

FEB 08 2008

SECRETARY OF STATE

**Hands Off The People's Initiative  
Stops politicians from taking away our rights**

**Suggested Statement of the Subject:** Initiative Measure No. XXX concerns the initiative and referendum process.

**Suggested Concise Description:** This measure would require a two-thirds legislative vote on bills that interfere with the initiative and referendum process; provide judicial review of emergency clauses; and define and provide penalties for interference with petition-signing.

AN ACT Relating to protecting citizens' rights to participate in the ballot measure process; amending RCW 29A.72.110, 29A.72.120, 29A.72.130, and 29A.72.170; adding new sections to chapter 29A.72 RCW; creating new sections; prescribing penalties; and providing an effective date.

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

**POLICIES AND PURPOSES**

NEW SECTION. **Sec. 1.** Citizens want politicians to keep their hands off our right to participate in the ballot measure process. As guaranteed by the Washington state Constitution: "The first power reserved by the people is the initiative." The right of the people to petition and legislate through the initiative and referendum is a fundamental right protected by the Washington state Constitution. The people find that many politicians and bureaucrats are hostile to the citizens' participation in the political process by initiative and referendum. As such, any legislative change that does not facilitate the process must be viewed with extreme skepticism and therefore must

be approved by a two-thirds vote of each house of the Legislature. It is the intent of the people that laws and rules adopted regarding the initiative and referendum process be construed to facilitate the exercise of initiative and referendum powers. In any legal challenge, laws or rules regarding the initiative or referendum process shall be reviewed with a legal standard of strict scrutiny by the courts to ensure protection of the citizens' rights to the initiative and referendum process. The people find that the Legislature's reckless, arbitrary, and capricious overuse of the emergency clause by attaching it to non-emergency legislation has seriously impaired the citizens' right to referendum. When politicians claim that building a sports stadium is an emergency, the people find that reasonable limits must be placed on politicians' use of the emergency clause. This measure would require a two-thirds legislative majority for bills that interfere with the state initiative and referendum, provide judicial review of emergency clauses, and establish protections for signature gathering. The Legislature's ongoing assault against the citizens' right to initiative and referendum, if successful, will stop the citizens' right to vote on conservative, liberal, and nonpartisan measures in the future. The people find that the existing checks and balances on the citizens' initiative process are more than adequate: The number of signatures necessary to qualify for the ballot is high and no proposed initiative or law subject to referendum takes effect without first being approved by a majority of voters. The citizens' rights to participate in the ballot measure process must be protected from the perpetual efforts of politicians to sabotage it.

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

The people do not yield their sovereignty to the legislators who represent them. Indeed, of the powers delegated to the Legislature by Article II of the Washington state Constitution, the first right reserved to the people is that of initiative and referendum. The purpose of this Act is to declare the intent of the people of the state of Washington that all laws affecting the right of initiative and referendum are to be construed in such a way as to facilitate, rather than frustrate, the right of initiative and referendum. Legislative amendments that restrict, impede, or increase the burdens and requirements to the exercise of the right to initiative and

referendum shall be narrowly construed. To that end, this Act is to be liberally construed to effectuate its purpose of preserving and protecting the peoples' right to initiative and referendum.

**PROTECTING CITIZENS' RIGHT TO PARTICIPATE BY REQUIRING A TWO-THIRDS  
LEGISLATIVE MAJORITY FOR BILLS THAT INTERFERE WITH THE STATE  
INITIATIVE AND REFERENDUM**

NEW SECTION.   **Sec. 3.**   A new section is added to chapter 29A.72 RCW to read as follows:

Any legislation that interferes with the state initiative or referendum process must be approved by a two-thirds vote of each house of the legislature. The Washington state Constitution guarantees the people the right to initiative and referendum and any law that frustrates the process or limits access to the process must have an overwhelming legislative consensus.

(1) For the purposes of this section, "legislation that interferes with the state initiative or referendum process" includes, but is not limited to, any law that:

(a) Repeals the initiative and referendum process;

(b) Increases the percentage of signatures necessary to qualify for the ballot;

(c) Changes the requirements for petitions, including requiring witnesses or affidavits for signing petitions;

(d) Changes the requirements for petition circulators, including limiting participation based on residency, age, and voter status;

(e) Changes the method of payment to petition circulators compensated for their service;

(f) Changes the procedure for validating or invalidating signatures;

(g) Requires majority voter approval within certain jurisdictions affected by an initiative in order for the initiative or referendum to be valid or effective within such jurisdictions; and

(h) Changes the availability or access to public and private locations to allow petitioning.

(2) This section does not affect any governmental law or regulation required by the Washington state Constitution.

(3) This section applies to the initiative process and the referendum process at the state level.

(4) This section shall be self-executing. If any part or parts of this section are found to be in conflict with federal law, the United States Constitution, or the Washington state Constitution, the section 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.

