

Initiative and Referenda Handbook — 2021



Initiatives and Referenda In Washington State

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INTRODUCTION

In 1912, Washington became one of the first states to adopt the initiative and referendum process, thus securing the rights of citizens to make and remake their laws, and to provide a check over the decisions of their Legislature.

Today, if Washingtonians are dissatisfied with certain laws or feel new laws are needed, they can petition to place proposed legislation on the ballot. The process is termed INITIATIVE because the electorate can initiate legislation. The electorate can either place a proposition directly on the ballot or it can submit the proposed law to the Legislature at the regular legislative session allowing the elected representatives an opportunity to enact the proposed legislation themselves instead of placing the measure on the ballot.

The REFERENDUM allows citizens, through the petition process, to refer acts of the Legislature to the ballot before they become law. The referendum also permits the Legislature itself to refer proposed legislation to the electorate for approval or rejection.

The initiative and referendum processes guarantee Washington's electorate the right to legislate. Sponsors of initiative or referendum measures must obtain a substantial number of petition signatures from registered voters in order to certify their measures to the ballot or to the Legislature.

Washington's history has shown the initiative and referendum processes to be effective in protecting the people's interests. In fact, many of our most significant laws, such as our public disclosure laws, were enacted by this process.

This manual is designed to inform citizens about the initiative and referendum processes and to serve as a guide to those who wish to exercise these important constitutional rights.

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THE INITIATIVE

The initiative process is the direct power of the voters to enact new or change existing laws. It allows the voters to place proposed legislation on the ballot. An initiative cannot be used to amend the State Constitution.

There are two types of initiatives:

Initiative to the People

Initiatives to the People are submitted for a direct vote of the people. If enough signatures are submitted, the measure will appear on the next state general election ballot in November.

Initiative to the Legislature

Initiatives to the Legislature are submitted to the Legislature at its regular session each January. Once submitted, the Legislature must take one of the following three actions:

- The Legislature may adopt the initiative as proposed and it becomes law without a vote of the people;
- The Legislature may reject or refuse to act on the proposed initiative and the initiative must be placed on the ballot at the next state general election; or
- The Legislature may propose a different measure dealing with the same subject and both measures must be placed on the next state general election ballot.

Who Can Propose an Initiative?

Any registered voter, acting individually or on behalf of an organization, may propose legislation to create a new state law or to amend or repeal an existing state law.

When to File

Initiatives to the People

- Filing starts 10 months before the state general election in with signature petition sheets due four months before the state general election.

Initiatives to the Legislature

- Filing starts in 10 months before the start of the next state legislative session with signatures due 10 days before the state legislative session starts.

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<u>2021 Filing Periods</u>
January 4, 2021 – July 2, 2021 Initiatives to the People
March 10, 2021 - December 30, 2021 Initiatives to the Legislature
Prior To July 24, 2021 *not later than 90 days after final adjournment of the session in which the measure passed

**These dates refer to fulfilling all required filings including the submission of the required signatures.*

Filing an Initiative Measure

Initiative filings are made through the online filing system. All correspondence from the Code Reviser, Attorney General and the Office of the Secretary of State is sent directly to the sponsor's email address.

Go to [Filing an Initiative - Elections & Voting - WA Secretary of State](#) to create a sponsor account.

Sponsors must:

- Create a sponsor account with login (multiple initiatives may be filed under one sponsor account);
- Upload a Word Doc or PDF version of the full text of the initiative;
- Pay a five dollar fee (\$5.00) (either with Visa or MasterCard online or by submitting a check or cash for the amount in-person or by mail); and,
- Provide a signed affidavit from each sponsor declaring that they are a registered voter in the state of Washington.

Processing an Initiative

Once the sponsor files the initiative, the Secretary of State will send a copy to the office of the Code Reviser. The Code Reviser has seven (7) working days, to perform the following:

- Review the draft for technical errors and style;
- Advise the sponsor of any potential conflicts between the proposal and existing laws; and
- Return the proposal to the sponsor with recommended changes and the Certificate of Review. All changes suggested by the Code Reviser are advisory and are subject to approval by the sponsor.

