

REFERENCE TITLE: initiative; referendum; petition challenges

State of Arizona
House of Representatives
Fifty-sixth Legislature
Second Regular Session
2024

HB 2831

Introduced by
Representative De Los Santos

AN ACT

AMENDING SECTIONS 19-121.04 AND 19-122, ARIZONA REVISED STATUTES; RELATING
TO INITIATIVE AND REFERENDUM.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 19-121.04, Arizona Revised Statutes, is amended
3 to read:

4 19-121.04. Disposition of petitions by secretary of state

5 A. Within seventy-two hours, excluding Saturdays, Sundays and other
6 legal holidays, after receipt of the facsimile signature sheets and the
7 certification of each county recorder, the secretary of state shall
8 determine the total number of valid signatures by subtracting from the
9 total number of eligible signatures determined pursuant to section
10 19-121.01, subsection A in the following order:

11 1. All signatures that were removed pursuant to section 19-121.01,
12 subsection A, paragraph 1.

13 ~~2. All signatures that were found ineligible by the county~~
14 ~~recorders and that were not subtracted pursuant to paragraph 1 of this~~
15 ~~subsection.~~

16 ~~3.~~ 2. After determining the percentage of all signatures found to
17 be invalid in the random sample, a like percentage from those signatures
18 remaining after the subtractions performed pursuant to ~~paragraphs~~
19 ~~PARAGRAPH 1 and 2~~ of this subsection.

20 B. If the actual number of signatures on the remaining sheets after
21 any such subtraction equals or exceeds the minimum number required by the
22 constitution or if the number of valid signatures as projected from the
23 random sample pursuant to subsection A of this section is at least one
24 hundred percent of the minimum number required by the constitution, the
25 secretary of state shall issue the following receipt to the person or
26 organization that submitted them:

27 _____ signature pages bearing _____
28 signatures for initiative (referendum) petition serial number
29 _____ have been refused for filing in this office as provided
30 by law. A total of _____ signatures included on
31 the remaining petition sheets were found to be ineligible. Of
32 the total random sample of _____ signatures, a total
33 of _____ signatures were invalidated by the county
34 recorders resulting in a failure rate of _____ percent.
35 The actual number of remaining signatures for such initiative
36 (referendum) petition number _____ are equal to or in
37 excess of the minimum required by the constitution to place a
38 measure on the general election ballot. The number of valid
39 signatures filed with this petition, based on the random
40 sample, appears to be at least one hundred percent of the
41 minimum required or through examination of each signature has
42 been certified to be greater than the minimum required by the
43 constitution.

44 Date: _____

45 _____ Secretary of State
46 (Seal)

1 The secretary of state shall then forthwith notify the governor that a
2 sufficient number of signatures has been filed and that the initiative or
3 referendum shall be placed on the ballot in the manner provided by law.

4 C. If the number of valid signatures as projected from the random
5 sample is less than one hundred percent of the minimum number required by
6 the constitution or if the actual number of signatures on the remaining
7 sheets after any such subtraction from the random sample or after
8 certification fails to equal or exceed the minimum required by the
9 constitution, the secretary of state shall retain the original signature
10 sheets until after the conclusion of any litigation regarding the measure
11 or until the time has expired for any litigation to proceed. The
12 secretary of state shall provide to the person or organization that
13 submitted them a certified statement that, for the following reasons, the
14 petition lacks the minimum number of signatures to place it on the general
15 election ballot:

16 1. Signature sheets bearing secretary of state page
17 numbers _____ and bearing signatures of _____
18 persons appeared on signature pages that were required to be
19 removed.

20 2. A total of _____ signatures on the remaining
21 petition sheets were found to be ineligible.

22 3. ~~A total of _____ signatures included in~~
23 ~~the random sample have been certified by the county recorders~~
24 ~~as ineligible at the time such petition was signed and a~~
25 projection from such random sample has indicated that
26 _____ more signatures are ineligible to appear on the
27 petition.

28 A facsimile of the certifications of the county recorders under section
29 19-121.02 shall accompany the signature sheets returned to the person or
30 organization that submitted them.

