

OKLAHOMA STATUTES

1951

COMPRISING ALL LAWS OF A GENERAL AND PERMANENT
NATURE INCLUDING LAWS AND AMENDMENTS
PASSED BY THE REGULAR SESSION OF THE
TWENTY-THIRD LEGISLATURE, 1951

Edited and Published Under the Direction of the
Justices of the Supreme Court



Volume 1

Titles 1-57

Abstracting—Prisons and Reformatories

Oklahoma Statutes Annotated Classification

ST. PAUL, MINN.

WEST PUBLISHING CO.

1951

TITLE 34

INITIATIVE AND REFERENDUM

GENERAL PROVISIONS

- Sec. 1. Referendum petition—form—time for filing.
2. Initiative petition—form.
3. Petitions and signatures.
4. Filing and binding.
5. Preservation after approval.
6. Verification of signatures.
7. Numbering of petitions.
8. Filing copy of proposed petition—publication—protest—hearing, determination and appeal.
9. Ballot title—filing—duties of Attorney General—appeal—printing of ballots.
10. Appeal upon question of ballot title.
11. Procedure upon appeal.
12. Proclamation by Governor.
13. Publication of measure—copies for distribution.
14. Official ballot—samples.
15. Arguments.
16. Arguments—time for preparing—filing.
17. Publication of measures.
18. Mandamus to compel performance of duty.
19. Failure to publish not to invalidate election.
20. Printing of questions on ballot.
21. Resubmission, when.
22. Canvass of returns.
23. Who may sign petitions and vote—penalties.
24. Only substantial compliance required.
25. Time for submission of initiated and referred measures.
26. Duties of other officers transferred to election board.

MUNICIPAL QUESTIONS

- 51. Procedure in municipalities.
52. Signatures to referendum petition—verification—filing.
53. Effective date of municipal legislation—emergency.
54. Filing of proposed measures—submission of conflicting measures—amendments to charter—special elections.

MISCELLANEOUS, INCLUDING CONSTITUTIONAL AMENDMENTS

- 61. Suggestion by Legislature.
62. Ballots.
63. Unlawful printing or possession of ballots.
64. Method of voting on propositions suggested by Legislature.
65. Method of voting on other propositions.
66. Form of returns—certification and proclamation of result.

GENERAL PROVISIONS

§ 1. Referendum petition—Form—Time for filing.—The referendum petition shall be substantially as follows:

PETITION FOR REFERENDUM.

To the Honorable Governor of Oklahoma, or (To the Honorable mayor, chairman of county commissioners, or other chief executive officer, as the case may be, of the city, county or other municipal corporation of):

We, the undersigned citizens and legal voters of the State of Oklahoma (or district of county of),

or city of, as the case may be), respectfully order that the Senate, or (House) Bill No., entitled, (title of Act, and if the petition is against less than the whole Act, then set forth here the part or parts on which the referendum is sought), passed by the Legislature of the State of Oklahoma, at the regular, or (special) session of said Legislature, shall be referred to the people of the State, (district of, county of, or city of, as the case may be) for their approval or rejection at the regular, or special election to be held on the day of, A. D. 19...., and each for himself says: I have personally signed this petition; I am a legal voter of the State of Oklahoma, and (district of, county of, or city of, as the case may be): my residence and postoffice are correctly written after my name.

Referendum petitions shall be filed with the Secretary of State not more than ninety days after the final adjournment of the session of the Legislature which passed the bill on which the referendum is demanded. (This for State referendum. For county, city or other municipality the length of time shall be three months.)

The question we herewith submit to our fellow voters is: Shall the following bill of the Legislature be vetoed:

Name, Residence, Postoffice If in city, street and number.

(Here follow twenty numbered lines for signatures.) R.L.1910, § 3368.

Laws 1907-08, p. 440; C.S.1921, § 6624; St.1931, § 5867. Nature of act. Norris v. Cross, 25 Okl. 287, 105 P. 1000. Constitutional provisions not self-executing. Ex parte Wagner, 21 Okl. 33, 1 Okl.Cr. 148, 95 P. 435, 18 Ann.Cas. 197.

Recitals in petition. In re State Question No. 286, Referendum Petition No. 73, 183 Okl. 355, 32 P.2d 1017. Retrospective operation. Ex parte Wagner, 21 Okl. 33, 1 Okl.Cr. 148, 95 P. 435, 18 Ann.Cas. 197. Petition, sufficiency of. Ex parte Bassett, 59 Okl.Cr. 329, 61 P.2d 1021.

Signatures. In re Referendum Petition No. 71, State Question No. 218, 179 Okl. 331, 65 P.2d 985; In re Initiative Petition No. 196, State Question No. 273, 187 Okl. 120, 102 P.2d 153; In re Referendum Petition No. 31, 68 Okl. 147, 172 P. 639; In re Initiative Petition No. 23, State Question No. 38, 35 Okl. 49, 127 P. 862.

Address and residence of petitioners. In re Initiative Petition No. 176, State Question No. 253, 187 Okl. 331, 102 P.2d 609; In re Referendum Petition No. 71, State Question No. 216, 175 Okl. 161, 55 P.2d 461; In re State Question No. 137, Referendum Petition No. 49, 114 Okl. 132, 244 P. 806.

Statutes 35 1/2

§ 2. Initiative petition—Form.—The form of initiative petition shall be substantially as follows:

INITIATIVE PETITION.

To the Honorable Governor of Oklahoma, or (To the Honorable

mayor, chairman of county commissioners or other chief executive officers, as the case may be, for the city, county or other municipality): We, the undersigned citizens and legal voters of the State of Oklahoma (and of the district of county of or city of as the case may be), respectfully order that the following proposed law, or (amendment to the constitution, ordinance, or amendment to the city charter, as the case may be,) shall be submitted to the legal voters of the State of Oklahoma, (district of, county of, or city of as the case may be) for their approval or rejection at the regular general election, or (regular or special city election), to be held on the day of A. D., 19...., and each for himself says: I have personally signed this petition: I am a legal voter of the State of Oklahoma (and of the district of county of, city of, as the case may be); my residence and postoffice are correctly written after my name. The time for filing this petition expires nine months from (insert date when petition is to be opened for signatures). (This for State initiative. For county, city, or other municipality the length of time shall be three months). The question we herewith submit to our fellow voters is: Shall the following bill (or proposed amendment to the Constitution or resolution) be adopted. Insert here an exact copy of the title and text of the measure.

