

1 March 19, 1987

2 CYNTHIA SULLIVAN
AUDREY GRUGER

3 INTRODUCED BY: RON SIMS

4 PROPOSED NO.: 87-77

5
6 ORDINANCE NO. 8024

7 AN ORDINANCE relating to referendum and
8 initiative petitions; prohibiting their
9 alteration; providing for the invalidation
10 of signatures obtained on altered petitions;
making intentional and malicious alteration
a misdemeanor.

11 BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

12 SECTION 1.

13 Findings of Fact. The King County council, based upon
14 its knowledge of recent events in King County, makes the
15 following findings of fact:

16 A. The language and form of referendum and initiative
17 petitions have been subject to unapproved alteration by
18 persons who wished to use the petitions as instruments of
19 political debate or to induce voters to sign petitions based
20 on inaccurate or misleading characterizations of the
21 petitions.

22 B. The King County council, while encouraging vigorous
23 political debate over the merits of referendums and
24 initiatives, finds and declares that the petitions
25 themselves should be documents which inform voters of the
26 issues before them and which record the signatures of voters
27 who wish to support the referendum or initiative.

28 C. The King County council finds and declares that
29 sanctions are needed to discourage alteration of petitions
30 and to uphold the integrity of the referendum and initiative
31 process.

1 SECTION 2.

2 Definitions. For the purpose of this chapter the
3 following definitions are adopted:

4 A. ALTER/ALTERATION. 1. To "alter" means to cause
5 alteration. "Alteration" is any change to a referendum or
6 initiative petition which occurs between the time the form
7 and language of the petition are approved by the clerk of
8 the council and the time when signed petitions are returned
9 to the clerk, with the exception of:

10 a. The signatures and other information required
11 of the petition signers;

12 b. Normal wear and tear, so long as such wear and
13 tear does not prevent one from reading all of the approved
14 language on the petition.

15 2. The following are representative examples of
16 alteration:

17 a. The addition of any unapproved language, either
18 printed or handwritten;

19 b. The crossing-out, covering or obscuring of
20 approved language;

21 c. The underlining or highlighting of any words or
22 part of the petition;

23 d. The physical attachment to the petition by any
24 means - for example, by stapling, taping, gluing, or
25 clipping - of any unapproved document.

26 3. Alteration is either permanent, that is,
27 observable at the time the signed petitions are returned to
28 the clerk of the council; or temporary, that is, occurring
29 at any time during the solicitation of signatures for the
30 petition but no longer observable when the signed petitions
31 are returned to the clerk of the council.

1 B. CANVASSING BOARD. The "canvassing board" shall
2 consist of the county executive, the manager of the records
3 and elections division, and the county prosecutor, or their
4 respective designees. The powers and duties of the
5 canvassing board as set forth in this ordinance are
6 independent of any powers and duties created by Title 29 RCW
7 or any other state statute.

8 SECTION 3.

9 Sample petition must be approved.

10 No referendum or initiative petition shall be
11 distributed to the public for solicitation of signatures
12 until a sample petition, in the form required by K.C.C.
13 1.16.070 or K.C.C. 1.16.080, has been submitted to and
14 approved by the clerk of the council. This sample petition
15 shall either be one of the printed petitions or a galley
16 proof or other accurate specimen of the printed petition.
17 The clerk shall retain this sample petition for comparison
18 with the signed petitions later filed for counting and
19 canvassing of signatures.

20 SECTION 4.

21 Signatures on altered petitions invalid.

22 All signatures on any petition which has been
23 temporarily or permanently altered shall be invalid and
24 shall not count towards the number of signatures needed to
25 satisfy the requirements of King County Charter 230.40 or
26 230.50.

27 SECTION 5.

28 Permanent alteration - clerk of the council.

29 When signed petitions are filed with the council
30 pursuant to K.C.C. 1.16.100, the clerk of the council shall
31 examine the petitions to determine whether they have been
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1 permanently altered. Any altered petitions shall be
 2 retained by the clerk and not transmitted to the records and
 3 elections division for canvassing and counting. The clerk
 4 shall notify the petition sponsor(s) of this action and
 5 shall make the altered petitions available for inspection.
 6 The records and elections division shall incorporate the
 7 fact that altered petitions were not counted in its
 8 certified copy of the facts filed pursuant to K.C.C.
 9 1.16.100.

