



Ohio Legislative Service Commission

Terry Steele

Fiscal Note & Local Impact Statement

Bill: Sub. H.B. 377 of the 128th G.A. **Date:** March 23, 2010
Status: As Reported by House Elections and Ethics **Sponsor:** Rep. Garrison

Local Impact Statement Procedure Required: No — No local cost

Contents: Requires the Secretary of State to regulate petition circulators and petition entities and makes other related changes

State Fiscal Highlights

STATE FUND	FY 2010	FY 2011	FUTURE YEARS
General Revenue Fund – Secretary of State			
Revenues	- 0 -	Potential minimal gain in fines assessed against unlicensed petition entities	Potential minimal gain in fines assessed against unlicensed petition entities
Expenditures	- 0 -	Potential increase in petition circulator registration and licensing costs	Potential increase in petition circulator registration and licensing costs
Uniform Commercial Code Filing Fund (Fund 5990) – Secretary of State			
Revenues	- 0 -	Potential gain in petition circulator license fees	Potential gain in petition circulator license fees
Expenditures	- 0 -	Potential increase in petition circulator registration and licensing costs	Potential increase in petition circulator registration and licensing costs

Note: The state fiscal year is July 1 through June 30. For example, FY 2010 is July 1, 2009 – June 30, 2010.

- **Registration and licensure requirements.** The bill requires that all petition circulators register with the Secretary of State and that all "petition entities" that employ circulators obtain a license from and be registered by the Secretary of State. The bill also requires the Secretary of State to develop a training program for all petition circulators. The Secretary of State's Elections Division would be responsible for these duties.
- **License fee for petition entities.** The bill requires that the Secretary of State establish a license fee for petition entities by rule. These fees would be deposited into the Uniform Commercial Code Filing Fund (Fund 5990).
- **Fines.** The bill establishes a fine of up to \$100 per day per circulator for any petition entity that compensates a petition circulator without that entity first obtaining a license from the Secretary of State. These fines would be deposited into the GRF.

- **Oversight by Elections Division.** The Secretary of State's Elections Division is primarily funded through GRF appropriation item 050321, Operating Expenses, and supplemented by funding from appropriation item 050603, Business Services Operating Expenses, within the Uniform Commercial Code Filing Fund (Fund 5990). The revenue stream for this fund consists of various business filing fees collected by the Secretary of State, as well as petition-entity license revenues under the bill.
- **Complaints against petition entities.** The bill requires the Secretary of State to hold adjudicatory hearings on complaints filed against petition entities. Presumably, the Secretary of State's Legal Services Division would handle these hearings and could incur some increase in expenses as a result. The Legal Services Division is wholly supported by Fund 5990.

Local Fiscal Highlights

- No direct fiscal effect on political subdivisions.

Detailed Fiscal Analysis

Overview

The bill sets out specific requirements and prohibitions as it relates to petition circulators and petition-circulating entities. Specifically, the bill requires that (1) all *petition circulators* be registered with the Secretary of State, and that (2) all *petition entities* obtain a license and registration from the Secretary of State. The bill also requires the Secretary of State to develop a training program for all petition circulators and supervisors. In addition, the bill permits the Secretary of State to revoke a license of a petition entity if the entity knew, or should have known of, any violations occurring by petition circulators employed by the entity. Finally, the bill prohibits any individual who pleads guilty to or is convicted of an offense involving identify theft, fraud, or forgery under Ohio law, federal law, or the law of another state from circulating or witnessing the signing of any petition.

The number of issues placed on the statewide ballot through the initiative petition process within the last eight calendar years is shown in the table below. During this period, there have been as many as four initiative petitions on the ballot in a given election year. Any new cost that the Elections Division incurs for overseeing this new registration and licensing process would vary annually, depending on the number of issues on the ballot in each year. The provisions of the bill with fiscal effect are described in more detail below.

Statewide Ballot Issues through Initiative Petition, CY 2002-CY 2009							
2002	2003	2004	2005	2006	2007	2008	2009
1	0	1	4	4	1*	3**	1

*Initiative petition removed due to lack of signatures.

**Petitioner committee requested one of these three issues be removed from the ballot.

Petition entity licensing and registration

The bill requires petition entities to obtain a license from and register with the Secretary of State. Presumably, for each proposed statewide ballot issue there would be at least one petition entity responsible for obtaining sufficient valid signatures to place the item on the ballot. However, it is possible that one petition entity could be responsible for multiple issues, or several entities could collaborate on a single issue. Because petition entities are often created for certain specific ballot issues, it is difficult to determine how many would be required to obtain a license from the Secretary of State. Nevertheless, it would seem unlikely that there would be more than a minimal number of petition entities registering with and obtaining licensure from the Secretary of State in any given year. The bill requires that this license fee be established by rule. Any license revenue collected by the Secretary of State would be deposited in the Uniform Commercial Code Filing Fund (Fund 5990).

Additionally, the bill establishes a fine of up to \$100 per day per circulator if any petition entity compensates a petition circulator without that entity first obtaining a license from the Secretary of State. Because the bill does not specify into which fund these fine revenues are to be deposited, it is assumed that any such proceeds would be credited to the GRF.

Petition circulator registration and training costs

The bill requires petition circulators to register with the Secretary of State and requires the Secretary of State to establish a petition circulator training program. According to the Secretary of State, that office will need at least one additional employee to (1) administer the petition circulator and supervisor training and registration systems and (2) oversee the licensing of petition-circulating entities. The petition circulator training program would most likely be available in an electronic format through the Secretary of State's web site. The relatively small cost to develop and maintain such a training program could be borne by GRF line item 050321, Operating Expenses, or paid for by part of the licensing fees collected from petition entities.

Adjudicatory hearings

The bill permits any registered voter to submit a complaint to the Secretary of State for any violations committed by a petition entity and requires the Secretary of State to hold an adjudicatory hearing after receiving any such complaints. It is difficult to estimate how many such hearings would occur based upon this provision. The Secretary of State's Legal Services Division would be responsible for handling any such hearings. This Division is comprised of eight attorneys, one administrative assistant, and two legal interns. Six of the staff attorneys are devoted to election law matters. All employees of the Legal Services Division are paid through appropriation item 050603, Business Services Operating Expenses, within the Uniform Commercial Code Filing Fund (Fund 5990). According to the Secretary of State's Office, if the agency elected to hire an outside hearing officer to handle these hearings, the cost would be approximately \$3,000 per hearing. Additionally, each hearing would require a court reporter, which would cost approximately \$500 per hearing.