemeanor.

22 (3) ~~An individual or entity~~ A person gathering petition
23 signatures, an agent, or an independent contractor who is required
24 to file an agent's report shall file a separate agent's report
25 for each person on whose behalf an expenditure is made. An agent's

1 report shall be filed with the commission within ten days after
2 the end of the calendar month in which the expenditure is made. An
3 agent's report shall include:

4 (a) The name, permanent address, temporary address,
5 permanent telephone number, and temporary telephone number of
6 the ~~individual or entity~~ person making expenditures for the purpose
7 of gathering signatures, the agent, or the independent contractor;

8 (b) The name, address, and telephone number of the person
9 on whose behalf the expenditure is made;

10 (c) The name, permanent address, and temporary address
11 of the person to whom the expenditure is made, except that if
12 the expenditure is solely for the services of an individual
13 circulating petitions, such individual's name and address shall not
14 be included;

15 (d) The date and amount of each expenditure; and

16 (e) A description of the goods or services purchased and
17 the purpose of the goods or services.

18 (4) A person required to report under subsection (3) of
19 this section shall include in the report the total amount paid
20 to individual petition circulators during the reporting period but
21 shall not include the name, address, or telephone number of any
22 individual petition circulator if the only payment made to such
23 individual was for services as a petition circulator.

24 Sec. 8. Original sections 32-628, 32-629, 32-630,
25 32-1303, 32-1404, 49-1455, and 49-1478, Reissue Revised Statutes

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1 of Nebraska, are repealed.