

AMENDED IN ASSEMBLY AUGUST 19, 2016

AMENDED IN ASSEMBLY AUGUST 15, 2016

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SENATE BILL

No. 1094

Introduced by Senator Hernandez
(Coauthor: Assembly Member Gonzalez)

February 17, 2016

An act to amend Sections 9008, 9030, and 9031 of, and to add Sections 9009.5, 9009.6, 9009.7, 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 ~~40%~~ 5% 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 ~~10%~~ 5% 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 ~~10%~~ 5% 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, as specified, notifying the public that the petition circulator is receiving money or other valuable consideration for the specific purpose of soliciting signatures of electors, or is a volunteer or employee of a nonprofit organization.

(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

1 powerful interests, including railroad companies, exercised a
2 corrupting influence over state politics.

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

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

8 (5) The presence of an initiative measure on the ballot is no
9 longer necessarily viewed as an expression of a minimum amount
10 of public support, but, instead, is often viewed as the result of a
11 special interest willing to pay the necessary amount of money to
12 qualify an initiative measure for the ballot. As a result, the integrity
13 of the initiative process is threatened by a crowded ballot with
14 confusing proposals and the perception of fraud and
15 misrepresentation in the signature gathering phase.

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

24 (7) As has been the case since the initiative power was created,
25 initiatives that have broad public support continue to qualify for
26 the ballot through the efforts of volunteers and grassroots
27 organizations, but the availability of paid circulators has led to an
28 excess of complex proposals that lack a broad level of public
29 support. Paid circulators gather as many signatures as possible in
30 the least amount of time, and may not provide electors with a full
31 explanation of the true purpose and effect of the proposed initiative
32 measure. Without a better measure of public support, special
33 interests may qualify an initiative measure for the ballot regardless
34 of the actual content of the proposal.

35 (8) Improving the measure of public support for a proposed
36 initiative measure will increase the public's confidence and protect
37 the integrity of the initiative process. A volunteer and grassroots
38 effort to qualify an initiative measure for the ballot demonstrates
39 a significant level of public support.

1 (9) The Legislature is responsible for providing the manner in
2 which initiative petitions are circulated, presented, and certified.
3 Consistent with this constitutional duty, the Legislature must
4 provide for laws that are consistent with the intent of the voters in
5 reserving the power of the initiative; protect the integrity of the
6 initiative process; and prevent the occurrence of fraud and
7 misrepresentation in the circulation, presentation, and certification
8 of initiative petitions.

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

11 (1) Preserve and protect the integrity of California's initiative
12 process.

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

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

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

19 9008. Each proposed initiative measure, prior to circulation,
20 shall have placed across the top of the petition all of the following:

21 (a) The Attorney General's unique numeric identifier, in
22 12-point or larger roman boldface type, placed before the
23 circulating title and summary upon each page where the circulating
24 title and summary is to appear.

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

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

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

35 (c) The circulating title and summary prepared by the Attorney
36 General, as required by paragraph (2) of subdivision (b), shall be
37 preceded by the following statement in 12-point or larger roman
38 boldface type: "Initiative measure to be submitted directly to the
39 voters."

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

1 9009.5. (a) A petition for a proposed initiative measure that
2 is circulated by a person who does not receive money or other
3 valuable consideration for the purpose of soliciting signatures of
4 electors, for purposes of Section 9036, shall be printed on white
5 paper in a contrasting color ink.

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

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

11 9009.6. Notwithstanding any other law, a petition for a
12 proposed initiative measure that is circulated by a person who
13 receives money or other valuable consideration for the specific
14 purpose of soliciting signatures of electors, except as provided by
15 paragraph (1) of subdivision (b) of Section 9036, shall include the
16 following statement immediately prior to the portion of the petition
17 for voters' signatures, printed names, and residence addresses,
18 printed in 12-point boldface type:

19
20 **“NOTICE TO THE PUBLIC: THIS PETITION IS BEING**
21 **CIRCULATED BY A PERSON PAID TO OBTAIN YOUR**
22 **SIGNATURE. YOU ARE ENCOURAGED TO READ THE**
23 **CONTENTS OF THIS PETITION BEFORE SIGNING.”**
24

25 SEC. 5. Section 9009.7 is added to the Elections Code, to read:

26 9009.7. Notwithstanding any other law, a petition for a
27 proposed initiative measure that is circulated by a person who does
28 not receive money or other valuable consideration for the specific
29 purpose of soliciting signatures of electors shall include the
30 following statement immediately prior to the portion of the petition
31 for voters' signatures, printed names, and residence addresses,
32 printed in 12-point boldface type:

