

Stricken language would be deleted from and underlined language would be added to present law.

1 State of Arkansas
2 92nd General Assembly
3 Regular Session, 2019
4

As Engrossed: S3/20/19

A Bill

SENATE BILL 463

5 By: Senator M. Johnson
6

For An Act To Be Entitled

8 AN ACT TO AMEND THE LAW CONCERNING INITIATIVES AND
9 REFERENDA; TO PROVIDE FOR LICENSING AND REGISTRATION
10 OF CERTAIN PERSONS THAT PARTICIPATE IN THE PAID
11 CANVASSING INDUSTRY; TO STRENGTHEN THE ENFORCEMENT
12 MECHANISMS FOR LAWS CONCERNING INITIATIVES AND
13 REFERENDA; AND FOR OTHER PURPOSES.
14

Subtitle

15
16 TO AMEND THE LAW CONCERNING INITIATIVES
17 AND REFERENDA; AND TO PROVIDE FOR THE
18 LICENSING, REGISTRATION, AND ENFORCEMENT
19 OF LAWS CONCERNING CERTAIN PERSONS AND
20 ENTITIES THAT PARTICIPATE IN THE PAID
21 CANVASSING INDUSTRY.
22
23
24

25 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
26

27 SECTION 1. DO NOT CODIFY. Legislative intent and findings.

28 The General Assembly finds that:

29 (1) Arkansas Constitution, Article 5, protects the right of
30 citizens to govern themselves by providing a means for voters to enact laws
31 and constitutional amendments through the initiative process and to repeal
32 laws enacted by the General Assembly through the referendum process;

33 (2) The State of Arkansas has a compelling interest in
34 preserving and protecting the integrity of the initiative process and the
35 referendum process;

36 (3) The State of Arkansas has a compelling interest in



1 protecting voters from initiatives and referenda that are deficient or
 2 misleading or that are placed on the ballot by means of conduct that is
 3 misleading, perjured, fraudulent, felonious, or otherwise unlawful;

4 (4) The General Assembly may further these compelling interests
 5 by enacting laws intended to deter and penalize:

6 (A) Perjury;

7 (B) Forgery;

8 (C) Fraud;

9 (D) Misrepresentation of an issue, measure, or question;

10 (E) Misrepresentation of the effects of an issue, measure,
 11 or question; and

12 (F) Other felonies;

13 (5) The General Assembly may further these compelling interests
 14 by enacting laws of a practical nature to facilitate the initiative and
 15 referendum process; and

16 (6) Without reasonable and responsible laws and oversight, it
 17 may be possible for canvassers to benefit from conduct that is misleading,
 18 fraudulent, perjured, felonious, or otherwise unlawful.

19
 20 SECTION 2. Arkansas Code § 7-9-101 is amended to read as follows:

21 7-9-101. Definitions.

22 As used in this subchapter and § 7-9-601 et seq.:

23 (1) "Act" means an act having general application throughout the
 24 state, whether originating in the General Assembly or proposed by the people;

25 (2) "Amendment" means an amendment to the Arkansas Constitution
 26 that is proposed by the people;

27 (3) "Canvasser" means a person who circulates an initiative or
 28 referendum petition or a part or parts of an initiative or referendum
 29 petition to obtain the signatures of petitioners thereto;

30 (4) "Canvassing organization" means any person that:

31 (A) Employs one (1) or more persons as a canvasser; and

32 (B) Supplies paid canvasser labor or services to a
 33 sponsor;

34 (5) "Election" means a regular general election at which state
 35 and county officers are elected for regular terms;

36 ~~(5)~~(6) "Measure" means an amendment, an act, or an ordinance;

1 ~~(6)~~(7) “Ordinance” means an ordinance of a municipality or
2 county, whether originating in the legislative body of the municipality or
3 county or proposed by the people;

4 ~~(7)~~(8)(A) “Paid canvasser” means a person who accepts payment or
5 who enters into an agreement to accept payment of money or anything of value,
6 before or after one (1) or more signatures on an initiative or referendum
7 petition is solicited, in exchange for soliciting or obtaining a signature on
8 a petition.

9 (B) As used in subdivision (8)(A) of this section,
10 payment includes without limitation payment of money or anything of value.