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Submitting the Final Text or Draft

After the initial filing is sent to the Code Reviser, the sponsor must file the final draft of the measure on the Office of the Secretary of State's online system within fifteen (15) working days of the sponsor's initial filing (RCW [29A.72.020](#)). It must be accompanied by the Code Reviser's Certificate of Review. At this point, the Office of the Secretary of State will assign a serial number to the initiative and forward the measure to the office of the Attorney General for formulation of the ballot title and summary.

Assignment of Ballot Title and Summary

Upon receipt, the Attorney General has five (5) working days to formulate and return the ballot title and summary to the Office of the Secretary of State.

The ballot title will consist of three parts:

Part I. A statement of the subject of the petition that is:

- No more than 10 words.
- Sufficiently precise to give notice of the measure's subject matter.
- Sufficiently broad to reflect the subject of the measure.

Part II. A concise description of the measure that is:

- No more than 30 words.
- A true and impartial description of the measure's essential content.
- Phrased to clearly identify the proposition to be voted on.
- Without prejudice for or against the measure.

Part III. A question in the format prescribed in RCW [29A.7s.050](#)

Ballot Measure Summary

The ballot measure summary written by the Attorney General's Office will summarize the initiative and will not be more than 75 words. Immediately after receiving the ballot title and summary, the Office of the Secretary of State will forward them to the sponsor.

Any person dissatisfied with either the ballot title or summary prepared by the Attorney General may file a challenge by petitioning the Thurston County Superior Court in Olympia. The challenge must be filed within five (5) working days of the Attorney General submission of the ballot title and summary to the Office of the Secretary of State. The court is required to give priority to such challenges and render a decision within five (5) days. The decision of the court is final.

For further questions about initiatives please email: Initiativesupport@sos.wa.gov

THE REFERENDUM

The primary purpose of the referendum is to give voters an opportunity to approve or reject laws either proposed or enacted by the Legislature.

Sections of enacted laws with an emergency clause—those that are necessary for the immediate preservation of the public peace, health or safety, and the support of state government and its existing institutions—are exempt from the referendum process.

There are two types of referenda:

Referendum Measures

Referendum Measures are laws recently passed by the State Legislature and placed on the ballot by referendum petition. A referendum may be filed on all or part of the law.

Referendum Bills

Referendum Bills are proposed laws referred to the voters by the State Legislature.

Who Can Propose a Referendum Measure?

Any registered voter, acting individually or on behalf of an organization, may by petition demand a law passed by the Legislature be referred to the voters prior to going into effect (except sections with emergency clauses, which are exempt from the referendum process—see above).

When Can a Referendum Be Filed

Referendum signature petition sheets must be filed no later than 90 days after the final adjournment of the legislative session at which the act was passed. The referendum is then submitted at the next state general election.

Filing a Referendum

Referendum measures cannot be filed online. *Please contact the Office of the Secretary of State for filing instructions.* Email: Initiativesupport@sos.wa.gov

Each referendum measure filed with the Office of the Secretary of State must include:

- A printed or typewritten copy of the law or part of the law on which a referendum is desired.
- A filing fee of five dollars (\$5.00).
- A signed affidavit from each sponsor declaring they are a registered voter in the state of Washington.
- The required number of valid signatures for a complete/successful filing

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Processing a Referendum Measure

Referendum measures are immediately assigned a serial number by the Office of the Secretary of State and sent to the office of the Attorney General for formulation of the ballot title and summary. The Code Reviser does not review referendum measures.

Any person dissatisfied with either the ballot title or summary prepared by the Attorney General may file a challenge of the ballot title or summary by petitioning the Thurston County Superior Court in Olympia. The challenge must be filed within five (5) working days of the filing of the ballot title and summary with the Secretary of State. The court is required to give priority to such challenges and render a decision within five (5) days. The decision of the court is final.

SIGNATURES AND PETITION SHEETS

Petition form and content

The sponsors of an initiative measure are responsible for printing signature petition sheets at their own expense after the ballot title and summary is issued by the Attorney General's Office. The Office of the Secretary of State may reject any petition that does not meet the statutory requirements of RCW [29A.72.170](#).