Name, Residence
 Postoffice If in the city, street and number.

(Here follow twenty numbered lines for signatures). R.L.1910, § 3369.

Laws 1907-08, p. 441; C.S.1921, § 6625; St.1931, § 5868.

Construing statutes together. In re Initiative Petition No. 2 of Cushing, 157 Okl. 54, 10 P.2d 271, followed in Carmichael v. Holmes, 163 Okl. 27, 20 P.2d 1053.

Substantial compliance. In re Initiative Petition No. 176, State Question No. 253, 187 Okl. 331, 102 P.2d 609.

Circulating petitions. In re Initiative Petition No. 142, State Question No. 206, 176 Okl. 155, 55 P.2d 455.

Petition, sufficiency of. In re State Question No. 138, Initiative Petition No. 89, 114 Okl. 285, 244 P. 801.

Withdrawal of names from petition. In re Initiative Petition No. 2, City of Chandler, 170 Okl. 507, 41 P.2d 101.

90 A.L.R. 572; Statutes ↪35½.

§ 3. Petitions and signatures.—Each initiative petition and each referendum petition shall be duplicated for the securing of signatures, and each sheet for signatures shall be attached to a copy of the petition. Each copy of the petition and sheets for signatures is hereinafter termed a pamphlet. On the outer page of each pamphlet shall be printed the word "Warning," and underneath this in ten point type the words, "It is a felony for anyone to sign an initiative or referendum petition with any name other than his own, or knowingly to sign his name more than once for the measure, or to sign such petition when he is not a legal voter." Not more than twenty signatures on one sheet shall be counted. R.L.1910, § 3370.

Laws 1907-08, p. 442; C.S.1921, § 6626; St.1931, § 5869.

In re Initiative Petition No. 145, State Question No. 215, 187 Okl. 284, 102 P.2d 189; Whitson v. City of Kingfisher, 176 Okl. 145, 54 P.2d 616.

The duplication required is of printed edition. Foster v. Young, 149 Okl. 19, 299 P. 162.

In view of section 51 of this title, only a substantial compliance with this section is essential. Lowther v. Nissley, 38 Okl. 797, 136 P. 3.

85 A.L.R. 1373; Statutes ↪35½.

§ 4. Filing and binding.—When any such initiative or referendum petition shall be offered for filing, the Secretary of State, in the presence of the Governor and the person offering the same for filing, shall detach the sheets containing the signatures and affidavits and cause them all to be attached to one or more printed copies of the measure so proposed by initiative or referendum petition. All petitions for the initiative and referendum and sheets for signatures shall be printed on pages seven inches in width by ten inches in length, with a margin of one and three-fourths inches at the top for binding; if the aforesaid sheets shall be too bulky for convenient binding in one volume, they may be bound in two or more volumes, those in each volume to be attached to a single printed copy of such measure; the detached copies of such measures shall be delivered to the person offering the same for filing. R.L. 1910, § 3371.

Laws 1907-08, p. 443; C.S.1921, § 6627; St.1931, § 5870.

Secretary of State, duties in respect of. Threadgill v. Cross, 26 Okl. 403, 109 P. 568, 138 Am.St.Rep. 964; Norris v. Cross, 25 Okl. 287, 106 P. 1000.

Substantial compliance with statute required. Associated Industries of Oklahoma v. Oklahoma Tax Commission, 176 Okl. 120, 55 P.2d 79; Lowther v. Nissley, 38 Okl. 797, 136 P. 3.

Statutes ↪35½.

§ 5. Preservation after approval.—If any measure shall, at the ensuing election, be approved by the people, then the copies so preserved, with the sheets of signatures and affidavits, and a certified copy of the Governor's proclamation declaring the same to have been approved by the people, shall be bound together in such form that they may be conveniently identified and preserved. The Secretary of State shall cause every such measure so approved by the people to be printed with the general laws enacted by the next ensuing session of the Legislature with the date of the Governor's proclamation declaring the same to have been approved by the people. R.L.1910, § 3372.

Laws 1907-08, p. 443; C.S.1921, § 6628; St.1931, § 5871.

Statutes ↪35½.

§ 6. Verification of signatures.—Each sheet of every such petition containing signatures shall be verified on the back thereof, in substantially the following form, by the person who circulated said sheet of said petition, by his or her affidavit thereon and as a part thereof:

State of Oklahoma, }
 County of } ss.

I,, being first duly sworn, say: (Here shall be legibly written or typewritten the names of the signers of the sheet), signed this sheet of the foregoing petition, and each of them signed his name thereto in my presence; I believe that each has stated his name, post-

office address, and residence correctly, and that each signer is a legal voter of the State of Oklahoma and county of or of the city of, (as the case may be). (Signature and postoffice address of affiant.) Subscribed and sworn to before me this day of A. D. 19..... (Signature and title of the officer before whom oath is made, and his postoffice address.) R.L.1910, § 3373.

Laws 1907-08, p. 443; C.S.1921, § 6629; St.1931, § 5872.
Compliance with statute. *Whitson v. City of Kingfisher*, 176 Okl. 145, 54 P.2d 616.
Sufficiency of verification. *Foster v. Young*, 149 Okl. 19, 299 P. 162.

Circulator's affidavit. In re Initiative Petition No. 145, State Question No. 215, 187 Okl. 284, 102 P.2d 189; In re Initiative Petition No. 9 of Oklahoma City, 185 Okl. 165, 90 P.2d 665; In re State Question No. 236, Referendum Petition No. 73, 183 Okl. 355, 32 P.2d 1017; In re Initiative Petition No. 23, State Question No. 38, 35 Okl. 49, 127 P. 862.

Statutes $\approx 35\frac{1}{2}$.

§ 7. Numbering of petitions.—Each order for a direct ballot by the voters that is filed with the Secretary of State by initiative petition, referendum petition, and by the Legislature shall be numbered consecutively, each in a series by itself, beginning with one, to be continued year after year, without duplication of numbers. R.L.1910, § 3374.