33 **“NOTICE TO THE PUBLIC: THIS PETITION IS BEING**
34 **CIRCULATED BY A VOLUNTEER OR AN EMPLOYEE OF**
35 **A NONPROFIT ORGANIZATION. YOU ARE ENCOURAGED**
36 **TO READ THE CONTENTS OF THIS PETITION BEFORE**
37 **SIGNING.”**

38 SEC. 6. Section 9022.5 is added to the Elections Code, to read:

39 9022.5. In addition to the information required by Sections
40 104 and 9022, the declaration of a person who solicits signatures

1 for a proposed initiative measure and does not receive money or
2 other valuable consideration for the specific purpose of soliciting
3 signatures of electors pursuant to Section 9036 shall declare all of
4 the following:

5 (a) The person does not receive money or other valuable
6 consideration for soliciting signatures of electors for purposes of
7 subdivision (a) of Section 9036.

8 (b) To the best of his or her knowledge, the signatures on the
9 petition sections circulated by him or her should be counted
10 towards the requirement set forth in subdivision (a) of Section
11 9036.

12 SEC. 7. Section 9030 of the Elections Code, as amended by
13 Section 9 of Chapter 697 of the Statutes of 2014, is amended to
14 read:

15 9030. (a) Each section of the petition shall be filed with the
16 elections official of the county or city and county in which it was
17 circulated, but all sections circulated in any county or city and
18 county shall be filed at the same time. Once filed, no petition
19 section shall be amended except by order of a court of competent
20 jurisdiction.

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

36 (c) If the number of signatures filed with all elections officials
37 is 100 percent or more of the number of qualified voters needed
38 to declare the petition sufficient and, in the case of an initiative
39 petition, the number of signatures submitted for purposes of
40 subdivision (a) of Section 9036 is equal to or greater than the total

1 number needed to satisfy the requirement of that subdivision, the
2 Secretary of State shall immediately so notify the elections
3 officials.

4 (d) (1) Within 35 days after this notification, excluding
5 Saturdays, Sundays, and holidays, the elections official shall
6 determine the number of qualified voters who have signed the
7 petition and the number of qualified voters who have signed a
8 section of the petition that satisfies the requirement of subdivision
9 (a) of Section 9036.

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

18 (B) For initiative petitions, a second random sample of
19 signatures shall be drawn from all petition sections submitted to
20 satisfy subdivision (a) of Section 9036 and verified according to
21 the procedures set forth by the Secretary of State. The verification
22 of signatures that are submitted for purposes of subdivision (a) of
23 Section 9036 shall be consistent with subdivision (g) of that
24 section.

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

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

34 (e) The elections official, upon the completion of the
35 examination, shall immediately attach to the petition, except the
36 signatures thereto appended, a properly dated certificate showing
37 the result of the examination and shall immediately transmit the
38 petition and the certificate to the Secretary of State. A copy of this
39 certificate shall be filed in the elections official's office.

1 (f) If the certificates received from all elections officials by the
 2 Secretary of State establish that the number of valid signatures
 3 does not equal 95 percent of the number of qualified voters needed
 4 to find the petition sufficient or, in the case of an initiative petition,
 5 that the number of valid signatures submitted for purposes of
 6 subdivision (a) of Section 9036 does not equal 95 percent of the
 7 number of qualified voters needed to satisfy the requirement of
 8 that subdivision, the petition shall be deemed to have failed to
 9 qualify, and the Secretary of State shall immediately so notify the
 10 proponents and the elections officials.

11 (g) If the certificates received from all elections officials by the
 12 Secretary of State total more than 110 percent of the number of
 13 qualified voters needed to find the petition sufficient and, in the
 14 case of an initiative petition, the number of valid signatures
 15 submitted for purposes of subdivision (a) of Section 9036 total
 16 more than 110 percent of the number of qualified voters needed
 17 to satisfy the requirement of that subdivision, the petition shall be
 18 deemed to qualify as of the date of receipt of certificates by the
 19 Secretary of State showing the petition received more than 110
 20 percent of the qualified voters needed, and the Secretary of State
 21 shall immediately so notify the proponents and the elections
 22 officials.

23 (h) The Secretary of State shall adopt regulations consistent
 24 with this section. The initial regulations may be adopted as
 25 emergency regulations in accordance with Chapter 3.5
 26 (commencing with Section 11340) of Part 1 of Division 3 of Title
 27 2 of the Government Code, and shall be deemed necessary for the
 28 immediate preservation of the public peace, health, safety, or
 29 general welfare.

30 SEC. 8. Section 9030 of the Elections Code, as amended by
 31 Section 76 of Chapter 728 of the Statutes of 2015, is amended to
 32 read:

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

39 (b) Within 10 days after the filing of the petition, excluding
 40 Saturdays, Sundays, and holidays, the elections official shall

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

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

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

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

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

1 Section 9036 shall be consistent with subdivision (g) of that
2 section.

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

7 (3) In determining from the records of registration the number
8 of qualified voters who have signed the petition, the elections
9 official may use any facsimiles of voters' signatures, provided that
10 the method of preparing and displaying the facsimiles complies
11 with law.