State law requires:

- Petitions must be printed on sheets of good quality paper.
- Petition sheets must measure not less than 11 inches in width and not less than 14 inches in length.
- The following items must be printed on the front of each petition sheet.
 - The official ballot title and summary as prepared by the Attorney General;
 - The serial number assigned by the Office of the Secretary of State;
 - The heading specified by RCW [29A.72.110](#), [29A.72.120](#) or [29A.72.130](#);
 - Not more than 20 numbered lines, each with space for a voter's signature, his/her printed name and the address, city, and county at which they are registered to vote; and
 - The following warning, which must occupy not less than four (4) square inches:

"Every person who signs this petition with any other than his or her true name, knowingly signs more than one of these petitions, signs this petition when he or she is not a legal voter or makes any false statement on this petition may be punished by fine or imprisonment or both."

- The following items must be printed on the back of each petition sheet.
 - The full text of the measure.
 - The following declaration by the signature gatherer as required by RCW [29A.72.110](#), [RCW 29A.72.120](#) or [RCW 29A.72.130](#) must be on the reverse side of every petition page.

I, _____, swear or 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.

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

See page 18 or visit for Petitions Templates and Instructions and links.

Circulation of Petitions

Sponsors are asked to notify the Office of the Secretary of State when signatures are being collected at least three months prior to the submission deadline. This allows the Office of the Secretary of State time to prepare sufficient staffing and supplies. Sponsors are also asked to provide a sample of the petition.

State law prescribes certain rules for collecting signatures. Failure by signature gatherers and/or signers to adhere to these rules can result in criminal prosecution.

Any person soliciting signatures should be fully aware of the following petition requirements:

- Only legally registered Washington voters should sign a petition.
- Signers should record, on the line with their signatures, the address at which they are registered to vote.
- Signers should print their names in the space provided in order to facilitate the validation of their signature.

Signature Requirements of Initiatives and Referendum Measures

The Washington State Constitution requires initiative and referendum measures to contain a specified number of legal voter signatures in order to be certified for either the ballot or the Legislature. Those specified numbers are as follows:

- Initiatives –Petitions must include a number of legal voter signatures equal to or in excess of eight (8) percent of the total votes cast for the office of Governor at the last regular state gubernatorial election.
- Referendum Measures – Petitions must include a number of legal voter signatures equal to or in excess of four (4) percent of the total votes cast for the office of Governor at the last regular state gubernatorial election. (Half the number of required signatures for an initiative.)

NOTE: The votes cast in the 2020 Governor’s race was 4,056,454 (including write-ins)

Since a percentage of petition signatures are normally found to be invalid due to duplication and non-registration, it is recommended that sponsors file as many signatures as possible. While no number of signatures can guarantee sufficiency, an additional 15 - 20% “cushion” may prove sufficient to qualify the measure for the ballot, assuming the petition has a normal rate of invalidation.

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Submitting Initiative and Referendum Petition Sheets

An appointment to initially submit petitions sheets must be made at least two days in advance with the Office of the Secretary of State. Scheduling at least two to three weeks in advance of filing petition sheets is preferred.

At your appointment, the Office of the Secretary of State will count boxes/sheets of petitions. The petitions must clearly contain the minimum number of legal voter signatures needed for certification in order for the Office of the Secretary of State to accept the measure for a signature check.

- The Office of the Secretary of State may reject petitions short of the minimum requirements.
- The Office of the Secretary of State may reject any petition not in the proper form.
- The Office of the Secretary of State prefers petitions are submitted unfolded and organized in bundles of 50 - 100 petition sheets each.

The sponsor may appeal the Office of the Secretary of State's rejection of an initiative or referendum petition by filing an action with the Thurston County Superior Court within ten days of the rejection.

Petitions must be submitted not later than the close of business (5:00 pm) on the last business day in the specified period for submission of signatures. If a deadline falls on a Saturday, the Office of the Secretary of State will be open on that Saturday for the transaction of business from 8:00 am to 5:00 pm. If a deadline falls on an observed public holiday the deadline will be the previous business day (if not also a Saturday).

Referendum signature petition sheets must be filed within 90 days after the final adjournment of the legislative session at which the act was passed. The referendum is then submitted at the next state general election.

<u>2021 Filing Periods</u>
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**These dates refer to all required filings including the submission of the required signatures.*

Validating Petition Signatures

The Office of the Secretary of State checks petitions for duplicate signatures and the signers' status as a legal Washington voter. Petition checkers are trained by the Washington State Patrol to verify signatures. Only one signature per voter counts.

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State law allows that under certain circumstances, the Office of the Secretary of State may check a random sample of signatures. The random sample process may only be used when the number of signatures submitted is substantially in excess of the minimum needed to validate the measure.

