

ARKANSAS SENATE
89th General Assembly - Regular Session, 2013
Amendment Form

Subtitle of Senate Bill No. 1118

TO AMEND AND CREATE SECTIONS RELATING TO INITIATED ACT NO. 1 OF 1942 CONCERNING
LOCAL OPTION ELECTION PETITION PROCEDURES; AND TO ENACT A LOCAL OPTION ELECTION
PETITION FRAUD OFFENSE.

Amendment No. 1 to Senate Bill No. 1118

Amend Senate Bill No. 1118 as originally introduced:

Page 1, delete lines 25 through 36 and substitute the following:

"SECTION 1. Arkansas Code § 3-8-204 is repealed.

~~3-8-204. Petition procedure.~~

~~(a) Every petition for a local option election shall be prepared in accordance with Initiated Act No. 1 of 1942, §§ 3-8-201 — 3-8-203 and 3-8-205 — 3-8-209, and it shall be filed and the subsequent proceedings thereupon shall be had and conducted in the manner provided for county initiated measures by Arkansas Constitution, Amendment 7, and enabling acts pertaining thereto.~~

~~(b) Every petition for a local option election under Initiated Act No. 1 of 1942, §§ 3-8-201 — 3-8-203 and 3-8-205 — 3-8-209, shall be prepared substantially in the form provided for initiative petitions in § 7-9-104, except that the petitions shall be directed to the county clerk instead of to the Secretary of State.~~

~~(c) All petitions shall have attached thereto the form of verification and shall be signed by the person circulating the petitions in the same form or manner as is provided in § 7-9-109.~~

~~(d) In all other respects, the petitions shall be circulated and sufficiency thereof shall be determined, and may be reviewed in the same manner and procedure, insofar as are applicable thereto, as provided in Acts 1935, No. 4 [repealed], for initiated county measures.~~

~~(e) Any person who is a qualified elector of the State of Arkansas and who is a resident and registered voter of the county, municipality, ward, precinct, or other defined area in which a local option election is being requested by petitions under Initiated Act No. 1 of 1942, §§ 3-8-201 — 3-8-203 and 3-8-205 — 3-8-209, may sign the local option petition in his or her own proper handwriting and not otherwise.~~

~~(f) A person shall be guilty of a Class A misdemeanor if that person:~~

- ~~(1) Signs any name other than his or her own to any petition;~~
- ~~(2) Knowingly signs his or her name more than once to any~~

~~petition;~~



- ~~(3) Knowingly signs a petition when he or she is not legally entitled to sign a petition;~~
- ~~(4) Knowingly and falsely misrepresents the purpose and effect of the petition for the purpose of causing anyone to sign the petition.~~
- ~~(5) Acting in the capacity of canvasser, knowingly makes a false statement on a petition verification form; or~~
- ~~(6) Acting in the capacity of a notary, knowingly fails to witness a canvasser's affidavit either by witnessing the signing of the instrument and personally knowing the signer or being presented with proof of identity of the signer.~~

~~(g)(1) The provisions of this section are intended to be supplemental to Initiated Act No. 1 of 1942, §§ 3-8-201—3-8-203 and 3-8-205—3-8-209, and to establish reasonable and necessary provisions for providing safeguards in the form of petitions and the circulation thereof and to prohibit unauthorized persons from signing the petitions.~~

~~(2) Therefore, the provisions of this section shall be deemed to repeal only such parts of the Initiated Act No. 1 of 1942, §§ 3-8-201—3-8-203 and 3-8-205—3-8-209 as may be specifically inconsistent herewith.~~

SECTION 2. Arkansas Code § 3-8-205, concerning sufficiency of petitions in local option elections, is amended to add an additional subdivision to read as follows:

(f) Except as provided in this section, a petition for local option election shall be governed by § 7-9-101 et seq. and § 3-8-701 et seq.

SECTION 3. Arkansas Code § 3-8-302 is repealed.

~~3-8-302. Petition and order for election.~~

~~(a) Upon application by written petition, signed by a number of legal voters in any county, city, town, district, or precinct to be affected equal to thirty five percent (35%) of the qualified voters, it shall be the duty of the judge of the county court in the county at the next regular term thereof, after receiving the petitions, to make an order on his or her order book directing an election to be held in the county, city, town, district, or precinct to be affected thereby, on some day named in the petition no earlier than sixty (60) days after the application is lodged with the judge of the court. However, in counties having two (2) judicial districts, the legal voters in either district may petition for an election and the election can only affect the judicial district where the election may be held.~~

~~(b) The order shall direct the sheriff or other officer of the county, who may be appointed to hold the election, to open a poll at each and all of the voting places in the county, city, town, district, or precinct on the appointed date, for the purpose of taking the sense of the legal voters of the county, city, town, district, or precinct, who are qualified to vote at elections for county officers, upon the proposition whether or not spirituous, vinous, or malt liquors shall be sold, bartered, or loaned therein.~~

SECTION 4. Arkansas Code § 3-8-304 is repealed.