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

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

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

1 (h) The Secretary of State shall adopt regulations consistent
2 with this section. The initial regulations may be adopted as
3 emergency regulations in accordance with Chapter 3.5
4 (commencing with Section 11340) of Part 1 of Division 3 of Title
5 2 of the Government Code, and shall be deemed necessary for the
6 immediate preservation of the public peace, health, safety, or
7 general welfare.

8 SEC. 9. Section 9031 of the Elections Code is amended to read:

9 9031. (a) (1) If the statistical sampling shows that the number
10 of valid signatures on all petition sections, including those
11 submitted to satisfy subdivision (a) of Section 9036, is within 95
12 to 110 percent of the number of signatures of qualified voters
13 needed to declare the petition sufficient, the Secretary of State
14 shall order the examination and verification of each signature filed,
15 and shall so notify the elections officials.

16 (2) In the case of an initiative petition, if the statistical sampling
17 shows that the number of valid signatures for all signatures
18 submitted is more than 110 percent of the number of qualified
19 voters needed to find the petition sufficient, but the number of
20 valid signatures submitted for purposes of subdivision (a) of
21 Section 9036 is within 95 to 110 percent of the number of
22 signatures needed to satisfy the requirement of that subdivision,
23 the Secretary of State shall only order an examination and
24 verification of each signature filed to satisfy the requirement of
25 subdivision (a) of Section 9036.

26 (b) (1) Within 35 days, excluding Saturdays, Sundays, and
27 holidays, after receipt of the order, the elections official or registrar
28 of voters shall determine from the records of registration the
29 number of qualified voters who have signed a section of the petition
30 that is subject to examination under subdivision (a) and, if
31 necessary, the board of supervisors shall allow the elections official
32 or registrar additional assistance for the purpose of examining the
33 petition and provide for their compensation. In determining from
34 the records of registration the number of qualified voters who have
35 signed the petition, the elections official or registrar of voters may
36 use any file or list of registered voters maintained by his or her
37 office, or the facsimiles of voters' signatures, provided that the
38 method of preparing and displaying the facsimiles complies with
39 law.

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

4 (c) (1) During the examination and verification of the signatures
5 filed, the elections official or registrar of voters shall submit one
6 or more reports to the Secretary of State showing the number of
7 signatures of qualified voters that have been verified as of that
8 date. The Secretary of State shall determine the number of reports
9 required to be submitted and the manner of their submission.

10 (2) The Secretary of State shall maintain a list indicating the
11 number of verified signatures of qualified voters who have signed
12 the petition based on the most recent reports submitted pursuant
13 to paragraph (1). If the Secretary of State determines, prior to each
14 county's completing the examination of each signature filed, that
15 based on the list the petition is signed by the requisite number of
16 voters needed to declare the petition sufficient, the Secretary of
17 State shall immediately notify the elections official or registrar of
18 voters of every county or city and county in the state of this fact.
19 Immediately after receipt of this notification, the elections official
20 or registrar of voters may suspend signature verification until
21 receipt of a certificate pursuant to Section 9033 or until otherwise
22 instructed by the Secretary of State.

23 (d) The elections official or registrar, upon the completion of
24 the examination, shall immediately attach to the petition, except
25 the signatures thereto appended, an amended certificate properly
26 dated, showing the result of the examination and shall immediately
27 transmit the petition, together with the amended certificate, to the
28 Secretary of State. A copy of the amended certificate shall be filed
29 in the elections official's office.

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

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

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

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

4 SEC. 10. Section 9036 is added to the Elections Code, to read:

5 9036. (a) At least ~~10~~ 5 percent of the signatures required under
6 Section 9035 shall be presented on a petition or section of a petition
7 that was circulated by a person who does not receive money or
8 other valuable consideration exclusively or primarily for the
9 specific purpose of soliciting signatures of electors on the petition.

10 (b) (1) A person who is an employee or member of a nonprofit
11 organization, other than an organization with the primary purpose
12 of soliciting signatures on initiative petitions, who receives money
13 or other valuable consideration from the organization and as part
14 of that employment or membership solicits signatures for the
15 qualification of an initiative measure shall be deemed to be a person
16 who, for purposes of subdivision (a), does not receive money or
17 other valuable consideration for the specific purpose of soliciting
18 signatures of electors, unless the primary purpose of that
19 employment or membership is to solicit signatures on an initiative
20 petition.

