

Chapter 520: RULES REGARDING PUBLICATION OF PUBLIC COMMENTS ON STATEWIDE REFERENDA

SUMMARY: These rules describe the procedures and requirements for submitting public comments for or against statewide referenda, including citizen initiatives, people's veto referenda, constitutional resolutions and bond issues, for publication by the Secretary of State in the *Citizen's Guide to the Referendum Election* (in both printed form and on the agency's web site).

§1. Requirements for Public Comment Submission

1. Any individual, corporation, political action committee or other organization may file public comments in support of or in opposition to a ballot measure for publication in the *Citizen's Guide to the Referendum Election* ("*Citizen's Guide*"). Ballot measure public comments must be accompanied by a completed application on a form designed by the Secretary of State. The application must contain, but is not limited to the following information:
 - A. Date of the election that the ballot measure will be voted on;
 - B. Ballot order assigned to the measure;
 - C. Position taken – e.g. public comments in support or public comments in opposition;
 - D. Name of the person submitting public comments;
 - E. Name of the organization the person represents (if applicable);
 - F. Contact information for the person submitting the public comments; and
 - G. Original signature of the person submitting the comments:
 - i) For public comments filed and paid for by an individual, only the signature of the individual is required.
 - ii) For public comments sponsored by an organization or corporation, the application must be signed by an executive officer and must include the officer's title and the name of the organization or corporation.
 - iii) For public comments sponsored by a political action committee, the application must be signed by the committee's chairperson or treasurer, and must be identified by committee name.

2. All applications must be accompanied by a cashier's check or money order in the amount of \$500.
3. Any individual, corporation, political action committee or other organization may file only one (1) public comment per ballot measure.
4. Public comments must be filed with the Secretary of State no later than 5 p.m. on the 70th day prior to the date of the election at which the ballot measure is being voted on.
5. Public comments must be submitted electronically (MS Word or compatible format) on a floppy disk or CD along with a paper copy.
6. Public comments for publication will be limited in number to three (3) public comments in support and three (3) public comments in opposition to each ballot measure. The determination of which public comments will be published in the *Citizen's Guide* will be based upon the date (and time, if applicable) that the public comments were filed in the Secretary of State's office. If public comments beyond the allowable number are received at the same time, a random drawing will be held to determine which public comments will be published. The document filing date shall be the date the document is received by the Secretary of State in proper filing order with the appropriate filing fee.
7. All submissions should be designed for printing on 8 ½ by 11 inch pages, portrait orientation.
8. Only "Public Comments in Support" and "Public Comments in Opposition" will be accepted. Public comments that are "Neither For Nor Against" will not be accepted for publication.
9. All submitted public comments must be written in plain English with plain text. No graphics or pictures will be accepted for publication.
10. Public comments are limited to 300 words or less. Public comments longer than 300 words will not be accepted for publication.
11. The public comments must be submitted exactly as the filer wants the public comments to appear in the *Citizen's Guide*. Public comments will be published in the *Citizen's Guide* verbatim; no grammatical, spelling or textual changes will be made to the public comments, except as corrected under Section 3 of these Rules.
12. The Secretary of State shall reject any public comments submitted which:
 - A. Contain any obscene, profane or defamatory language;
 - B. Incite or advocate hatred, abuse or violence toward any person or group; or
 - C. Contain any language which may not legally be circulated through the mails.
13. Nothing in this chapter shall exempt the author of any public comments from any civil or criminal action because of any defamatory statements offered for printing or contained in the *Citizen's Guide*.

