

INTERIM STUDY PROPOSAL 2019-076

State of Arkansas

As Engrossed: S3/20/19

92nd General Assembly

A Bill

Regular Session, 2019

SENATE BILL 463

By: Senator M. Johnson

Filed with: Senate Committee on State Agencies and Governmental Affairs
pursuant to A.C.A. §10-3-217.

For An Act To Be Entitled

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

Subtitle

TO AMEND THE LAW CONCERNING INITIATIVES
AND REFERENDA; AND TO PROVIDE FOR THE
LICENSING, REGISTRATION, AND ENFORCEMENT
OF LAWS CONCERNING CERTAIN PERSONS AND
ENTITIES THAT PARTICIPATE IN THE PAID
CANVASSING INDUSTRY.

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

SECTION 1. DO NOT CODIFY. Legislative intent and findings.
The General Assembly finds that:

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

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

4 (3) The State of Arkansas has a compelling interest in
5 protecting voters from initiatives and referenda that are deficient or
6 misleading or that are placed on the ballot by means of conduct that is
7 misleading, perjured, fraudulent, felonious, or otherwise unlawful;

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

10 (A) Perjury;

11 (B) Forgery;

12 (C) Fraud;

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

14 (E) Misrepresentation of the effects of an issue, measure,
15 or question; and

16 (F) Other felonies;

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

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

23
24 SECTION 2. Arkansas Code § 7-9-101 is amended to read as follows:
25 7-9-101. Definitions.

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

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

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

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

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

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

1 (B) Supplies paid canvasser labor or services to a
2 sponsor;

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

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

6 ~~(6)~~(7) "Ordinance" means an ordinance of a municipality or
7 county, whether originating in the legislative body of the municipality or
8 county or proposed by the people;

9 ~~(7)~~(8)(A) "Paid canvasser" means a person who accepts payment or
10 who enters into an agreement to accept payment of money or anything of value,
11 before or after one (1) or more signatures on an initiative or referendum
12 petition is solicited, in exchange for soliciting or obtaining a signature on
13 a petition.

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

16 (C) As used in subdivision (8)(A) of this section,
17 "soliciting or obtaining" includes without limitation:

- 18 (i) Polling;
- 19 (ii) Advertising;
- 20 (iii) Surveying; and
- 21 (iv) Marketing;

22 (9) "Person" means any individual, proprietorship, firm,
23 partnership, joint venture, syndicate, labor union, business trust, company,
24 corporation, association, committee, or any other organization or group of
25 persons acting in concert;

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

28 ~~(8)~~(11) "Petitioner" means a person who signs an initiative or
29 referendum petition ordering a vote on a measure;

30 ~~(9)~~(12) "Registered voter" means a person who is registered at
31 the time of signing the petition pursuant to Arkansas Constitution, Amendment
32 51; and

33 ~~(10)~~(13) "Sponsor" means a person who arranges for the
34 circulation of an initiative or referendum petition or who files an
35 initiative or referendum petition with the official charged with verifying
36 the signatures.

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

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

(a) If a canvasser is compensated in exchange for the service of circulation of a petition or solicitation of signatures on the petition, the sponsor shall reimburse the Secretary of State in full for all costs incurred for verification of the petition.

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

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

(2) Process for collecting payment from the sponsor.

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

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

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

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

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

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

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

1 (A) A specific individual identified by name or
2 implication; or

3 (B) A business entity identified by name or implication,
4 including without limitation a private corporation identified by name or
5 implication;

6 (3) That creates a monopoly for any county, municipality, or
7 business entity; or

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

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

13
14 SECTION 4. Arkansas Code § 7-9-601(c)-(e), concerning the hiring and
15 training of paid canvassers, are amended to read as follows:

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

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

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

24 (2) The current residence address of the person and the person's
25 permanent domicile address if the person's permanent domicile address is
26 different from the person's current residence address;

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

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

1 (5) A signed statement that the person has been provided a copy
2 of the most recent edition of the Secretary of State’s initiatives and
3 referenda handbook by the sponsor.

