

AMENDED IN SENATE MAY 31, 2016
AMENDED IN SENATE APRIL 18, 2016
AMENDED IN SENATE APRIL 7, 2016

SENATE BILL

No. 1094

Introduced by Senator Hernandez

February 17, 2016

An act to amend Sections 9008, 9030, and 9031 of, and to add Sections 9009.5, 9009.6, 9022.5, 9036, and 9037 to, the Elections Code, relating to elections.

LEGISLATIVE COUNSEL'S DIGEST

SB 1094, as amended, Hernandez. Initiatives: petition circulators.

(1) The California Constitution and existing statutory law provide for the electors to propose statutes or amendments to the Constitution by initiative. Existing law authorizes a person who is a voter or who is qualified to register to vote in California to circulate an initiative or referendum petition anywhere within the state. Existing law requires that each section of a petition for an initiative or referendum measure have attached thereto the declaration of the person soliciting the signatures that includes specified information.

This bill would require a person who solicits signatures for a proposed initiative measure and does not receive money or other valuable consideration for the specific purpose of soliciting signatures of electors to make additional declarations, as specified.

(2) Existing law requires local elections officials to perform various duties with respect to statewide initiative petitions including, within 8 days after the filing of a petition, determining the total number of signatures affixed to the petition. Existing law also requires an elections

official, within 30 days of notification from the Secretary of State that a petition has received 100% or more of the signatures needed to declare the petition sufficient, to determine the number of qualified voters who signed the petition. Upon order of the Secretary of State, existing law requires an elections official, within 30 days, to verify each signature on a petition, as specified.

This bill would extend the time a local elections official is required to determine the total number of signatures affixed to a petition to 10 days, and would extend the time a local elections official is required to determine the number of qualified voters who signed the petition to 35 days after receiving notice from the Secretary of State that the petition has received the signatures needed to declare the petition sufficient. The bill also would extend the time that an elections official is required to verify the signatures on a petition to 35 days.

This bill would require at least ~~15%~~ 10% of the signatures that are required to qualify an initiative measure to be solicited by a person who does not receive money or other valuable consideration for the specific purpose of soliciting signatures of electors, and would require that the declaration of such a person include additional content, as specified. The bill would require an elections official who determines the total number of signatures affixed to a petition and an elections official or registrar of voters who verifies signatures on petitions to also determine the total number of signatures submitted by persons who do not receive money or other valuable consideration for the specific purpose of soliciting signatures of electors, as specified.

The bill would include specified findings and declarations of the Legislature in support of these policies.

(3) Existing law requires that, if the statistical sampling shows that the number of valid signatures on a petition is within 95 to 110% of the number of signatures of qualified voters needed to declare the petition sufficient, the Secretary of State shall order the examination and verification of each signature filed, and shall so notify the elections officials.

This bill, with regard to an initiative petition for which the statistical sampling shows that the number of valid signatures for all signatures submitted is more than 110% of the number of qualified voters needed to find the petition sufficient, but the number of valid signatures submitted for purposes of the ~~15%~~ 10% requirement described above is within 95 to 110% of the number of signatures needed to satisfy that requirement, would require the Secretary of State to only order an

examination and verification of each signature filed that would satisfy the ~~15%~~ 10% requirement.

(4) Existing law requires every proposed initiative measure, prior to circulation, to include on the petition, among other things, the circulating title and summary prepared by the Attorney General and a heading for the initiative measure, as specified. Existing law also requires a petition for a proposed initiative or referendum measure to be presented in sections, as specified.

This bill would provide that its provisions do not apply to any initiative petition for which the Attorney General issued a circulating title and summary before January 1, 2017, and would require a petition for a proposed initiative measure to have printed in the one-inch space across the top of the first page of each section of the petition, in 18-point roman boldface type, the circulating title for the measure prepared by the Attorney General. The bill would additionally require a petition for a proposed initiative measure that is circulated by persons who do not receive money or other valuable consideration for the purpose of obtaining signatures of electors to be printed on white paper in a contrasting color ink. The bill also would require a petition for a proposed initiative measure that is circulated by persons who do receive money or other valuable consideration for the purpose of obtaining signatures of electors to be printed on paper of a color other than white in a contrasting color ink.

