

1 State of Arkansas *As Engrossed: S3/12/13 S3/20/13 S3/25/13 H4/16/13*

2 89th General Assembly

A Bill

3 Regular Session, 2013

SENATE BILL 821

4

5 By: Senators K. Ingram, E. Williams, *B. Sample, Rapert, R. Thompson, Maloch*

6 *By: Representatives Vines, Slinkard, Ferguson*

7

8

For An Act To Be Entitled

9 AN ACT CONCERNING INITIATIVES AND REFERENDUMS; TO
10 *REQUIRE SPONSORS TO FILE CERTAIN INFORMATION*
11 *REGARDING PAID CANVASSERS OF INITIATIVE AND*
12 *REFERENDUM PETITIONS WITH THE SECRETARY OF STATE*
13 *BEFORE CANVASSING; TO REQUIRE NOTICE TO THE STATE*
14 *POLICE OR TO COUNTY PROSECUTING ATTORNEYS OF*
15 *SUSPECTED FORGERY OF SIGNATURES ON PETITIONS; TO*
16 *REQUIRE SPONSORS OF STATEWIDE PETITIONS TO ASSUME THE*
17 *BURDEN OF DEFENDING THE SUFFICIENCY OF POPULAR NAMES*
18 *AND BALLOT TITLES IN JUDICIAL PROCEEDINGS; TO*
19 *REGULATE THE COUNTING OF SIGNATURES ON INITIATIVE AND*
20 *REFERENDUM PETITIONS; TO REPEAL PROVISIONS OF*
21 *ARKANSAS LAW PROVIDING FOR REVIEW OF THE LEGAL*
22 *SUFFICIENCY OF STATEWIDE INITIATIVE PETITIONS AND*
23 *BALLOT TITLES BEFORE COMPLETED PETITIONS ARE FILED;*
24 *TO DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.*

25

26

27

Subtitle

28

TO AMEND THE LAWS PERTAINING TO
INITIATIVE AND REFERENDUM PETITIONS; AND
TO DECLARE AN EMERGENCY.

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33 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

34

35 SECTION 1. DO NOT CODIFY. Legislative findings.

36 (a) The General Assembly finds that:



1 (1) Through Amendment 7 to the Arkansas Constitution, the people
2 of Arkansas have reserved to themselves the power to propose legislative
3 measures, laws, and amendments to the Arkansas Constitution and to enact or
4 reject the proposed measures, laws, and amendments at the polls independently
5 of the General Assembly;

6 (2) The citizens of this state have an expectation that their
7 right of initiative and referendum will be respected and that the process of
8 gathering signatures of registered voters will be free of fraud, forgery, and
9 other illegal conduct by sponsors, canvassers, notaries, and petitioners;

10 (3) Sponsors and paid canvassers may have an incentive to
11 knowingly submit forged or otherwise invalid signatures in order to obtain
12 additional time to gather signatures and submit supplemental petitions;

13 (4) In 2012, sponsors of four (4) separate initiative petitions
14 submitted petitions to the Secretary of State containing over two hundred
15 ninety-eight thousand (298,000) purported signatures of registered voters;

16 (5) Of the four petitions submitted, none had an initial
17 validity rate in excess of fifty-six percent (56%), and three (3) of the
18 petitions had an initial validity rate below thirty-one percent (31%); and

19 (6) Of the three petitions with the lowest initial validity
20 rate, there were widespread instances of apparent fraud, forgery, and false
21 statements in the signature-gathering process.

22 (b) It is further found and determined by the General Assembly that if
23 an effort is not made to address these issues:

24 (1) Untrained paid canvassers will continue to obtain and submit
25 forged and otherwise facially invalid signatures; and

26 (2) Unscrupulous sponsors and canvassers will continue to have
27 an incentive to submit forged and otherwise facially invalid signatures and
28 make false statements to the Secretary of State.

29 (c) It is further found and determined by the General Assembly that if
30 this act becomes law:

31 (1) Sponsors and canvassers of proposed initiative measures will
32 be held more accountable for their actions in gathering signatures from
33 registered voters; and

34 (2) The earlier determination of the insufficiency of petitions
35 rife with false statements, forged signatures, and otherwise facially invalid
36 signatures will result in less confusion and frustration with the initiative

1 process.

2 (d) For the reasons stated in this section, the General Assembly finds
3 that passage of this act will make sponsors and canvassers more accountable
4 to the people of this state, facilitate the initiative process, conserve
5 state resources, and help to restore the confidence and trust of the people
6 in the initiative process.

7

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

9 7-9-101. Definitions.

