By the Committee on Rules; and Senator Simmons

A bill to be entitled
An act relating to initiative petitions; amending s. 100.371, F.S.; limiting the validity of a signed initiative petition to 30 months; creating s. 100.372, F.S.; providing definitions; specifying qualifications for a person to act as a paid petition circulator; prohibiting a petition circulator from receiving compensation based on the number of signatures obtained on an initiative petition; requiring the initiative petition forms used by a paid petition circulator to identify the name of the paid petition circulator; requiring a person seeking employment with an initiative sponsor as a paid petition circulator to sign an affidavit stating that the person has not been convicted of, or entered a plea of nolo contendere to, a criminal offense involving fraud, forgery, or identity theft in any jurisdiction within a certain period; subjecting a petition circulator or an initiative sponsor to criminal penalties for violating specified restrictions or requirements; prohibiting an initiative sponsor from compensating a petition circulator based on the number of signatures obtained on an initiative petition; authorizing the Department of State to adopt rules; amending s. 101.161, F.S.; specifying a deadline to commence a legal challenge to an amendment proposed by the Legislature to the State Constitution; requiring the Attorney General to revise the wording of the ballot title and ballot summary for an amendment to the State Constitution proposed by the
Legislature if the wording is found by a court to be inaccurate, misleading, or otherwise defective and the decision of the court is not reversed; requiring the Department of State to furnish a designating number and the revised ballot title and ballot summary to the supervisors of elections for placement on the ballot; providing that a defect in a ballot title or ballot summary embodied in the joint resolution is not grounds to remove the proposed amendment from the ballot; making technical and grammatical changes; amending s. 104.185, F.S.; subjecting a person to criminal penalties for altering a signed initiative petition without the knowledge and consent of the person who signed the initiative petition; amending ss. 15.21, 16.061, and 1011.73, F.S.; replacing the term “substance” with “ballot summary” to conform to changes made by the act; providing for severability; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (3) of section 100.371, Florida Statutes, is amended to read:

100.371 Initiatives; procedure for placement on ballot.—
(3) An initiative petition form circulated for signature may not be bundled with or attached to any other petition. Each signature must be dated when made and shall be valid for a period of 30 months following such date, provided all other requirements of law are met. The sponsor shall submit
signed and dated forms to the appropriate supervisor of
elections for verification as to the number of registered
electors whose valid signatures appear thereon. The supervisor
shall promptly verify the signatures within 30 days after of
receipt of the petition forms and payment of the fee required by
s. 99.097. The supervisor shall promptly record, in the manner
prescribed by the Secretary of State, the date each form is
received by the supervisor, and the date the signature on the
form is verified as valid. The supervisor may verify that the
signature on a form is valid only if:

(a) The form contains the original signature of the
purported elector.

(b) The purported elector has accurately recorded on the
form the date on which he or she signed the form.

(c) The form accurately sets forth the purported elector’s
name, street address, county, and voter registration number or
date of birth.

(d) The purported elector is, at the time he or she signs
the form, a duly qualified and registered elector authorized to
vote in the county in which his or her signature is submitted.

The supervisor shall retain the signature forms for at least 1
year following the election in which the issue appeared on the
ballot or until the Division of Elections notifies the
supervisors of elections that the committee which circulated the
petition is no longer seeking to obtain ballot position.

Section 2. Section 100.372, Florida Statutes, is created to
read:

100.372 Regulation of initiative petition circulators.—
DEFINITIONS.—As used in this section, the term:

(a) “Initiative sponsor” means the political committee registered pursuant to s. 106.03 which has submitted the text of a proposed amendment to the State Constitution to the Secretary of State.

(b) “Petition circulator” means a person who, in the context of direct, face-to-face conversation, presents an initiative petition form to another person for their possible signature.

(c) “Paid petition circulator” means a petition circulator who, directly or indirectly, receives compensation for acting as a petition circulator.

QUALIFICATIONS OF PAID PETITION CIRCULATORS.—

(a) A paid petition circulator must be at least 18 years of age and eligible to register to vote in this state pursuant to s. 97.041.

(b) A person may not act as a paid petition circulator for a period of 5 years following the date of a conviction of, or a plea of nolo contendere to, a criminal offense involving fraud, forgery, or identity theft in any jurisdiction.

