



# Omaha man files lawsuit to challenge 2 requirements for Nebraska ballot-measure petitions

By GRANT SCHULTE Associated Press  
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LINCOLN, Nebraska — An Omaha man who has fought to loosen restrictions on petition circulators filed a lawsuit Tuesday alleging that two requirements in Nebraska violate his constitutional rights.

Kent Bernbeck argues that the rules have placed an unfair burden on his efforts to put ballot initiatives before voters. The lawsuit alleges that the restrictions — one in the Nebraska Constitution and the other in state law — violate his federal rights to free speech and to petition the government for a redress of grievances.

The Nebraska Constitution requires petitioners to gather signatures from at least 5 percent of registered voters in a minimum of 38 Nebraska counties — a two-fifths majority — before an issue can appear on the ballot. State law also prohibits petition organizers from paying circulators by the signature.

According to the lawsuit, Bernbeck mounted petition drives in the village of Denton and other cities to require that they publish the names of their lobbyists. The Denton village clerk, Charlotte TeBrink, consulted with the Nebraska Secretary of State's Office and approved the petition language.

Bernbeck paid a petition circulator to gather some of the signatures. The lawsuit says the village requested a judge's order to keep the petition question off the ballot after consulting again with state officials. The judge ruled that three of the 16 petition signatures were invalid because they were collected by a paid circulator, and the judge declared that the village didn't have to put the petition on the ballot.

The lawsuit names TeBrink and Nebraska Secretary of State John Gale as defendants. TeBrink did not return a phone message on Tuesday, while a spokeswoman for Gale said the office hadn't yet been served with the lawsuit and couldn't comment on pending litigation.

In a written statement, Gale said: "The area of initiative petitions is quite often subject to litigation, so there are regularly new lawsuits and new decisions across the country. We have had our share, and this is just the most recent one."

Bernbeck has previously said the petition process must be accessible to the public because it's one of the few checks against Nebraska's single-chamber Legislature.

"He is bringing this challenge to guarantee all Nebraskans can participate in this core democratic process," his attorney, [David Domina](#), said Tuesday.

Bernbeck argues that the signature distribution requirement dilutes the voices and votes of people who live in counties with the greatest populations. He also argues the requirement violates the "one person, one vote" principle.

Bernbeck filed a separate federal lawsuit in 2010 that challenged Nebraska's residency requirements and age limits for petition circulators, as well as the ban on paying circulators per signature. At the time, he and others tried to use the initiative process to get the city of Stanton to install a donated water slide for the city swimming pool. They said their petition was denied in November 2009 because of disqualified circulators.