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

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

10 7-9-602. Compensation of paid canvassers.

11 A paid canvasser shall not be compensated:

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

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

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

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

20
21 7-9-603. Licensing of paid canvassers.

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

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

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

30 (A) The applicant’s date of birth;

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

32 (C) Proof that he or she is a qualified elector in
33 Arkansas;

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

36 (E) Either:

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

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

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

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

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

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

21 (2)(A) The paid canvasser examination shall be given in two (2)
22 parts.

23 (B)(i) Part one of the paid canvasser examination shall
24 be:

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

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

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

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

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

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

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

5 (C)(i) Part two of the paid canvasser examination shall
6 be:

7 (a) Generated by the:

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

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

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

14 (b) Designed to demonstrate the applicant’s
15 knowledge of the ballot issue, measure, or question for which the person
16 wishes to canvass.

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

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

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

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

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

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

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

32 (3) A paid canvasser license under this section shall be
33 specific to the ballot issue, measure, or question for which it is requested
34 and for which the paid canvasser examination is given. The paid canvasser
35 license shall expire when the ballot issue, measure, or question for which

1 the paid canvasser license is granted no longer requires the circulation of
2 the petition.

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

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

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

8 (B) The fee under subdivision (d)(1)(A)(ii) of this
9 section shall be payable to the Secretary of State who shall:

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

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

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

17 (A) The licensee's name;

18 (B) A photo of the licensee;

19 (C) The licensee's address;

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

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

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

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

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

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

30 (B) Create and maintain a hotline for citizens to report
31 potential violations concerning the circulation of petitions and solicitation
32 of signatures; and

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

34 (i) Email;

35 (ii) Text message;

36 (iii) Letter;

1 (iv) Online complaint form; and
 2 (v) Any other medium the Secretary of State deems
 3 appropriate.

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

7 (g) If the Secretary of State, county clerk, or city clerk determines
 8 that more than twenty-five percent (25%) of the signatures on the parts of a
 9 petition that were circulated by a single paid canvasser could not be
 10 verified, the Secretary of State, county clerk, or city clerk shall:

11 (1) Immediately revoke the paid canvasser's paid canvasser
 12 license;

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

15 (3) Not certify the issue, measure, or question to the ballot;
 16 and

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

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

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

24 (ii) A canvassing organization; or

25 (iii) A paid canvasser.

26
 27 7-9-604. Paid canvassers – Registration and reporting.

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

30 (A) For a statewide issue, measure, or question or a
 31 countywide issue, measure, or question, with the county clerk of any county
 32 in which he or she will be circulating the petition or soliciting signatures;
 33 or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

30 (v) The counties and cities within which the
31 signatures were gathered; and

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

34 (c)(1) Any signature obtained before lawful registration under this
35 section shall:

36 (A) Be invalid; and

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

3 (2) The Secretary of State shall revoke the paid canvasser
4 license of a paid canvasser who fails to comply with the provisions of this
5 section.

6
7 7-9-605. Paid canvasser registry.

8 (a) While circulating a petition or soliciting a signature, a paid
9 canvasser shall:

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

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

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

17 (A) The paid canvasser's name;

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

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

20 (D) An acknowledgement signed by each petitioner that
21 indicates that:

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

25 (ii) The petitioner understood the issue, measure,
26 or question as explained.

27 (2) A paid canvasser shall:

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

30 (B) Submit the registry under this section to the
31 Secretary of State, county clerk, or city clerk at the time of submittal of
32 the petition.

33 (c) A paid canvasser shall:

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

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

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

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

11
12 7-9-606. Licensing of a canvassing organization.