10 As used in this subchapter:

11 (1) "Act" means ~~any~~ an act having general application throughout
12 the state, whether originating in the General Assembly or proposed by the
13 people, ~~and referred acts;~~

14 (2) "Amendment" means ~~any proposed~~ an amendment to the Arkansas
15 Constitution, ~~whether that is proposed by the General Assembly or by the~~
16 people;

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

20 (4) "Election" means a regular general election at which state
21 and county officers are elected for regular terms;

22 ~~(5) "Legal voter" means a person who is registered at the time~~
23 ~~of signing the petition pursuant to Arkansas Constitution, Amendment 51;~~

24 ~~(6) (5) "Measure" means either an amendment, or an act, or an~~
25 ordinance;

26 (6) "Ordinance" means an ordinance of a municipality or county,
27 whether originating in the legislative body of the municipality or county or
28 proposed by the people;

29 (7) "Petition part" means a petition signature sheet containing
30 the information required under § 7-9-104 or § 7-9-105;

31 ~~(7) (8) "Petitioner" means a person who signs an initiative or~~
32 ~~referendum petition ordering a vote upon an amendment or an act having~~
33 ~~general application throughout the state on a measure; and~~

34 (9) "Registered voter" means a person who is registered at the
35 time of signing the petition pursuant to Amendment 51 to the Arkansas
36 Constitution; and

1 ~~(8)~~ (10) "Sponsor" means a person ~~or group of persons filing who~~
2 arranges for the circulation of an initiative or referendum petition ~~with the~~
3 Secretary of State or who files an initiative or referendum petition with the
4 official charged with verifying the signatures.

5
6 SECTION 3. Arkansas Code § 7-9-103 is amended to read as follows:

7 7-9-103. Signing of petition – Penalty for falsification – Notice of
8 suspected forgery.

9 (a)(1)(A) ~~Any~~ A person who is a ~~qualified elector~~ registered voter of
10 ~~the State of Arkansas~~ this state may sign his or her own name and print his
11 or her own name, address, birth date, and the date of signing on an
12 initiative or referendum petition in his or her own proper handwriting, and
13 not otherwise, to order an initiative or referendum vote upon a proposed
14 ~~measure~~ amendment or a proposed or referred act.

15 (B) If a person signing a petition under subdivision
16 (a)(1)(A) of this section requires assistance due to disability, another
17 person:

18 (i) May print the name, address, birth date, and the
19 date of signing; and

20 (ii) Shall sign and print his or her name in the
21 margin of the petition.

22 (2)(A) ~~Any~~ A person who is ~~an elector~~ a registered voter of ~~any~~
23 a municipality or county of this state may sign ~~any petition for the~~
24 ~~referendum of any ordinance passed by the council of the municipality~~ his or
25 her own name and print his or her own name, address, birth date, and the date
26 of signing on an initiative or referendum petition in his or her own proper
27 handwriting, and not otherwise, to order an initiative or referendum vote
28 upon a proposed or referred ordinance.

29 (B) If a person signing a petition under subdivision
30 (a)(2)(A) of this section requires assistance due to disability, another
31 person:

32 (i) May print the name, address, birth date, and the
33 date of signing; and

34 (ii) Shall sign and print his or her name in the
35 margin of the petition.

36 (3) A person who is under eighteen (18) years of age shall not

1 act as a canvasser.

2 (4) A person shall not act as a paid canvasser on a statewide
3 initiative or referendum petition if the sponsor has not provided the
4 information required under § 7-9-601 to the Secretary of State before the
5 person solicits signatures on a petition.

6 (b) A person ~~shall be deemed guilty of~~ commits a Class A misdemeanor
7 if the person:

8 ~~Signs any~~ Knowingly signs a name other than his or her own
9 to ~~any~~ a petition;

10 (2) Knowingly signs his or her name more than ~~once~~ one (1) time
11 to ~~any~~ a petition; or

12 (3) Knowingly signs a petition when he or she is not legally
13 entitled to sign ~~it;~~ the petition.

14 (c) A person commits a Class A misdemeanor if the person, acting as a
15 canvasser, notary, sponsor, or agent of a sponsor:

16 (1) Signs a name other than his or her own to a petition;

17 (2) Prints a name, address, or birth date other than his or her
18 own to a petition unless the signer requires assistance due to disability and
19 the person complies with § 7-9-103;

20 (3) Solicits or obtains a signature to a petition knowing that
21 the person signing is not qualified to sign the petition;

22 (4) Knowingly pays a person any form of compensation in exchange
23 for signing a petition as a petitioner;

