

Second Regular Session
Seventy-first General Assembly
STATE OF COLORADO

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 18-0431.01 Nicole Myers x4326

HOUSE BILL 18-1145

HOUSE SPONSORSHIP

Hooton, Arndt, McKean, Thurlow

SENATE SPONSORSHIP

Moreno, Martinez Humenik, Zenzinger

House Committees

State, Veterans, & Military Affairs

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE REPEAL OF LAWS REGULATING BALLOT ISSUE**
102 **PETITION CIRCULATORS THAT HAVE BEEN PERMANENTLY**
103 **ENJOINED FROM ENFORCEMENT.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov/>.)

Statutory Revision Committee. The bill repeals laws ordered permanently enjoined from enforcement in *Independence Inst. v. Gessler*, 936 F. Supp. 2d 1256 (D. Colo. 2013). The laws:

- ! Require ballot issue petition circulators to be Colorado residents; and

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

! Limit the amount of per-signature compensation that ballot issue petition circulators may be paid.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1. Legislative declaration.** The general assembly
3 hereby finds and declares that the purpose of House Bill 18-1145, enacted
4 in 2018, is to repeal laws regulating ballot issue petition circulators that
5 were permanently enjoined from enforcement in *Independence Inst. v.*
6 *Gessler*, 936 F. Supp. 2d 1256 (D. Colo. 2013).

7 **SECTION 2.** In Colorado Revised Statutes, 1-40-111, **amend**
8 (2)(a) as follows:

9 **1-40-111. Signatures - affidavits - notarization - list of**
10 **circulators and notaries.** (2) (a) To each petition section shall be
11 attached a signed, notarized, and dated affidavit executed by the person
12 who circulated the petition section, which shall include his or her printed
13 name, the address at which he or she resides, including the street name
14 and number, the city or town, the county, and the date he or she signed the
15 affidavit; that he or she has read and understands the laws governing the
16 circulation of petitions; that he or she was ~~a resident of the state~~, a citizen
17 of the United States and at least eighteen years of age at the time the
18 section of the petition was circulated and signed by the listed electors;
19 that he or she circulated the section of the petition; that each signature
20 thereon was affixed in the circulator's presence; that each signature
21 thereon is the signature of the person whose name it purports to be; that
22 to the best of the circulator's knowledge and belief each of the persons
23 signing the petition section was, at the time of signing, a registered
24 elector; that he or she has not paid or will not in the future pay and that
25 he or she believes that no other person has paid or will pay, directly or

1 indirectly, any money or other thing of value to any signer for the purpose
2 of inducing or causing such signer to affix his or her signature to the
3 petition; that he or she understands that he or she can be prosecuted for
4 violating the laws governing the circulation of petitions, including the
5 requirement that a circulator truthfully completed the affidavit and that
6 each signature thereon was affixed in the circulator's presence; and that
7 he or she understands that failing to make himself or herself available to
8 be deposed and to provide testimony in the event of a protest shall
9 invalidate the petition section if it is challenged on the grounds of
10 circulator fraud.

11 **SECTION 3.** In Colorado Revised Statutes, 1-40-112, **amend** (1);
12 and **repeal** (4) as follows:

13 **1-40-112. Circulators - requirements - training.** (1) No person
14 shall circulate a petition for an initiative or referendum measure unless
15 the person is ~~a resident of the state~~, a citizen of the United States and at
16 least eighteen years of age at the time the petition is circulated.

17 (4) ~~It shall be unlawful for any person to pay a circulator more~~
18 ~~than twenty percent of his or her compensation for circulating petitions~~
19 ~~on a per signature or petition section basis.~~

20 **SECTION 4.** In Colorado Revised Statutes, 1-40-118, **amend** (5)
21 introductory portion and (5)(a) as follows:

22 **1-40-118. Protest.** (5) Written entries that are made by petition
23 signers, circulators, and notaries public on a petition section that
24 substantially comply with the requirements of this ~~article~~ ARTICLE 40 shall
25 be deemed valid by the secretary of state or any court, unless:

26 (a) Fraud, as specified in section 1-40-135 (2)(c), ~~excluding~~
27 ~~subparagraph (V) of said paragraph (c)~~, is established by a preponderance

1 of the evidence;

2 **SECTION 5.** In Colorado Revised Statutes, 1-40-135, **amend**
3 (2)(c) introductory portion and (2)(c)(IV); and **repeal** (2)(b) and (2)(c)(V)
4 as follows:

5 **1-40-135. Petition entities - requirements - definition.**

6 (2) (b) ~~The secretary of state may at any time request the petition entity~~
7 ~~to provide documentation that demonstrates compliance with section~~
8 ~~1-40-112 (4).~~

9 (c) The secretary of state shall revoke the petition entity license
10 if, at any time after receiving a license, a petition entity is determined to
11 no longer be in compliance with the requirements set forth in ~~paragraph~~
12 ~~(a) of this subsection (2)~~ SUBSECTION (2)(a) OF THIS SECTION or if the
13 petition entity authorized or knowingly permitted:

14 (IV) Payment of money or other things of value to any person for
15 the purpose of inducing the person to sign or withdraw his or her name
16 from the petition; OR

17 (V) ~~Payment to a circulator of more than twenty percent of his or~~
18 ~~her compensation on a per signature or per petition section basis; or~~

19 **SECTION 6. Act subject to petition - effective date.** This act
20 takes effect at 12:01 a.m. on the day following the expiration of the
21 ninety-day period after final adjournment of the general assembly (August
22 8, 2018, if adjournment sine die is on May 9, 2018); except that, if a
23 referendum petition is filed pursuant to section 1 (3) of article V of the
24 state constitution against this act or an item, section, or part of this act
25 within such period, then the act, item, section, or part will not take effect
26 unless approved by the people at the general election to be held in

- 1 November 2018 and, in such case, will take effect on the date of the
- 2 official declaration of the vote thereon by the governor.