

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 57th Legislature (2020)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 3826

By: McCall and **O'Donnell**

7
8 COMMITTEE SUBSTITUTE

9 An Act relating to initiative and referendum;
10 amending 34 O.S. 2011, Sections 1, as amended by
11 Section 1, Chapter 193, O.S.L. 2015, 2, as amended by
12 Section 2, Chapter 193, O.S.L. 2015, 3, 4, 6, as
13 amended by Section 3, Chapter 193, O.S.L. 2015, 6.1
14 and 8, as amended by Section 4, Chapter 193, O.S.L.
15 2015 (34 O.S. Supp. 2019, Sections 1, 2, 6 and 8),
16 which relate to the initiative and referendum
17 process; modifying referendum petition form;
18 modifying initiative petition form; authorizing
19 promulgation of rules; authorizing designing of
20 certain forms for collection of signatures; modifying
21 cover sheets for petitions; modifying verification of
22 signatures; authorizing purchase of certain assets;
23 providing for codification; and providing an
24 effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 34 O.S. 2011, Section 1, as
amended by Section 1, Chapter 193, O.S.L. 2015 (34 O.S. Supp. 2019,
Section 1), is amended to read as follows:

1 Section 1. A. The referendum petition shall be substantially
2 as follows:

3 PETITION FOR REFERENDUM

4 To the Honorable _____, Governor of Oklahoma (or To the
5 Honorable _____, Mayor, Chairman of County Commissioners, or
6 other chief executive officer, as the case may be, of the city,
7 county or other municipal corporation of _____):

8 We, the undersigned legal voters of the State of Oklahoma (or
9 district of _____, county of _____, or city of
10 _____, as the case may be), respectfully order that Senate
11 (or House) Bill No. _____ (or ordinance No. _____),
12 entitled (title of Act, and if the petition is against less than the
13 whole Act, then set forth here the part or parts on which the
14 referendum is sought), passed by the _____ Legislature of the
15 State of Oklahoma, at the regular (or special) session of said
16 legislature, shall be referred to the people of the State (district
17 of _____, county of _____, or city of _____, as
18 the case may be) for their approval or rejection at the regular (or
19 special) election to be held on the _____ day of _____,
20 20__, and each for himself says: I have personally signed this
21 petition; I am a legal voter of the State of Oklahoma (and district
22 of _____, county of _____, or city of _____, as
23 the case may be); ~~my residence or post office are correctly written~~
24 ~~after my name~~ the following data points shall be included on the

1 form: the voter's first name, last name, zip code, house number and
2 numerical month and day of my birth.

3 Referendum petitions shall be filed with the Secretary of State
4 not more than ninety (90) days after the final adjournment of the
5 session of the legislature which passed the bill on which the
6 referendum is demanded. (For county, city or other municipality the
7 length of time shall be thirty (30) days.)

8 The question we herewith submit to our fellow voters is: Shall
9 the following bill of the legislature (or ordinance or resolution--
10 local legislation) be approved? (Insert here an exact copy of the
11 text of the measure followed by proponents of record (not to exceed
12 three signatures, complete printed name and address associated with
13 his or her Oklahoma voter registration record).)

14 ~~Name and Address of Proponents (not to exceed three)~~
15 Name _____ Residence _____ Post Office _____
16 ~~If in city, street and number.~~

17 ~~(Here follow twenty numbered lines for signatures.)~~

18 B. In order for the signature to be approved by the Secretary
19 of State, three or more data points described in subsection A of
20 this section must be matched to the voter registration file.

21 SECTION 2. AMENDATORY 34 O.S. 2011, Section 2, as
22 amended by Section 2, Chapter 193, O.S.L. 2015 (34 O.S. Supp. 2019,
23 Section 2), is amended to read as follows:

24

1 Section 2. A. The form of initiative petition shall be
2 substantially as follows:

3 INITIATIVE PETITION

4 To the Honorable _____, Governor of Oklahoma (or To the
5 Honorable _____, Mayor, Chairman of County Commissioners,
6 or other chief executive officers, as the case may be, for the city,
7 county or other municipality): We, the undersigned legal voters of
8 the State of Oklahoma (and of the district of _____,
9 county of _____, or city of _____, as the case
10 may be), respectfully order that the following proposed law (or
11 amendment to the constitution, ordinance, or amendment to the city
12 charter, as the case may be) shall be submitted to the legal voters
13 of the State of Oklahoma (or of the district of _____,
14 county of _____, or city of _____, as the case may
15 be) for their approval or rejection at the regular general election
16 (or regular or special city election), to be held on the ____ day
17 of _____, 20__, and each for himself says: I have personally
18 signed this petition; I am a legal voter of the State of Oklahoma
19 (and of the district of _____, county of _____,
20 city of _____, as the case may be); ~~my residence or post~~
21 ~~office are correctly written after my name~~ the following data points
22 shall be included on the form: the voter's first name, last name,
23 zip code, house number, and numerical month and day of my birth.
24 The time for filing this petition expires ninety (90) days from