(5) Under existing law, an initiative petition must contain specified language advising the public of its right to ask whether the person circulating the petition is a paid signature gatherer or a volunteer.

This bill would additionally require a statewide initiative, referendum, or recall petition to include a disclosure notifying the public that the petition circulator is receiving money or other valuable consideration for the specific purpose of soliciting signatures of electors, as specified.

(6) Existing law provides that a person who engages in specified conduct in connection with the collection of signatures on any statewide initiative or referendum petition is guilty of a misdemeanor.

This bill would require a statewide initiative or referendum petition section to be deemed invalid, and would prohibit use of the petition section for the purpose of determining whether the initiative or referendum measure qualifies for the ballot, if the signatures are solicited and submitted by a person who engages in fraud, misrepresentation, or any of the specified conduct for which he or she may be found guilty of a misdemeanor. The bill would authorize specified persons to enforce

this provision by a civil action upon a showing of clear and convincing evidence.

(7) Because this bill would impose new requirements on local elections officials relative to calculating and verifying signatures on a petition, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

(8) This bill would provide that specified provisions shall become operative only if the Secretary of State certifies that the state has a statewide voter registration database that complies with the requirements of the federal Help America Vote Act of 2002 (52 U.S.C. Sec. 20901 et seq.).

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. (a) The Legislature finds and declares all of the
2 following:

3 (1) The power of the initiative is a fundamental right reserved
4 for the voters of California and must be protected as a means of
5 governing through direct democracy.

6 (2) The voters amended the California Constitution to reserve
7 for themselves the power of the initiative because financially
8 powerful interests, including railroad companies, exercised a
9 corrupting influence over state politics.

10 (3) The purpose of reserving the initiative power was to provide
11 individuals, communities, and coalitions a means to protect the
12 general interests of the State of California.

13 (4) For the past 30 years, a disturbing trend in the state’s political
14 process has undermined the original intent of the initiative power.

15 (5) The presence of an initiative measure on the ballot is no
16 longer necessarily viewed as an expression of a minimum amount
17 of public support, but, instead, is often viewed as the result of a
18 special interest willing to pay the necessary amount of money to

1 qualify an initiative measure for the ballot. As a result, the integrity
2 of the initiative process is threatened by a crowded ballot with
3 confusing proposals and the perception of fraud and
4 misrepresentation in the signature gathering phase.

5 (6) Whereas, initiative petitions circulated by volunteer and
6 grassroots organizations demonstrate significant public support
7 for a proposed law, well-funded individuals and organizations that
8 promote narrow interests may rely exclusively on paid circulators
9 to qualify an initiative measure that does not have broad community
10 support. In many cases, the individuals and organizations
11 supporting an initiative petition do not reside in the state and will
12 not be subject to the laws that they propose.

13 (7) As has been the case since the initiative power was created,
14 initiatives that have broad public support continue to qualify for
15 the ballot through the efforts of volunteers and grassroots
16 organizations, but the availability of paid circulators has led to an
17 excess of complex proposals that lack a broad level of public
18 support. Paid circulators gather as many signatures as possible in
19 the least amount of time, and may not provide electors with a full
20 explanation of the true purpose and effect of the proposed initiative
21 measure. Without a better measure of public support, special
22 interests may qualify an initiative measure for the ballot regardless
23 of the actual content of the proposal.

24 (8) Improving the measure of public support for a proposed
25 initiative measure will increase the public's confidence and protect
26 the integrity of the initiative process. A volunteer and grassroots
27 effort to qualify an initiative measure for the ballot demonstrates
28 a significant level of public support.

29 (9) The Legislature is responsible for providing the manner in
30 which initiative petitions are circulated, presented, and certified.
31 Consistent with this constitutional duty, the Legislature must
32 provide for laws that are consistent with the intent of the voters in
33 reserving the power of the initiative; protect the integrity of the
34 initiative process; and prevent the occurrence of fraud and
35 misrepresentation in the circulation, presentation, and certification
36 of initiative petitions.

