Summary of Initiative 517

Prepared for members of the Washington House of Representatives by the House Office of Program Research.

This information has been prepared in response to various requests for a summary of Initiative 517. It is provided for analytical and legislative policy purposes only. It is not provided as an expression of support for or opposition to any ballot measure. These materials are intended to provide general information and are not intended to be an exhaustive analysis of all issues presented by the measure.

Brief Summary

- Changes the time period for filing an initiative from 10 months to 16 months prior to the election.
- Changes violations for interfering with signature gathering from a gross misdemeanor to a misdemeanor, and makes such violations subject to anti-harassment procedures, civil penalties, and prosecution for disorderly conduct.
- Permits signature gathering on sidewalks and walkways in front of store entrances and exits, and inside or outside of public buildings.

Background

Initiative 517

Initiative 517 was filed in 2012 as an initiative to the Legislature. Once certified, an initiative to the Legislature is submitted to the Legislature at its next regular session, at which time the Legislature must take one of three actions:

- adopt the initiative as proposed, in which case it becomes law without a vote of the people;
- reject or take no action on the proposed initiative, in which case the initiative must be placed on the ballot at the next state general election; or
- approve an alternative to the proposed initiative, in which case both the original proposal and the Legislature's alternative must be placed on the ballot at the next state general election.

The Legislature did not act on Initiative 517 during its 2013 Regular Session. This initiative is, therefore, being submitted to the people for approval or rejection at the November 2013 general election.

The ballot title and ballot measure summary are as follows:

> **Ballot Title**
> Statement of Subject: Initiative Measure No. 517 concerns initiative and referendum measures.
>
> Concise Description: This measure would set penalties for interfering with or retaliating against signature-gatherers and petition-signers; require that all measures receiving sufficient signatures appear on the ballot; and extend time for gathering initiative petition signatures.
>
> Should this measure be enacted into law? Yes [ ] No [ ]
>
> **Ballot Measure Summary**
> This measure would define terms concerning interfering with or retaliating against petition-signers and signature-gatherers, and would make such conduct a criminal misdemeanor and subject to anti-harassment laws. The measure would require that all state and local measures receiving enough signatures be placed on the ballot, limiting pre-election legal challenges. The measure would also extend the time for filing initiatives and gathering signatures from 10 to 16 months before the election when the vote would occur.

State Initiatives and Referenda

The Washington Constitution reserves the rights of initiative and referendum to the people. The Legislature adopted processes for initiative and referendum in 1912. The law allows:

- initiatives to the people, where the measure is submitted for a vote of the people at the next state general election;
- initiatives to the Legislature, where the measure is submitted to the Legislature at its next regular session;
- referendum measures, where the voters petition for laws recently passed by the Legislature to be placed on the ballot for voter approval or rejection; and
- referendum bills, where the Legislature refers proposed laws to the voters for their approval or rejection.

Under the state Constitution, initiative petitions require signatures from 8 percent of the total number of votes cast for the Office of Governor at the last regular gubernatorial election; referendum measure petitions require 4 percent.

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Initiative measures to be submitted to the people must be filed with the Secretary of State (Secretary) within10 months prior to the election, and the signature petitions must be filed not less than four months before the next general election.

The signature petitions for referendum measures must be filed with the Secretary within 90 days after the final adjournment of the session in which the act is passed. The measure may be submitted at the next general statewide election or at a special election ordered by the Legislature.

Initiatives to the Legislature must be filed with the Secretary within 10 months prior to the next regular session of the Legislature, and the signature petitions must be filed not less than 10 days before the session. Once submitted, the Legislature must take one of the following three actions:

- the Legislature may adopt the initiative as proposed, in which case it becomes law without a vote of the people;
- the Legislature may reject or refuse to act on the proposed initiative, in which case the initiative must be placed on the ballot at the next state general election; or
- the Legislature may approve an alternative to the proposed initiative, in which case both the original proposal and the Legislature's alternative must be placed on the ballot at the next state general election.

Local Authority for Initiatives and Referenda

The state Constitution provides for initiatives and referenda only at the state level. However, state law expressly grants voters of commission cities initiative and referendum powers, and authorizes charters of first class cities to include provisions granting city voters initiative and referendum powers. State law also grants authority for code cities to adopt initiative and referendum powers. Although no constitutional or statutory provisions exist expressly authorizing a county charter to include provisions granting county voters initiative and referendum powers, county charters may include such provisions. Additionally, citizens with the authority to exercise city and county initiative and referendum powers may do so only if the action subject to the initiative or referendum is legislative in nature and does not conflict with powers that have been granted to the city or county legislative authority.

