

Protect the Initiative Act
Establishes protections for citizens who participate
in the initiative and referendum process

AN ACT Relating to establishing protections for citizens exercising their First Amendment rights by participating in the initiative and referendum process; amending RCW 9A.84.030, 35.17.260, 35A.11.100, 35.17.290, and 29A.72.170; adding new sections to chapter 29A.72 RCW; creating new sections; and prescribing penalties.

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

POLICIES AND PURPOSES

NEW SECTION. **Sec. 1.** The people want to ensure their right to participate in the initiative and referendum process is protected. Citizens' participation in the legislative process by initiative and referendum has been subjected to hostility, interference and threats of interference and retaliation by private and governmental actions. As promised by the Washington state Constitution: "The first power reserved by the people is the initiative."

Article I, section 4 of the Washington state Constitution and the First Amendment to the United States Constitution recognizes the right of the people to petition the government. This act is intended to protect the rights provided by these constitutional provisions. This measure would establish protections for citizens exercising their First Amendment rights by participating in the initiative and referendum process. The people find that citizens' right to participate in the initiative and referendum process needs to be

protected.

ESTABLISHING PROTECTIONS FOR CITIZENS EXERCISING THEIR FIRST AMENDMENT RIGHTS BY PARTICIPATING IN THE INITIATIVE AND REFERENDUM PROCESS

NEW SECTION. **Sec. 2.** A new section is added to chapter 29A.72 RCW to read as follows:

This section establishes protections for signature gathering for any state or local initiative or referendum. Interfering with signature gathering shall be illegal. Any person who is gathering signatures for an officially filed and processed initiative or referendum shall not have his or her right to petition deterred or infringed upon. Any person who is trying to sign a petition for an officially filed and processed initiative or referendum shall not have his or her right to sign a petition deterred or infringed upon. Any person who interferes with any person gathering signatures or interferes with any person trying to sign a petition or retaliates against or stalks any person who signed a petition or retaliates against or stalks any person who gathered signatures for a petition shall be subject to the anti-harassment procedures in chapter 10.14 RCW and civil penalties and shall be guilty of disorderly conduct under RCW 9A.840.030. For purposes of this section, "interfering with" includes, but is not limited to, pushing, shoving, touching, spitting, throwing objects, yelling, screaming, or being verbally abusive, or other tumultuous conduct, blocking or intimidating, or maintaining an intimidating presence within twenty-five feet of any person gathering signatures and any person trying to sign a petition.

As the courts have consistently ruled, the signing of a petition and the collection of voter signatures is core political speech, which is deserving of the highest levels of protection. Signature gathering and petition signing for an officially filed and processed initiative or referendum shall be a legally protected activity on public sidewalks and walkways and all sidewalks and walkways that carry pedestrian traffic, including those in front the entrances and exits of any store, and inside or outside public buildings such as public sports stadiums, convention/exhibition centers, and public fairs. Law enforcement must vigorously protect the rights of the people who want to sign initiative and referendum petitions, and the people who collect voter signatures on initiative and referendum petitions, to

ensure they are not inhibited or restricted in any way.

The people find that they must be able to safely, freely, and peacefully petition their government for change without fear of intimidation or retaliation. Without the right to petition and the right to sign petitions, there is no functioning initiative and referendum process. Maximum legal protections must be afforded persons gathering signatures and persons trying to sign petitions to protect them from interference, harassment, threat, or retaliation. Maximum penalties must be imposed against persons who interfere with the constitutionally protected right to initiative and referendum.

Sec. 3. RCW 9A.84.030 and 2007 c 2 s 1 are each amended to read as follows:

- (1) A person is guilty of disorderly conduct if the person:
 - (a) Uses abusive language and thereby intentionally creates a risk of assault;
 - (b) Intentionally disrupts any lawful assembly or meeting of persons without lawful authority;
 - (c) Intentionally obstructs vehicular or pedestrian traffic without lawful authority; (~~or~~)
 - (d) (i) Intentionally engages in fighting or in tumultuous conduct or makes unreasonable noise, within five hundred feet of:
 - (A) The location where a funeral or burial is being performed;
 - (B) A funeral home during the viewing of a deceased person;
 - (C) A funeral procession, if the person described in this subsection (1)(d) knows that the funeral procession is taking place; or
 - (D) A building in which a funeral or memorial service is being conducted; and
 - (ii) Knows that the activity adversely affects the funeral, burial, viewing, funeral procession, or memorial service; or
 - (e) Interferes with or retaliates against a person collecting signatures or signing any initiative or referendum petition by pushing, shoving, touching, spitting, throwing objects, yelling, screaming, being verbally abusive, blocking or intimidating, or other tumultuous conduct or maintaining an intimidating presence within twenty-five feet of any person gathering signatures or any person trying to sign any initiative or referendum petition.
- (2) Disorderly conduct is a misdemeanor.

**GUARANTEEING THE PEOPLE'S RIGHT TO VOTE ON INITIATIVES
THAT SUBMIT SUFFICIENT VALID VOTER SIGNATURES**

NEW SECTION. **Sec. 4.** A new section is added to chapter 29A.72 RCW to read as follows:

Any state or local initiative for which sufficient valid voter signatures are submitted within the time period required must be submitted to a vote of the people at the next general election ballot.