24 (5) Accepts or pays money or anything of value for obtaining
25 signatures on a petition when the person acting as a canvasser, sponsor, or
26 agent of a sponsor knows that the person acting as canvasser's name or
27 address is not included on the sponsor's list filed with the Secretary of
28 State under § 7-9-601;

29 ~~(4)~~ (6) Knowingly ~~and falsely~~ misrepresents the purpose and
30 effect of the petition or the measure affected for the purpose of causing
31 ~~anyone~~ a person to sign a petition;

32 ~~(5)~~ (7) Acting in the capacity of As a canvasser, knowingly
33 makes a false statement on a petition verification form; ~~or~~

34 ~~(6)~~ (8) Acting in the capacity of As a notary, knowingly fails
35 to witness a canvasser's affidavit ~~either~~ by witnessing the signing of the
36 instrument in person and either personally knowing the signer or by being

1 presented with proof of the identity of the signer; or

2 (9) As a sponsor, files a petition part with the official
3 charged with verifying the signatures knowing that the petition part contains
4 one (1) or more false or fraudulent signatures unless each false or
5 fraudulent signature is clearly stricken by the sponsor before filing.

6 (d) When the official charged with verifying the signatures has
7 reasonable grounds to believe that one (1) or more signatures on a petition
8 is forged, excluding signatures apparently signed by one (1) spouse for
9 another, the official shall report the suspected forgery and *basis for*
10 *suspecting forgery to:*

11 (1) The Department of Arkansas State Police, in the case of a
12 statewide petition; or

13 (2) The prosecuting attorney of the county, in the case of a
14 local petition.

15
16 SECTION 4. Arkansas Code § 7-9-104(a), concerning the form of an
17 initiative petition, is amended to read as follows:

18 (a) The petition for ~~any~~ an ordinance, ~~law act~~, or amendment ~~to the~~
19 ~~Arkansas Constitution~~ proposed by initiative shall be on substantially the
20 following form:

21 "INITIATIVE PETITION

22 _____
23 To the Honorable

24 _____
25 Secretary of State of the State of Arkansas, or County Clerk, or City
26 Clerk

27 We, the undersigned ~~legal~~ registered voters of the State of Arkansas,
28 or _____ County, Arkansas, or City of _____, or Incorporated Town of
29 _____, Arkansas (as the case may be), respectfully propose the following
30 amendment to the Constitution of the State or ~~law act~~ or ordinance (as the
31 case may be), ~~to wit:~~

32 ~~(Here insert title and full text of measure proposed.)~~

33 _____
34 _____

35 and by this, our petition, order that the same be submitted to the people of
36 said state, or county, or municipality (as the case may be), to the end that

1 the same may be adopted, enacted, or rejected by the vote of ~~legal~~ the
2 registered voters of said (state, county, or municipality) at the regular
3 general election to be held ~~in said~~ _____ on the ___ day of ____, 20__, and
4 each of us for himself or herself says:

5 I have personally signed this petition; I am a ~~legal~~ registered voter
6 of the State of Arkansas, or _____ County, Arkansas, or City of _____,
7 or Incorporated Town of _____, Arkansas (as the case may be), and my
8 printed name, date of birth, residence, city or town of residence, and date
9 of signing this petition are correctly written after my signature.

10 (Here insert popular name and ballot title of initiated measure.)

11 (In the case of a proposed initiated act or ordinance, insert the following:

12 BE IT ENACTED BY THE PEOPLE OF THE STATE OF ARKANSAS, OR _____ COUNTY,
13 ARKANSAS, OR CITY OF _____ OR INCORPORATED TOWN OF _____, ARKANSAS (as the
14 case may be)):

15 (Here insert full text of initiated measure.)”

16
17 SECTION 5. Arkansas Code § 7-9-104, concerning the form of an
18 initiative petition and the sufficiency of signatures, is amended to add an
19 additional subsection to read as follows:

20 (d)(1) The signature section of the petition shall be formatted and
21 shall contain the number of signature lines prescribed by the Secretary of
22 State.

23 (2) Before the circulation of a statewide petition for
24 signatures, the sponsor shall file a printed petition part with the Secretary
25 of State in the exact form that will be used for obtaining signatures.