~~3-8-304. Notice and conduct of election.~~

~~(a) It shall be the duty of the county clerk to give the sheriff of the county, or the officer as may be appointed to hold the election, a certified copy of the order of the county court as it appears on the order~~

~~book within five (5) days after the order is made.~~

~~(b) It shall be the duty of the sheriff or other officer to have the order published in some weekly or daily paper published in the county for at least two (2) weeks before the election and also to advertise the order by printed or written handbills posted at some conspicuous place in each precinct in the county, for the same length of time, and when the election is held for the entire town, district, or precinct of any county, then at five (5) conspicuous places therein for the same length of time. In any case, if there is no weekly or daily newspaper published in the county or if the proprietor of the newspaper refuses to publish the notice, the printed or written handbills, posted as before provided for, shall be sufficient notice.~~

~~(c) The sheriff or other officer shall have the advertisement and notices herein provided for published and posted as herein required within seven (7) days after he or she receives the order of the county court.~~

~~(d) All elections provided for in this act shall be held by the officers who would be qualified to hold elections for county officers, and they shall be selected in the same way, and all elections provided for herein shall be held in accordance with the provisions of the general election laws of the state.~~

SECTION 5. Arkansas Code § 3-8-502(a)(2), concerning petitions for certain local option elections, is amended to read as follows:

(2) The petition requesting a local option election shall be prepared in the manner provided by § ~~3-8-204~~ 3-8-205.

SECTION 6. Arkansas Code § 3-8-502, concerning certain local option elections in certain annexed areas, is amended to add an additional subdivision as follows:

(c) Except as provided in this section, a petition for local option election shall be governed by § 7-9-101 et seq. and § 3-8-701 et seq."

AND

Page 2, delete lines 1 through 36

AND

Page 3, line 2, delete "SECTION 2" and substitute "SECTION 7"

AND

Page 7, delete line 10 and substitute the following:

"(B) The total amount of expenditures made by the committee or on behalf of the committee by an advertising agency, public relations firm, or political consultant during the"

AND

Page 10, delete line 21 and substitute the following:

"(\$1,000) or be imprisoned for not more than one (1) year, or both."

SECTION 8. Arkansas Code Title 3, Chapter 8, is amended to add an

additional subchapter to read as follows:

Subchapter 7 – Paid Canvassers

3-8-701. Definitions.

As used in this subchapter:

(1) "Canvasser" means a person who circulates a local option election petition or a part or parts of a local option election petition to obtain the signatures of petitioners thereto;

(2) "Paid canvasser" means a person who is paid or with whom there is an agreement to pay money or anything of value before or after a signature on a local option election petition is solicited in exchange for soliciting or obtaining a signature on a petition;

(3) "Petitioner" means a person who signs a petition requesting a local option election; and

(4) "Sponsor" means a person who arranges for the circulation of a local option election petition or who files a local option election petition with the official charged with verifying the signatures.

3-8-702. 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 local option election 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 signatures on a local option election petition to the canvasser; and

(C)(i) Provide a complete list of all paid canvassers' names and current residential addresses to the Secretary of State.

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

(b) Before obtaining a signature on a local option election petition as a paid canvasser, a person shall submit in person or by mail to the sponsor:

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

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

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

(4) A signed statement that the person has read and understands the Arkansas law applicable to obtaining signatures on a local option election petition;

(5) A signed statement that the person has been provided a copy of the most recent edition of the Secretary of State's initiatives and

referenda handbook by the sponsor; and

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

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

AND

Page 10, line 23, delete "SECTION 3" and substitute "SECTION 9"

AND

Page 10, delete line 27 and substitute the following:

"5-55-601. Petition fraud."

AND

Page 10, delete lines 29 through 36 and substitute the following:

"201 et seq., § 3-8-701 et seq., or § 7-9-101 et seq.

(b) A person commits the offense of petition fraud:

(1) If the person knowingly:

(A) Signs a name other than his or her name to a petition;

(B) Signs his or her name more than one (1) time to a petition; or

(C) Signs a petition when he or she is not legally entitled to sign the petition;

(2) If the person acting as a canvasser, notary, sponsor as defined under § 7-9-101, or agent of a sponsor:

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

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

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

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

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

(F) Knowingly misrepresents the purpose and effect of the petition or the measure affected for the purpose of causing a person to sign a petition;

(3) If the person acting as a canvasser, knowingly makes a false statement on a petition verification form;

(4) If the person acting as a notary, knowingly fails to witness a canvasser's affidavit by witnessing the signing of the instrument in person and either personally knowing the signor or by being presented with proof of the identity of the signer; or

(5) If the person acting as a sponsor, files a petition or a

part of a petition with the official charged with verifying the signatures knowing that the petition or part of the petition contains one (1) or more false or fraudulent signatures unless each false or fraudulent signature is clearly stricken by the sponsor before filing."

AND

Page 11, delete lines 1 through 11

AND

Page 11, line 12, delete "D felony" and substitute "A misdemeanor"

AND

Page 11, line 14, add the following:

"SECTION 10. Arkansas Code § 7-9-103(b), concerning certain criminal offenses regarding petitions, is repealed.

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

~~(1) Signs any name other than his or her own to any petition;~~
~~(2) Knowingly signs his or her name more than once to any petition;~~

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

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

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

~~(6) Acting in the capacity of a notary, knowingly fails to witness a canvasser's affidavit either by witnessing the signing of the instrument and personally knowing the signer or by being presented with proof of identity of the signer."~~

The Amendment was read the first time, rules suspended and read the second time and _____

By: Senator K. Ingram

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Secretary