11 (C) As used in subdivision (8)(A) of this section,
12 “soliciting or obtaining” includes without limitation:

13 (i) Polling;

14 (ii) Advertising;

15 (iii) Surveying; and

16 (iv) Marketing;

17 (9) “Person” means any individual, proprietorship, firm,
18 partnership, joint venture, syndicate, labor union, business trust, company,
19 corporation, association, committee, or any other organization or group of
20 persons acting in concert;

21 (10) “Petition part” means a petition signature sheet containing
22 the information required under § 7-9-104 or § 7-9-105;

23 ~~(8)~~(11) “Petitioner” means a person who signs an initiative or
24 referendum petition ordering a vote on a measure;

25 ~~(9)~~(12) “Registered voter” means a person who is registered at
26 the time of signing the petition pursuant to Arkansas Constitution, Amendment
27 51; and

28 ~~(10)~~(13) “Sponsor” means a person who arranges for the
29 circulation of an initiative or referendum petition or who files an
30 initiative or referendum petition with the official charged with verifying
31 the signatures.

32
33 SECTION 3. Arkansas Code Title 7, Chapter 9, Subchapter 1, is amended
34 to add additional sections to read as follows:

35 7-9-127. Verification of petition – Costs.

36 (a) If a canvasser is compensated in exchange for the service of

1 circulation of a petition or solicitation of signatures on the petition, the
2 sponsor shall reimburse the Secretary of State in full for all costs incurred
3 for verification of the petition.

4 (b) The Secretary of State shall promulgate rules and procedures
5 concerning the:

6 (1) Determination of the amount of the costs incurred for
7 verification of the petition; and

8 (2) Process for collecting payment from the sponsor.

9 (c)(1) Upon completion of the verification process, the Secretary of
10 State shall notify the sponsor of his or her determination and the costs
11 incurred in the verification process.

12 (2) If the sponsor fails to remit payment of the costs as
13 required under this section to the Secretary of State within thirty (30) days
14 after notification, the Secretary of State may recover the costs by bringing
15 an action in the Pulaski County Circuit Court or in the circuit court of any
16 county in which the petition was circulated.

17 (3) Upon a finding by the court of a failure to pay the required
18 costs under this section, the court shall order payment of the required
19 costs, attorney's fees, litigation expenses, and all other just and proper
20 relief.

21
22 7-9-128. Certification to ballot by Secretary of State – Additional
23 considerations.

24 (a) The Secretary of State shall not certify a statewide initiated or
25 referred measure to the ballot:

26 (1) That does not have general application throughout the state
27 and is limited in application to one (1) or more named counties or
28 municipalities;

29 (2) That does not have general application throughout the state
30 and grants authority, power, or privilege to:

31 (A) A specific individual identified by name or
32 implication; or

33 (B) A business entity identified by name or implication,
34 including without limitation a private corporation identified by name or
35 implication;

36 (3) That creates a monopoly for any county, municipality, or

1 business entity; or

2 (4) For which a paid canvasser was compensated, and the
3 Secretary of State has not been reimbursed by the sponsor for the costs of
4 verification under § 7-9-127.

5 (b) Subdivision (a)(3) of this section does not apply to lawful local
6 option elections.

7

8 SECTION 4. Arkansas Code § 7-9-601(c)-(e), concerning the hiring and
9 training of paid canvassers, are amended to read as follows:

10 ~~(c) As used in this section, "paid canvasser" means a person who is~~
11 ~~paid or with whom there is an agreement to pay money or anything of value~~
12 ~~before or after a signature on an initiative or referendum petition is~~
13 ~~solicited in exchange for soliciting or obtaining a signature on a petition.~~

14 ~~(d)~~ Before obtaining a signature on an initiative or referendum
15 petition as a paid canvasser, the a person who is a prospective canvasser
16 shall submit in person or by mail to the sponsor:

17 (1) The full name and any assumed name of the person;

18 (2) The current residence address of the person and the person's
19 permanent domicile address if the person's permanent domicile address is
20 different from the person's current residence address;

21 (3) A signed statement taken under oath or solemn affirmation
22 stating that the person has not pleaded guilty or nolo contendere to or been
23 found guilty of a criminal felony offense or a violation of the election
24 laws, fraud, forgery, or identification theft in any state of the United
25 States, the District of Columbia, Puerto Rico, Guam, or any other United
26 States protectorate;

27 (4) A signed statement that the person has read and understands
28 the Arkansas law applicable to obtaining signatures on an initiative or
29 referendum petition; and

30 (5) A signed statement that the person has been provided a copy
31 of the most recent edition of the Secretary of State's initiatives and
32 referenda handbook by the sponsor.