1 (Secretary of State to insert assigned date when petition is to be
2 opened for signatures begin signature circulation). (This for State
3 initiative. For county, city, or other municipality the length of
4 time shall be ninety (90) days.) The question we herewith submit to
5 our fellow voters is: Shall the following bill (or proposed
6 amendment to the Constitution or resolution) be approved? (Insert
7 here an exact copy of the text of the measure followed by proponents
8 of record (not to exceed three signatures, complete printed name and
9 address associated with his or her Oklahoma voter registration
10 record.))

11 ~~Name and Address of Proponents (not to exceed three)~~

12 Name _____ Residence _____ Post Office _____

13 ~~If in the city, street and number.~~

14 ~~(Here follow twenty numbered lines for signatures.)~~

15 B. In order for the signature to be approved by the Secretary
16 of State, three or more data points described in subsection A of
17 this section must be matched to the voter registration file.

18 SECTION 3. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 2.1 of Title 34, unless there is
20 created a duplication in numbering, reads as follows:

21 The Secretary of State may promulgate rules to carry out the
22 provisions of this title.

23 SECTION 4. AMENDATORY 34 O.S. 2011, Section 3, is
24 amended to read as follows:

1 Section 3. Each initiative petition and each referendum
2 petition shall be duplicated for the securing of signatures. The
3 Secretary of State shall design a form, subject to change, for
4 signatures that shall be used by proponents of initiatives or
5 referendums when collecting signatures, and each sheet for
6 signatures shall be attached to a copy of the petition. Each copy
7 of the petition and sheets for signatures is hereinafter termed a
8 pamphlet. On the outer page of each pamphlet shall be printed the
9 word "Warning", and underneath this in ten-point type the words, "It
10 is a felony for anyone to sign an initiative or referendum petition
11 with any name other than his own, or knowingly to sign his name more
12 than once for the measure, or to sign such petition when he is not a
13 legal voter." A simple statement of the gist of the proposition
14 shall be printed on the top margin of each signature sheet. ~~Not~~
15 ~~more than twenty (20) signatures on one sheet on lines provided for~~
16 ~~the signatures shall be counted. Any signature sheet not in~~
17 ~~substantial compliance with this act shall be disqualified by the~~
18 ~~Secretary of State.~~

19 SECTION 5. AMENDATORY 34 O.S. 2011, Section 4, is
20 amended to read as follows:

21 Section 4. When any such signed initiative or referendum
22 petition pamphlets shall be offered for filing, the Secretary of
23 State, in the presence of the person offering the same for filing,
24 shall detach the sheets containing the signatures and affidavits and

1 cause them all to be attached to one or more printed copies of the
2 measure so proposed by initiative or referendum petition. All
3 ~~petitions for the initiative and referendum and sheets for~~
4 ~~signatures shall be printed on pages eight and one-half (8 1/2)~~
5 ~~inches in width by fourteen (14) inches in length, with a margin of~~
6 ~~one and three-fourths (1 3/4) inches at the top for binding; if If~~
7 the aforesaid sheets shall be too bulky for convenient binding in
8 one volume, they may be bound in two or more volumes, those in each
9 volume to be attached to a single printed copy of such measure; the
10 detached copies of such measures shall be delivered to the person
11 offering the same for filing. Each of the volumes and each
12 signature sheet therein shall be numbered consecutively, and a cover
13 sheet shall be attached, showing the purported number of signature
14 sheets, the series of numbers assigned to the signature sheets and
15 the total number of signatures counted per volume. The Secretary of
16 State shall render a signed receipt to the person offering the
17 petition for filing, which receipt shall include a report, volume by
18 volume, showing the number of signature sheets in each volume, the
19 series of numbers assigned to the signature sheets in each volume,
20 and the number of purported signatures in each volume. Duplicate
21 copies of the cover sheets, with necessary corrections, may be used
22 as receipts. If the volume of signatures is sufficiently large, the
23 Secretary of State shall seal the petitions in such manner that they
24 cannot be opened unless the seal is broken, and if requested by

1 those filing said petition, they shall not be opened before 9:00
2 a.m. on the day following the date said petitions are filed and said
3 procedure shall continue until such time as the Secretary shall be
4 able to receipt the petitions so filed; but additional signature
5 sheets shall not be accepted after 5:00 p.m. on ninetieth day. The
6 Secretary of State shall not provide any copies of signature sheets
7 to anyone until the sheets have been bound as provided in this
8 section.