26
27 SECTION 6. Arkansas Code § 7-9-105(a), concerning the form of a
28 referendum petition, is amended to read as follows:

29 (a) The petition and order of referendum for an ordinance or act shall
30 be on substantially the following form:

31 “~~PETITION FOR REFERENDUM~~ PETITION

32 _____
33 To the Honorable

34 _____
35 Secretary of State of the State of Arkansas, or County Clerk, or City
36 Clerk

1 We, the undersigned ~~legal~~ registered voters of the State of Arkansas,
 2 or _____ County, Arkansas, or City or Incorporated Town of _____, Arkansas
 3 (as the case may be) respectfully order by this, our petition, that Act No.
 4 ____ of the General Assembly of the State of Arkansas, approved on the ____ day
 5 of _____, 20____, entitled ‘An Act ____’ or Ordinance No. _____, passed by the
 6 county quorum court, the city (or town) council of the City (or Incorporated
 7 Town), or County of _____, Arkansas, on the ____ day of _____, 20____, entitled,
 8 ‘An Ordinance _____,’ be referred to the people of said state, county, or
 9 municipality (as the case may be), to the end that the same may be approved
 10 or rejected by the vote of the ~~legal~~ registered voters of the state, or of
 11 said county or municipality (as the case may be) at the biennial (or annual,
 12 as the case may be, if a city ordinance) regular general election (or at a
 13 special election, as the case may be) to be held on the ____ day of _____,
 14 20____; and each of us for himself or herself says:

15 I have personally signed this petition; I am a ~~legal~~ registered voter
 16 of the State of Arkansas, or _____ County, Arkansas, or City of _____,
 17 or Incorporated Town of _____, Arkansas (as the case may be), and my
 18 printed name, date of birth, residence, city or town of residence, and date
 19 of signing this petition are correctly written after my signature.

20 (Here insert popular name and ballot title of referred measure.)

21 REFERRED TO THE PEOPLE OF THE STATE OF ARKANSAS, OR _____ COUNTY, ARKANSAS,
 22 OR CITY OF _____ OR INCORPORATED TOWN OF _____, ARKANSAS (as the case may
 23 be):

24 (Here insert full text of referred measure.)”

25
 26 SECTION 7. Arkansas Code § 7-9-105, concerning the form of a
 27 referendum petition and the sufficiency of signatures, is amended to add an
 28 additional subsection to read as follows:

29 (d)(1) The signature section of the petition shall be formatted and
 30 shall contain the number of signature lines as prescribed by the Secretary of
 31 State.

32 (2) Before the circulation of a statewide petition for
 33 signatures, the sponsor shall file a printed petition part with the Secretary
 34 of State in the exact form that will be used for obtaining signatures.

35
 36 SECTION 8. Arkansas Code § 7-9-107(d), concerning the certification of

1 ballot titles by the Attorney General before circulation of a petition, is
2 amended to read as follows:

3 (d) If the Attorney General refuses to act or if the sponsors feel
4 aggrieved at ~~his or her~~ the Attorney General's acts in such premises, ~~they~~
5 the sponsors may, by petition, apply to the Supreme Court for proper relief.
6

7 *SECTION 9. Arkansas Code § 7-9-107(e) and (f), concerning the approval*
8 *and publication of ballot titles and popular names of petitions before*
9 *circulation, are repealed.*

10 ~~(e)(1)(A) If a sponsor of any proposed statewide initiative elects to~~
11 ~~submit its popular name and ballot title to the Attorney General for~~
12 ~~certification prior to September 30 of the year preceding the year in which~~
13 ~~the initiative would be voted on, then, within ten (10) days of certification~~
14 ~~by the Attorney General, who shall deliver such certification to the~~
15 ~~Secretary of State on the day of certification, the Secretary of State shall~~
16 ~~approve and certify the sufficiency of such popular name and ballot title as~~
17 ~~certified by the Attorney General and shall cause to be published in a~~
18 ~~newspaper with statewide circulation the entire proposal with its certified~~
19 ~~popular name and ballot title and a notice informing the public of such~~
20 ~~certification and the procedure identified in this section to govern any~~
21 ~~party who may contest such certification before the Supreme Court.~~

22 ~~(B) The procedure shall be as follows:~~

23 ~~(i) Any legal action against such certification~~
24 ~~shall be filed with the Supreme Court within forty five (45) days of the~~
25 ~~Secretary of State's publication;~~

26 ~~(ii) No such action filed later than forty five (45)~~
27 ~~days following publication shall be heard by the Supreme Court; and~~

28 ~~(iii) An action timely filed shall be advanced by~~
29 ~~the Supreme Court as a matter of public interest over all other civil cases~~
30 ~~except contested election cases and shall be heard and decided expeditiously.~~

31 ~~(2) Nothing in this section shall be taken to require any~~
32 ~~sponsor of a statewide initiative to submit its popular name and ballot title~~
33 ~~to the Attorney General prior to September 30 of the year preceding the year~~
34 ~~in which the proposal would be voted on. If the Secretary of State refuses to~~
35 ~~act as required in this section or if the sponsors feel aggrieved at his or~~
36 ~~her acts in such premises, they may, by petition, apply to the Supreme Court~~