Random sampling is used to project the proportion of invalid signatures on the initiative or referendum petitions.

- If the random sampling indicates the number of valid signatures is equal to or in excess of the minimum needed, the measure is certified.
- If the random sampling indicates the number of valid signatures is less than the number required the Secretary of State will proceed to verify each signature not checked during the sampling process. *(The random sample process may not be used to reject an initiative or referendum.)*

Both proponents and opponents of a measure may have designated representatives present during the check of signatures. The Office of the Secretary of State has the authority to establish rules of conduct for observers and may limit the number of observers if necessary.

Any citizen may appeal the Office of the Secretary of State's final determination of the number of valid signatures by applying to the Thurston County Superior Court within five days of the initial determination.

Certification of Initiative and Referendum Measure

If sufficient signatures are validated on an Initiative to the People or a referendum, certification containing the measure's serial number and title is transmitted to each county for placement on the next state general election ballot.

For Initiatives to the Legislature, a certified copy of the initiative ballot title and summary is transmitted to the Legislature as soon as it convenes its regular session. The Office of the Secretary of State then notifies the Legislature of the results of the signature verification process.

YOUR PUBLIC INFORMATION AND PUBLIC DISCLOSURE

Register with the Public Disclosure Commission (PDC)

Voters approved Washington State's Public Disclosure Law in 1972. This act authorizes the PDC to administer the law and to develop rules and regulations to implement the laws related to campaign finance.

Requirements under this law stipulate that any person, organization or committee which expects to receive funds or make expenditures in an effort to support or oppose any initiative or referendum must register with the PDC and file certain financial reports.

The sponsor of an initiative or referendum should contact the PDC in conjunction with the preliminary filing of the measure.

Public Information

Sponsors should be aware their voter registration information will appear on the Office of the Secretary of State's website unless other public contact information is provided on the affidavit. Affidavits, text of proposed measures, and related documents are public records. Lists of initiative filings are posted on the Office of the Secretary of State's web site (www.secstate.wa.gov) and are routinely made available to the public, the news media, and others.

Assistance and Information

Further questions or requests should be directed to:

Initiatives Program
Office of the Secretary of State Elections Division
PO Box 40229
Olympia WA 98504-0237
Phone: (360) 902-4180
Fax: (360) 664-4619
Email: InitiativeSupport@sos.wa.gov
Website: www.votewa.gov

PROCESS CHECKLIST

Are you ready to file?

- Sponsor is a registered voter
- An online sponsor account
- Signed Affidavit for sponsor(s) (*Affidavit samples are available on the Secretary of State's website.*)
- Complete text of the initiative in Word or PDF format
- A \$5.00 filing fee (Visa or MasterCard accepted)

This checklist is designed to assist sponsors with the initiative and referendum process.

- ☐ Create online filing account (initiatives only) – Office of the Secretary of State website.
- ☐ File preliminary draft of proposed initiative or referendum, affidavit of sponsorship, and filing fee with Office of the Secretary of State.
- ☐ Contact Public Disclosure Commission.
- ☐ Initiative measure (only) received from the Code Reviser - within 7 days of initial filing.
- ☐ Approve and file final draft of initiative and the Certificate of Review with the Office of the Secretary of State - within 15 days of initial filing. (Initiative filing only)
- ☐ Initiative or referendum number assigned by the Office of the Secretary of State and final draft sent to the Attorney General's office.
- ☐ Ballot title and summary written by the Attorney General's office within 5 days.
- ☐ Petitions printed.
- ☐ Petitions circulated among voters.
- ☐ Appointment made for submitting petition signatures.
- ☐ Petitions filed with the Office of the Secretary of State.

FREQUENTLY ASKED QUESTIONS (FAQ)

The Washington State Constitution reserves to the people the right to approve or reject certain state laws through the process of initiative or referendum. A registered voter, or group of voters, desiring to qualify an initiative or referendum for the ballot must gather signatures on petitions in order to do so.

The Office of the Secretary of State is frequently asked about issues specifically related to the circulation of petitions and signature gathering. The following questions and answers are designed to summarize these issues.

What if I'm against an initiative or referendum? Do I have the right to urge people not to sign a petition?

Yes, as a matter of freedom of speech. Please be aware of the applicable laws regarding petition gathering.

