



**DEBRA BOWEN | SECRETARY OF STATE
STATE OF CALIFORNIA | ELECTIONS**

1500 11th Street, 5th Floor | Sacramento, CA 95814 | Tel (916) 657-2166 | Fax (916) 653-3214 | www.sos.ca.gov

February 9, 2010

County Clerk/Registrar of Voters (CC/ROV) Memorandum # 10063

TO: All County Clerks/Registrars of Voters

FROM: 
Cathy Mitchell
Chief, Elections Division

RE: Initiative: Petition Signatures

Recently, the Secretary of State's office learned that one or more counties have been or may soon be presented with initiative petitions, or electronic devices that are represented as containing initiative petitions, purportedly signed by California voters.

These particular "petitions" raise a new issue in that they purportedly were presented to the voter in an electronic format and the voter was asked to provide a signature, printed name, and residence address using their finger on the screen of a personal electronic device instead of using a pen to write those items on a paper petition. The electronic documents containing the images of the voter's information have been or may soon be provided electronically, or converted to paper and presented, to the county elections office for acceptance.

After carefully considering the issue, the Secretary of State's office has concluded that documents circulated and information gathered in the above manner are not valid under current law and may not be accepted by an elections official.

The California Constitution – Article II, Section 10(e) – reads:

The Legislature shall provide the manner in which petitions shall be circulated, presented, and certified, and measures submitted to the electors.

CCROV # 10063
February 9, 2010
Page 2

The Legislature has set forth numerous requirements for those who circulate petitions and for elections officials who must determine whether the petitions comply with the law and the Constitution. None of the petition circulation requirements enacted by the Legislature mention electronically gathering the information required by statute to be placed on the petition. There is also nothing to suggest that the Legislature contemplated the use of this technology in establishing the legal framework for the circulation of election petitions.

One requirement is found in Elections Code section 100, which reads in part:

Each signer shall at the time of signing the petition or paper **personally affix** his or her signature, printed name, and place of residence, giving street and number, and if no street or number exists, then a designation of the place of residence which will enable the location to be readily ascertained. (Emphasis added.)

Even if a voter can personally enter their required information into a personal electronic device, that personal electronic device is not the petition itself and it is not what is provided to an elections official. What is or will be provided, either electronically or on paper, to an elections official is a facsimile of the required information that each voter, by law, must personally affix to a petition. Submitting a facsimile of the information required to be collected and personally affixed by EC 100 does not comply with the law.

If the Legislature and the Governor wish to accommodate a new form of technology, a change in law is necessary. Any such change in this area will undoubtedly raise complex public policy questions involving security, privacy and budgetary issues that will need to be resolved.

If you have any questions, please feel free to contact me at Cathy.Mitchell@sos.ca.gov or (916) 657-2166.