31 Sec. 2. Section 19-122, Arizona Revised Statutes, is amended to
32 read:

33 19-122. Refusal of secretary of state to file petition or
34 transmit facsimiles of signature sheets or
35 affidavits of circulators; writ of mandamus; venue

36 A. If the secretary of state refuses to accept and file a petition
37 for the initiative or referendum, or proposal for a constitutional
38 amendment that has been presented within the time prescribed, or if the
39 secretary of state refuses to transmit the facsimiles of a signature sheet
40 or sheets or affidavits of circulators to the county recorders for
41 certification under section 19-121.01, the secretary of state shall
42 provide the person who submitted the petition, proposal, signature sheet
43 or affidavit with a written statement of the reason for the refusal.
44 Within five calendar days after the refusal any citizen may apply to the
45 superior court for a writ of mandamus to compel the secretary of state to
46 file the petition or proposal or transmit the facsimiles, or for matters

1 involving statewide initiatives or referenda or proposed constitutional
2 amendments, the citizen may file a complaint with the county attorney or
3 attorney general. The county attorney or attorney general may apply,
4 within five calendar days after the complaint is made, to the superior
5 court for a writ of mandamus to compel the secretary of state to file the
6 petition or proposal or transmit the facsimiles. The action shall be
7 advanced on the calendar and heard and decided by the court as soon as
8 possible. Either party may appeal to the supreme court within five
9 calendar days after entry of judgment by the superior court. The decision
10 of the superior court may be stayed as prescribed by rules adopted by the
11 supreme court. If the court finds that the petition is legally
12 sufficient, the secretary of state shall then file it, with a certified
13 copy of the judgment attached as of the date on which it was originally
14 offered for filing in the secretary of state's office.

15 B. The most current version of the general county register
16 statewide voter registration database at the time of filing a court action
17 challenging an initiative or referendum petition shall constitute the
18 official record to be used to determine on a prima facie basis by the
19 challenger that the signer of a petition was not registered to vote at the
20 address given on the date of signing the petition. If the address of the
21 signer given on the date of signing the petition is different from that on
22 the most current version of the general county register, the county
23 recorder shall examine the version of the general county register that was
24 current on the date the signer signed the petition to determine the
25 validity of the signature and to determine whether the person was eligible
26 to sign the petition at the time of signing. This subsection does not
27 preclude introducing into evidence a certified copy of the affidavit of
28 registration of any signer dated before the signing of the petition if the
29 affidavit is in the possession of the county recorder but has not yet been
30 filed in the general county register.

31 C. An action that contests the validity of an initiative or
32 referendum measure based on the actions of the secretary of state ~~or~~
33 ~~compliance with this chapter~~ by any person **MUST BE FILED WITHIN FIVE**
34 **CALENDAR DAYS AFTER THE ACTIONS OF THE SECRETARY OF STATE AND** may not be
35 maintained in any court in this state except as prescribed by this
36 section. Any person may contest the validity of an initiative or
37 referendum. ~~If multiple actions are filed that contest the validity of an~~
38 ~~initiative or referendum, including actions filed pursuant to subsection A~~
39 ~~of this section, the separate actions shall be consolidated before the~~
40 ~~appropriate venue pursuant to subsection D of this section.~~ **IF A PERSON**
41 **FILES AN ACTION TO CHALLENGE THE VALIDITY OF AN INITIATIVE OR REFERENDUM**
42 **BASED ON THE ACTIONS OF THE SECRETARY OF STATE OR A COUNTY, THAT ACTION**
43 **MAY NOT INCLUDE A CHALLENGE TO THE INDIVIDUAL PETITION SIGNATURES. ANY**
44 **ACTION TO CHALLENGE THE VALIDITY OF INDIVIDUAL PETITION SIGNATURES MAY NOT**
45 **BE CONSOLIDATED WITH AN ACTION TO CHALLENGE THE ACTIONS OF THE SECRETARY**
46 **OF STATE OR A COUNTY.** In addition to contesting the validity of an

1 initiative or referendum, any person may seek to enjoin the secretary of
2 state or other officer from certifying or printing the official ballot for
3 the election that will include the proposed initiative or referendum
4 measure and to enjoin the certification or printing of the ballot.

5 D. The superior court in Maricopa county shall have jurisdiction of
6 actions relating to measures and amendments to be submitted to the
7 electors of the state at large. With respect to actions relating to local
8 and special measures for a county, special district or school district,
9 the superior court in the county in which the district is located shall
10 have jurisdiction. With respect to actions relating to local or special
11 measures for a city or town, the superior court in the county in which the
12 majority of the population of that city or town resides shall have
13 jurisdiction.