
SUBSTITUTE SENATE BILL 5505

State of Washington

63rd Legislature

2013 Regular Session

By Senate Governmental Operations (originally sponsored by Senators Roach, Chase, Hasegawa, Fain, and Tom)

READ FIRST TIME 02/20/13.

1 AN ACT Relating to ensuring valid voter signatures on petitions
2 count and timely validation of signatures; amending RCW 29A.72.170 and
3 35.21.005; and creating new sections.

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

5 NEW SECTION. **Sec. 1.** It is the intent of the legislature to
6 require that valid voter signatures on petitions count, ensuring that
7 they are not rejected by the secretary of state or any local government
8 official.

9 Washington supreme court case law vindicates the rights of citizens
10 to have their petition signatures filed and counted. *State ex rel.*
11 *Howell v. Superior Court*, 97 Wash. 569, 574-575 (1917), upheld the
12 rights of petition signers to have their signatures counted. The
13 Washington supreme court held that to deny the rights of petition
14 signers "would do violence to the spirit of the Constitution." *Howell*,
15 at 575.

16 The Washington supreme court later declared that through its
17 decision in *Howell*, "this court laid down the rule that the sponsor of
18 such a petition was not the agent of any of the signers to the extent

1 that his offenses would bind the signers or invalidate their
2 signatures." *Edwards v. Hutchinson*, 178 Wash. 580, 587 (1934).

3 In *Sudduth v. Chapman*, 88 Wn.2d 247 (1977), the Washington supreme
4 court held invalid a statutory requirement that where the secretary of
5 state finds the same name signed to more than one petition, that such
6 name shall not even be counted once. It held that "refusing to count
7 a duplicate signer as one petitioner frustrates, rather than furthers
8 this purpose." Specifically, the court relied on its earlier decision
9 in *Hutchinson* for recognition of the rule that "when a legal voter has
10 signed a referendum petition, his signature must be counted, even
11 though the person soliciting his signature has violated the law."

12 Under this act, if the voter's signature on a petition matches the
13 signature on the voter's registration, then that valid voter signature
14 must count. And consistent with Washington supreme court's ruling in
15 *Sudduth*, this act requires that when a voter signs a petition more than
16 once, the original signature counts but any duplicate signature does
17 not.

18 The legislature respects our state Constitution and supports the
19 people's right to initiative and referendum. Voters' right to have
20 their valid signature count and right to participate must be
21 facilitated and protected by their elected representatives and the laws
22 of the state of Washington.

23 **Sec. 2.** RCW 29A.72.170 and 2003 c 111 s 1818 are each amended to
24 read as follows:

25 The secretary of state may refuse to file any initiative or
26 referendum petition being submitted only upon any of the following
27 grounds:

28 (1) That the petition does not contain the information required by
29 RCW 29A.72.110, 29A.72.120, or 29A.72.130.

30 (2) That the petition clearly bears insufficient signatures.

31 (3) That the time within which the petition may be filed has
32 expired.

33 In case of such refusal, the secretary of state shall endorse on
34 the petition the word "submitted" and the date, and retain the petition
35 pending appeal.

36 If none of the grounds for refusal exists, the secretary of state
37 must accept and file the petition.

1 Concerning individual voter signatures on a petition, the secretary
2 of state must accept and must not reject a valid voter signature if it
3 matches the signature on the voter's registration as long as the
4 requirements in subsections (1) through (3) of this section are
5 fulfilled.

6 **Sec. 3.** RCW 35.21.005 and 2008 c 196 s 1 are each amended to read
7 as follows:

8 Wherever in this title petitions are required to be signed and
9 filed, the following rules shall govern the sufficiency (~~thereof~~) of
10 the petitions:

11 (1) A petition may include any page or group of pages containing an
12 identical text or prayer intended by the circulators, signers or
13 sponsors to be presented and considered as one petition, and
14 (~~containing~~) contain the following essential elements when
15 applicable, except that the elements referred to in (d) and (e) of this
16 subsection are essential for petitions referring or initiating
17 legislative matters to the voters, but are directory as to other
18 petitions:

19 (a) The text or prayer of the petition, which shall be a concise
20 statement of the action or relief sought by the petitioners and
21 (~~shall~~) include a reference to the applicable state statute or city
22 ordinance, if any;

23 (b) If the petition initiates or refers an ordinance, a true copy
24 (~~thereof~~) of the ordinance;

25 (c) If the petition seeks the annexation, incorporation,
26 withdrawal, or reduction of an area for any purpose, an accurate legal
27 description of the area proposed for (~~such~~) that action and, if
28 practical, a map of the area;

29 (d) Numbered lines for signatures, with space provided beside each
30 signature for the name and address of the signer and the date of
31 signing;

32 (e) The warning statement prescribed in subsection (2) of this
33 section.

34 (2) Petitions shall be printed or typed on single sheets of white
35 paper of good quality and each sheet of petition paper having a space
36 thereon for signatures shall contain the text or prayer of the petition
37 and the following warning:

1 WARNING

2 Every person who signs this petition with any other than his or
3 her true name, or who knowingly signs more than one of these
4 petitions, or signs a petition seeking an election when he or
5 she is not a legal voter, or signs a petition when he or she is
6 otherwise not qualified to sign, or who makes herein any false
7 statement, shall be guilty of a misdemeanor.

8 Each signature shall be executed in ink or indelible pencil and
9 shall be followed by the name and address of the signer and the date of
10 signing.

11 (3) The term "signer" means any person who signs his or her own
12 name to the petition.