37 (b) Therefore, it is the intent of the Legislature to do all of the
38 following:

39 (1) Preserve and protect the integrity of California's initiative
40 process.

1 (2) Ensure that initiative petitions have sufficient public support
2 from informed voters to be placed on the ballot.

3 (3) Protect access to the initiative process and preserve the
4 constitutional right of voters in California to engage in direct
5 democracy.

6 SEC. 2. Section 9008 of the Elections Code is amended to read:

7 9008. Each proposed initiative measure, prior to circulation,
8 shall have placed across the top of the petition all of the following:

9 (a) The Attorney General’s unique numeric identifier, in
10 12-point or larger roman boldface type, placed before the
11 circulating title and summary upon each page where the circulating
12 title and summary is to appear.

13 (b) (1) The circulating title and summary prepared by the
14 Attorney General, in 12-point or larger roman boldface type, upon
15 each page of the petition on which signatures are to appear.

16 (2) The circulating title and summary prepared by the Attorney
17 General, in 12-point or larger roman boldface type, upon each
18 section of the petition preceding the text of the measure.

19 (3) Notwithstanding Section 9013, on the first page of each
20 section of the petition, the circulating title prepared by the Attorney
21 General shall be placed in the one-inch space across the top of the
22 page in 18-point roman boldface type.

23 (c) The circulating title and summary prepared by the Attorney
24 General, as required by paragraph (2) of subdivision (b), shall be
25 preceded by the following statement in 12-point or larger roman
26 boldface type: “Initiative measure to be submitted directly to the
27 voters.”

28 SEC. 3. Section 9009.5 is added to the Elections Code, to read:

29 9009.5. (a) A petition for a proposed initiative measure that
30 is circulated by a person who does not receive money or other
31 valuable consideration for the purpose of soliciting signatures of
32 electors, for purposes of Section 9036, shall be printed on white
33 paper in a contrasting color ink.

34 (b) A petition for a proposed initiative measure that is circulated
35 by a person who receives money or other valuable consideration
36 for the purpose of soliciting signatures of electors shall be printed
37 on paper of a color other than white in a contrasting color ink.

38 SEC. 4. Section 9009.6 is added to the Elections Code, to read:

39 9009.6. Notwithstanding any other provision of law, a petition
40 for a proposed initiative measure that is circulated by a person who

1 receives money or other valuable consideration for the specific
2 purpose of soliciting signatures of electors, except as provided by
3 paragraph (1) of subdivision (b) of Section 9036, shall include the
4 following statement immediately prior to the portion of the petition
5 for voters' signatures, printed names, and residence addresses,
6 printed in 12-point boldface type:

7
8 “NOTICE TO THE PUBLIC: THIS PETITION IS BEING
9 CIRCULATED BY A PERSON PAID TO OBTAIN YOUR
10 SIGNATURE. YOU ARE ENCOURAGED TO READ THE
11 CONTENTS OF THIS PETITION BEFORE SIGNING.”
12

13 SEC. 5. Section 9022.5 is added to the Elections Code, to read:

14 9022.5. In addition to the information required by Sections
15 104 and 9022, the declaration of a person who solicits signatures
16 for a proposed initiative measure and does not receive money or
17 other valuable consideration for the specific purpose of soliciting
18 signatures of electors pursuant to Section 9036 shall declare all of
19 the following:

20 (a) The person does not receive money or other valuable
21 consideration for soliciting signatures of electors for purposes of
22 subdivision (a) of Section 9036.

23 (b) To the best of his or her knowledge, the signatures on the
24 petition sections circulated by him or her should be counted
25 towards the requirement set forth in subdivision (a) of Section
26 9036.

27 SEC. 6. Section 9030 of the Elections Code, as amended by
28 Section 9 of Chapter 697 of the Statutes of 2014, is amended to
29 read:

30 9030. (a) Each section of the petition shall be filed with the
31 elections official of the county or city and county in which it was
32 circulated, but all sections circulated in any county or city and
33 county shall be filed at the same time. Once filed, no petition
34 section shall be amended except by order of a court of competent
35 jurisdiction.