10 SECTION 6.

11 Temporary alteration - canvassing board.

12 Before the records and elections division certifies the
 13 facts relating to the filing and canvass of an initiative
 14 petition pursuant to K.C.C. 1.16.100, or before the
 15 expiration of forty-five days after enactment of the
 16 ordinance which is the subject of a referendum petition, a
 17 registered voter may allege that petitions have been
 18 temporarily altered. This allegation shall be made by
 19 filing with the clerk of the council an affidavit which
 20 states the factual basis for the allegation. The clerk of
 21 the council shall transmit a copy of the affidavit to the
 22 records and elections division, which shall proceed to count
 23 and canvass the names of the legal voters on the petitions
 24 transmitted to it by the clerk of the council. If the
 25 number of signatures which would be valid if obtained on
 26 unaltered petitions is insufficient to satisfy the
 27 requirements of Charter 230.40 or 230.50, then the records
 28 and elections division shall certify the facts relating to
 29 the filing and canvass of the petition pursuant to K.C.C.
 30 1.16.100. If the number of signatures which would be valid
 31 if obtained on unaltered petitions satisfies the
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1 requirements of Charter 230.40 or 230.50, then the records,
2 and elections division shall transmit to the members of the
3 canvassing board both its count of the signatures and a copy
4 of the affidavit alleging alteration.

5 SECTION 7.

6 Fact-Finding hearing.

7 The members of the canvassing board, upon receipt from
8 the records and elections division of an affidavit alleging
9 temporary alteration and a count of the signatures which
10 would be valid if obtained on unaltered petitions, shall
11 convene a fact-finding hearing as follows:

12 A. The canvassing board shall determine whether
13 temporary alteration took place as alleged, and, if so,
14 shall determine whether the number of signatures invalidated
15 by alteration reduces the number of signatures that can be
16 counted below the requirements of Charter 230.40 or 230.50.

17 B. The members of the canvassing board must agree
18 unanimously in order to invalidate signatures pursuant to
19 Section 4 of this ordinance.

20 C. The parties to the hearing shall be the petition
21 challenger(s) and the petition sponsor(s). The petition
22 challenger(s) shall have the burden of proving the fact,
23 nature, and extent of the alteration by a preponderance of
24 the evidence.

25 D. The hearing shall be electronically recorded.

26 E. The hearing shall commence no later than three days
27 after the affidavit which alleges alteration and the count
28 of signatures is transmitted to the members of the
29 canvassing board, unless both the petition challenger(s) and
30 the petition sponsor(s) agree upon a later date.

31 F. The prosecutor or his designee shall be responsible
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1 for scheduling the hearing, for giving timely notice of its
2 date to the petition challenger(s) and petition sponsor(s),
3 and for making procedural rulings during the hearing. These
4 procedural decisions of the prosecutor or his designee shall
5 be subject to modification by majority vote of the
6 canvassing board.

7 G. The canvassing board shall transmit its findings to
8 the records and elections division, which shall incorporate
9 the findings into the certified copy of the facts filed
10 pursuant to K.C.C. 1.16.100.

11 SECTION 8.

12 Appeal to Superior Court.

13 The decision of the clerk of the council regarding
14 permanent alteration and the decision of the canvassing
15 board regarding temporary alteration shall be final unless
16 an aggrieved petition challenger or sponsor both applies for
17 a writ of certiorari with the King County Superior Court and
18 serves a copy of the writ application on the clerk of the
19 council within ten (10) calendar days of the date the
20 records and elections division files a certified copy of the
21 facts pursuant to K.C.C. 1.16.100.

22 SECTION 9.

23 Penalties for alteration.

24 Any person who, intentionally and maliciously, alters a
25 referendum or initiative petition or distributes an altered
26 referendum or initiative petition shall be guilty of a
27 misdemeanor and shall be punished as provided by the laws of
28 the State of Washington. The act of intentionally altering
29 a petition shall be a separate crime for each petition so
30 altered. For purposes of this section, one acts
31 intentionally if one acts with the culpability defined in
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1 RCW 9A.08.010(1) (a), and one acts maliciously if one acts
 2 with the culpability defined in RCW 9A.04.110(12), as those
 3 sections now exist or are hereafter amended.

4 SECTION 10.

5 Severability. Should any section, subsection,
 6 paragraph, sentence, clause or phrase of this ordinance be
 7 declared unconstitutional or invalid for any reason, such
 8 declaration shall not affect the validity of the remaining
 9 portion of this ordinance.

10 INTRODUCED AND READ for the first time this 2nd
 11 day of February, 1987.

12 PASSED this 20th day of April, 1987.

13 KING COUNTY COUNCIL
 14 KING COUNTY, WASHINGTON

15 Bill Reams
 16 VICE Chairman

17 ATTEST:

18
 19 Dorothy M. Owens
 20 Clerk of the Council

21 APPROVED this 28th day of April,
 22 1987.

23
 24 Jim Hill
 25 King County Executive