33 ~~(e)~~(d) A sponsor shall maintain the information required under this
34 section for each paid canvasser for three (3) years after the general
35 election.

36

1 SECTION 5. Arkansas Code Title 7, Chapter 9, Subchapter 6, is amended
2 to add additional sections to read as follows:

3 7-9-602. Compensation of paid canvassers.

4 A paid canvasser shall not be compensated:

5 (1) Before the signatures gathered by the paid canvasser have
6 been verified by the Secretary of State, county clerk, or city clerk;

7 (2) Before the paid canvasser is licensed as a paid canvasser;

8 (3) If the paid canvasser has not generated and maintained a
9 signature registry described in § 7-9-605(b)(1) listing the name of every
10 person who signed the petition for which the paid canvasser is licensed; or

11 (4) For signatures obtained by the paid canvasser for a county
12 in which the paid canvasser is not registered.

13
14 7-9-603. Licensing of paid canvassers.

15 (a) A person shall not circulate a petition in exchange for
16 compensation unless he or she has obtained a paid canvasser license under
17 this section.

18 (b)(1) A person who desires employment as a paid canvasser on a
19 particular issue, measure, or question may apply for a paid canvasser license
20 to be issued by the Secretary of State.

21 (2) The application for a paid canvasser license shall be on a
22 form prescribed by the Secretary of State and shall include:

23 (A) The applicant's date of birth;

24 (B) Two (2) forms of proof of residency in Arkansas;

25 (C) Proof that he or she is a qualified elector in
26 Arkansas;

27 (D) A description of the issue, measure, or question for
28 which the applicant wishes to canvass;

29 (E) Either:

30 (i) A copy of the applicant's official criminal
31 background check issued by the Department of Arkansas State Police no earlier
32 than thirty (30) days before the date that the canvasser applies for
33 licensing; or

34 (ii) A signed release allowing the Secretary of
35 State to obtain a criminal background check from the department and payment
36 of any associated department fee;

1 (F) Payment for the cost of part one of the paid canvasser
2 examination payable to the Secretary of State for deposit into a cash fund
3 account established in the State Treasury;

4 (G) Payment for the cost of part two of the paid canvasser
5 examination payable to the Attorney General for deposit into a cash fund
6 account established in the State Treasury; and

7 (H) Any other relevant information or documentation
8 requested by the Secretary of State.

9 (c)(1) The Secretary of State shall not issue a paid canvasser license
10 to a person who has not passed both parts of the paid canvasser examination
11 concerning the issue, measure, or question for which the person wishes to
12 canvass by a score indicating at least seventy-five percent (75%) accuracy on
13 each part of the examination.

14 (2)(A) The paid canvasser examination shall be given in two (2)
15 parts.

16 (B)(i) Part one of the paid canvasser examination shall
17 be:

18 (a) Generated by the Secretary of State; and

19 (b) Designed to demonstrate the applicant's
20 knowledge of the ballot initiative and referendum process in Arkansas.

21 (ii)(a) The fee for part one of the paid canvasser
22 examination shall be paid for each examination taken by the applicant, and
23 shall be payable to the Secretary of State for deposit into a cash fund
24 account established in the State Treasury.

25 (b) The fee under subdivision (c)(2)(B)(ii) of
26 this section shall be the greater of:

27 (1) One hundred fifty dollars (\$150); or

28 (2) An amount equal to the costs
29 incurred by the Secretary of State in issuing the paid canvasser license.

30 (iii) If a paid canvasser passes part one of the
31 paid canvasser examination and wishes to be licensed for more than one (1)
32 issue, measure, or question, the paid canvasser's passing score on part one
33 is valid for one (1) year without additional testing.

34 (C)(i) Part two of the paid canvasser examination shall
35 be:

36 (a) Generated by the:

1 (1) Attorney General if the issue,
2 measure, or question is a statewide issue, measure, or question;

3 (2) County attorney if the issue,
4 measure, or question is a countywide issue, measure, or question; or

5 (3) City attorney if the issue, measure,
6 or question is a citywide issue, measure, or question; and

7 (b) Designed to demonstrate the applicant's
8 knowledge of the ballot issue, measure, or question for which the person
9 wishes to canvass.