36 (b) Within 10 days after the filing of the petition, excluding
37 Saturdays, Sundays, and holidays, the elections official shall
38 determine the total number of signatures affixed to the petition
39 and, in the case of an initiative petition, the total number of
40 signatures submitted for purposes of subdivision (a) of Section

1 9036. The elections official shall transmit this information to the
2 Secretary of State. If the total number of signatures filed with all
3 elections officials is less than 100 percent of the number of
4 qualified voters required to find the petition sufficient or, in the
5 case of an initiative petition, the number of signatures submitted
6 for purposes of subdivision (a) of Section 9036 is less than the
7 total number needed to satisfy the requirement of that subdivision,
8 the Secretary of State shall so notify the proponents and the
9 elections officials, and no further action shall be taken with regard
10 to the petition.

11 (c) If the number of signatures filed with all elections officials
12 is 100 percent or more of the number of qualified voters needed
13 to declare the petition sufficient and, in the case of an initiative
14 petition, the number of signatures submitted for purposes of
15 subdivision (a) of Section 9036 is equal to or greater than the total
16 number needed to satisfy the requirement of that subdivision, the
17 Secretary of State shall immediately so notify the elections
18 officials.

19 (d) (1) Within 35 days after this notification, excluding
20 Saturdays, Sundays, and holidays, the elections official shall
21 determine the number of qualified voters who have signed the
22 petition and the number of qualified voters who have signed a
23 section of the petition that satisfies the requirement of subdivision
24 (a) of Section 9036.

25 (2) (A) If more than 500 names have been signed on sections
26 of the petition filed with an elections official, the elections official
27 shall use a random sampling technique for verification of
28 signatures, as determined by the Secretary of State. The random
29 sample of signatures to be verified shall be drawn from all petition
30 sections in such a manner that every signature filed with the
31 elections official shall be given an equal opportunity to be included
32 in the sample.

33 (B) For initiative petitions, a second random sample of
34 signatures shall be drawn from all petition sections submitted to
35 satisfy subdivision (a) of Section 9036 and verified according to
36 the procedures set forth by the Secretary of State. The verification
37 of signatures that are submitted for purposes of subdivision (a) of
38 Section 9036 shall be consistent with subdivision (g) of that
39 section.

1 (C) In each case, the random sampling shall include an
2 examination of at least 500 signatures or 3 percent of the signatures
3 on the respective petitions or sections of petitions, whichever is
4 greater.

5 (3) In determining from the records of registration the number
6 of qualified voters who have signed the petition, the elections
7 official may use the duplicate file of affidavits of registered voters
8 or the facsimiles of voters' signatures provided that the method of
9 preparing and displaying the facsimiles complies with law.

10 (e) The elections official, upon the completion of the
11 examination, shall immediately attach to the petition, except the
12 signatures thereto appended, a properly dated certificate showing
13 the result of the examination and shall immediately transmit the
14 petition and the certificate to the Secretary of State. A copy of this
15 certificate shall be filed in the elections official's office.

16 (f) If the certificates received from all elections officials by the
17 Secretary of State establish that the number of valid signatures
18 does not equal 95 percent of the number of qualified voters needed
19 to find the petition sufficient or, in the case of an initiative petition,
20 that the number of valid signatures submitted for purposes of
21 subdivision (a) of Section 9036 does not equal 95 percent of the
22 number of qualified voters needed to satisfy the requirement of
23 that subdivision, the petition shall be deemed to have failed to
24 qualify, and the Secretary of State shall immediately so notify the
25 proponents and the elections officials.

26 (g) If the certificates received from all elections officials by the
27 Secretary of State total more than 110 percent of the number of
28 qualified voters needed to find the petition sufficient and, in the
29 case of an initiative petition, the number of valid signatures
30 submitted for purposes of subdivision (a) of Section 9036 total
31 more than 110 percent of the number of qualified voters needed
32 to satisfy the requirement of that subdivision, the petition shall be
33 deemed to qualify as of the date of receipt of certificates by the
34 Secretary of State showing the petition received more than 110
35 percent of the qualified voters needed, and the Secretary of State
36 shall immediately so notify the proponents and the elections
37 officials.