**PROTECTING CITIZENS' RIGHT TO PARTICIPATE BY PROVIDING JUDICIAL REVIEW FOR EMERGENCY CLAUSES WHICH FRUSTRATE THE PEOPLE'S RIGHT TO REFERENDUM**

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

(1) The legislature's use of emergency clauses on legislation is a restriction on the peoples' fundamental right to referendum. Such restrictions must serve a compelling governmental purpose and in any legal challenge, the court shall review emergency clauses with a legal standard of strict scrutiny of the emergency clause to ensure the protection of the rights of citizens to the referendum process. Absent specific findings of fact by the legislature demonstrating a compelling governmental purpose for prohibiting the referendum process on such legislation, the emergency clause is automatically void without judicial inquiry into the governmental purpose and the legislation shall be subject to referenda.

(2) The supreme court has original jurisdiction to decide petitions challenging the validity of emergency clauses. Any person, after the enactment of legislation containing an emergency clause, may file a petition directly in the supreme court seeking declaratory relief as to the validity of any emergency clause. The petition shall set forth the legislation, the objections to the emergency clause, any facts the petitioner contends are undisputed, and a request that the court declare the emergency clause to be ineffective to prevent a referendum. The petition shall be served on the attorney general on the same day it is filed with the court.

(3) The petition shall be considered an emergency matter of public concern by the supreme court and heard and determined within thirty five days of filing.

(4) The attorney general shall have seven calendar days after service of the petition to file an answer to the petition. Any person

who seeks to intervene in the proceeding must do so at the same time the attorney general files an answer to the petition. Facts asserted in the petition which are not denied by the answer shall be deemed undisputed. The petitioner shall have seven calendar days to file a reply to the answer. Any facts asserted in the answer which are not denied by the petitioner in the reply to the answer shall be deemed undisputed. These requirements that facts asserted be denied if they are disputed is intended to replace any requirement for a separate agreed statement of facts, although the parties are not prevented from filing a separate agreed statement of facts by this section.

(5) If the court deems oral argument advisable and if necessary to meet the timeframe in subsection (3), the court may reschedule oral argument in any other pending case which does not directly involve the constitutional rights of a party.

(6) The court shall determine whether the emergency clause serves a compelling governmental purpose and otherwise complies with the provisions of this section and is therefore a legitimate exclusion from the peoples' right to referenda.

(7) Review of legislative declarations of emergency under this section shall be de novo, and all presumptions shall be rendered in favor of the peoples' right to referendum. The burden of proof shall be on proponents of the contested emergency declaration to establish a compelling governmental interest justifying exemption from the referendum power.

(8) A person who files an appeal under subsection (2) and substantially prevails is entitled to an award of reasonable costs and attorneys' fees in pursuing the action in the supreme court.

(9) Consistent with this section requiring laws to be construed to facilitate the initiative and referendum process, if a referendum is sought on legislation with a contested emergency clause, state officers and agencies, including but not limited to the secretary of state and attorney general, shall proceed with processing the referendum request pursuant to this chapter pending the outcome of the emergency clause appeal.

**PROTECTING CITIZENS' RIGHT TO PARTICIPATE BY  
ESTABLISHING PROTECTIONS FOR SIGNATURE GATHERING**

NEW SECTION.    **Sec. 5.**    A new section is added to chapter 29A.72

RCW to read as follows:

This section establishes protections for signature gathering. 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 be infringed. 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 be infringed. Any person who interferes with any person gathering signatures or any person trying to sign a petition, shall be guilty of a class C felony. For purposes of this section, "interfering with" includes, but is not limited to, pushing, shoving, touching, spitting, or throwing objects, yelling, screaming, or being verbally abusive, blocking or intimidating, or maintaining a presence within twenty feet of any person gathering signatures and any person trying to sign a petition. Collecting signatures to petition the government for redress cannot be obstructed by anyone for any reason. As the courts have consistently ruled, asking fellow citizens to sign a petition is core political speech and cannot be allowed to be interfered with in any way. Law enforcement must vigorously protect the rights of the people who collect voter signatures on initiative 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 retaliation or intimidation. The people find that 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, or threat. Maximum penalties must be imposed against persons who interfere with the constitutionally protected right to initiative and referendum.