10 (ii) The fee for part two (2) of the paid canvasser
11 examination shall be payable to:

12 (a) The Attorney General for deposit into a
13 cash fund account established in the State Treasury if the issue, measure, or
14 question is a statewide issue, measure, or question;

15 (b) The county general fund if the issue,
16 measure, or question is a countywide issue, measure, or question; or

17 (c) The city general fund if the issue,
18 measure, or question is a citywide issue, measure, or question.

19 (iii) The fee for part two of the paid canvasser
20 examination shall be the greater of:

21 (a) One hundred fifty dollars (\$150); or

22 (b) An amount equal to the costs incurred by
23 the Attorney General, county attorney, or city attorney for administering and
24 creating the exam.

25 (3) A paid canvasser license under this section shall be
26 specific to the ballot issue, measure, or question for which it is requested
27 and for which the paid canvasser examination is given. The paid canvasser
28 license shall expire when the ballot issue, measure, or question for which
29 the paid canvasser license is granted no longer requires the circulation of
30 the petition.

31 (d)(1)(A) The Secretary of State shall issue a paid canvasser license
32 to an applicant who:

33 (i) Meets the requirements of this section; and

34 (ii) Pays a license fee in an amount adopted by rule
35 of the Secretary of State, but not less than two hundred dollars (\$200).

36 (B) The fee under subdivision (d)(1)(A)(ii) of this

1 section shall be payable to the Secretary of State who shall:

2 (i) Deposit one-half (1/2) of the fee into a cash
3 fund account established in the State Treasury; and

4 (ii) Remit one-half (1/2) of the fee to the Arkansas
5 Ethics Commission to be deposited into a cash fund account established in the
6 State Treasury.

7 (2) The paid canvasser license shall be on a form prescribed by
8 the Secretary of State and shall contain the following:

9 (A) The licensee's name;

10 (B) A photo of the licensee;

11 (C) The licensee's address;

12 (D) A paid canvasser license number to be assigned by the
13 Secretary of State;

14 (E) The licensee's date of birth; and

15 (F) The expiration date of the paid canvasser license.

16 (e) The Secretary of State shall not issue a paid canvasser license
17 under this section to any person who has pleaded guilty or nolo contendere
18 to, or been found guilty of, a criminal offense.

19 (f)(1) The Secretary of State shall:

20 (A) Publish a list of licensed paid canvassers for each
21 ballot issue, measure, or question online;

22 (B) Create and maintain a hotline for citizens to report
23 potential violations concerning the circulation of petitions and solicitation
24 of signatures; and

25 (C) Accept citizen complaints in person or by:

26 (i) Email;

27 (ii) Text message;

28 (iii) Letter;

29 (iv) Online complaint form; and

30 (v) Any other medium the Secretary of State deems
31 appropriate.

32 (2) The hotline required under subdivision (f)(1)(B) of this
33 section shall be available for citizen complaints seven (7) days a week and
34 twenty-four (24) hours a day.

35 (g) If the Secretary of State, county clerk, or city clerk determines
36 that more than twenty-five percent (25%) of the signatures on the parts of a

1 petition that were circulated by a single paid canvasser could not be
2 verified, the Secretary of State, county clerk, or city clerk shall:

3 (1) Immediately revoke the paid canvasser's paid canvasser
4 license;

5 (2) Not issue another paid canvasser license to the paid
6 canvasser for a period of three (3) years;

7 (3) Not certify the issue, measure, or question to the ballot;
8 and

9 (4)(A) Report any potential violation to the proper law
10 enforcement authorities for investigation.

11 (B) If reporting under subdivision (g)(4)(A) of this
12 section, the Secretary of State, county clerk, or city clerk shall notify the
13 law enforcement authority that any or all of the following parties may have
14 violated Arkansas law:

15 (i) The sponsor of the issue, measure, or question;

16 (ii) A canvassing organization; or

17 (iii) A paid canvasser.

18
19 7-9-604. Paid canvassers – Registration and reporting.

20 (a)(1) Before a paid canvasser circulates a petition or solicits
21 signatures on the petition, he or she shall register:

22 (A) For a statewide issue, measure, or question or a
23 countywide issue, measure, or question, with the county clerk of any county
24 in which he or she will be circulating the petition or soliciting signatures;
25 or

26 (B) For a citywide issue, measure, or question, with the
27 city clerk of the city in which he or she will be circulating the petition or
28 soliciting signatures.