38 (h) The Secretary of State shall adopt regulations consistent
39 with this section. The initial regulations may be adopted as
40 emergency regulations in accordance with Chapter 3.5

1 (commencing with Section 11340) of Part 1 of Division 3 of Title
2 2 of the Government Code, and shall be deemed necessary for the
3 immediate preservation of the public peace, health, safety, or
4 general welfare.

5 SEC. 7. Section 9030 of the Elections Code, as amended by
6 Section 76 of Chapter 728 of the Statutes of 2015, is amended to
7 read:

8 9030. (a) Each section of the petition shall be filed with the
9 elections official of the county or city and county in which it was
10 circulated, but all sections circulated in any county or city and
11 county shall be filed at the same time. Once filed, no petition
12 section shall be amended except by order of a court of competent
13 jurisdiction.

14 (b) Within 10 days after the filing of the petition, excluding
15 Saturdays, Sundays, and holidays, the elections official shall
16 determine the total number of signatures affixed to the petition
17 and, in the case of an initiative petition, the total number of
18 signatures submitted for purposes of subdivision (a) of Section
19 9036. The elections official shall transmit this information to the
20 Secretary of State. If the total number of signatures filed with all
21 elections officials is less than 100 percent of the number of
22 qualified voters required to find the petition sufficient or, in the
23 case of an initiative petition, the number of signatures submitted
24 for purposes of subdivision (a) of Section 9036 is less than the
25 total number needed to satisfy the requirement of that subdivision,
26 the Secretary of State shall so notify the proponents and the
27 elections officials, and no further action shall be taken with regard
28 to the petition.

29 (c) If the number of signatures filed with all elections officials
30 is 100 percent or more of the number of qualified voters needed
31 to declare the petition sufficient and, in the case of an initiative
32 petition, the number of signatures submitted for purposes of
33 subdivision (a) of Section 9036 is equal to or greater than the total
34 number needed to satisfy the requirement of that subdivision, the
35 Secretary of State shall immediately so notify the elections
36 officials.

37 (d) (1) Within 35 days after this notification, excluding
38 Saturdays, Sundays, and holidays, the elections official shall
39 determine the number of qualified voters who have signed the
40 petition and the number of qualified voters who have signed a

1 section of the petition that satisfies the requirement of subdivision
2 (a) of Section 9036.

3 (2) (A) If more than 500 names have been signed on sections
4 of the petition filed with an elections official, the elections official
5 shall use a random sampling technique for verification of
6 signatures, as determined by the Secretary of State. The random
7 sample of signatures to be verified shall be drawn from all petition
8 sections in such a manner that every signature filed with the
9 elections official shall be given an equal opportunity to be included
10 in the sample.

11 (B) For initiative petitions, a second random sample of
12 signatures shall be drawn from all petition sections submitted to
13 satisfy subdivision (a) of Section 9036 and verified according to
14 the procedures set forth by the Secretary of State. The verification
15 of signatures that are submitted for purposes of subdivision (a) of
16 Section 9036 shall be consistent with subdivision (g) of that
17 section.

18 (C) In each case, the random sampling shall include an
19 examination of at least 500 signatures or 3 percent of the signatures
20 on the respective petitions or sections of petitions, whichever is
21 greater.

22 (3) In determining from the records of registration the number
23 of qualified voters who have signed the petition, the elections
24 official may use any facsimiles of voters' signatures, provided that
25 the method of preparing and displaying the facsimiles complies
26 with law.

27 (e) The elections official, upon the completion of the
28 examination, shall immediately attach to the petition, except the
29 signatures thereto appended, a properly dated certificate showing
30 the result of the examination and shall immediately transmit the
31 petition and the certificate to the Secretary of State. A copy of this
32 certificate shall be filed in the elections official's office.

33 (f) If the certificates received from all elections officials by the
34 Secretary of State establish that the number of valid signatures
35 does not equal 95 percent of the number of qualified voters needed
36 to find the petition sufficient or, in the case of an initiative petition,
37 that the number of valid signatures submitted for purposes of
38 subdivision (a) of Section 9036 does not equal 95 percent of the
39 number of qualified voters needed to satisfy the requirement of
40 that subdivision, the petition shall be deemed to have failed to

1 qualify, and the Secretary of State shall immediately so notify the
2 proponents and the elections officials.