Local initiative authority may not invalidate state legislative authority granted to the legislative authority of local governments. In 2012 the Washington Supreme Court (Court) ruled that because the Legislature expressly granted local legislative authorities, including city councils, exclusive power to legislate on use of automated traffic safety cameras, a city initiative seeking to limit that authority was not within the local initiative power.

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Interference With Signature Gathering

State law provides penalties for certain actions related to gathering signatures for initiatives. A person is guilty of a gross misdemeanor if he or she interferes with, or attempts to interfere with, the right of a person to sign or not sign an initiative through the use of threats, intimidation, or any other corrupt means or practice. A gross misdemeanor is punishable by imprisonment of up to 364 days or a fine of not more than $5,000, or both.

Harassment

Any person may file a petition with the court for a civil order for protection against unlawful harassment. "Unlawful harassment" is defined as "a knowing and willful course of conduct directed at a specific person which seriously alarms, annoys, harasses, or is detrimental to such person, and which serves no legitimate or lawful purpose. The course of conduct shall be such as would cause a reasonable person to suffer substantial emotional distress, and shall actually cause substantial emotional distress to the petitioner, or, when the course of conduct would cause a reasonable parent to fear for the well-being of their child."

If the court finds by a preponderance of evidence that unlawful harassment exists, a civil anti-harassment protection order may be issued for not more than one year, unless the court finds the harassing behavior is likely to resume. Petitioners may apply for a renewal of an order. A respondent who willfully disobeys an anti-harassment protection order is guilty of a gross misdemeanor.

Disorderly Conduct

A person is guilty of disorderly conduct, a misdemeanor offense, if he or she engages in any of the following:

- uses abusive language and thereby intentionally creates a risk of assault;
- intentionally disrupts any lawful assembly or meeting of persons without lawful authority;
- intentionally obstructs vehicular or pedestrian traffic without lawful authority; or
- intentionally engages in fighting or in tumultuous conduct or makes unreasonable noise, within 500 feet of a funeral, burial, viewing, funeral procession, or memorial service and knows that the activity has an adverse effect on the funeral burial, viewing, funeral procession, or memorial service.

Places for Signature Gathering

The Court has ruled that gathering signatures for petitions may take place on any property, public or private, that functions as the equivalent of a "public forum." Signature gathering may not take place in

certain publicly-funded facilities, such as sports stadiums, theaters, public schools, or hospitals, that do not function as a public forum.

Under Court decisions, the access right applies to large regional shopping malls, but does not apply in small "stand-alone" grocery stores that do not invite public use for any noncommercial purpose, do not provide public services, entertainment, or meeting space, and have not previously allowed signature gathering. The Washington Court of Appeals has held that a property owner may restrict petitioning activity to a designated free-speech area. Reasonable time, place, and manner regulations may be enforced as long as the regulations are not unreasonably restrictive.

Summary

Time Period for Filing Initiatives

The time period for filing initiatives to the people and initiatives to the Legislature with the Secretary is changed from 10 to 16 months prior to the election and regular session of the Legislature, respectively, at which they are to be submitted. The Initiative states that the changed time period provides up to six more months for gathering signatures.

State and Local Initiatives and Referenda

Any state or local initiative for which sufficient valid voter signatures are submitted, within the time period required, must be submitted to a vote of the people at the next election date. Government officials must facilitate, and may not obstruct, processing of initiative petitions and public votes on initiatives. Local government officials must comply with the requirements of the Initiative for any initiative, regardless of its subject matter. The term "local legislative authority" must be construed to include the people via local initiative regardless of the subject matter of the ballot measure.

Interference With Signature Gathering

A person interfering with a person gathering signatures or trying to sign a petition, or retaliating against or stalking any person gathering signatures or signing a petition, is subject to the anti-harassment procedures, civil penalties, and prosecution for disorderly conduct, a misdemeanor offense. Interfering with includes, but is not limited to, pushing, shoving, touching, spitting, throwing objects, yelling, screaming, being verbally abusive, or other tumultuous conduct, blocking or intimidating, or maintaining an intimidating presence within 25 feet of any person gathering signatures and any person trying to sign a petition.

Public Places for Purposes of Signature Gathering

Signature gathering and petition signing for an officially filed and processed initiative or referendum is protected activity on sidewalks and walkways, including those in front of store entrances and exits and inside or outside public buildings such as public sports stadiums, convention or exhibition centers, and public fairs.

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Effective Date: The measure takes effect 30 days after the election at which it is approved.

Staff Contact: Marsha Reilly (786-7135)

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