1 ~~for proper relief.~~

2 ~~(3) Whenever the sponsor of any initiative or referendum~~
 3 ~~petition has obtained final approval of its ballot title and popular name,~~
 4 ~~the sponsor shall file such petition with the Secretary of State prior to~~
 5 ~~obtaining signatures on the petition.~~

6 ~~(f) The cost of the initial publication in a newspaper of the text of~~
 7 ~~a statewide initiative and related information as required in subsection (e)~~
 8 ~~of this section shall be paid by the sponsor of the statewide initiative."~~

9
 10 SECTION 10. Arkansas Code § 7-9-108(b), concerning the procedure for
 11 circulating a petition, is amended to read as follows:

12 (b) Each part of ~~any~~ a petition shall have attached thereto the
 13 affidavit of the ~~person who circulated the petition~~ canvasser to the effect
 14 that the canvasser's current residence address appearing on the verification
 15 is correct, that all signatures appearing ~~thereon~~ on the petition part were
 16 made in the presence of the affiant, and that to the best of the affiant's
 17 knowledge and belief each signature is genuine and ~~that the~~ each person ~~so~~
 18 signing is a ~~legal~~ registered voter.

19
 20 SECTION 11. Arkansas Code § 7-9-109(a), concerning the form of
 21 verification for canvassers, is amended to read as follows:

22 (a) Each petition containing ~~the~~ signatures shall be verified in
 23 substantially the following form, by the ~~person who circulated the sheet of~~
 24 ~~the petition by his or her~~ canvasser's affidavit thereon as a part thereof:

25 "State of Arkansas
 26 County of _____

27 I, (print name of canvasser), being ~~first~~ duly sworn, state that each
 28 of the foregoing persons signed ~~this sheet of the foregoing petition, and~~
 29 ~~each of them signed~~ his or her own name ~~thereunto~~ to this sheet of the
 30 petition in my presence. To the best of my knowledge and belief, I believe
 31 ~~that each has stated his or her name, date of birth, residence or town of~~
 32 ~~residence correctly, and that each~~ signature is genuine and each signer is a
 33 ~~legal~~ registered voter of the State of Arkansas, _____ County, or City or
 34 Incorporated Town of _____. At all times during the circulation of this
 35 signature sheet, an exact copy of the popular name, ballot title, and text
 36 was attached to the signature sheet. My current residence address is

1 correctly stated below.

2 Signature _____

3 Residence _____

4 Indicate one: _____ Paid Canvasser _____ Volunteer/Unpaid Canvasser

5 Subscribed and sworn to before me ~~the~~ this __ day of _____, 20__

6 Signature _____

7
8 Clerk, Notary, Judge or J.P.

9 Residence _____”

10 (Seal)”

11
12 SECTION 12. Arkansas Code § 7-9-110 is amended to read as follows:

13 7-9-110. Designation of number and popular name.

14 (a) ~~The Attorney General shall fix and declare the popular name by~~
15 ~~which each amendment to the Arkansas Constitution and each initiated and~~
16 ~~referred of each state measure shall be designated as provided in § 7-9-107,~~
17 ~~and the number of the measure on the ballot shall be designated as provided~~
18 ~~in § 7-9-116.~~

19 (b) In all legal notices and publications, ~~proceedings, and publicity~~
20 ~~affecting any such amendment or a measure, the amendment or measure shall be~~
21 ~~designated identified~~ by both the designated number and popular name ~~fixed as~~
22 ~~provided in subsection (a) of this section.~~

23
24 SECTION 13. Arkansas Code § 7-9-111(a), concerning the Secretary of
25 State’s determination of the sufficiency of a petition, is amended to add an
26 additional subdivision to read as follows:

27 (3) After a petition has been filed under this subchapter, a
28 canvasser shall not circulate a petition or collect, solicit, or obtain any
29 additional signatures for the filed petition until the Secretary of State
30 determines the sufficiency of the petition under this section.

31
32 SECTION 14. Arkansas Code § 7-9-111(d), concerning the determination
33 of the sufficiency of signatures on a petition, is amended to add an
34 additional subdivision to read as follows:

35 (3) The Secretary of State shall ascertain and declare the
36 sufficiency or insufficiency of additional signatures submitted by the

1 sponsors under this subsection within thirty (30) days of the filing of the
2 supplemental petitions.

3
4 SECTION 15. Arkansas Code § 7-9-111(f), concerning filing petitions
5 with the Secretary of State, is amended to read as follows:

6 (f)(1) A person filing initiative or referendum petitions with the
7 Secretary of State shall bundle the petitions by county and shall file an
8 affidavit stating the number of petitions and the total number of signatures
9 being filed.