3 (g) If the certificates received from all elections officials by the
4 Secretary of State total more than 110 percent of the number of
5 qualified voters needed to find the petition sufficient and, in the
6 case of an initiative petition, the number of valid signatures
7 submitted for purposes of subdivision (a) of Section 9036 total
8 more than 110 percent of the number of qualified voters needed
9 to satisfy the requirement of that subdivision, the petition shall be
10 deemed to qualify as of the date of receipt of certificates by the
11 Secretary of State showing the petition received more than 110
12 percent of the qualified voters needed, and the Secretary of State
13 shall immediately so notify the proponents and the elections
14 officials.

15 (h) The Secretary of State shall adopt regulations consistent
16 with this section. The initial regulations may be adopted as
17 emergency regulations in accordance with Chapter 3.5
18 (commencing with Section 11340) of Part 1 of Division 3 of Title
19 2 of the Government Code, and shall be deemed necessary for the
20 immediate preservation of the public peace, health, safety, or
21 general welfare.

22 SEC. 8. Section 9031 of the Elections Code is amended to read:

23 9031. (a) (1) If the statistical sampling shows that the number
24 of valid signatures on all petition sections, including those
25 submitted to satisfy subdivision (a) of Section 9036, is within 95
26 to 110 percent of the number of signatures of qualified voters
27 needed to declare the petition sufficient, the Secretary of State
28 shall order the examination and verification of each signature filed,
29 and shall so notify the elections officials.

30 (2) In the case of an initiative petition, if the statistical sampling
31 shows that the number of valid signatures for all signatures
32 submitted is more than 110 percent of the number of qualified
33 voters needed to find the petition sufficient, but the number of
34 valid signatures submitted for purposes of subdivision (a) of
35 Section 9036 is within 95 to 110 percent of the number of
36 signatures needed to satisfy the requirement of that subdivision,
37 the Secretary of State shall only order an examination and
38 verification of each signature filed to satisfy the requirement of
39 subdivision (a) of Section 9036.

1 (b) (1) Within 35 days, excluding Saturdays, Sundays, and
2 holidays, after receipt of the order, the elections official or registrar
3 of voters shall determine from the records of registration the
4 number of qualified voters who have signed a section of the petition
5 that is subject to examination under subdivision (a) and, if
6 necessary, the board of supervisors shall allow the elections official
7 or registrar additional assistance for the purpose of examining the
8 petition and provide for their compensation. In determining from
9 the records of registration the number of qualified voters who have
10 signed the petition, the elections official or registrar of voters may
11 use any file or list of registered voters maintained by his or her
12 office, or the facsimiles of voters' signatures, provided that the
13 method of preparing and displaying the facsimiles complies with
14 law.

15 (2) The examination of signatures that are submitted to satisfy
16 subdivision (a) of Section 9036 shall be made pursuant to
17 subdivision (g) of that section.

18 (c) (1) During the examination and verification of the signatures
19 filed, the elections official or registrar of voters shall submit one
20 or more reports to the Secretary of State showing the number of
21 signatures of qualified voters that have been verified as of that
22 date. The Secretary of State shall determine the number of reports
23 required to be submitted and the manner of their submission.

24 (2) The Secretary of State shall maintain a list indicating the
25 number of verified signatures of qualified voters who have signed
26 the petition based on the most recent reports submitted pursuant
27 to paragraph (1). If the Secretary of State determines, prior to each
28 county's completing the examination of each signature filed, that
29 based on the list the petition is signed by the requisite number of
30 voters needed to declare the petition sufficient, the Secretary of
31 State shall immediately notify the elections official or registrar of
32 voters of every county or city and county in the state of this fact.
33 Immediately after receipt of this notification, the elections official
34 or registrar of voters may suspend signature verification until
35 receipt of a certificate pursuant to Section 9033 or until otherwise
36 instructed by the Secretary of State.