(c) A person must carry identification while acting as a paid petition circulator.

COMPENSATION OF PETITION CIRCULATORS.—A petition circulator may not receive compensation that is, directly or indirectly, based on the number of signatures he or she obtains on an initiative petition.

INITIATIVE PETITION FORMS.—Every initiative petition form presented by a paid petition circulator to obtain another person’s signature must legibly identify the name of the paid
petition circulator.

(5) RESPONSIBILITIES OF INITIATIVE SPONSORS.—

(a) The sponsor of an initiative may not, directly or indirectly, employ a person as a paid petition circulator unless the person has signed an affidavit stating that the person has not been convicted of, or entered a plea of nolo contendere to, a criminal offense involving fraud, forgery, or identity theft in any jurisdiction in the preceding 5 years.

(b) The sponsor of an initiative must maintain the names, addresses, and affidavits of paid petition circulators for at least 4 years.

(c) The sponsor of an initiative may not, directly or indirectly, compensate a petition circulator based on the number of signatures the petition circulator obtains on an initiative petition.

(6) CRIMINAL PENALTIES.—A person who violates this section commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(7) RULEMAKING.—The Department of State may adopt rules to administer this section.

Section 3. Section 101.161, Florida Statutes, is amended to read:

101.161 Referenda; ballots.—

(1)(a) Whenever a constitutional amendment or other public measure is submitted to the vote of the electors, the ballot shall contain a ballot summary and ballot title for the people, the substance of such amendment or other public measure. The ballot summary shall provide an explanatory statement of the chief purpose of the measure shall be printed in clear and
unambiguous language. The ballot summary on the ballot after the
list of candidates, followed by the word “yes” and also by the
word “no,” and shall be styled in such a manner that a “yes”
vote will indicate approval of the proposal and a “no” vote will
indicate rejection. The ballot title shall be a caption by which
the measure is commonly known.

(b) The ballot title and ballot summary for an wording of
the substance of the amendment or other public measure and the
ballot title to appear on the ballot shall be embodied in the
joint resolution, constitutional revision commission proposal,
constitutional convention proposal, taxation and budget reform
commission proposal, or enabling resolution or ordinance.

(c) A ballot title may not exceed 15 words. Except for
ballot summaries for amendments and ballot language proposed by
joint resolution, the ballot summary for an substance of the
amendment or other public measure may not exceed shall be an
explanatory statement, not exceeding 75 words in length, of the
chief purpose of the measure. In addition, for every amendment
proposed by initiative, the ballot shall include, following the
ballot summary, a separate financial impact statement concerning
the measure prepared by the Financial Impact Estimating
Conference in accordance with s. 100.371(5).

(d) Any action for a judicial determination that the ballot
title or ballot summary embodied in a joint resolution is
inaccurate, misleading, or otherwise defective must be commenced
within 30 days after the joint resolution is filed with the
Secretary of State or at least 150 days before the election at
which the amendment will appear on the ballot, whichever occurs
later. The court, including any appellate court, shall accord
the case priority over other pending cases and render a decision as expeditiously as possible. If the court determines that the ballot title or ballot summary embodied in the joint resolution is defective and further appeals are declined, abandoned, or exhausted, the Attorney General shall promptly prepare a revised ballot title and ballot summary to correct the deficiencies identified by the court, and the Department of State shall furnish a designating number and the revised ballot title and ballot summary to the supervisors of elections for placement on the ballot. The court shall have continuing jurisdiction to correct any revisions by the Attorney General which are alleged to be inaccurate, misleading, or defective. A defect in the ballot title or ballot summary embodied in the joint resolution is not grounds to remove the proposed amendment from the ballot.

The ballot title shall consist of a caption, not exceeding 15 words in length, by which the measure is commonly referred to or spoken of.

(2)(a) The substance and ballot title and ballot summary of a constitutional amendment proposed by initiative shall be prepared by the sponsor and approved by the Secretary of State in accordance with rules adopted pursuant to s. 120.54.

(b) For every amendment proposed by initiative, the ballot shall include, following the ballot summary, a separate financial impact statement concerning the measure prepared by the Financial Impact Estimating Conference in accordance with s. 100.371(5).