If I am asked to sign a petition, am I entitled to read the petition or the proposed measure before I make up my mind?

Yes. State law requires that petitions contain certain information, including the full text of the measure. This includes a ballot title and summary, written by either the Attorney General or a Superior Court judge, and other required information. The full text is usually printed on the back of the petition. Sometimes petition circulators attach the petitions to clip boards in order to make them easier to sign or easier for the circulator to handle. Sometimes the full petition or the full text of the proposal might be folded over or on the back. You should feel free to read any part of the petition that you think is necessary in order for you to make up your mind, even if that means unfolding it or removing it from a clipboard.

This principle works both ways, of course. Neither side of an initiative or referendum campaign has the right to prevent the other from expressing opinions.

What are the rules regarding the collecting of signatures at shopping malls, retail stores, etc.?

Gathering signatures for ballot measure petitions is a constitutionally guaranteed practice in the State of Washington. However, the right does not extend to all commercial private property open to the public. To what extent businesses and private property owners can exclude signature gatherers is not clearly spelled out in state law.

For further information on this subject, you may wish to have legal counsel review the principal Washington court decisions on the subject:

- Initiative 172 v. Western Washington Fair Association, 88 Wn. App. 579, 945 P.2d 761 (1997);
- Walmart Inc. v. Progressive Campaigns, Inc., 139 Wn.2d 623, 989 P.2d 524 (1999);

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- Southcenter Joint Venture v. National Democratic Policy Committee., 113 Wn.2d 413, 780 P.2d 1282 (1989);
- Alderwood Associates v. Washington Environmental Council, 96 Wn.2d 230, 635 P.2d 108 (1981).

The courts' decisions depended on several factors, but the most important factor was whether the business in question had a policy of permitting or welcoming non-commercial, community or political activities onto the property. The courts have characterized this as maintaining a policy of allowing charitable, civic and political groups to use designated "public service centers" on the property.

Can the property owner restrict where, when, or how petitions can be circulated?

Yes, within limits. Washington courts have explained that when initiative or referendum supporters collect signatures on private property, there might be limits so that the activity does not interfere with what other people are doing on the property. Just what limits might be reasonable will depend on the circumstances, including how big the area is, the potential for blocking traffic or interfering with the business involved, or perhaps whether somebody else has already made arrangements to be on the property at a particular time. There might also be other reasonable concerns. A relevant case may be Initiative 172 v. Western Washington Fair Assoc., 88 Wn. App. 579, 945 P.2d 761 (1997). When unsure it is suggested that you consult with your own legal counsel.

What role does the Office of the Secretary of State play in resolving these disputes?

None. Disagreements between property owners and signature gatherers are civil disputes that can only be resolved by the courts. We urge aggrieved parties to consult their own attorneys, and we make clear any redress is a matter for the courts to decide.

Does the signature gatherer need to sign the declaration on the back of the petition?

No. Due to an opinion published by the Attorney General's office in 2006, the Office of the Secretary of State does not require that the signature gatherer sign the declaration in order for the petition to be accepted. For more information, see [AGO 2006 No. 13](#).

Example Petition Sheets & Templates

Below you will find example petitions and a template you may use. Following the template below will help increase the speed and reduce the cost of processing petitions.

These Example Petition Sheets and Templates Can Be Found At

www.sos.wa.gov/elections/initiatives/

1-1??? **STATEMENT**

BALLOT TITLE Statement of Subject
1) Insert initiative number here.

STATEMENT Statement of Initiative
2) Insert your statement or catch phrase.

BALLOT DESCRIPTION 3) Insert ballot title and concise description provided by the Attorney General

WARNING: EVERY PERSON who signs this petition with any other person who signs this petition may be punished by fine or imprisonment or both.

SIGNATURE AS REGISTERED TO VOTE
4) Insert summary provided by Attorney General

FIRST NAME FOR POSITIVE IDENTIFICATION
5) Read and insert required information here.

ADDRESS WHERE YOU ARE REGISTERED TO VOTE
STREET ADDRESS CITY COUNTY

111 SE Capitol St Thurston Olympia

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This area is reserved for SOS to print unique numbers after petition has been submitted.
(Do NOT Write in or alter this area)
(Do Not format as Footer)

FOR SOS USE ONLY

Campaign Information