Laws 1907-08, p. 444; C.S.1921, § 6630; St.1931, § 5873.
Statutes $\approx 35\frac{1}{2}$.

§ 8. Filing copy of proposed petition—Publication—Protest—Hearing, determination and appeal.—When a citizen, or citizens, desire to circulate a petition initiating a proposition of any nature, whether to become a statute law or an amendment to the Constitution, or for the purpose of invoking a referendum upon legislative enactments, such citizen or citizens shall, when such petition is prepared, and before the same is circulated or signed by electors, file a true and exact copy of same in the office of the Secretary of State, and within ninety days after the date of such filing, the original petition shall be filed in the office of the Secretary of State, and no petition not filed in accordance with this provision shall be considered. When such original petition is filed in said office it shall be the duty of the Secretary of State to forthwith cause to be published in at least one newspaper of general circulation within the State, a notice setting forth the date of such filing. Any citizen of the State may, within ten days, by written notice to the Secretary of State, and to the party or parties, who filed such petition, protest against the same¹ at which time he will hear testimony and arguments for and against the sufficiency of such petition. A protest filed by any one hereunder may, if abandoned by the party filing same, be revived within five days by any other citizen. After such hearing the Secretary of State shall decide whether such petition be in form as required by the statutes, and his decision shall be subject to appeal to the Supreme Court of the State, and such court shall give such cause precedence over all others. Provided, such appeal must be taken within ten days after the decision of the Secretary of State has been

made. If the court be at the time adjourned, the Chief Justice shall immediately convene the same for such hearing. It shall be the duty of the appellants to serve notice upon the Secretary of State, in writing, of such an appeal. Whereupon, said Secretary of State shall immediately transmit all papers and documents on file in his office relating to such petition to such court. If the court shall adjudge such petition insufficient the parties responsible for same shall have the right to correct or amend their petition to conform to the opinion of the court, provided said amendment or change is made within five days. No objection to the sufficiency shall be considered unless the same shall have been made and filed as herein provided. R.L.1910, § 3375; Laws 1910-11, ch. 107, p. 235, § 1.

¹ Revised Laws 1910, § 3375, cited to the text, at this point, contains the words "whereupon the secretary of state shall fix a day, not less than five days thereafter." Laws 1910, p. 121; C.S.1921, § 6631; St.1931, § 5874.

Validity.—Associated Industries of Oklahoma v. Oklahoma Tax Commission, 176 Okl. 120, 55 P.2d 79.

Construction and application.—Where act adopting Revised Laws of 1910 expressly provided that it should not repeal any Act of Legislature enacted subsequent to extraordinary session of Legislature which convened in January, 1910, and this section providing that sufficiency of an initiative petition shall be passed on by Secretary of State, was enacted as an amendment of Session Laws of 1910, and was approved in 1911, inclusion of 1911 law in Revised Laws of 1910 although followed by inconsistent provisions of 1910 act, section 26 of this title, that all duties imposed on Secretary of State should be performed by State Election Board, did not operate to nullify or repeal 1911 law and two statutes being in irreconcilable conflict, 1911 law would prevail. In re Initiative Petition No. 249, Okl. 222 P.2d 1032.

Filing copy of proposed petition.—*Whitson v. City of Kingfisher*, 176 Okl. 145, 54 P.2d 616.

Publication.—In re Initiative Petition No. 4, for Repeal of Charter of City of Cushing, 185 Okl. 8, 23 P.2d 677; In re Initiative Petition No. 2 of Cushing, 157 Okl. 54, 10 P.2d 271, followed in *Carmichael v. Holmes*, 163 Okl. 27, 20 P.2d 1053.

Protests.—In re State Question No. 241, Initiative Petition No. 166, 187 Okl. 271, 102 P.2d 861; In re State Question No. 236, Referendum Petition No. 73, 183 Okl. 355, 32 P.2d 1017; In re Referendum Petition No. 1 Town of Haskell, 182 Okl. 419, 77 P.2d 1152; In re Initiative Petition No. 163, State Question No. 229, 183 Okl. 111, 106 P.2d 786; In re Initiative Petition No. 4, for Repeal of Charter of City of Cushing, 185 Okl. 8, 23 P.2d 677; In re Initiative Petition No. 2 of Cushing, 157 Okl. 54, 10 P.2d 271, followed in *Carmichael v. Holmes*, 163 Okl. 27, 20 P.2d 1053.

Notice of protest. In re Initiative State Question No. 10, 26 Okl. 554, 110 P. 647.

Hearing and determination. Associated Industries of Oklahoma v. Oklahoma Tax Commission, 176 Okl. 120, 55 P.2d 79; State ex rel. Bryant v. Carter, 173 Okl. 293, 49 P.2d 217; In re Initiative Petition No. 2 of Cushing, 157 Okl. 54, 10 P.2d 271, followed in *Carmichael v. Holmes*, 163 Okl. 27, 20 P.2d 1053.

Review. In re Initiative Petition No. 2 of Cushing, 157 Okl. 54, 10 P.2d 271, followed in *Carmichael v. Holmes*, 163 Okl. 27, 20 P.2d 1053; *Ruth v. Peshek*, 153 Okl. 147, 5 P.2d 108; In re Initiative Petition No. 1, City of Hominy, 113 Okl. 6, 237 P. 460; In re Springer, 75 Okl. 118, 132 P. 713; In re Initiative Petition No. 23, State Question No. 38, 35 Okl. 49, 127 P. 862.

Appeal.—In re Initiative Petition No. 242 State Question No. 336, 201 Okl. 423, 206 P.2d 1000.

