

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 84th General Assembly
3 Regular Session, 2003

A Bill

SENATE BILL 378

4
5 By: Senator Faris
6
7

For An Act To Be Entitled

9 AN ACT TO ESTABLISH A PROCEDURE FOR THE RECALL OF
10 STATE CONSTITUTIONAL OFFICERS, MEMBERS OF THE
11 GENERAL ASSEMBLY, AND JUDICIAL OFFICERS; AND FOR
12 OTHER PURPOSES.

Subtitle

13
14 TO ESTABLISH A PROCEDURE FOR THE RECALL
15 OF STATE CONSTITUTIONAL OFFICERS,
16 MEMBERS OF THE GENERAL ASSEMBLY, AND
17 JUDICIAL OFFICERS.
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21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

22 SECTION 1. Definitions.

23 For the purpose of this act:

24 (1) "Elected judicial office" means the office of district judge,
25 circuit judge, judge of the Arkansas Court of Appeals, and justice of the
26 Arkansas Supreme Court;

27 (2) "Elected official" means any person elected to a state
28 constitutional office, the Arkansas Senate, the Arkansas House of
29 Representatives, or an elected judicial office; and

30 (3) "Recall" means the voting by the electors of the state or district
31 to ascertain whether or not it is the desire of the majority of the electors
32 to allow an elected official to remain in that capacity for the duration of
33 his or her elected term.
34

35 SECTION 2. Petition.

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1 (a) The qualified electors of the state or the district may petition
 2 for the recall of an elected official by filing a petition demanding the
 3 recall of the elected official.

4 (b) The petition must be filed after the first six (6) months and
 5 before the last year of the term for which the elected official was elected.

6 (c)(1) The petition for the recall of an elected official elected
 7 statewide shall be signed by qualified electors of the state in a number of
 8 at least fifteen percent (15%) of the votes cast for Governor at the last
 9 general election at which a Governor was elected, and the petition shall
 10 include signatures of qualified electors from each of thirty-five (35)
 11 counties in the state in a number of at least seven and one-half percent (7
 12 1/2%) of the number of votes cast for Governor at the election in the
 13 counties.

14 (2) The petition for the recall of an elected official elected
 15 by district shall be signed by qualified electors of the district in which
 16 the elected official is serving in a number of at least thirty percent (30%)
 17 of the registered voters in the district.

18
 19 SECTION 3. Recall of officers elected statewide and members of the
 20 General Assembly.

21 (a)(1) The recall of a member of the General Assembly or an elected
 22 official elected statewide shall be initiated by filing a notice of intent to
 23 circulate a recall petition.

24 (2) No petition shall be circulated before the notice of intent
 25 is filed.

26 (3) The notice of intent to circulate a recall petition shall
 27 state the reason the elected official should be recalled.

28 (4) The notice of intent to circulate a petition seeking the
 29 recall of the elected official shall be filed with the Secretary of State.

30 (5) The sponsor shall within five (5) calendar days after filing
 31 the notice of intent notify the elected official who will be the subject of a
 32 recall petition by certified mail with return receipt requested.

33 (b) Petitions from each county shall be kept separate to facilitate
 34 voter identification.

35 (c) The recall petitions shall be filed with the Secretary of State
 36 not less than sixty (60) calendar days nor more than eighty (80) calendar

1 days after the filing of the notice of intent to circulate a recall petition.

2 (d) Within thirty (30) calendar days after the petition is filed, the
3 Secretary of State shall determine by careful examination whether the
4 petition is sufficient and so state in a certificate attached to the
5 petition.

6 (e)(1) If the petition is found to be insufficient, the certificate
7 shall state the reasons creating the insufficiency.

8 (2) The petition may be amended to correct any insufficiency
9 within thirty (30) calendar days after the filing of the original
10 certificate.

11 (3) Within fifteen (15) calendar days after filing the amended
12 petition, it shall again be carefully examined to determine sufficiency and a
13 certificate stating the findings shall be attached.

14 (f)(1)(A) Immediately upon finding an original or amended petition
15 sufficient, the Secretary of State shall notify the Governor who shall
16 immediately call a special election for the purpose of submitting the
17 proposal to the electors.