29 (2) Registration under subdivision (a)(1) of this section shall
30 include:

31 (A) A registration fee of twenty-five dollars (\$25.00)
32 payable to the county clerk or city clerk, as appropriate, with whom the paid
33 canvasser is registering; and

34 (B) A copy of the paid canvasser's license.

35 (b)(1) No later than five (5) days after issuance of a paid canvasser
36 license under § 7-9-603, a paid canvasser shall register with the Arkansas

1 Ethics Commission.

2 (2) Registration under subdivision (b)(1) of this section shall
3 include:

4 (A) The information required under § 7-9-603(d)(2);

5 (B) A list of the issues, measures, or questions for which
6 the paid canvasser is licensed; and

7 (C) The name, address, phone number, and email address for
8 the person employing the paid canvasser as a paid canvasser.

9 (3)(A) The paid canvasser shall file a report no later than the
10 fifteenth day of the month following any month in which he or she obtained a
11 signature or received compensation for obtaining signatures.

12 (B) The report shall be filed with the commission on a
13 form prescribed by the commission and shall list:

14 (i) The identity of any person who compensated the
15 paid canvasser during the month reported;

16 (ii) If the paid canvasser was compensated with
17 money, the amount of compensation for circulation of petitions;

18 (iii) If the paid canvasser was compensated with an
19 item that is not money, a description of the item and an estimate of its
20 value;

21 (iv) The number of signatures gathered in the month;

22 (v) The counties and cities within which the
23 signatures were gathered; and

24 (vi) The amount of money the paid canvasser spent in
25 the process of gathering signatures.

26 (c)(1) Any signature obtained before lawful registration under this
27 section shall:

28 (A) Be invalid; and

29 (B) Not be counted or verified by the Secretary of State,
30 county clerk, or city clerk.

31 (2) The Secretary of State shall revoke the paid canvasser
32 license of a paid canvasser who fails to comply with the provisions of this
33 section.

34
35 7-9-605. Paid canvasser registry.

36 (a) While circulating a petition or soliciting a signature, a paid

1 canvasser shall:

2 (1) Wear his or her paid canvasser license on his or her person
3 in a visible manner; and

4 (2) Make his or her paid canvasser license immediately available
5 for inspection upon request by any person.

6 (b)(1) A paid canvasser shall maintain a legible registry of persons
7 whose signatures he or she has collected on a petition which he or she is
8 licensed to circulate that shall include:

9 (A) The paid canvasser's name;

10 (B) The paid canvasser's paid canvasser license number;

11 (C) Each petitioner's printed name; and

12 (D) An acknowledgement signed by each petitioner that
13 indicates that:

14 (i) The paid canvasser accurately explained the
15 issue, measure, or question to the petitioner and answered any of his or her
16 questions; and

17 (ii) The petitioner understood the issue, measure,
18 or question as explained.

19 (2) A paid canvasser shall:

20 (A) Organize the registry under this section by county of
21 residence of the petitioner; and

22 (B) Submit the registry under this section to the
23 Secretary of State, county clerk, or city clerk at the time of submittal of
24 the petition.

25 (c) A paid canvasser shall:

26 (1) Request to see a petitioner's proof of identification;

27 (2) If the identification appears to be that of the petitioner,
28 verify that the petitioner signed his or her own name to the petition by
29 placing a mark designated by the Secretary of State next to the signature;

30 (3) If the petitioner refuses to provide identification,
31 indicate that the petitioner did not present identification by placing a mark
32 designated by the Secretary of State next to the signature; and

33 (4) If the petitioner appears to have signed the name of another
34 person on the petition, indicate that the name on the petition does not
35 appear to be that of the petitioner by placing a mark designated by the
36 Secretary of State next to the signature.

1
2 7-9-606. Licensing of a canvassing organization.

3 (a) A canvassing organization shall not use any paid canvasser in
4 furtherance of an issue, measure, or question without a canvassing
5 organization license issued by the Secretary of State under this section.

6 (b)(1) A canvassing organization that wishes to do business in
7 Arkansas may request a canvassing organization license under this section by
8 filing an application with the Secretary of State.