102 A.L.R. 51; Statutes $\approx 35\frac{1}{2}$.

§ 9. Ballot title—Filing—Duties of Attorney General—Appeal—Printing of ballots.—When a measure is proposed as a constitutional amendment or legislative enactment by the Legislature, when the referendum is ordered against any measure passed by the Legislature, or when any measure is proposed by initiative petition, whether as an amendment to the Constitution or as a statute, it shall be the duty of the parties submitting such proposition to prepare and file one copy of same with the Sec-

retary of State and one copy with the Attorney General, such copies to contain a ballot title of not exceeding one hundred words, which shall contain the gist of the proposition without any argument or statement either for or against such measure. Within three days after the filing of such copy and ballot title with the Attorney General, he shall, in writing, notify the Secretary of State whether or not such proposed title is in legal form and in harmony with the law. Should such title not be in proper form, in the opinion of the Attorney General, it shall be his duty, within said three days, to prepare and file a title which does conform to the law. Within ten days after the receipt of the notice of approval by the Attorney General, or of a revised or amended title from him, the Secretary of State shall, if no appeal is filed, transmit to the Secretary of the State Election Board an attested copy of the pending proposition, including such approved title: Provided, however, that should an appeal be prosecuted from such ballot title within the time specified by the following section, then the Secretary of State shall certify to said Secretary of the State Election Board the title which is finally approved by the Supreme Court. Provided further, that no appeal shall be allowed as to ballot titles of constitutional or legislative enactments proposed by the Legislature which ballot titles have been approved or revised by the Attorney General. If the measure is such as to require its being printed upon the ballots of a district or of the entire State, the State Election Board shall have supervision of such printing. If the measure is such as must appear upon ballots printed in the several counties of the State, or any portion of same, it shall be the duty of the State Election Board to transmit, within ten days, true copies of such ballot title to the chairman or secretary of all the county election boards of the counties in which such measure is to be voted upon, and such county boards shall supervise such printing. R.L.1910, § 3376; Laws 1939, p. 145, § 1.

C.S.1921, § 6632; St.1931, § 5875.

Appeal from ballot title. In re State Question No. 170, Initiative Petition No. 115, 157 Okl. 121, 11 P.2d 161; In re State Question No. 168, Initiative Petition No. 113, 157 Okl. 120, 11 P.2d 158; In re State Question No. 171, Initiative Petition No. 116, 157 Okl. 119, 11 P.2d 160; In re State Question No. 168, Initiative Petition No. 113, 157 Okl. 120, 11 P.2d 158.

Approval or disapproval of ballot title. In re State Question No. 168, Initiative Petition No. 113, 157 Okl. 120, 11 P.2d 158.

Sufficiency of ballot title. In re State Question No. 236, Referendum Petition No. 73, 183 Okl. 467, 83 P.2d 572; Ramsey v. Persinger, 43 Okl. 41, 141 P. 13.

Attorney General as under duty to provide ballot title. Norris v. Cross, 25 Okl. 237, 105 P. 1000.

Statutes \hookrightarrow 35½.

§ 10. Appeal upon question of ballot title.—Any person who is dissatisfied with the wording of the ballot title prepared as hereinbefore provided may, within ten days after the same is filed as aforesaid, appeal to the Supreme Court by petition in which shall be offered a substitute title for the one appealed from. Upon the hearing of such appeal the court may correct or amend the title before the court, or accept the substitute suggested, or may

draft a new one which will conform to this chapter.¹ R.L.1910, § 3377.

¹ R.L.1910, ch. 37, now incorporated in this title. Laws 1910, p. 123; C.S.1921, § 6633; St.1931, § 5876.

In re State Question No. 168, Initiative Petition No. 113, 157 Okl. 120, 11 P.2d 158.

Statutes \hookrightarrow 35½.

§ 11. Procedure upon appeal.—Notice of the appeal provided for in the foregoing section¹ shall be served upon the Attorney General and upon the party who filed such title, or on any of such parties, at least five days before such appeal is heard by the court. The Attorney General shall, and any citizen interested may, defend the title appealed from. Other procedure upon such appeals shall be the same as is prescribed for appeals from petitions filed as set forth in Section 3375.² R.L.1910, § 3378.

¹ Section 10 of this title.

² Section 8 of this title.

Laws 1910, p. 123; C.S.1921, § 6634; St.1931, § 5877.

Ramsey v. Persinger, 43 Okl. 41, 141 P. 13.

Statutes \hookrightarrow 35½.

§ 12. Proclamation by Governor.—Whenever a petition is accepted and its title has been decided upon the Secretary of State shall, in writing, notify the Governor, who forthwith shall issue a proclamation setting forth the substance of the measure and the date of the referendum vote. R.L.1910, § 3379.

Laws 1907-08, p. 446; C.S.1921, § 6635; St.1931, § 5878.

Submission to people before completion of hearing, and determination of protests. Associated Industries of Oklahoma v. Oklahoma Tax Commission, 176 Okl. 120, 55 P. 2d 79.

Compliance with statutes on initiative petition and procedure with respect thereto is necessary to authorize Governor to submit initiative measure to people. Associated Industries of Oklahoma v. Oklahoma Tax Commission, 176 Okl. 120, 55 P.2d 79.

Proclamation as sufficient publication. Ex parte Smith, 49 Okl. 716, 164 P. 521.

Statutes \hookrightarrow 35½.

§ 13. Publication of measure—Copies for distribution.—The Secretary of State shall submit to the State or Public Printer a copy of the title and text of each measure presented by initiative petition, referendum petition, or by the Legislature. Printed copies shall be supplied the document rooms, from time to time, and the chief of each shall supply copies to applicants and in such quantities as demanded, provided reasonable assurance is given that they will be placed singly in the hands of the people. R.L.1910, § 3380.

Laws 1907-08, p. 446; C.S.1921, § 6636; St.1931, § 5879.

Transmission of pamphlets and arguments. Trapp v. Wells Fargo Express Co., 22 Okl. 377, 97 P. 1003.

Statutes \hookrightarrow 35½.

§ 14. Official ballot—Samples.—At as early a day as practicable the Secretary of State shall transmit to the State or Public Printer, copy for the official referendum ballot, indicating the styles of type. The sample ballot shall be of colored paper, and there shall be placed at the head in bold type the words, "State Question" (or Questions) and the following: "Official Referendum Ballot to be Used (date). Issued by Order of the Legislature." The questions shall be printed in the order they

were filed with the Secretary of State except that each competing measure which the legislature may desire to submit shall immediately follow the one it aims to supplant. Measures proposed by initiative petition shall be designated, "Proposed by Initiative Petition Number;" measures proposed by referendum petition shall be designated "Proposed by Referendum Petition Number.;" and each competing measure proposed by the Legislature in place of an initiative petition shall be headed, "Proposed by the Legislature in place of Initiative Petition Number;" Where the Legislature submits a competing question a brief catch-line shall be placed over both and below both shall be placed the words: "I vote for Initiative Petition Number;" "I vote for the measure proposed by the Legislature in place of Initiative Petition Number;" "I vote against both;" Second choice as to measures may be made.