10 (2) If signatures were obtained by paid canvassers, the person
11 filing the petitions under this subsection shall also submit the following:

12 (A) A statement identifying the paid canvassers by name;
13 and

14 (B) A statement signed by the sponsor indicating that the
15 sponsor:

16 (i) Provided a copy of the most recent edition of
17 the Secretary of State's initiatives and referenda handbook to each paid
18 canvasser before the paid canvasser solicited signatures; and

19 (ii) Explained the requirements under Arkansas law
20 for obtaining signatures on an initiative or referendum petition to each paid
21 canvasser before the paid canvasser solicited signatures.

22
23 SECTION 16. Arkansas Code § 7-9-112(a) and (b), concerning the failure
24 of the Secretary of State to act on a petition, is amended to read as
25 follows:

26 (a) If the Secretary of State ~~shall fail or refuse to~~ does not examine
27 and ~~file any~~ certify an initiative or referendum petition within the time
28 prescribed in § 7-9-111, ~~any twenty five (25) qualified electors who feel~~
29 ~~aggrieved thereby~~ the sponsors may, ~~within fifteen (15) days thereafter,~~
30 apply to the Supreme Court for a ~~writ of mandamus to compel the officer to~~
31 ~~certify the sufficiency of the petition~~ appropriate relief.

32 (b) If the Supreme Court ~~shall decide~~ decides that the petition is
33 legally sufficient, it shall order the Secretary of State to ~~file and~~ certify
34 the sufficiency ~~thereof as of the date upon which it was first offered for~~
35 ~~filing, and a certified copy of the judgment shall be attached to the~~
36 ~~petition~~ for placing the initiated or referred measure on the election

1 ballot.

2

3 SECTION 17. Arkansas Code § 7-9-125(a), concerning the definitions to
4 be used regarding prohibitions, penalties, and freedom of information
5 relating to petitions, is amended to read as follows:

6 (a) ~~For purposes of~~ As used in this section+, “property”

7 ~~(1) “Act” means an enactment having general application throughout the~~
8 ~~state or an ordinance applicable to a municipality or county and enacted by~~
9 ~~legislative authority or by the people;~~

10 ~~(2) “Amendment” means any proposed amendment to the Arkansas~~
11 ~~Constitution, whether proposed under the provisions of Amendment 7 or Article~~
12 ~~19, § 22;~~

13 ~~(3) “Election” means a general election at which state and county~~
14 ~~officers are elected for regular terms;~~

15 ~~(4) “Initiative petition” means a form of petition which conforms to~~
16 ~~the requirements of § 7-9-104;~~

17 ~~(5) “Measure” means either an amendment or an act;~~

18 ~~(6) “Property” means both real and personal property and includes, but~~
19 ~~is not limited to, without limitation both tangible and intangible property;~~

20 ~~(7) “Referendum petition” means a form of petition which conforms to~~
21 ~~the requirements of § 7-9-105; and~~

22 ~~(8) “Sponsor” means a person or persons who arrange for the~~
23 ~~circulation of initiative, referendum, or constitutional amendment petitions~~
24 ~~or who file an initiative, referendum, or constitutional amendment with the~~
25 ~~Secretary of State or other authorized recipient of the petitions.~~

26

27 SECTION 18. Arkansas Code Title 7, Chapter 9, Subchapter 1, is amended
28 to add an additional section to read as follows:

29 7-9-126. Count of signatures.

30 (a) Upon the initial filing of an initiative or referendum petition,
31 the official charged with verifying the signatures shall:

32 (1) Perform an initial count of the signatures; and

33 (2) Determine whether the petition contains, on its face and
34 before verification of the signatures of registered voters, the designated
35 number of signatures required by the Arkansas Constitution and statutory law
36 in order to certify the measure for the election ballot.

1 (b) A petition part and all signatures appearing on the petition part
2 shall not be counted for any purpose by the official charged with verifying
3 the signatures, including the initial count of signatures, if one (1) or more
4 of the following is true:

5 (1) The petition is not an original petition, including without
6 limitation a petition that is photocopied or is a facsimile transmission;

7 (2) The petition lacks the signature, printed name, and
8 residence address of the canvasser or is signed by more than one (1)
9 canvasser;

10 (3)(A) The canvasser is a paid canvasser whose name and the
11 information required under § 7-9-601 were not submitted by the sponsor to the
12 Secretary of State before the petitioner signed the petition.