The people are guaranteed the right to vote on any initiative that obtains the required number of valid voter signatures in the required time frame. Government officials, both elected and unelected, must facilitate and cannot obstruct the processing of any initiative petition and must facilitate and cannot obstruct the public vote of any initiative. For local initiatives, government officials must, in all circumstances, strictly comply with the requirements of this act for any initiative regardless of its subject matter. This section may not be construed in any way to impede the right to legal review of the sufficiency of valid voter signatures or post-election legal review; however, under no circumstances may an initiative be prohibited from submission to the people for a vote if sufficient valid voter signatures are submitted.

Sec. 5. RCW 35.17.260 and 1996 c 286 s 4 are each amended to read as follows:

Ordinances may be initiated by petition of registered voters of the city filed with the commission. If the petition accompanying the proposed ordinance is signed by the registered voters in the city equal in number to ~~((twenty-five))~~ five percent of the votes cast for all candidates for mayor at the last preceding city election, and if it contains a request that ~~((, unless passed by the commission,))~~ the ordinance be submitted to a vote of the registered voters of the city, the commission shall ~~((either:~~

~~—— (1) Pass the proposed ordinance without alteration within twenty days after the county auditor's certificate of sufficiency has been received by the commission; or~~

~~—— (2) Immediately)),~~ no later than five working days after the county auditor's certificate of sufficiency for the petition is received, cause to be called a special election to be held on the next

election date, as provided in (~~(*RCW 29.13.020)~~) RCW 29A.04.330, that occurs not less than forty-five days thereafter, for submission of the proposed ordinance without alteration, to a vote of the people (~~((unless a general election will occur within ninety days, in which event submission must be made on the general election ballot))~~).

Sec. 6. RCW 35A.11.100 and 1973 1st ex.s. c 81 s 3 are each amended to read as follows:

Except as provided in RCW 35A.11.090, (~~(and except that the number of registered voters needed to sign a petition for initiative or referendum shall be fifteen percent of the total number of names of persons listed as registered voters within the city on the day of the last preceding city general election)~~), the powers of initiative and referendum in noncharter code cities shall be exercised in the manner set forth for the commission form of government in RCW 35.17.240 through 35.17.360, as now or hereafter amended.

Sec. 7. RCW 35.17.290 and 1965 c 7 s 35.17.290 are each amended to read as follows:

If the clerk finds the petition insufficient or if the clerk violates the law by refusing to turn over the petitions to the county auditor or if the commission (~~(refuses either to pass an initiative ordinance or)~~) violates the law by refusing to abide by RCW 35.17.260 which mandates they order an election thereon, ((any taxpayer may)) the state attorney general shall commence an action in the superior court against the city and procure a decree ordering an election to be held in the city for the purpose of voting upon the proposed ordinance if the court finds the petition to be sufficient.

NEW SECTION. **Sec. 8.** No later than March 31, 2013, every city and every county must adopt initiative and referendum powers that are subject to the requirements of this act. The number of signatures required for an initiative or referendum may not exceed five percent of the votes cast for all candidates for mayor (for a city initiative or referendum) and for all candidates for county executive (for a county initiative or referendum) at the last preceding election. The length of time allowed for signature collection must not be less than six months. When adopting the initiative and referendum powers, cities and counties may only facilitate, not frustrate, the process.

**PROTECTING CITIZENS' RIGHT TO PARTICIPATE BY EXTENDING THE TIME FOR
SIGNATURE GATHERING ON INITIATIVES, DETERRING INTERFERENCE
IN THE SIGNATURE GATHERING PROCESS**

Sec. 9. RCW 29A.72.030 and 2003 c 111 s 1804 are each amended to read as follows:

Initiative measures proposed to be submitted to the people must be filed with the secretary of state within (~~ten~~) sixteen months prior to the election at which they are to be submitted (this act's amended change from ten months to sixteen months for filing an initiative provides up to six more months for initiative signature gathering), and the signature petitions must be filed with the secretary of state not less than four months before the next general statewide election.

Initiative measures proposed to be submitted to the legislature must be filed with the secretary of state within (~~ten~~) sixteen months prior to the next regular session of the legislature at which they are to be submitted (this act's amended change from ten months to sixteen months for filing an initiative provides up to six more months for initiative signature gathering), and the signature petitions must be filed with the secretary of state not less than ten days before such regular session of the legislature.

A referendum measure petition ordering that any act or part of an act passed by the legislature be referred to the people must be filed with the secretary of state within ninety days after the final adjournment of the legislative session at which the act was passed. It may be submitted at the next general statewide election or at a special election ordered by the legislature.

A proposed initiative or referendum measure may be filed no earlier than the opening of the secretary of state's office for business pursuant to RCW 42.04.060 on the first day filings are permitted, and any initiative or referendum petition must be filed not later than the close of business on the last business day in the specified period for submission of signatures. If a filing deadline falls on a Saturday, the office of the secretary of state must be open for the transaction of business under this section from 8:00 a.m. to 5:00 p.m. on that Saturday.

Opponents of ballot measures sometimes try to interfere with the signature gathering process in the final months of the campaign,

taking advantage of the limited time for the collection of signatures.
The people find that allowing more time for citizens to participate
in the signature gathering process will deter such despicable tactics.

NEW SECTION. **Sec. 10.** The provisions of this act are to be liberally construed to effectuate the intent, policies, and purposes of this act.

NEW SECTION. **Sec. 11.** This act shall be self-executing. If any part or parts of this act are found to be in conflict with federal law, the United States Constitution, or the Washington state Constitution, the act shall be implemented to the maximum extent that federal law, the United States Constitution, and the Washington state Constitution permit. Any provision held invalid shall be severable from the remaining portions of this act.

NEW SECTION. **Sec. 12.** This act is called "Protect the Initiative Act."

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