Where a question is submitted without a competing one there shall be placed over it a brief catch-line and at the close of the question there shall be added:

"Shall it be adopted?" { ("Yes") or ("No") } or "Shall it be repealed?" { ("Yes") or ("No") }

The voters shall be directed to express their will by placing a cross (X) in the square and to the right of the word expressing their choice. There shall be a provision for second choice. R.L.1910, § 3381.

Laws 1907-08, p. 446; C.S.1921, § 6637; St.1931, § 5880.

Construction and application. *Smith v. State*, 28 Okl. 235, 113 P. 932; *State v. Millar*, 21 Okl. 448, 96 P. 747. Section not applying to submission of a constitutional amendment. *Atwater v. Hassett*, 27 Okl. 292, 111 P. 802.

Statutes $\approx 35\%$.

§ 15. Arguments.—Arguments shall be prepared for and against each measure to be submitted to a direct vote of the people of the State, the length of the arguments not to exceed two thousand words for each side of which one-fourth may be in answer to opponents' arguments. For one side the arguments shall be prepared by a joint committee of the house and the senate, and for the other by a committee representing the petitioners. Where the Legislature submits a competing bill the argument against it shall be prepared by the committee that prepared the affirmative for the opposing bill. Where the Legislature submits any other question the argument for the negative shall be prepared by a committee representing the members in the Legislature who voted against the substance of the measure. R.L.1910, § 3382.

Laws 1907-08, p. 447; C.S.1921, § 6638; St.1931, § 5881.

Construction and application. *Ramsey v. Persinger*, 43 Okl. 41, 141 P. 13. Statutes $\approx 35\%$.

§ 16. Arguments—Time for preparing—Filing.—The first part of each argument shall be completed not later than two weeks after the Governor's announcement of the submission of the measure. Twenty-five copies shall be filed

with the Secretary of State, who shall at once deliver twenty-three copies to the chairman of the opposing committee. Each committee shall file its answer within two weeks: Provided, However, that in no case shall the time be so great as to bring the completion of the arguments nearer than one hundred days before any regular election nor later than forty days before any special election at which the measure is to be voted upon. Where the time for preparing the arguments is less than four weeks the time shall be divided equally between the two parts. R.L.1910, § 3383.

Laws 1907-08, p. 447; C.S.1921, § 6639; St.1931, § 5882.

Ramsey v. Persinger, 43 Okl. 41, 141 P. 13. Statutes $\approx 35\%$.

§ 17. Publication of measures.—It shall be the duty of the Secretary of State, not less than five days before any election held throughout the State at which any proposed law, part of an act, or amendment to the constitution is to be submitted to the people of the State for their approval or rejection, to cause to be published once in two newspapers in each county, of opposite political faith of the two dominant political parties of the State, if there be such, a copy of all ballots on initiated and referred questions, measures, and constitutional amendments, and an explanation of how to vote for or against propositions; said publication to be paid for at the legal rate for other publications, out of any funds of the State appropriated therefor.

The Secretary of State shall designate the newspapers in which the publication shall be made, and the Secretary of State shall, upon sworn proof of publication, as provided for legal publications in courts of record, certify to the State Auditor the amount due each newspaper for such publications, and the State Auditor shall draw his warrants in payment thereof against any fund appropriated therefor. R. L.1910, § 3384; Laws 1916, ch. 32, p. 87, § 1; Laws 1917, ch. 173, p. 306, § 1; Laws 1921, ch. 98, p. 124, § 1.

Laws 1907-08, p. 448; C.S.1921, § 6640; St.1931, § 5883. Laws 1921, ch. 98, p. 124, § 1, purported to amend Laws 1917, ch. 173, p. 306, to read as therein set out. It seems, however, to provide a substitute for section 1 only, and sections 2 and 3 of that Act, sections 18 and 19 of this title, have been treated as not affected by the 1921 amendment.

Purpose of this section. *Ex parte Smith*, 49 Okl. 716, 154 P. 521.

Procedure. *Ramsey v. Persinger*, 43 Okl. 41, 141 P. 13. Statutes $\approx 35\%$.

§ 18. Mandamus to compel performance of duty.—In the event any official of this State shall fail or neglect to prepare or have published the argument and other matter as provided by law, or to perform any other duty required in connection therewith, any elector may petition the District Court, without cost to him, where any such officer has his official residence, for a writ of mandamus to require such officer to perform such duty, and the District Courts of this State are hereby given jurisdiction to issue writs of mandamus and require

performance of such duty as provided by law. Laws 1916, ch. 32, p. 89, § 3; Laws 1917, ch. 173, p. 307, § 2.

C.S.1921, § 6641.

See note to section 17 of this title.

Statutes \hookrightarrow 73(1).

§ 19. Failure to publish not to invalidate election.—The failure to prepare and have published the argument and other matter as provided by law shall not invalidate the election held on any initiative or referendum or Constitutional amendment proposed by the Legislature, and no election on any such measure shall be declared or held invalid on the grounds that such publication was not so prepared or published. Laws 1916, ch. 32, p. 89, § 4; Laws 1917, ch. 173, p. 307, § 3.

C.S.1921, § 6642.

See note to section 17 of this title.

In re Referendum Petition No. 30, State Question No. 94, 71 Okl. 91, 175 P. 500.

Statutes \hookrightarrow 35½.

§ 20. Printing of questions on ballot.—The Secretary of State at the time he furnishes to the county clerks of the several counties certified copies of the names of the candidates for State and district officers, shall furnish to each of said county clerks a certified copy of the referendum ballot. It shall be the duty of the several county clerks to print said ballot titles and numbers upon the official ballot in the order presented to them by the Secretary of State and in the relative position required by law. R.L.1910, § 3385.

Laws 1907-08, p. 448; C.S.1921, § 6644; St.1931, § 5884.

Statutes \hookrightarrow 35½.