9 Provided, that whenever reference is made in this act to the
10 Secretary of State, such reference shall include the Secretary of
11 State or any officer constitutionally designated to perform the
12 duties herein prescribed.

13 SECTION 6. AMENDATORY 34 O.S. 2011, Section 6, as
14 amended by Section 3, Chapter 193, O.S.L. 2015 (34 O.S. Supp. 2019,
15 Section 6), is amended to read as follows:

16 Section 6. ~~Each sheet of every such petition containing~~
17 ~~signatures shall be verified on the back thereof, in substantially~~
18 ~~the following form, by the~~ Any person who circulated said circulates
19 a sheet of said petition, by shall verify the signatures included on
20 any signature sheets he or she circulates by executing his or her
21 affidavit thereon and as a part thereof. The Secretary of State
22 shall cause to be affixed onto the back of the signature form an
23 affidavit, subject to change, for the circulator to verify the
24 signatures.

1 State of Oklahoma,)
2) ss.
3 County of _____)

4 I, _____, being first duly sworn, say: That I am at least
5 eighteen (18) years old and that all signatures on the signature
6 sheet were signed in my presence; I believe that each has stated his
7 or her name, mailing address, and ~~residence~~ correctly date of birth
8 associated with their Oklahoma voter registration record, and that
9 each signer is a legal voter of the State of Oklahoma and county of
10 _____ or of the city of _____ (as the case may be). (Signature
11 and ~~mailing~~ complete address of affiant.)

12 Subscribed and sworn to before me this _____ day of _____ A.D.
13 20__.

14 (Signature and title of the Oklahoma notarial officer before
15 whom oath is made, and his or her ~~mailing~~ complete address,
16 commission number and expiration date, and official Oklahoma notary
17 public seal.)

18 SECTION 7. AMENDATORY 34 O.S. 2011, Section 6.1, is
19 amended to read as follows:

20 Section 6.1 A. The Secretary of State shall make or cause to
21 be made a ~~physical~~ verification and count of the number of
22 signatures on the petitions. In making such count, the Secretary of
23 State shall not include in such ~~physical~~ total count:

24

1 1. All signatures on any sheet of any petition which is not
2 verified by the person who circulated the sheet of the petition as
3 provided in Section 6 of this title;

4 2. All signatures of nonresidents;

5 3. All signatures on a sheet that is not attached to a copy of
6 the petition pamphlet;

7 4. All multiple signatures on any printed signature line;

8 5. All signatures not on a printed signature line;

9 6. Those signatures by a person who signs with any name other
10 than his or her own or signs more than once; ~~and~~

11 7. All signatures on any sheet on which a notary has failed to
12 sign, the seal of the notary is absent, the commission of the notary
13 has expired or the expiration date is not on the signature sheet;
14 and

15 ~~B.~~ 8. Any signatures that cannot be verified by the Secretary
16 of State with the Oklahoma State Election Board's public voter
17 registration records.

18 B. The Secretary of State shall notify the Attorney General of
19 any and all violations of this title of which he has knowledge.

20 C. The Secretary of State may purchase any tangible or
21 intangible assets, including, but not limited to, software,
22 necessary to carry out his or her duties pursuant to this section.

23

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1 SECTION 8. AMENDATORY 34 O.S. 2011, Section 8, as
2 amended by Section 4, Chapter 193, O.S.L. 2015 (34 O.S. Supp. 2019,
3 Section 8), is amended to read as follows:

4 Section 8. A. When a citizen or citizens desire to circulate a
5 petition initiating a proposition of any nature, whether to become a
6 statute law or an amendment to the Constitution, or for the purpose
7 of invoking a referendum upon legislative enactments, such citizen
8 or citizens shall, when such petition is prepared, and before the
9 same is circulated or signed by electors, file a true and exact copy
10 of same in the office of the Secretary of State and shall at the
11 same time file a separate ballot title, which shall not be part of
12 or printed on the petition.

13 B. It shall be the duty of the Secretary of State to cause to
14 be published, in at least one newspaper of general circulation in
15 the state, a notice of such filing and the apparent sufficiency or
16 insufficiency of the petition, and shall include notice that any
17 citizen or citizens of the state may file a protest as to the
18 constitutionality of the petition, by a written notice to the
19 Supreme Court and to the proponent or proponents filing the
20 petition. Any such protest must be filed within ten (10) business
21 days after publication. A copy of the protest shall be filed with
22 the Secretary of State.

23 C. Upon the filing of a protest to the petition, the Supreme
24 Court shall then fix a day, not less than ten (10) business days

1 thereafter, at which time it will hear testimony and arguments for
2 and against the sufficiency of such petition.