13 (B) A canvasser is a paid canvasser if he or she is paid
14 money or anything of value for soliciting signatures before or after the
15 signatures are obtained;

16 (4) The canvasser verification is not notarized, is notarized by
17 more than one (1) notary, or lacks a notary signature or a notary seal;

18 (5) The canvasser verification is dated earlier than the date on
19 which a petitioner signed the petition;

20 (6) The petition fails to comply with § 7-9-104 or § 7-9-105,
21 including the lack of the exact popular name or ballot title approved by the
22 Attorney General for a statewide initiative, a discrepancy in the text of the
23 initiated or referred measure, or the lack of an enacting clause in a
24 statewide petition for an initiated act;

25 (7) The petition part of a statewide petition clearly and
26 unmistakably contains signatures of petitioners from more than one (1) county
27 unless each signature of a petitioner from another county is clearly stricken
28 before the filing of the petition with the Secretary of State; or

29 (8) The petition part has a material defect that, on its face,
30 renders the petition part invalid.

31 (c) The following signatures shall not be counted for any purpose by
32 the official charged with verifying the signatures, including the initial
33 count of signatures:

34 (1) A signature that is not an original signature;

35 (2) A signature that is obviously not that of the purported
36 petitioner;

1 (3) A signature that is illegible and is accompanied by no
2 personally identifying information;

3 (4) A signature for which the corresponding printed name,
4 address, or birth date is written by someone other than the signer except
5 under circumstances of disability of the signer; and

6 (5) A signature that has any other material defect that, on its
7 face, renders the signature invalid.

8 (d) If the initial count of signatures under this section is less than
9 the designated number of signatures required by the Arkansas Constitution and
10 statutory law in order to certify the measure for the ballot and the deadline
11 for filing petitions has passed, the official charged with verifying the
12 signatures shall declare the petition insufficient and shall not accept and
13 file any additional signatures to cure the insufficiency of the petition on
14 its face.

15
16 SECTION 19 Arkansas Code § 7-9-204 is amended to read as follows.

17 7-9-204. Ballot ~~title~~ titles and popular names of constitutional
18 amendments proposed by the legislature.

19 ~~The title of General Assembly may designate in the joint resolution~~
20 ~~proposing an amendment to the Arkansas Constitution shall be the ballot title~~
21 ~~of the proposed constitutional amendment~~ the popular name and ballot title of
22 the amendment for the election ballot.

23
24 SECTION 20. Arkansas Code Title 7, Chapter 9, Subchapter 5 is
25 *repealed.*

26 ~~7-9-501. Purpose.~~

27 ~~The purpose of this subchapter is to provide for the timely and~~
28 ~~expeditious review of the legal sufficiency of initiative petitions by the~~
29 ~~Supreme Court.~~

30
31 ~~7-9-502. Construction.~~

32 ~~(a) The General Assembly declares that this subchapter be construed as~~
33 ~~a measure to facilitate the provisions of Arkansas Constitution, Amendment 7.~~

34 ~~(b) The General Assembly declares that this subchapter is not intended~~
35 ~~to expand the jurisdiction of the Supreme Court under Arkansas Constitution,~~
36 ~~Amendment 7, but is intended to provide a process to timely review the legal~~

1 ~~sufficiency of a measure in a manner which avoids voter confusion and~~
2 ~~frustration which occur when measures are stricken from the ballot on the eve~~
3 ~~of an election on the measure.~~

4
5 ~~7-9-503. Declaration of sufficiency.~~

6 ~~(a)(1) Any Arkansas taxpayer and voter may submit a written petition~~
7 ~~to the Secretary of State requesting the determination of legal sufficiency~~
8 ~~of statewide initiative petitions.~~

9 ~~(2) The petitioner shall notify the sponsor of the measure of~~
10 ~~the petition for determination by certified mail on the date that it is~~
11 ~~submitted to the Secretary of State.~~

12 ~~(b) Within thirty (30) days after receipt of the petition for~~
13 ~~determination, the Secretary of State shall decide and declare, after~~
14 ~~consultation with the Attorney General, questions on one (1) or both of the~~
15 ~~following issues:~~

16 ~~(1) Whether the popular name and ballot title of the measure are~~
17 ~~fair and complete; and~~

18 ~~(2) Whether the measure, if subsequently approved by the~~
19 ~~electorate, would violate any state constitutional provision or any federal~~
20 ~~constitutional, statutory, or regulatory provision or would be invalid for~~
21 ~~any other reason.~~

22 ~~(c) The declaration shall be in writing and shall be mailed to the~~
23 ~~petitioner and the sponsor of the measure by certified mail on the date that~~
24 ~~it is issued.~~

25 ~~(d) The scope of review authorized by this subchapter shall be~~
26 ~~strictly limited to the questions referred to in subsection (b) of this~~
27 ~~section and shall not include questions regarding the sufficiency or validity~~
28 ~~of signatures on the initiative petitions.~~