**PROTECTING CITIZENS' RIGHT TO PARTICIPATE BY MAKING IT SAFER  
FOR PEOPLE TO GATHER VOTER SIGNATURES**

**Sec. 6.** RCW 29A.72.110 and 2005 c 239 s 1 are each amended to read as follows:

Petitions for proposing measures for submission to the people for their approval or rejection at the next ensuing general election must

be substantially in the following form:

The warning prescribed by RCW 29A.72.140; followed by:

INITIATIVE PETITION FOR SUBMISSION TO THE LEGISLATURE

To the Honorable . . . . ., Secretary of State of the State of Washington:

We, the undersigned citizens and legal voters of the State of Washington, respectfully direct that the proposed measure known as Initiative Measure No. . . . ., entitled (here insert the established ballot title of the measure), a full, true and correct copy of which is printed on the reverse side of this petition, be transmitted to the legislature of the State of Washington at its next ensuing regular session, and we respectfully petition the legislature to enact said proposed measure into law; and each of us for himself or herself says: I have personally signed this petition; I am a legal voter of the State of Washington, in the city (or town) and county written after my name, my residence address is correctly stated, ~~((and))~~ I have knowingly signed this petition only once, and I have voluntarily signed this petition without any compensation or promise of compensation.

~~((The following declaration must be printed on the reverse side of the petition:~~

~~I, . . . . ., swear and affirm under penalty of law that I circulated this sheet of the foregoing petition, and that, to the best of my knowledge, every person who signed this sheet of the foregoing petition knowingly and without any compensation or promise of compensation willingly signed his or her true name and that the information provided therewith is true and correct.))~~ I further acknowledge that under chapter 29A.84 RCW, forgery of signatures on this petition constitutes a class C felony, and that offering any consideration or gratuity to any person to induce them to sign a petition is a gross misdemeanor, such violations being punishable by fine or imprisonment or both.

RCW 9A.46.020 applies to any conduct constituting harassment against a petition signature gatherer. This penalty does not preclude the victim from seeking any other remedy otherwise available under law.

-- END OF WARNING -- (the line "-- END OF WARNING --" does not need to appear on the petition.)

The petition must include a place for each petitioner to sign and print his or her name, and the address, city, and county at which he or she is registered to vote.

Without people willing to ask voters to sign petitions, the initiative and referendum process does not function. The people find that any person who gathers signatures for an initiative or referendum deserves maximum legal protection to guarantee the initiative and referendum process is preserved. Requiring people who gather signatures to publicly identify themselves allows opponents of the initiative or referendum to abuse, harass, intimidate, and threaten them. The people find that the people's constitutional right to peacefully petition our government for change is essential to ensure the protection of the initiative and referendum process.

**Sec. 7.** RCW 29A.72.120 and 2005 c 239 s 2 are each amended to read as follows:

Petitions for proposing measures for submission to the people for their approval or rejection at the next ensuing general election must be substantially in the following form:

The warning prescribed by RCW 29A.72.140; followed by:

INITIATIVE PETITION FOR SUBMISSION TO THE PEOPLE

To the Honorable . . . . ., Secretary of State of the State of Washington:

We, the undersigned citizens and legal voters of the State of Washington, respectfully direct that the proposed measure known as Initiative Measure No. . . . ., entitled (here insert the established ballot title of the measure), a full, true and correct copy of which is printed on the reverse side of this petition, be submitted to the legal voters of the State of Washington for their approval or rejection at the general election to be held on the . . . . . day of November, (year); and each of us for himself or herself says: I have personally signed this petition; I am a legal voter of the State of Washington, in the city (or town) and county written after my name, my residence address is correctly stated, ((and)) I have knowingly signed this petition only once, and I have voluntarily signed this petition without any compensation or promise of compensation.

~~((The following declaration must be printed on the reverse side of the petition:~~

~~I, . . . . ., swear and affirm under penalty of law that I circulated this sheet of the foregoing petition, and that, to the best of my knowledge, every person who signed this sheet of the foregoing petition knowingly and without any compensation or promise of compensation willingly signed his or her true name and that the information provided therewith is true and correct.)) I further~~



acknowledge that under chapter 29A.84 RCW, forgery of signatures on this petition constitutes a class C felony, and that offering any consideration or gratuity to any person to induce them to sign a petition is a gross misdemeanor, such violations being punishable by fine or imprisonment or both.

RCW 9A.46.020 applies to any conduct constituting harassment against a petition signature gatherer. This penalty does not preclude the victim from seeking any other remedy otherwise available under law.

-- END OF WARNING -- (the line "-- END OF WARNING --" does not need to appear on the petition)

The petition must include a place for each petitioner to sign and print his or her name, and the address, city, and county at which he or she is registered to vote.

Without people willing to ask voters to sign petitions, the initiative and referendum process does not function. The people find that any person who gathers signatures for an initiative or referendum deserves maximum legal protection to guarantee the initiative and referendum process is preserved. Requiring people who gather signatures to publicly identify themselves allows opponents of the initiative or referendum to abuse, harass, intimidate, and threaten them. The people find that the people's constitutional right to peacefully petition our government for change is essential to ensure the protection of the initiative and referendum process.