§ 21. Resubmission, when.—Where there are competing measures and neither receives a majority of the votes cast for and against the one receiving the greatest number of votes shall, if it has received more than one-third of the votes cast for and against both bills, be submitted by itself at the next general election. If two or more conflicting laws shall be approved by the people at the same election, the law receiving the greatest number of affirmative votes shall be paramount in all particulars as to which there is a conflict, even though such law may not have received the greatest majority of affirmative votes. If two or more conflicting amendments to the constitution shall be approved by the people at the same election, the amendment which receives the greatest number of affirmative votes shall be paramount in all particulars as to which there is a conflict even though such amendment may not have received the greatest majority of affirmative votes. R.L.1910, § 3386.

Laws 1907-08, p. 449; C.S.1921, § 6645; St.1931, § 5885.

Statutes \hookrightarrow 35½.

§ 22. Canvass of returns.—Whenever any measure or proposition is submitted to a vote by the initiative or referendum, it shall be the duty of the official counters of the precinct to make and transmit to the county election board the returns thereof in the same manner that they make their returns in the case of an election of public officers, transmitting to such

county election board a certificate of the total number of electors voting in such elections; and the county election board shall keep a record showing such total number of votes cast in each of such precincts as shown by such returns. Should the proposition be one covering the State at large, or any district therein, or be of such other nature as to require it the county election board shall certify the result of such election to the State Election Board in the same manner as it certifies the result of election for public officers, and such county election board shall transmit to the State Election Board a certificate showing the total number of votes cast at any such election. It shall be the duty of the state election board to keep a record of all such election returns made to it under the provisions of this section. R.L.1910, § 3387.

Laws 1910, p. 123; C.S.1921, § 6646; St.1931, § 5886.

Construction and application.—State ex rel. Williamson v. State Election Board, 192 Okl. 275, 135 P.2d 982.

Member of State Election Board absent from session. Ex parte Smith, 49 Okl. 716, 154 P. 521.

Statutes \hookrightarrow 35½.

§ 23. Who may sign petitions and vote—Penalties.—Every person who is a qualified elector of the State of Oklahoma may sign a petition for the referendum or for the initiative for any measure upon which he is legally entitled to vote. Any person signing any name other than his own to any petition, or knowingly signing his name more than once for the same measure at one election, or who is not at the time of signing the same a legal voter of this State, or whoever falsely makes or willfully destroys a petition or any part thereof, or who signs or files any certificate or petition knowing the same or any part thereof to be falsely made, or suppresses any certificate or petition or any part thereof which has been duly filed or who shall violate any provision of this statute, or who shall aid or abet any other person in doing any of said acts; and any person violating any provision of this Chapter,¹ shall upon conviction thereof be punished by a fine of not exceeding five hundred dollars or by imprisonment in the penitentiary not exceeding two years, or by both such fine and imprisonment in the discretion of the court before which such conviction shall be had. R.L.1910, § 3392.

¹ R.L.1910, ch. 37, now incorporated in this title.

Laws 1907-08, p. 451; C.S.1921, § 6651; St.1931, § 5891.

Section held valid. In re Initiative Petition No. 142, State Question No. 205, 176 Okl. 155, 65 P.2d 455.

Nonregistered person. In re Initiative Petition No. 142, State Question No. 205, 176 Okl. 155, 65 P.2d 455.

Signatures all appearing in handwriting of one person. In re State Question No. 138, Initiative Petition No. 89, 114 Okl. 285, 244 P. 801.

Firm, partnership or corporation. In re Referendum Petitions on House Bill No. 509, 1919 Legislature, 78 Okl. 47, 186 P. 485.

Statutes \hookrightarrow 35½.

§ 24. Only substantial compliance required.—The procedure herein prescribed is not mandatory, but if substantially followed will be sufficient. If the end aimed at can be attained and procedure shall be sustained, clerical and mere technical errors shall be disregarded. R. L.1910, § 3393.

Laws 1907-08, p. 452; C.S.1921, § 6652; St.1931, § 5892.

Procedure, if substantially followed, sufficient. In re Initiative Petition No. 176, State Question No. 263, 187 Okl. 331, 102 P.2d 609; In re Initiative Petition No. 2 of Cushing, 157 Okl. 54, 10 P.2d 271, followed in Carmichael v. Holmes, 163 Okl. 27, 20 P.2d 1053; Ramsey v. Persinger, 43 Okl. 41, 141 P. 13; City of Pawhuska v. Pawhuska Oil & Gas Co., 28 Okl. 563, 115 P. 353.

Statutes $\approx 35\frac{1}{2}$.

§ 25. Time for submission of initiated and referred measures.—Whenever any measure shall be initiated by the people in the manner provided by law, or whenever the referendum shall be demanded against any measure passed by the Legislature, same shall be submitted to the people for their approval or rejection at the next regular election; provided, the Governor shall have power, in his discretion, to call a special election to vote upon such questions, or to designate the mandatory primary election as a special election for such purpose. R.L.1910, § 3394; Laws 1916, ch. 32, p. 89, § 2. Laws 1909, p. 270; C.S.1921, § 6653; St.1931, § 5393.

Runoff primary election. State ex rel. Williamson v. Carter, 177 Okl. 382, 59 P.2d 948.
Special election next following filing or any election actually taking place. Simpson v. Hill, 128 Okl. 269, 263 P. 635, 56 A.L.R. 706; Atwater v. Hassett, 27 Okl. 292, 111 P. 802.

Statutes $\approx 35\frac{1}{2}$.

§ 26. Duties of other officers transferred to election board.—All duties of any nature whatsoever, which by this chapter¹ were originally imposed upon the Secretary of State, shall be hereafter performed by the State Election Board if such board is continued in existence. Should such board be discontinued, the duties herein imposed upon the same shall be performed by the Secretary of State. All duties originally imposed by this chapter upon county clerks shall hereafter be performed by the county election board if such board is continued in existence; otherwise the duties herein imposed upon the county election boards, shall be performed by the county clerks. The duties imposed upon precinct election officers by said chapter shall be performed by precinct election boards and the official counters, respectively, if such election board and official counters are retained as precinct election boards. Should they be discontinued, the duties imposed upon them by this chapter shall be performed by the regularly chosen precinct election officers. R.L.1910, § 3401.