29
30 ~~7-9-504. Cure by correction or amendment.~~

31 ~~(a) If the Secretary of State declares the initiative petition legally~~
32 ~~insufficient, the sponsors of such measure may attempt to cure the~~
33 ~~insufficiency by correction or amendment, as provided in Arkansas~~
34 ~~Constitution, Amendment 7.~~

35 ~~(b) Within fifteen (15) days after a correction or amendment is filed~~
36 ~~with the Secretary of State, the Secretary of State shall notify the~~

~~petitioner and sponsor of the measure of this declaration by certified mail on the date that it is issued.~~

~~7-9-505. Right of review.~~

~~The petitioner, the sponsor of the measure, and any Arkansas taxpayer and voter shall have the immediate right to petition the Supreme Court to review the determination of the Secretary of State regarding the sufficiency of the initiative petition.~~

~~7-9-506. Effect on existing petition.~~

~~(a)(1) This subchapter shall be applicable to any initiative petition which has received the approval of the Attorney General and has been filed with the Secretary of State, pursuant to § 7-9-107, as of March 25, 1999.~~

~~(2) The Secretary of State shall review all initiative petitions approved by the Attorney General within two (2) months after March 25, 1999.~~

~~(3) If this review is not completed within the stated period, the initiative petition will be presumed sufficient and subject to immediate review by the Supreme Court.~~

~~(b) In addition, this subchapter shall be applicable to all initiative petitions submitted to the Attorney General after March 25, 1999~~

SECTION 21. Arkansas Code Title 7, Chapter 9, is amended to add an additional subchapter to read as follows:

Subchapter 6 – Paid Canvassers

7-9-601. Hiring and training of paid canvassers.

(a)(1) A person shall not provide money or anything of value to another person for obtaining signatures on a statewide initiative or referendum petition unless the person receiving the money or item of value meets the requirements of this section.

(2) Before a signature is solicited by a paid canvasser the sponsor shall:

(A) Provide the paid canvasser with a copy of the most recent edition of the Secretary of State's initiatives and referenda handbook;

(B) Explain the Arkansas law applicable to obtaining

1 signatures on an initiative or referendum petition to the canvasser; and
2 (C)(i) Provide a complete list of all paid canvassers'
3 names and current residential addresses to the Secretary of State.

4 (ii) If additional paid canvassers agree to solicit
5 signatures on behalf of a sponsor after the complete list is provided, the
6 sponsor shall provide an updated list of all paid canvassers' names and
7 current residential addresses to the Secretary of State.

8 (b) Before obtaining a signature on an initiative or referendum
9 petition as a paid canvasser, a person shall submit in person or by mail to
10 the sponsor:

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

12 (2) The current residence address of the person and the person's
13 permanent domicile address if the person's permanent domicile address is
14 different from the person's current residence address;

15 (3) A signed statement taken under oath or solemn affirmation
16 that states that the person has not pleaded guilty or nolo contendere to or
17 been found guilty of a criminal offense involving a violation of the election
18 laws, fraud, forgery, or identification theft in any state;

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

22 (5) A signed statement that the person has been provided a copy
23 of the most recent edition of the Secretary of State's initiatives and
24 referenda handbook by the sponsor; and

25 (6) A photograph of the person taken within ninety (90) days of
26 the submission of the information required under this section.

27 (c) A sponsor shall maintain the information required under this
28 section for each paid canvasser for three (3) years after the general
29 election.

30 (d) As used in this section, "paid canvasser" means a person who is
31 paid or with whom there is an agreement to pay money or anything of value
32 before or after a signature on an initiative or referendum petition is
33 solicited in exchange for soliciting or obtaining a signature on a petition.

34
35 SECTION 22. EMERGENCY CLAUSE. It is found and determined by the
36 General Assembly of the State of Arkansas that existing procedures for

1 initiating and referring state laws and ordinances pursuant to Amendment 7 to
2 the Arkansas Constitution and state statutes are inadequate to prevent
3 fraudulent practices by sponsors and canvassers in obtaining ballot access;
4 that this act addresses these inadequacies; and that this act is immediately
5 necessary to prevent fraudulent practices because petition campaigns are
6 either being conducted at the present time or may be conducted immediately
7 upon the adjournment of the General Assembly with respect to either initiated
8 or referred measures. Therefore, an emergency is declared to exist, and this
9 act being immediately necessary for the preservation of the public peace,
10 health, and safety shall become effective on:

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

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

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

17
18 */s/K. Ingram*

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21 **APPROVED: 04/22/2013**
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