37 (d) The elections official or registrar, upon the completion of
38 the examination, shall immediately attach to the petition, except
39 the signatures thereto appended, an amended certificate properly
40 dated, showing the result of the examination and shall immediately

1 transmit the petition, together with the amended certificate, to the
2 Secretary of State. A copy of the amended certificate shall be filed
3 in the elections official's office.

4 (e) (1) If the amended certificates establish the petition's
5 sufficiency, the petition shall be deemed to be filed as of the date
6 of receipt of certificates by the Secretary of State showing the
7 petition to be signed by the requisite number of voters of the state.

8 (2) If the amended certificates received from all elections
9 officials by the Secretary of State establish that the petition has
10 still been found insufficient, the Secretary of State shall
11 immediately so notify the proponents and the elections officials.

12 (f) The Secretary of State shall adopt regulations consistent with
13 this section. The initial regulations may be adopted as emergency
14 regulations in accordance with Chapter 3.5 (commencing with
15 Section 11340) of Part 1 of Division 3 of Title 2 of the Government
16 Code, and shall be deemed necessary for the immediate
17 preservation of the public peace, health, safety, or general welfare.

18 SEC. 9. Section 9036 is added to the Elections Code, to read:

19 9036. (a) At least ~~15~~ 10 percent of the signatures required
20 under Section 9035 shall be presented on a petition or section of
21 a petition that was circulated by a person who does not receive
22 money or other valuable consideration exclusively or primarily
23 for the specific purpose of soliciting signatures of electors on the
24 petition.

25 (b) (1) A person who is an employee or member of a nonprofit
26 organization, other than an organization with the primary purpose
27 of soliciting signatures on initiative petitions, who receives money
28 or other valuable consideration from the organization and as part
29 of that employment or membership solicits signatures for the
30 qualification of an initiative measure shall be deemed to be a person
31 who, for purposes of subdivision (a), does not receive money or
32 other valuable consideration for the specific purpose of soliciting
33 signatures of electors, unless the primary purpose of that
34 employment or membership is to solicit signatures on an initiative
35 petition.

36 (2) For purposes of this subdivision, "member" means any of
37 the following:

38 (A) A person who, pursuant to a specific provision of an
39 organization's articles of incorporation or bylaws, has the right to
40 vote directly or indirectly for the election of a director or directors,

1 or an officer or officers, or on a disposition of all or substantially
2 all of the assets of the organization, or on a merger or a dissolution.

3 (B) A person who is designated in an organization's articles of
4 incorporation or bylaws as a member and, pursuant to a specific
5 provision of the articles of incorporation or bylaws, has the right
6 to vote on changes to the articles of incorporation or bylaws.

7 (C) A person who pays or has paid membership dues in an
8 amount predetermined by the organization, provided the
9 organization is tax exempt under Section 501(c) of the Internal
10 Revenue Code.

11 (3) For purposes of this subdivision, a member of a local union
12 is a member of any national or international union of which the
13 local union is a part and of any federation with which the local,
14 national, or international union is affiliated.

15 (4) For purposes of this subdivision, a person is not a member
16 of a nonprofit organization solely by virtue of being on a mailing
17 or contact list of the organization.

18 (5) For purposes of this subdivision, whether an organization,
19 or a member or employee of an organization, has the primary
20 purpose of soliciting signatures on an initiative petition shall be
21 determined based on the totality of the circumstances.

22 (c) Signatures that are solicited by a person who is a registered
23 voter of a political party, a member of a political party committee
24 as defined in Section 85205 of the Government Code, or an
25 employee of a political party or a political party committee and
26 who receives money or other valuable consideration for soliciting
27 signatures on an initiative petition from the political party or
28 political party committee do not count towards the number of
29 signatures needed to satisfy the requirement of subdivision (a).

30 (d) (1) Signatures on an initiative petition that are solicited
31 through direct mail do not count towards the number of signatures
32 needed to satisfy the requirement of subdivision (a) if the person
33 soliciting the signatures through direct mail, or any other person
34 who organizes, pays for, or arranges for the direct mail, receives
35 money or other valuable consideration primarily for the purpose
36 of soliciting signatures of electors, unless the person is an employee
37 or member of a nonprofit organization as described in subdivision
38 (b).