9 (2) The application under this section shall:

10 (A) Be on a form prescribed by the Secretary of State;

11 (B) Be filed for each issue, measure, or referendum the
12 canvassing organization will circulate petitions concerning; and

13 (C) Include:

14 (i) An application fee of one thousand dollars
15 (\$1,000) payable to the Secretary of State for deposit into a cash fund
16 account established in the State Treasury;

17 (ii) The name, address, and phone number of the
18 canvassing organization;

19 (iii) If the canvassing organization is not an
20 individual, the:

21 (a) Identity of the owners, board of
22 directors, officers, and other individuals with control of the canvassing
23 organization;

24 (b) Articles of incorporation, bylaws, and any
25 other organizational or control documents creating and governing the
26 canvassing organization; and

27 (c) Location of the corporate office, national
28 office, or other primary place of business for the canvassing organization;

29 (iv) A list of the names of all paid canvassers
30 employed in Arkansas by the canvassing organization;

31 (v) The identity of any sponsors the canvassing
32 organization is under contract with;

33 (vi) If the canvassing organization is bonded,
34 information concerning the bond; and

35 (vii) Any other relevant information or
36 documentation requested by the Secretary of State.

1 (c) The Secretary of State shall not issue a canvassing organization
2 license under this section to a canvassing organization that:

3 (1) Does not have a physical address in Arkansas; or

4 (2) Files an incomplete or fraudulent application under this
5 section.

6
7 7-9-607. Reporting.

8 (a) A canvassing organization that is licensed under § 7-9-606, pays
9 more than five hundred dollars (\$500) to one (1) or more paid canvassers, or
10 otherwise engages in activities in support of or opposition to a ballot
11 issue, measure, or question shall:

12 (1) Be deemed a ballot question committee for purposes of
13 reporting under 7-6-201 et seq.; and

14 (2) File quarterly reports with the Arkansas Ethics Commission
15 identifying the nature and amount of expenditures made in support of or
16 opposition to a ballot measure.

17 (b) The commission shall adopt rules concerning the form, content, and
18 process for filing of the reports required under this section.

19
20 7-9-608. Criminal penalties.

21 (a) A person who knowingly acts as a paid canvasser in violation of
22 this subchapter is guilty of a Class A misdemeanor.

23 (b) A sponsor or canvassing organization that knowingly acts in
24 violation of this subchapter is guilty of a Class D felony.

25 (c) It is a Class A misdemeanor for a sponsor, canvassing
26 organization, or other person to authorize payment to or make payment to a
27 paid canvasser if:

28 (1) The paid canvasser circulated a part of an initiative or
29 referendum petition;

30 (2) The Secretary of State reviewed the entire initiative or
31 referendum petition; and

32 (3) Less than eighty-five percent (85%) of the signatures
33 gathered by that paid canvasser are verified.

34 (d) If less than eighty-five percent (85%) of the signatures on an
35 initiative or referendum petition concerning an issue, measure, or question
36 are verified, a person who authorizes payment to or makes payment to a paid

1 canvasser who circulated the petition is guilty of a Class A misdemeanor.

2 (e)(1) It is a class A misdemeanor for a paid canvasser, without the
3 express written permission of the private property owner, to circulate or
4 solicit signatures on a petition while:

5 (A) On private property; or

6 (B) At a private event whether the event is open or closed
7 to the public.

8 (2) To be sufficient permission under this section, the written
9 permission of the private property owner shall include at a minimum:

10 (A) The times and dates the paid canvasser is authorized
11 to circulate petitions and solicit signatures;

12 (B) The location of and area within which the canvasser is
13 authorized to circulate petitions and solicit signatures; and

14 (C) The name, address, and telephone number for the
15 private property owner or manager of the private property.

16 (3) Upon request by any person, a paid canvasser shall present
17 his or her written permission under subdivision (e)(2) of this section to the
18 person.

19 (f) If a person pleads guilty or nolo contendere to, or is found
20 guilty of, a violation under this section, his or her paid canvasser license
21 under § 7-9-603 shall be revoked, and he or she shall not be issued another
22 paid canvasser license under § 7-9-603.

23
24 7-9-609. Civil penalties.

25 (a)(1) The Secretary of State, the Attorney General, the Arkansas
26 Ethics Commission, or any other person may file an action in circuit court
27 against a canvassing organization, paid canvasser, or sponsor that violates
28 any provision of this subchapter.

29 (2) Each day of a continuing violation is a separate violation.

30 (3) After a finding that the canvassing organization, paid
31 canvasser, or sponsor violated a provision of this subchapter, the circuit
32 court may assess an administrative civil penalty in an amount not to exceed
33 one thousand dollars (\$1,000) per violation.