18 (B) However, if the Governor is the subject of the recall
19 petition, then the election shall be called by the Lieutenant Governor.

20 (2)(A) The election shall be held within sixty (60) calendar
21 days after the call for a special election.

22 (B) However, if the general election is to be held within
23 ninety (90) calendar days, the recall proposal shall be held and submitted at
24 the general election.

25
26 SECTION 4. Recall petitions for statewide elected officers and members
27 of the General Assembly.

28 (a) The petition for recall of an elected official who is elected
29 statewide or the recall of a member of the General Assembly shall be in
30 substantially the following form:

31 "PETITION FOR RECALL

32 To the Secretary of State:

33 We, the undersigned legal voters of _____

34 (Arkansas or District)

35 respectfully order that _____

36 (Name of Elected Official)

1 be referred to the people of _____

2 (Arkansas or District)

3 to the end that the elected official may be approved or rejected by the
4 vote of the legal voters at an election to be held for this purpose; and each
5 of us for himself or herself says: I have personally signed this petition; I
6 am a legal voter of [Arkansas or district], and my printed name, date of
7 birth, residence, city or town of residence, and date of signing this
8 petition are correctly written after my signature."

9 (b) Each sheet of each petition containing the signatures shall be
10 verified in substantially the following form by the person who circulated the
11 sheet of the petition by his or her affidavit attached to the petition. The
12 affidavit shall be in substantially the following form:

13 "STATE OF ARKANSAS _____)

14 COUNTY _____)

15 I, _____ under oath, state that the above listed persons
16 signed this sheet, and each of them signed his or her name on this sheet in
17 my presence. I believe that each has correctly stated his or her name, date
18 of birth, residence, city or town of residence, and date of signing the
19 petition.

20 Signature _____

21 Address _____

22 Subscribed and sworn to before me this the _____ day of _____, _____.

23 Signature _____

24 Notary Public

25 My Commission Expires: _____"

26 (c) The forms provided in this section are not mandatory, and if
27 substantially followed in any petition it shall be sufficient, disregarding
28 clerical and technical errors.

29
30 SECTION 5. Recall of elected official other than a statewide officer
31 or member of the General Assembly.

32 (a)(1) The recall of an elected official other than an elected
33 official who is elected statewide or a member of the General Assembly shall
34 be initiated by filing a notice of intent to circulate a recall petition.

35 (2) No petition shall be circulated before the notice of intent
36 is filed.

1 (3) The notice of intent to circulate a recall petition shall
2 state the reason the elected official should be recalled.

3 (4) The notice of intent to circulate a petition seeking the
4 recall of the elected official shall be filed with the county clerk of the
5 county of residence of the elected official.

6 (5) The sponsor shall within five (5) calendar days notify the
7 elected official who will be the subject of a recall petition by certified
8 mail with return receipt requested.

9 (b) Petitions from each county shall be kept separate to facilitate
10 voter identification.

11 (c) The recall petitions shall be filed with the county clerk of the
12 county of residence of the elected official not less than sixty (60) calendar
13 days nor more than eighty (80) calendar days after the filing of the notice
14 of intent to circulate a recall petition.

15 (d)(1) Within thirty (30) calendar days after the petition is filed,
16 the county clerk shall determine by careful examination whether the petition
17 is sufficient and so state in a certificate attached to the petition.

18 (2) If the district from which the elected official was elected
19 includes all or a part of more than one (1) county the county clerks of the
20 other counties shall assist the county clerk of the county in which the
21 petition was filed to determine the validity of the names of legal voters on
22 parts of the petition with signatures from their respective counties.

23 (e)(1) If the petition is found to be insufficient, the certificate
24 shall state the reasons creating the insufficiency.

25 (2) The petition may be amended to correct any insufficiency
26 within thirty (30) calendar days following the filing of the original
27 certificate.

28 (3) Within fifteen (15) calendar days after filing the amended
29 petition, it shall again be carefully examined to determine sufficiency and a
30 certificate stating the findings shall be attached.

