



NATIONAL LAWYERS GUILD

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April 27, 2020

To: Seattle City Council
Washington State Secretary of State
Washington State Legislature

Allow electronic initiative petitions

The National Lawyers Guild, Seattle Chapter, requests the City of Seattle and the Secretary of State reform their initiative petitioning rules to allow for electronic petitions and signatures. This modernization of the venerable initiative process would allow for direct democracy to continue during the current pandemic. Democracy, in the form of the people's reserved right to make laws by initiative, does not need to be a casualty of this pandemic.

Specifically:

1. The Seattle City Council should ask the people to amend the City Charter Article IV, Section 1B, to allow for a verification process that accommodates electronic petitions and signatures.
2. The Seattle City Council should amend Seattle Municipal Code Chapter 2.08 to allow for electronic petitions and the collection of electronic signatures.
3. The Secretary of State and the State Legislature should modify state laws and rules that require handwritten signatures for validation, e.g., RCW 35.21.005 and WAC 434-379-020, and establish a standard platform for signing state-wide, county, and city initiatives, such as through vote.wa.gov or secureaccess.wa.gov.

These reforms are explained in more detail below.

**Direct democracy is a reserved power of the people
that should not be curtailed during emergencies.**

The current COVID-19 pandemic requires exceptional social distancing measures that prevent the ready circulation of paper initiative petitions for signature gathering. One of the few good things to come out of this pandemic is the quick adoption of streamlined government pro-

cesses. Those reforms should not leave behind one of the crucial government processes: direct lawmaking by the people.

Early in the Twentieth Century, the people in first class cities in Washington State formalized their reserved powers of direct democracy in the initiative and referendum processes. To establish initiative and referendum, the people of Seattle amended their city charter in 1908, and the people of Tacoma and Spokane did so in 1909, and 1910, respectively. In 1911, the people of Washington State amended the state constitution to create initiative and referendum.

Direct democracy is an integral policymaking mechanism in Washington, and it must be able to function even during a long emergency like the current pandemic. Seattle and State laws on initiative petition need to be modernized to facilitate electronic petitions and signatures.

Seattle has its own rules for city initiative petitions and has chosen to follow state law regarding the verification of petition signatures.

This choice allows the state to control the process that determines which city initiative petitions have obtained the required number of signatures, though Seattle could choose to adopt its own rules regarding signature verification by amending the City Charter. We suggest that both the City and the State pursue rule changes to allow for electronic petitioning and electronic signature gathering.

The Seattle City Charter permits citizen initiative petitions. Seattle City Charter, art. IV, § 1B. Seattle has also adopted a series of ordinances governing the city initiative process. These ordinances require that city initiative petitions be filed with the City Clerk in either print or electronic form, S.M.C § 2.08.010, direct the City Attorney to prepare a concise statement containing the “essential features of such measure,” SMC § 2.08.020, specify the dimensions of the petitions and the number of signature lines each petition sheet may contain, S.M.C. § 2.08.030, and specify the form of the petition, S.M.C. § 2.08.040. The city also prohibits anyone from signing a petition in exchange for consideration, interfering with signature gathering, or signing a petition more than once. S.M.C § 2.16.010. Neither the City Charter nor the Municipal Code explicitly require signatures to be handwritten, nor do they establish any procedures for verifying signatures.

Instead, Seattle has chosen to follow state law regarding signature verification. The City Charter assigns responsibility for verifying petition signatures to “the officer responsible for the verification of the sufficiency of the signatures to the petition under state law.” Seattle City Charter, art. IV, § 1B. State law requires that petitions signed by registered voters be transmitted by “the officer with whom the petition is filed...to the county auditor” for signature verification by “the officer or officers whose duty it is to determine the sufficiency of the petition.” RCW 35.21.005.

As described in Step 6 of Seattle’s Initiative Guide, the city interprets this to mean that the King County Records and Elections Division is responsible for verifying city initiative petition signatures using the standards established in RCW 35.21.005. RCW 35.21.005 implies that the signatures will be handwritten, as it states that a variation between a voter’s signature on their

voter registration and their signature on the petition “shall not invalidate the signature on the petition if the surname and handwriting are the same.” This implicit handwriting requirement is made explicit by the Washington Administrative Code, which requires that signatures be handwritten in order to be verified. WAC 434-379-020.

In sum, while Seattle has established its own rules for city initiative petitions, the city has chosen to follow state laws governing signature verification. Establishing new rules to allow Seattle to verify city initiative petition signatures would likely require an amendment to the City Charter. Also, Seattle City Council should change its municipal code sections requiring paper petitions.

The Secretary of State already allows voters to change their voting address by entering their name and birthdate online at vote.wa.gov with only a name and birthday required for access. This platform could provide for signing initiative petitions as well. Alternatively, the centralized secureaccess.wa.gov site could provide a secure platform for signing initiative petitions. The petitioning process is not a vote on the initiative, it is instead the primary criteria for deciding which initiatives the people will vote on. It is more akin to candidate filing, which is available online, than to voting on a ballot.

The Secretary and Legislature should modify statutes and rules needed to authorize verification of “signatures” submitted electronically, whether through vote.wa.gov, secureaccess.wa.gov or another platform.

Thank you for taking these steps to ensure direct democracy does not suffer during this emergency, and for working to create a more resilient system for democratic decision making during future crises.

s/ Philip Chinn
Philip Chinn
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