34 (b) If a sponsor prevails in a breach of contract action against a
35 canvassing organization, the sponsor shall be entitled to attorney's fees,
36 costs, a civil penalty payable to the Secretary of State for deposit into a

1 cash fund account established in the State Treasury in an amount not to
2 exceed ten percent (10%) of the total cost contracted for, and any other just
3 and proper relief.

4 (c)(1) In addition to any common law or contract remedies, a person
5 who employs or contracts with a canvassing organization or a paid canvasser
6 has a private right of action against the canvassing organization or paid
7 canvasser that violates the registration or licensure provisions of this
8 subchapter in a manner that results in the invalidation of signatures
9 gathered.

10 (2) The person who employs or contracts with the canvassing
11 organization or paid canvasser under subdivision (c)(1) of this section, upon
12 a finding of a violation under subdivision (c)(1) of this section, shall be
13 awarded the following recovery:

14 (A) Any sums paid to the canvassing organization or paid
15 canvasser for collecting the invalidated signatures;

16 (B) A civil penalty in an amount not to exceed one
17 thousand dollars (\$1,000) per day of a continuing violation; and

18 (C) Costs of pursuing the action, including without
19 limitation:

20 (i) Reasonable attorney's fees;

21 (ii) Expert witness fees; and

22 (iii) Investigative fees.

23
24 7-9-610. Compensation to a paid canvasser.

25 (a) No person may compensate a canvasser to circulate a petition for
26 an issue, measure, or referenda based on the number of persons who sign the
27 petition.

28 (b) This section does not prohibit compensating a canvasser:

29 (i) By hourly wage;

30 (ii) By salary;

31 (iii) Conditioned on minimum productivity requirements; or

32 (iv) By awarding discretionary bonuses based on
33 reliability, longevity, and productivity.

34
35 SECTION 6. DO NOT CODIFY. Implementation of laws and adoption of
36 rules.

1 (a) It is the intent of the General Assembly that this act, being
2 immediately necessary, be implemented as soon as possible and in a way that
3 does not unnecessarily interfere with ongoing petition processes and
4 canvassing efforts.

5 (b) When adopting the initial rules required under this act, the
6 Secretary of State and Arkansas Ethics Commission shall file the final rules
7 with the Secretary of State for adoption under § 25-15-204(f):

8 (1) On or before August 1, 2019; or

9 (2) If approval under § 10-3-309 has not occurred by August 1,
10 2019, as soon as practicable after approval under § 10-3-309.

11 (c) The Secretary of State and Arkansas Ethics Commission shall file
12 the proposed rules with the Legislative Council under § 10-3-309(c)
13 sufficiently in advance of August 1, 2019, so that the Legislative Council
14 may consider the rules for approval before August 1, 2019.

15 (d) The Secretary of State and Arkansas Ethics Commission shall give
16 the notice required under § 25-15-204(a)(1) for any initial rules required
17 under this act no later than thirty (30) days after the effective date of
18 this act.

19 (e) During the verification process for an initiative or referendum
20 petition, the Secretary of State, county clerk, or city clerk shall consider
21 each signature on a petition part under the laws and rules that were in
22 effect on the date that each signature was gathered.

23
24 SECTION 7. EMERGENCY CLAUSE. It is found and determined by the
25 General Assembly of the State of Arkansas that there are petitions for ballot
26 issues, measures, and questions for which signatures are currently being
27 solicited by paid canvassers; that paid canvassers are often citizens of
28 other states and unfamiliar with Arkansas laws; that the paid canvassing
29 industry is rife with opportunities for fraud; that it is essential to
30 protect the initiative and referendum rights of Arkansas citizens involved in
31 grassroots efforts by limiting fraud and corruption commonly caused by
32 willful manipulation of the initiative process and referendum process; and
33 that this act is immediately necessary because the rights of the people
34 during the initiative process and referendum process are protected by
35 protecting the initiative process and referendum process from fraud and
36 deceit. Therefore, an emergency is declared to exist, and this act being

1 immediately necessary for the preservation of the public peace, health, and
2 safety shall become effective on:

3 (1) The date of its approval by the Governor;

4 (2) If the bill is neither approved nor vetoed by the Governor,
5 the expiration of the period of time during which the Governor may veto the
6 bill; or

7 (3) If the bill is vetoed by the Governor and the veto is
8 overridden, the date the last house overrides the veto.

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/s/M. Johnson