21 (2) For purposes of this subdivision, “member” means any of
22 the following:

23 (A) A person who, pursuant to a specific provision of an
24 organization’s articles of incorporation or bylaws, has the right to
25 vote directly or indirectly for the election of a director or directors,
26 or an officer or officers, or on a disposition of all or substantially
27 all of the assets of the organization, or on a merger or a dissolution.

28 (B) A person who is designated in an organization’s articles of
29 incorporation or bylaws as a member and, pursuant to a specific
30 provision of the articles of incorporation or bylaws, has the right
31 to vote on changes to the articles of incorporation or bylaws.

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

36 (3) For purposes of this subdivision, a member of a local union
37 is a member of any national or international union of which the
38 local union is a part and of any federation with which the local,
39 national, or international union is affiliated.

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

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

8 (c) Signatures that are solicited by a person who is a registered
9 voter of a political party, a member of a political party committee
10 as defined in Section 85205 of the Government Code, or an
11 employee of a political party or a political party committee and
12 who receives money or other valuable consideration for soliciting
13 signatures on an initiative petition from the political party or
14 political party committee do not count towards the number of
15 signatures needed to satisfy the requirement of subdivision (a).

16 (d) (1) Signatures on an initiative petition that are solicited
17 through direct mail do not count towards the number of signatures
18 needed to satisfy the requirement of subdivision (a) if the person
19 soliciting the signatures through direct mail, or any other person
20 who organizes, pays for, or arranges for the direct mail, receives
21 money or other valuable consideration primarily for the purpose
22 of soliciting signatures of electors, unless the person is an employee
23 or member of a nonprofit organization as described in subdivision
24 (b).

25 (2) This subdivision shall not be construed to preclude an
26 organization that has a primary purpose other than soliciting
27 signatures on initiative petitions from soliciting signatures from
28 the organization’s members through direct mail and relying on
29 those signatures for purposes of satisfying the requirement set forth
30 in subdivision (a).

31 (e) This section shall not be construed to preclude a person who
32 receives nominal benefits other than money, such as food,
33 transportation, or lodging, from qualifying under this section as a
34 person who does not receive money or other valuable consideration
35 exclusively or primarily for the specific purpose of soliciting
36 signatures of electors on a petition for a proposed initiative
37 measure.

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

1 (g) For purposes of verifying signatures under Sections 9030
2 and 9031 and the procedures set forth by the Secretary of State, if
3 the signature of a qualified voter appears once on a petition or
4 section of a petition submitted to satisfy subdivision (a) of this
5 section, and the same voter's signature appears on a petition or
6 section of a petition that does not satisfy subdivision (a), the
7 qualified voter's signature shall only be counted once and shall be
8 counted towards satisfying subdivision (a).

9 (h) A person who receives money or other valuable
10 consideration for the specific purpose of soliciting signatures on
11 an initiative petition shall not circulate a petition or a section of a
12 petition for purposes of satisfying the requirement of subdivision
13 (a) for the same initiative measure.

14 SEC. 11. Section 9037 is added to the Elections Code, to read:

15 9037. (a) The signatures on an initiative petition section shall
16 be deemed invalid and shall not be used for the purpose of
17 determining whether the initiative measure qualifies for the ballot
18 if the signatures thereon were solicited by a person who, in
19 connection with the circulation of the initiative petition,
20 intentionally engages in fraud, misrepresentation, or any conduct
21 described in Section 18600, 18601, or 18602, or by a person who
22 falsely claims to have not received money or other valuable
23 consideration for the specific purpose of soliciting signatures of
24 electors pursuant to Section 9036.

25 (b) This section may be enforced by a civil action brought by
26 the Secretary of State, the Attorney General, a district attorney, or
27 a city attorney of a city with a population greater than 750,000.
28 The signatures on a petition section shall be invalidated only upon
29 a showing, by clear and convincing evidence, that the person who
30 solicited or obtained the signatures did so through intentional fraud,
31 misrepresentation, or other conduct described in Sections 18600,
32 18601, and 18602, or that the person falsely claims to have not
33 received money or other valuable consideration for the specific
34 purpose of soliciting signatures of electors pursuant to Section
35 9036. Any civil action brought pursuant to this section shall have
36 priority over all other civil matters.

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

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

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

8 SEC. 12. The provisions of this act do not apply to an initiative
9 petition for which the Attorney General issued a circulating title
10 and summary before January 1, 2017.

11 SEC. 13. If the Commission on State Mandates determines
12 that this act contains costs mandated by the state, reimbursement
13 to local agencies and school districts for those costs shall be made
14 pursuant to Part 7 (commencing with Section 17500) of Division
15 4 of Title 2 of the Government Code.

16 SEC. 14. Section 8 shall become operative only if the Secretary
17 of State certifies that the state has a statewide voter registration
18 database that complies with the requirements of the federal Help
19 America Vote Act of 2002 (52 U.S.C. Sec. 20901 et seq.).