3 D. A protest filed by anyone hereunder may, if abandoned by the
4 party filing same, be revived within five (5) business days by any
5 other citizen. After such hearing the Supreme Court shall decide
6 whether such petition is in the form required by the statutes. If
7 the Court is at the time adjourned, the Chief Justice shall
8 immediately convene the same for such hearing. No objection to the
9 sufficiency shall be considered unless it has been made and filed as
10 herein provided.

11 E. Signature-gathering Deadline for Initiative Petitions. When
12 an initiative petition has been filed in the office of the Secretary
13 of State and all appeals, protests and rehearings have been resolved
14 or the period for such has expired, the Secretary of State shall set
15 the date for circulation of signatures for the petition to begin but
16 in no event shall the date be less than fifteen (15) days nor more
17 than thirty (30) days from the date when all appeals, protests and
18 rehearings have been resolved or have expired. Notification shall
19 be sent to the proponents specifying the date on which circulation
20 of the petition shall begin and that the signatures are due within
21 ninety (90) days of the date set. Each elector shall sign his or
22 her ~~legally registered name, address or post office box, and the~~
23 ~~name of the county of residence~~ and legibly print his or her name,
24 birth date and address associated with his or her Oklahoma voter

1 registration record. Any petition not filed in accordance with this
2 provision shall not be considered. The proponents of an initiative
3 petition, any time before the final submission of signatures, may
4 withdraw the initiative petition upon written notification to the
5 Secretary of State.

6 F. Signature-gathering Deadline for Referendum Petitions. All
7 signed signatures supporting a referendum petition shall be filed
8 with the Secretary of State not later than ninety (90) days after
9 the adjournment of the legislative session in which the measure,
10 which is the subject of the referendum petition, was enacted.

11 G. The proponents of a referendum or an initiative petition may
12 terminate the circulation period any time during the ninety-day
13 circulation period by certifying to the Secretary of State that:

14 1. All signed petitions have already been filed with the
15 Secretary of State;

16 2. No more petitions are in circulation; and

17 3. The proponents will not circulate any more petitions.

18 If the Secretary of State receives such a certification from the
19 proponents, the Secretary of State shall begin the counting and
20 review process.

21 H. When the signed copies of a petition pamphlet are timely
22 filed, the Secretary of State shall file a copy of the proponent's
23 ballot title with the Attorney General⁷ and₁ after conducting a

24

1 count and review of the filed, signed petition pamphlets, the
2 Secretary of State shall certify to the Supreme Court of the state:

3 1. The total number of signatures counted pursuant to
4 procedures set forth in this title; and

5 2. The total number of votes cast for the state office
6 receiving the highest number of votes cast at the last general
7 election.

8 The Supreme Court shall make the determination of the numerical
9 sufficiency or insufficiency of the signatures counted and reviewed
10 by the Secretary of State.

11 I. Upon order of the Supreme Court it shall be the duty of the
12 Secretary of State to forthwith cause to be published, in at least
13 one newspaper of general circulation in the state, a notice of the
14 filing of the signed petitions and the apparent sufficiency or
15 insufficiency thereof, and shall also publish the text of the ballot
16 title as reviewed and approved or, if applicable, as rewritten by
17 the Attorney General pursuant to the provisions of subsection D of
18 Section 9 of this title and notice that any citizen or citizens of
19 the state may file an objection to the count made by the Secretary
20 of State, by a written notice to the Supreme Court and to the
21 proponent or proponents filing the petition. Any such objection
22 must be filed within ten (10) business days after publication and
23 must relate only to the validity or number of the signatures or a
24 challenge to the ballot title. A copy of the objection to the count

1 or ballot title shall be filed with the Supreme Court, the Attorney
2 General and the Secretary of State.

3 J. ~~The~~ Upon appeal and if ordered or directed by the Supreme
4 Court, the Secretary of State shall deliver the bound volumes of
5 signatures to the Supreme Court.

6 K. Upon the filing of an objection to the signature count or
7 ballot title, the Supreme Court shall resolve the objection with
8 dispatch. The Supreme Court shall adopt rules to govern proceedings
9 to apply to the challenge of a measure on the grounds that the
10 proponents failed to gather sufficient signatures.

11 L. If in the opinion of the Supreme Court, any objection to the
12 count or protest to the petition is frivolous, the Court may impose
13 appropriate sanctions, including an award of costs and attorneys
14 fees to either party as the Court deems equitable.

15 M. Whenever reference is made in this act to the Supreme Court,
16 such reference shall include the members of the Supreme Court or any
17 officer constitutionally designated to perform the duties herein
18 prescribed.

19 SECTION 9. This act shall become effective November 1, 2020.
20

21 COMMITTEE REPORT BY: COMMITTEE ON RULES, dated 02/26/2020 - DO PASS,
22 As Amended and Coauthored.
23
24