¹ R.L.1910, ch. 27, now incorporated in this title. Laws 1910, p. 126; C.S.1921, § 6661; St.1931, § 5900.

Ex parte Smith, 49 Okl. 716, 154 P. 521.

Statutes $\approx 35\frac{1}{2}$.

MUNICIPAL QUESTIONS

§ 51. Procedure in municipalities.—In all cities, counties, and other municipalities which do not provide by ordinance or charter for the manner of exercising the initiative and referendum powers reserved by the Constitution to the whole people thereof, as to their municipal legislation, the duties required of the Governor and Secretary of State, by this Chapter,¹ as to State legislation, shall be performed as to such municipal legislation by the chief executive and the chief clerk; and the duties required by this Chapter, of the Attorney-General

shall be performed by the attorney for the county, district, or other municipality. The provisions of this Chapter, including those relating to preparation of arguments shall apply to every city and town in all matters concerning the operation of the initiative and referendum in its municipal legislation, on which such city or town has not made or does not make conflicting provisions. The printing and binding of measures and their distribution shall be paid for by the city in like manner as payment is provided for by the State as to State legislation by this Chapter, except that delivery shall not be less than eight days before the election at which the measures are to be voted upon. The arguments shall be completed not less than twelve days before the election at which they are to be voted upon. The procedure in municipal legislation shall be as nearly as practicable, the same as the initiative and referendum procedure for measures relating to the people of the State at large. R.L. 1910, § 3388.

¹ R.L.1910, ch. 37, now incorporated in this title. Laws 1907-08, p. 450; C.S.1921, § 6647; St.1931, § 5387.

Compliance with section. Whitson v. City of Kingfisher, 176 Okl. 145, 54 P.2d 616.

Charter government, adoption of. Broshears v. Robertson, 153 Okl. 47, 12 P.2d 532.

Repeal of city charter. List v. Reick, 187 Okl. 547, 104 P.2d 248.

Publication. In re Initiative Petition No. 4, for Repeal of Charter of City of Cushing, 165 Okl. 8, 23 P.2d 677; In re Initiative Petition No. 2 of Cushing, 157 Okl. 54, 10 P.2d 271, followed in Carmichael v. Holmes, 163 Okl. 27, 20 P.2d 1053.

Protests. In re Initiative Petition No. 10 of Oklahoma City, 186 Okl. 497, 93 P.2d 396; In re Referendum Petition No. 1, Town of Haskell, 182 Okl. 419, 77 P.2d 1152; Hackney v. City of Guthrie, 171 Okl. 320, 41 P.2d 705.

Hearing and determination. State ex rel. Bass v. Pulliam, 165 Okl. 70, 26 P.2d 64.

Appeal from decision of mayor. In re Protest Against Referendum Petition No. 5, Oklahoma City, 135 Okl. 393, 92 P.2d 374; In re Initiative Petition No. 1, City of Hominy, 113 Okl. 6, 237 P. 460.

Election officials, appointment. Sharp v. Leo, 201 Okl. 49, 200 P.2d 756.

Construction and application.—Superseded as to special referendum provided in 11 O.S. § 3. Crowell v. Knol, 203 Okl. 265, 220 P.2d 444.

Municipal Corporations ≈ 108 .

§ 52. Signatures to referendum petition—Verification—Filing.—The signatures to each referendum petition against any ordinance, or resolution passed by a municipal legislative body shall be verified in the manner provided in Section 3373.¹ The petition shall be filed with the chief executive officer within thirty days after the passage of such ordinance or resolution. R.L.1910, § 3389.

¹ Section 6 of this title. Laws 1907-08, p. 450; C.S.1921, § 6648; St.1931, § 5388.

Signatures. Whitson v. City of Kingfisher, 176 Okl. 145, 54 P.2d 616.

Filing. State ex rel. Hunzicker v. Pulliam, 168 Okl. 632, 37 P.2d 417, 96 A.L.R. 1294.

Municipal Corporations ≈ 108 .

§ 53. Effective date of municipal legislation—Emergency.—No ordinance or resolution of a municipal legislature shall become operative until thirty days after its passage and approval by the executive officer, unless the same shall be passed over his veto and in that case it shall not take effect and become operative until thirty days after such final passage except such measures necessary for the immediate preserva-

tion of peace, health, or safety; and no such emergency measure shall become immediately operative, unless it shall state, in a separate section, the reasons why it is necessary that it should become immediately operative, and the question of emergency shall be ruled upon separately and be approved by the affirmative vote of three-fourths of all the members elected to the city council taken by ayes and noes, and the whole measure be approved by the executive officer. R.L.1910, § 3390.

Laws 1907-08, p. 450; C.S.1921, § 6649; St.1931, § 5889.

Jackson v. Denver Producing & Refining Co., C.C.A., 96 P.2d 457; In re Referendum Petition No. 1, Town of Haskell, 132 Okl. 419, 77 P.2d 1152; Whitson v. City of Kingfisher, 176 Okl. 145, 54 P.2d 616.

Amendment of ordinance by attaching emergency clause. *State ex rel. Hunzicker v. Pulliam, 168 Okl. 632, 37 P.2d 417, 96 A.L.R. 1294.*

Construction and application.—Preliminary proceedings in submission of question of consolidation to voters. *Crowell v. Knol, 203 Okl. 265, 220 P.2d 444.*

Municipal Corporations ⇨108.

§ 54. Filing of proposed measures—Submission of conflicting measures—Amendments to charter—Special elections.—Each measure proposed within a municipality by initiative petition and referendum petition shall be filed with the chief clerk of the municipality. Along with each initiative measure the municipal legislature may submit a competing bill or resolution. If conflicting ordinances or charter amendments shall be submitted to the people at the same election, and two or more of such conflicting measures shall be approved by the people, then the measure which shall have received the greatest number of affirmative votes shall be paramount in all particulars as to which there is conflict, even though such measure may not have received the greatest majority. Amendments to any municipal charter may be proposed and submitted to the people by the municipal legislature, with or without any initiative petition, but the same shall be filed with the chief clerk for submission not less than sixty days before the election at which they are to be voted upon, and no amendment of a municipal charter shall be effective until it is approved by a majority of the votes cast thereon by the people of the city or town to which it applies. The municipal legislature may order a special election to vote on a municipal measure. R.L.1910, § 3391.