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

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

19 (2) The application under this section shall:

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

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

23 (C) Include:

24 (i) An application fee of one thousand dollars
25 (\$1,000) payable to the Secretary of State for deposit into a cash fund
26 account established in the State Treasury;

27 (ii) The name, address, and phone number of the
28 canvassing organization;

29 (iii) If the canvassing organization is not an
30 individual, the:

31 (a) Identity of the owners, board of
32 directors, officers, and other individuals with control of the canvassing
33 organization;

34 (b) Articles of incorporation, bylaws, and any
35 other organizational or control documents creating and governing the
36 canvassing organization; and

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

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

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

7 (vi) If the canvassing organization is bonded,
8 information concerning the bond; and

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

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

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

14 (2) Files an incomplete or fraudulent application under this
15 section.

16
17 7-9-607. Reporting.

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

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

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

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

29
30 7-9-608. Criminal penalties.

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

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

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

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

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

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

10 (d) If less than eighty-five percent (85%) of the signatures on an
11 initiative or referendum petition concerning an issue, measure, or question
12 are verified, a person who authorizes payment to or makes payment to a paid
13 canvasser who circulated the petition is guilty of a Class A misdemeanor.

14 (e)(1) It is a class A misdemeanor for a paid canvasser, without the
15 express written permission of the private property owner, to circulate or
16 solicit signatures on a petition while: (A) On private
17 property; or

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

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

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

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

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

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

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

35
36 7-9-609. Civil penalties.

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

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

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

10 (b) If a sponsor prevails in a breach of contract action against a
11 canvassing organization, the sponsor shall be entitled to attorney's fees,
12 costs, a civil penalty payable to the Secretary of State for deposit into a
13 cash fund account established in the State Treasury in an amount not to
14 exceed ten percent (10%) of the total cost contracted for, and any other just
15 and proper relief.

16 (c)(1) In addition to any common law or contract remedies, a person
17 who employs or contracts with a canvassing organization or a paid canvasser
18 has a private right of action against the canvassing organization or paid
19 canvasser that violates the registration or licensure provisions of this
20 subchapter in a manner that results in the invalidation of signatures
21 gathered.

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

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

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

30 (C) Costs of pursuing the action, including without
31 limitation:

32 (i) Reasonable attorney's fees;

33 (ii) Expert witness fees; and

34 (iii) Investigative fees.

35
36 7-9-610. Compensation to a paid canvasser.

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

4 (b) This section does not prohibit compensating a canvasser:
5 (i) By hourly wage;
6 (ii) By salary;
7 (iii) Conditioned on minimum productivity requirements; or
8 (iv) By awarding discretionary bonuses based on
9 reliability, longevity, and productivity.

10
11 SECTION 6. DO NOT CODIFY. Implementation of laws and adoption of
12 rules.

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

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

20 (1) On or before August 1, 2019; or
21 (2) If approval under § 10-3-309 has not occurred by August 1,
22 2019, as soon as practicable after approval under § 10-3-309.

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

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

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

35

1 SECTION 7. EMERGENCY CLAUSE. It is found and determined by the
 2 General Assembly of the State of Arkansas that there are petitions for ballot
 3 issues, measures, and questions for which signatures are currently being
 4 solicited by paid canvassers; that paid canvassers are often citizens of
 5 other states and unfamiliar with Arkansas laws; that the paid canvassing
 6 industry is rife with opportunities for fraud; that it is essential to
 7 protect the initiative and referendum rights of Arkansas citizens involved in
 8 grassroots efforts by limiting fraud and corruption commonly caused by
 9 willful manipulation of the initiative process and referendum process; and
 10 that this act is immediately necessary because the rights of the people
 11 during the initiative process and referendum process are protected by
 12 protecting the initiative process and referendum process from fraud and
 13 deceit. Therefore, an emergency is declared to exist, and this act being
 14 immediately necessary for the preservation of the public peace, health, and
 15 safety shall become effective on:

- 16 (1) The date of its approval by the Governor;
 17 (2) If the bill is neither approved nor vetoed by the Governor,
 18 the expiration of the period of time during which the Governor may veto the
 19 bill; or
 20 (3) If the bill is vetoed by the Governor and the veto is
 21 overridden, the date the last house overrides the veto.

22
 23
 24 */s/M. Johnson*
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 26

27 Referred requested by the Arkansas Senate

28 Prepared by: JAW/VJF
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