**Sec. 8.** RCW 29A.72.130 and 2005 c 239 s 3 are each amended to read as follows:

Petitions ordering that acts or parts of acts passed by the legislature be referred to the people at the next ensuing general election, or special election ordered by the legislature, must be substantially in the following form:

The warning prescribed by RCW 29A.72.140; followed by:

PETITION FOR REFERENDUM

To the Honorable . . . . ., Secretary of State of the State of Washington:

We, the undersigned citizens and legal voters of the State of Washington, respectfully order and direct that Referendum Measure No. . . . ., filed to revoke a (or part or parts of a) bill that (concise statement required by RCW 29A.36.071 and that was passed by the . . . . . legislature of the State of Washington at the last

regular (special) session of said legislature, shall be referred to the people of the state for their approval or rejection at the regular (special) election to be held on the . . . day of November, (year); and each of us for himself or herself says: I have personally signed this petition; I am a legal voter of the State of Washington, in the city (or town) and county written after my name, my residence address is correctly stated, ~~((and))~~ I have knowingly signed this petition only once, and that I have voluntarily signed this petition without any compensation or promise of compensation.

~~((The following declaration must be printed on the reverse side of the petition:~~

~~I, . . . . ., swear and affirm under penalty of law that I circulated this sheet of the foregoing petition, and that, to the best of my knowledge, every person who signed this sheet of the foregoing petition knowingly and without any compensation or promise of compensation willingly signed his or her true name and that the information provided therewith is true and correct)). I further acknowledge that under chapter 29A.84 RCW, forgery of signatures on this petition constitutes a class C felony, and that offering any consideration or gratuity to any person to induce them to sign a petition is a gross misdemeanor, such violations being punishable by fine or imprisonment or both.~~

RCW 9A.46.020 applies to any conduct constituting harassment against a petition signature gatherer. This penalty does not preclude the victim from seeking any other remedy otherwise available under law.

-- END OF WARNING -- (the line "-- END OF WARNING --" does not need to appear on the petition.)

The petition must include a place for each petitioner to sign and print his or her name, and the address, city, and county at which he or she is registered to vote.

Without people willing to ask voters to sign petitions, the initiative and referendum process does not function. The people find that any person who gathers signatures for an initiative or referendum deserves maximum legal protection to guarantee the initiative and referendum process is preserved. Requiring people who gather signatures to publicly identify themselves allows opponents of the initiative or referendum to abuse, harass, intimidate, and threaten them. The people find that the people's constitutional right to peacefully petition our government for change is essential to ensure the protection of the initiative and referendum process.

**Sec. 9.** RCW 29A.72.170 and 2003 c 111 s 1818 are each amended to read as follows:

The secretary of state may refuse to file any initiative or referendum petition being submitted upon any of the following grounds:

(1) That the petition does not contain the information required by RCW 29A.72.110, 29A.72.120, or 29A.72.130.

(2) That the petition clearly bears insufficient signatures.

(3) That the time within which the petition may be filed has expired.

In case of such refusal, the secretary of state shall endorse on the petition the word "submitted" and the date, and retain the petition pending appeal.

If none of the grounds for refusal exists, the secretary of state must accept and file the petition.

Concerning individual voter signatures on an initiative or referendum petition, the secretary of state must accept and may not reject a valid voter signature if it matches the signature on the voter's registration as long as the requirements in subsections (1), (2), and (3) of this section as written above are fulfilled. Actions or inactions by the person who gathered a voter's signature can never be used as a reason to reject a valid voter signature. The people find that the ninety year policy by the secretary of state to always count a valid voter signature is essential to ensure that voters are not disenfranchised and their vote is not taken away from them.

NEW SECTION. **Sec. 10.** A new section is added to chapter 29A.72 RCW to read as follows:

Initiative and referendum petitions must never require the person who collects signatures to put their name, address, city, state, zip code, phone number, email address, or any other identification on the petition and no governmental entity may register or require a license of anyone who collects signatures for any initiative or referendum to ensure the safety of those individuals and to protect them from, and make them less susceptible to, intimidation, retaliation, or harassment. The people find that since the voters are the ones who determine whether an initiative or referendum qualifies for the ballot and takes effect, the sponsor of the initiative or referendum or any person gathering signatures for an initiative or referendum is liable for his or her own actions but not those of others.

NEW SECTION. **Sec. 11.** The provisions of this act are to be liberally construed to effectuate the intent, policies, and purposes of this act. Laws and rules adopted regarding the initiative and referendum process shall be construed to facilitate the initiative and referendum process. In any legal challenge, laws or rules regarding the initiative or referendum process shall be reviewed with a legal standard of strict scrutiny by the courts.

NEW SECTION. **Sec. 12.** Subheadings used in this act are not any part of the law.

NEW SECTION. **Sec. 13.** 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. 14.** This act shall be known and cited as the Hands Off the People's Initiative Act of 2008.

NEW SECTION. **Sec. 15.** This act takes effect January 2, 2009.

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