31 (f)(1) Immediately upon finding an original or amended petition
32 sufficient, the county clerk of the county in which the elected voter resides
33 shall notify the county board of election commissioners of the county in
34 which the elected official resides and the board shall immediately call a
35 special election for the purpose of submitting the proposal to the electors.

36 (2) The election shall be held within sixty (60) calendar days

1 after the call for a special election.

2 (3) However, if the general election is to be held within ninety
3 (90) calendar days, the recall proposal shall be held and submitted at the
4 general election.

6 SECTION 6. Recall petitions for elected official other than a
7 statewide officer or member of the General Assembly.

8 (a) The petition for recall of an elected official other than an
9 elected official who is elected statewide or a member of the General Assembly
10 shall be in substantially the following form:

11 "PETITION FOR RECALL

12 To the County Clerk of _____ County:

13 We, the undersigned legal voters of _____

14 (District)

15 respectfully order that _____

16 (Name of Elected Official)

17 be referred to the people of _____

18 (District)

19 to the end that the elected official may be approved or rejected by the
20 vote of the legal voters at an election to be held for this purpose; and each
21 of us for himself or herself says: I have personally signed this petition; I
22 am a legal voter of the district, and my printed name, date of birth,
23 residence, city or town of residence, and date of signing this petition are
24 correctly written after my signature."

25 (b) Each sheet of each petition containing the signatures shall be
26 verified in substantially the following form by the person who circulated the
27 sheet of the petition by his or her affidavit thereon as a part thereof. The
28 affidavit shall be in substantially the following form:

29 "STATE OF ARKANSAS _____)

30 COUNTY _____)

31 I, _____ under oath, state that the above listed persons
32 signed this sheet, and each of them signed his or her name on this sheet in
33 my presence. I believe that each has correctly stated his or her name, date
34 of birth, residence, city or town of residence, and date of signing the
35 petition.

36 Signature _____

1 Address _____
 2 Subscribed and sworn to before me this the _____ day of _____ , _____
 3 Signature _____
 4 Notary Public
 5 My Commission Expires: _____ "

6 (c) The forms provided in this section are not mandatory, and if
 7 substantially followed in any petition it shall be sufficient, disregarding
 8 clerical and technical errors.

9
 10 SECTION 7. Ballot.

11 (a) At the election the recall issue shall be printed on the ballot in
 12 substantially the following form:

13 “For Permitting _____ to
 14 _____ Name _____ Office

15 continue to serve the term of office for which elected / /

16 Against Permitting _____ to
 17 _____ Name _____ Office

18 continue to serve the term of office for which elected / /”

19 (b)(1) If at the election a majority of the qualified electors voting
 20 on the issue vote against permitting the elected official to serve the term
 21 of office to which elected, an immediate vacancy shall exist in the office,
 22 and the vacancy shall be filled in the manner prescribed by law.

23 (2) If at the election a majority of the qualified electors
 24 voting on the issue vote for permitting the elected official to continue to
 25 serve the term of office for which elected, the elected official shall serve
 26 the full term for which elected.

27
 28 SECTION 8. Frequency of recall.

29 After one (1) recall petition and election, no further recall petition
 30 shall be filed against the same elected official during the same term of
 31 office.

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 33 SECTION 9. Recall expenses.

34 All expenses of elections for the recall of elected officials shall be
 35 paid for in the same manner and from the same source as provided under
 36 Arkansas Code § 7-5-104.

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SECTION 10. Ballot question.

(a) Any recall issue shall be considered a ballot question for purposes of the Disclosure Act for Public Initiatives, Referendums, and Measures Referred to Voters, Arkansas Code §§ 7-9-401, et seq.

(b) An elected official, any person or entity acting on behalf of the elected official, or any other person or entity who receives contributions or makes expenditures for the purpose of attempting to influence the qualification, passage, or defeat of a recall petition or issue shall be considered a ballot question committee and shall comply with the Disclosure Act for Public Initiatives, Referendums, and Measures Referred to Voters, Arkansas Code §§ 7-9-401, et seq.