§2. Rejection of Comments

1. Not later than three (3) business days following the deadline for filing public comments, the Secretary of State shall review each submission and reject any public comments filed for publication in the *Citizen's Guide* that do not meet the requirements of Section 1 or that violate the provisions of Section 1.12 of these Rules. The Secretary of State shall notify the filer of the rejection in the following manner:
 - A. By telephone; or
 - B. If unable to contact the person by telephone, and if there is sufficient time prior to the publication of the *Citizen's Guide*, by certified mail immediately upon rejection.
2. The Secretary of State shall attempt to contact the person not later than the fifth business day following the deadline for filing public comments. Notification of a rejection shall identify the reason for rejection. A person contacted by the Secretary of State under this subsection may file a revised comment pursuant to paragraph 3 of this subsection not later than the seventh business day following the deadline for filing the public comments.
3. Any individual, corporation, political action committee or other organization notified by the Secretary of State of a rejection may revise the public comments only to the extent necessary to bring it into conformance. The revised public comments must meet the following requirements:
 - A. The revised public comments must be in compliance with all provisions of Section 1 of these Rules;
 - B. The revised public comments shall be returned to the Secretary of State, Elections Division by the deadline specified in these rules; and
 - C. The revised public comments shall be resubmitted in electronic format.
4. If the Secretary of State is unable to contact any person submitting public comments regarding the rejection or if the person fails to respond to the Secretary of State's notification, that person's comments will not be published in the *Citizen's Guide*.
5. The Secretary of State shall notify by mail any individual, corporation, political action committee or other organization whose comments were rejected due to the Secretary of State already receiving the maximum numbers of public comments allowed.
6. Upon final rejection of a filing, the Secretary of State will return the comment filer's payment for publication of the comments.

§3. Secretary of State to review public comments for errors in identification of measure number or designation of support or opposition to measure; corrections allowed

1. Not later than three (3) business days following the deadline for filing public comments, the Secretary of State shall review each submission to determine whether the person filing the public comments made an error in:
 - A. Identifying the measure number to which public comments pertain; or
 - B. Designating the public comments as in support of or in opposition to the ballot measure.
2. If the Secretary of State determines that the person filing the public comments may have made an error described in subsection 1 of this section, the Secretary of State shall attempt to contact the person not later than the fifth business day following the deadline for filing public comments. A person contacted by the Secretary of State under this subsection may file a correction to the identification of the measure number or the designation of the public comments not later than the seventh business day following the deadline for filing the public comments.
3. If a person files a correction to public comments under subsection 2 of this section, the comments shall be printed in the *Citizen's Guide* as corrected under subsection 2 of this section. If the Secretary of State is unable to contact a person under subsection 2 of this section or the Secretary of State contacts the person and the person does not file a correction to the public comments, the public comments shall be printed in the *Citizen's Guide* as originally filed, but with a disclosure stating that Secretary of State notified the person filing the public comments of a possible error.

§4. Guidelines for Secretary of State's *Citizen's Guide*

1. The Secretary of State's *Citizen's Guide* will be printed in an 8 ½ by 11 size, on stock to be determined by the Secretary of State.
2. The Secretary of State shall include the following items in the *Citizen's Guide* for each public comment submitted and printed:
 - A. The name of the person who submitted the public comments;
 - B. The name of the organization the person represents, if applicable;
 - C. Whether the public comments support or oppose the measure; and
 - D. A disclaimer in substantially the following form:

“The printing of this public comment does not constitute an endorsement by the State of Maine, nor does the State warrant the accuracy or truth of any statements made in the public comment.”

3. Each public comment will be labeled “Public Comment in Support” or “Public Comment in Opposition”.
 4. Information and public comments for each question will be presented in the following order: 1) brief explanatory statement prepared by the Attorney General; 2) estimate of the fiscal impact prepared by the Office of Fiscal and Program Review; 3) public comments submitted in support of the ballot measure, if any; and 4) public comments submitted in opposition to the ballot measure, if any. All public comments in support, up to a maximum of three, will be printed first, followed by public comments in opposition, up to a maximum of three.
 5. Standard formatting attributes, such as boldface, all caps, centering, underlining and bulleted or numbered lists may be used with the following exceptions:
 - A. Italic text may be used only when identifying publications. Improperly used italic text will be changed to plain text.
 - B. Names of court cases should be underlined, not italicized. Court cases submitted in a different format will be changed.
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STATUTORY AUTHORITY: 1 M.R.S.A. §354, as enacted by P.L. 2005, c. 316.

EFFECTIVE DATE:

July 13, 2006 – filing 2006-261