39 (2) This subdivision shall not be construed to preclude an
40 organization that has a primary purpose other than soliciting

1 signatures on initiative petitions from soliciting signatures from
2 the organization’s members through direct mail and relying on
3 those signatures for purposes of satisfying the requirement set forth
4 in subdivision (a).

5 (e) This section shall not be construed to preclude a person who
6 receives nominal benefits other than money, such as food,
7 transportation, or lodging, from qualifying under this section as a
8 person who does not receive money or other valuable consideration
9 exclusively or primarily for the specific purpose of soliciting
10 signatures of electors on a petition for a proposed initiative
11 measure.

12 (f) Verification of a petition that contains a declaration pursuant
13 to Section 9022.5 shall be prima facie evidence that the signatures
14 thereon satisfy the requirement of subdivision (a).

15 (g) For purposes of verifying signatures under Sections 9030
16 and 9031 and the procedures set forth by the Secretary of State, if
17 the signature of a qualified voter appears once on a petition or
18 section of a petition submitted to satisfy subdivision (a) of this
19 section, and the same voter’s signature appears on a petition or
20 section of a petition that does not satisfy subdivision (a), the
21 qualified voter’s signature shall only be counted once and shall be
22 counted towards satisfying subdivision (a).

23 (h) A person who receives money or other valuable
24 consideration for the specific purpose of soliciting signatures on
25 an initiative petition shall not circulate a petition or a section of a
26 petition for purposes of satisfying the requirement of subdivision
27 (a) for the same initiative measure.

28 SEC. 10. Section 9037 is added to the Elections Code, to read:

29 9037. (a) The signatures on an initiative petition section shall
30 be deemed invalid and shall not be used for the purpose of
31 determining whether the initiative measure qualifies for the ballot
32 if the signatures thereon were solicited by a person who, in
33 connection with the circulation of the initiative petition,
34 intentionally engages in fraud, misrepresentation, or any conduct
35 described in Section 18600, 18601, or 18602, or by a person who
36 falsely claims to have not received money or other valuable
37 consideration for the specific purpose of soliciting signatures of
38 electors pursuant to Section 9036.

39 (b) This section may be enforced by a civil action brought by
40 the Secretary of State, the Attorney General, a district attorney, *or*

1 a city attorney of a city with a population greater than ~~750,000, or~~
2 ~~any elector.~~ 750,000. The signatures on a petition section shall be
3 invalidated only upon a showing, by clear and convincing evidence,
4 that the person who solicited or obtained the signatures did so
5 through intentional fraud, misrepresentation, or other conduct
6 described in Sections 18600, 18601, and 18602, or that the person
7 falsely claims to have not received money or other valuable
8 consideration for the specific purpose of soliciting signatures of
9 electors pursuant to Section 9036. Any civil action brought
10 pursuant to this section shall have priority over all other civil
11 matters.

12 (c) The relief provided for in subdivision (a) shall not be
13 available after the Secretary of State has certified that an initiative
14 petition has qualified for the ballot.

15 (d) If a local elections official is notified of or discovers any
16 conduct described in subdivision (a), the local elections official
17 shall promptly notify the Secretary of State.

18 (e) This section does not permit a local elections official who
19 is notified of or discovers any conduct described in subdivision
20 (a) to refuse to examine or to stop the examination of the petition
21 or petition sections.

22 SEC. 11. The provisions of this act do not apply to an initiative
23 petition for which the Attorney General issued a circulating title
24 and summary before January 1, 2017.

25 SEC. 12. If the Commission on State Mandates determines
26 that this act contains costs mandated by the state, reimbursement
27 to local agencies and school districts for those costs shall be made
28 pursuant to Part 7 (commencing with Section 17500) of Division
29 4 of Title 2 of the Government Code.

30 SEC. 13. Section 8 shall become operative only if the Secretary
31 of State certifies that the state has a statewide voter registration
32 database that complies with the requirements of the federal Help
33 America Vote Act of 2002 (52 U.S.C. Sec. 20901 et seq.).