Laws 1907-08, p. 451; C.S.1921, § 6650; St.1931, § 5890.

Time of filing. *Whitson v. City of Kingfisher, 176 Okl. 145, 54 P.2d 616.*

Chief clerk of city. *State ex rel. Hunzicker v. Pulliam, 168 Okl. 632, 37 P.2d 417, 96 A.L.R. 1294.*

City clerk or officer performing those duties. *Foster v. Young, 149 Okl. 19, 299 P. 162.*

Effect of measure pending election. *In re Referendum Petition No. 1, Ordinance 6-B, City of Sand Springs, 203 Okl. 298, 220 P.2d 454.*

Municipal Corporations ⇨108.

MISCELLANEOUS, INCLUDING CONSTITUTIONAL AMENDMENTS

§ 61. Suggestion by legislature.—If the Legislature should desire to ascertain the sentiment of the people upon any proposed amendment to the Constitution, it may, by concurrent resolution, suggest to the citizens of the State

such proposition as an amendment to the Constitution. Such resolution shall set forth the proposed amendment in full and should the citizens of the State proceed to initiate such proposition within one year thereafter, then it shall be the duty of the Secretary of State, when the required petitions have been filed in his office to cause an attested copy thereof to be filed, with the chairman of the State Election Board, together with a certificate of the fact that the proposition was originated by concurrent resolution of the Legislature setting forth such resolution. R.L.1910, § 3395.

Laws 1910, p. 124; C.S.1921, § 6655; St.1931, § 5894.

Validity. *Atwater v. Hassett, 27 Okl. 292, 111 P. 802.* Concurrent resolution suggesting proposed amendments. *Ramsey v. Persinger, 43 Okl. 41, 141 P. 13.*

Constitutional Law ⇨9(1).

§ 62. Ballots.—All propositions first suggested to the people by the Legislature, as provided by section 1 of this article,¹ shall be printed by such election board, and they shall have the supervision of the printing of the ballots, for such proposed amendment, and such proposition shall be printed either on a separate and independent ballot or upon the ballot upon which the names of candidates appear, should such election occur upon the day when candidates are being voted for: Provided, However, that the State Election Board shall not be empowered to change the form of any ballot as prescribed by the Legislature. Should such title be printed upon ballots containing the names of candidates, such board shall cause such proposition to appear immediately following the names of such candidates. If separate ballots are used at such election for county candidates, only local propositions can be printed thereon. All state wide or district propositions shall be printed only upon the state ballots. Such election board shall cause the said title of each proposition to be printed, followed by the words "For the Amendment," which words shall be in a separate paragraph and at least one fourth of an inch below such title. Said words shall have no distinguishing marks about them. R.L.1910, § 3396.

¹Laws 1910, ch. 66, p. 124, § 1, now section 61 of this title.

Laws 1910, p. 124; C.S.1921, § 6656; St.1931, § 5895.

Construction and application. *Atwater v. Hassett, 27 Okl. 292, 111 P. 802.*

Constitutional Law ⇨9(1).

§ 63. Unlawful printing or possession of ballots.—Any person having ballots, or sample ballots, outside the election enclosure either at the time of or before the election, on which is printed the said ballot title, and which were not printed by order of the State Election Board and furnished him by the inspector of elections, shall be deemed guilty of a misdemeanor and upon conviction shall be fined not less than twenty-five dollars, nor more than five hundred dollars, and imprisonment in the county jail not less than thirty days, nor more than ninety days. Any person printing or distributing sample or extra ballots not authorized by the State Election Board, and which con-

tain such ballot title, shall be deemed guilty of a misdemeanor and upon conviction shall be fined not less than fifty dollars nor more than five hundred dollars, and imprisonment in the county jail not less than ninety days nor more than twelve months: Provided, that nothing herein shall prevent newspapers from publishing in their papers educational ballots, which shall not be of the same size as are the official ballots. R.L.1910, § 3397.

Laws 1910, p. 125; C.S.1921, § 6657; St.1931, § 5896.
Constitutional Law ↪9(1).

§ 64. Method of voting on propositions suggested by legislature.—Electors shall vote upon all propositions submitted under the provisions of this chapter,¹ and which were first suggested by concurrent resolution of the Legislature, in the following manner: Should the elector desire to vote for the proposed amendment he shall leave the words, "For the Amendment," intact without erasing same. But should he desire to vote against such proposition he shall strike out the words, "For the Amendment," with a pencil mark. When such words are so erased after any proposition, the ballot shall be recorded as having been cast against the same, and whenever they are not so erased, such ballot shall be recorded as having been voted for such proposition. R.L.1910, § 3398.

¹ R.L.1910, ch. 37, now incorporated in this title. Laws 1910, p. 125; C.S.1921, § 6658; St.1931, § 5897.
Constitutional Law ↪9(2).

§ 65. Method of voting on other propositions.—On all other questions, propositions or proposed amendments, whether presented by initiative or referendum petition, the same shall be voted for as provided by Section 3381.¹ R.L.1910, § 3399.

¹ Section 14 of this title. Laws 1910, p. 126; C.S.1921, § 6659; St.1931, § 5898.
Statutes ↪35½.

§ 66. Form of returns—Certification and proclamation of result.—It shall be the duty of the election officers to make out separate abstract sheets upon which the returns relating to proposed amendments shall be certified, each proposition appearing in an abstract to itself. It shall be the duty of the State Election Board to certify to the Governor, immediately upon receipt of all the returns upon any proposition, the result thereof, and upon the receipt of such certificate, from said board, it shall be the duty of the Governor to issue his proclamation giving the whole number of votes cast in the State or any district and declaring the results of the vote upon the proposition. R.L.1910, § 3400.

Laws 1910, p. 126; C.S.1921, § 6660; St.1931, § 5899.

Proposed amendment to Constitution, Laws 1935, p. 402, did not become effective. State ex rel. Hayman v. State Election Board, 181 Okl. 622, 75 P.2d 861.
Constitutional Law ↪9(2).