13 (4)(a) To be sufficient, a petition must contain valid signatures
14 of qualified registered voters or property owners, as the case may be,
15 in the number required by the applicable statute or ordinance.

16 (b) Within three working days after the filing of a petition, the
17 officer with whom the petition is filed (~~shall~~) must, for
18 determination of sufficiency, transmit the petition to:

19 (i) The county auditor for petitions signed by registered
20 voters(~~(7)~~); or (~~(10)~~)

21 (ii) The county assessor, for petitions signed by property owners
22 (~~for determination of sufficiency~~).

23 (c) The officer or officers whose duty it is to determine the
24 sufficiency of the petition (~~shall proceed to~~) must:

25 (i) Make (~~such a~~) that determination with reasonable promptness,
26 pursuant to subsection (10) of this section; and (~~shall~~)

27 (ii) File, with the officer receiving the petition for filing, a
28 certificate stating the date upon which (~~such~~) the determination of
29 sufficiency was begun, which (~~date shall be~~) is referred to as the
30 terminal date. The terminal date may not be more than ten business
31 days after the date that the petition was transmitted to the county
32 auditor or county assessor pursuant to (b) of this subsection.

33 (d) Additional pages of one or more signatures may be added to the
34 petition by filing the (~~same~~) pages with the appropriate filing
35 officer prior to (~~such~~) the terminal date.

1 (e) Any signer of a filed petition may withdraw his or her
2 signature by filing a written request for withdrawal (~~((filed))~~) with the
3 receiving officer prior to (~~((such))~~) the terminal date. (~~((Such))~~) The
4 written request (~~((shall so))~~) for withdrawal must sufficiently describe
5 the petition as to make identification of the person and the petition
6 certain. The name of any person seeking to withdraw shall be signed
7 exactly the same as contained on the petition and, after the filing of
8 (~~((such))~~) the request for withdrawal, prior to the terminal date, the
9 signature of any person seeking such withdrawal (~~((shall be))~~) is deemed
10 withdrawn.

11 (5) Petitions containing the required number of signatures shall be
12 accepted as prima facie valid until their invalidity has been proved.

13 (6) Concerning individual voter signatures on a petition, the
14 officer or officers whose duty it is to determine the validity of
15 signatures must accept and must not reject a valid voter signature if
16 it matches the signature on the voter's registration. A variation on
17 petitions between the signatures on the petition and that on the
18 voter's permanent registration caused by the substitution of initials
19 instead of the first or middle names, or both, shall not invalidate the
20 signature on the petition if the surname and handwriting are the same.

21 (7) Signatures(~~((, including the original,))~~) of any person who has
22 signed a petition two or more times shall have the original signature
23 count and any duplicate signature shall not count and will be stricken.

24 (8) Signatures followed by a date of signing which is more than six
25 months prior to the date of filing of the petition shall be stricken.

26 (9) When petitions are required to be signed by the owners of
27 property, the determination shall be made by the county assessor.
28 Where validation of signatures to the petition is required, the
29 following shall apply:

30 (a) The signature of a record owner, as determined by the records
31 of the county auditor, shall be sufficient without the signature of his
32 or her spouse;

33 (b) In the case of mortgaged property, the signature of the
34 mortgagor shall be sufficient, without the signature of his or her
35 spouse;

36 (c) In the case of property purchased on contract, the signature of
37 the contract purchaser, as shown by the records of the county auditor,
38 shall be deemed sufficient, without the signature of his or her spouse;

1 (d) Any officer of a corporation owning land within the area
2 involved who is duly authorized to execute deeds or encumbrances on
3 behalf of the corporation, may sign on behalf of such corporation, and
4 shall attach to the petition a certified excerpt from the bylaws of
5 such corporation showing such authority;

6 (e) When the petition seeks annexation, any officer of a
7 corporation owning land within the area involved, who is duly
8 authorized to execute deeds or encumbrances on behalf of the
9 corporation, may sign under oath on behalf of such corporation. If an
10 officer signs the petition, he or she must attach an affidavit stating
11 that he or she is duly authorized to sign the petition on behalf of
12 such corporation;

13 (f) When property stands in the name of a deceased person or any
14 person for whom a guardian has been appointed, the signature of the
15 executor, administrator, or guardian, as the case may be, shall be
16 equivalent to the signature of the owner of the property; and

17 (g) When a parcel of property is owned by multiple owners, the
18 signature of an owner designated by the multiple owners is sufficient.

19 (10) The officer or officers whose duty it is to determine the
20 sufficiency of a petition pursuant to subsection (4) of this section
21 must do so within sixty days of the terminal date, excluding periods
22 commencing:

23 (a) Twenty days prior to a primary or general election and ending
24 on the day that results of the primary or general election are
25 certified;

26 (b) Five days prior to any special election that is not conducted
27 at the same time as a primary and ending five days after such an
28 election;

29 (c) The day after results of a primary or general election are
30 certified when a recount is required or requested and ending on the day
31 that the recount is completed; and

32 (d) The day that a decennial redistricting plan takes effect
33 pursuant to RCW 44.05.100 or 44.05.120 and ending on the last business
34 day before the first succeeding period for filing of declarations of
35 candidacy under RCW 29A.24.050.

36 (11) The officer or officers responsible for determining the
37 sufficiency of the petition shall do so in writing and transmit the

1 written certificate to the officer with whom the petition was
2 originally filed.

3 NEW SECTION. **Sec. 4.** This act may be known and cited as the valid
4 voter signature protection act.

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