(3)(a) The Department of State shall give each proposed constitutional amendment a designating number for convenient reference. This number designation shall appear on the ballot.
Designating numbers shall be assigned in the order of filing or certification and in accordance with rules adopted by the Department of State. The Department of State shall furnish the designating number, the ballot title, and the ballot summary substance of each amendment to the supervisor of elections of each county in which such amendment is to be voted on.

(b) A proposed constitutional amendment or other public measure submitted to a vote of the electors shall be placed on the ballot after the list of candidates, followed by the word “yes” and also by the word “no.” A “yes” vote will indicate approval of the proposal and a “no” vote will indicate rejection.

(4)(3)(a) For any general election in which the Secretary of State, for any circuit, or the supervisor of elections, for any county, has certified the ballot position for an initiative to change the method of selection of judges, the ballot for any circuit must contain the statement in paragraph (b) or paragraph (c) and the ballot for any county must contain the statement in paragraph (d) or paragraph (e).

(b) In any circuit where the initiative is to change the selection of circuit court judges to selection by merit selection and retention, the ballot shall state: “Shall the method of selecting circuit court judges in the ...(number of the circuit)... judicial circuit be changed from election by a vote of the people to selection by the judicial nominating commission and appointment by the Governor with subsequent terms determined by a retention vote of the people?” This statement must be followed by the word “yes” and also by the word “no.”

(c) In any circuit where the initiative is to change the
selection of circuit court judges to election by the voters, the ballot shall state: “Shall the method of selecting circuit court judges in the ...(number of the circuit)... judicial circuit be changed from selection by the judicial nominating commission and appointment by the Governor with subsequent terms determined by a retention vote of the people to election by a vote of the people?” This statement must be followed by the word “yes” and also by the word “no.”

(d) In any county where the initiative is to change the selection of county court judges to merit selection and retention, the ballot shall state: “Shall the method of selecting county court judges in ...(name of county)... be changed from election by a vote of the people to selection by the judicial nominating commission and appointment by the Governor with subsequent terms determined by a retention vote of the people?” This statement must be followed by the word “yes” and also by the word “no.”

(e) In any county where the initiative is to change the selection of county court judges to election by the voters, the ballot shall state: “Shall the method of selecting county court judges in ...(name of the county)... be changed from selection by the judicial nominating commission and appointment by the Governor with subsequent terms determined by a retention vote of the people to election by a vote of the people?” This statement must be followed by the word “yes” and also by the word “no.”

Section 4. Section 104.185, Florida Statutes, is amended to read:

104.185 Offenses relating to petitions; knowingly signing more than once; signing another person’s name or a fictitious
A person who knowingly signs a petition or petitions for a candidate, a minor political party, or an issue more than one time commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(2) A person who signs another person’s name or a fictitious name to any petition to secure ballot position for a candidate, a minor political party, or an issue commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(3) A person who alters an initiative petition that has been signed by another person, without the other person’s knowledge or consent, commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

Section 5. Subsection (2) of section 15.21, Florida Statutes, is amended to read:

15.21 Initiative petitions; s. 3, Art. XI, State Constitution.—The Secretary of State shall immediately submit an initiative petition to the Attorney General and to the Financial Impact Estimating Conference if the sponsor has:

(2) Submitted the ballot title, ballot summary substance, and text of the proposed revision or amendment to the Secretary of State pursuant to ss. 100.371 and 101.161; and

Section 6. Subsection (1) of section 16.061, Florida Statutes, is amended to read:

16.061 Initiative petitions.—

(1) The Attorney General shall, within 30 days after receipt of a proposed revision or amendment to the State Constitution by initiative petition from the Secretary of State,
petition the Supreme Court, requesting an advisory opinion regarding the compliance of the text of the proposed amendment or revision with s. 3, Art. XI of the State Constitution and the compliance of the proposed ballot title and ballot summary substance with s. 101.161. The petition may enumerate any specific factual issues that the Attorney General believes would require a judicial determination.

Section 7. Paragraph (b) of subsection (4) of section 1011.73, Florida Statutes, is amended to read:

1011.73 District millage elections.—

(4) FORM OF BALLOT.—

(b) The district school board shall provide the wording of the substance of the measure and the ballot title and the ballot summary in the resolution calling for the election. The wording of the ballot must conform to the provisions of s. 101.161.

Section 8. If any provision of this act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

Section 9. This act shall take effect July 1, 2011.