

1 State of Arkansas
2 80th General Assembly
3 Regular Session, 1995

A Bill

SENATE BILL 223

4 By: Senators Boozman, Hunter, Webb and Walters
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For An Act To Be Entitled

8 "AN ACT TO ESTABLISH A PROCEDURE FOR THE RECALL OF ELECTED
9 STATE, DISTRICT, COUNTY, TOWNSHIP, MUNICIPAL, AND SCHOOL
10 DISTRICT OFFICIALS AND OTHER ELECTED OFFICIALS IN THE
11 STATE; AND FOR OTHER PURPOSES."
12

Subtitle

13 "AN ACT TO ESTABLISH A PROCEDURE FOR THE
14 RECALL OF ELECTED OFFICIALS."
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16

17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
18

19 SECTION 1. For the purpose of this act the term "recall" means the
20 voting by the citizens of the State of Arkansas to ascertain whether or not
21 it is the desire of the majority of the electors therein to allow an elected
22 state, district, county, township, or municipal official or any other elected
23 public official to remain in that capacity for the duration of his or her
24 elected term and the term "elected official" or "officeholder" means any
25 person elected to any state, district, county, township, municipal, school
26 district, or other public office.
27

28 SECTION 2. The qualified electors of the state or of any district,
29 county, township, municipality or school district in which any public
30 official or officials are elected by the electors thereof, may petition for
31 the recall of any elected official after the first *six (6) months* of the term
32 for which he or she was elected by filing a petition in the form and manner
33 hereafter provided demanding the recall of the officeholder. The petition
34 for the recall of any officeholder elected by a vote of the electors of the
35 entire *state shall be signed by qualified electors of the State equal to*

1 *twenty five percent (25%) of the votes cast for governor at the last general*
 2 *election at which a governor was elected, and such petition shall include*
 3 *signatures of qualified electors from each of fifteen counties in the State*
 4 *equal in number to at least seven and one-half percent (7 1/2%) of the number*
 5 *of votes cast for governor in each such county at such election. The*
 6 *petition for the recall of any State Senator or State Representative shall be*
 7 *signed by qualified electors of the district in which the legislator is*
 8 *serving equal to at least twenty five percent (25%) of the vote cast for*
 9 *Governor in the district at the last general election at which a Governor was*
 10 *elected. The petition for the recall of any other officeholder shall be*
 11 *signed by qualified electors of the county, district, township, municipality,*
 12 *or school district in which the officeholder is serving equal to at least*
 13 *twenty-five percent (25%) of the registered voters in such district, county,*
 14 *township, municipality, or school district.*

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16 SECTION 3. The recall of an elected official shall be instituted by
 17 filing a recall petition requesting such recall as follows:

18 (1) A petition seeking the recall of any state or district officer
 19 shall be filed with the secretary of state.

20 (2) A petition seeking the recall of any county, township, municipal,
 21 or school district officer shall be filed with the county board of election
 22 commissioners of the appropriate county.

23

24 SECTION 4. The petition for recall of an elected official under the
 25 provisions of this Act shall be in substantially the following form:

26

"PETITION FOR RECALL

27 TO _____

28 _ (Secretary of State) (County Board of Election
 29 Commissioners)

30 of the _____

31 (County) (State of Arkansas)

32 We, the undersigned legal voters of _____

33 (State), (District), (County), (Township), (Municipality), (Other)

34 respectfully order that _____

35 (Name of Officeholder)

1 be referred to the people of said _____
2 (State), (District), (County), (Township), (Municipality),
3 (Other)

4 to the end that such person or persons may be approved or rejected by the
5 vote of the legal voters of _____
6 (State), (District), (County), (Township), (Municipality),
7 (Other)

8 at an election to be held for this purpose; and each of us for himself or
9 herself says: I am a qualified elector of _____
10 (State), (District), (County), (Township), (Municipality),
11 (Other)

12 Arkansas, and my residence, post office address and voting precinct are
13 correctly written after my name.

14 Name _____ Residence _____ Postoffice _____ Voting Precinct _____ "

15 Each and every sheet of every such petition containing the signatures
16 shall be verified in substantially the following form by the person who
17 circulated said sheet of said petition by his or her affidavit thereon as a
18 part thereof.

19 STATE OF ARKANSAS)
20 COUNTY _____)

21 I, _____ being first duly sworn, state the above listed
22 person signed this sheet of the foregoing petition, and each of them signed
23 his or her name thereunto in my presence. I believe that each has stated his
24 or her name, residence, postoffice address and voting precinct correctly, and
25 that each signer is a legal voter of _____

26 (State), (District), (County), (Township), (Municipality), (Other)
27 Signature _____
28 P. O. _____

29 Subscribed and sworn to before me this the _____ day of _____ 19____.

30 Signature _____
31 (Clerk, Notary, Judge or J.P.)
32 P. O. _____

33 These forms are not mandatory, and if substantially followed in any
34 petition it shall be sufficient, disregarding clerical and technical errors.

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1 SECTION 5. Within fifteen (15) calendar days after the petition is
 2 filed with the appropriate official, the official shall determine by careful
 3 examination whether the petition is sufficient and so state in a certificate
 4 attached to the petition. If the petition is found to be insufficient, the
 5 certificate shall state the particulars creating the insufficiency. The
 6 petition may be amended to correct any insufficiency within thirty (30) days
 7 following the filing of the original certificate. Within two (2) calendar
 8 days (excluding Saturdays, Sundays, and holidays) after filing the amended
 9 petition, it shall again be carefully examined to determine sufficiency and a
 10 certificate stating the findings shall be attached. Immediately upon finding
 11 an original or amended petition sufficient, the appropriate official shall
 12 call a special election within forty-five (45) days, for the purpose of
 13 submitting the proposal to the electors. *If a general, school, or other*
 14 *regularly scheduled election, other than a political party election, is to be*
 15 *held within ninety (90) days, the recall proposal shall be held and submitted*
 16 *at such election.*

17
 18 SECTION 6. At the special election the recall issue shall be printed
 19 on the ballot in substantially the following form:

20 "For Permitting _____ to
 21 Name Office
 22 continue to serve the term of office for which elected /_/
 23 Against Permitting _____ to
 24 Name Office
 25 continue to serve the term of office for which elected /_/"

26 If at such election a majority of the qualified electors voting on the
 27 issue vote against permitting the official to serve the term of office to
 28 which elected, an immediate vacancy shall exist in the office, and such
 29 vacancy shall be filled in the manner prescribed by law.

30 If at such election a majority of the qualified electors voting on the
 31 issue vote for permitting the official to serve the term of office for which
 32 elected, such official shall continue to serve the term for which elected.

33
 34 SECTION 7. After one (1) recall petition and special election, no
 35 further recall petition shall be filed against the same official during the

1 same term of office.

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3 SECTION 8. All expenses of special elections for the recall of elected
4 state, district, county, township, municipal, or school district officials,
5 or other elected officials shall be paid by the county. If the election is
6 on the question of recalling a municipal, school district or other local
7 district elected official, the municipality or school district or other local
8 district shall reimburse the county for the expenses of the election.

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10 SECTION 9. *Any recall issue shall be considered a "ballot question"*
11 *pursuant and subject to the provisions of Acts 261 and 634 of 1989, as*
12 *amended, the same being subchapter 4 of chapter 9 of title 7 of the Arkansas*
13 *Code. An elected official, any person or entity acting on behalf of such*
14 *official, or any other person or entity who receives contributions or makes*
15 *expenditures for the purpose of attempting to influence the qualification,*
16 *passage or defeat of a recall petition or issue shall be considered a "ballot*
17 *question committee" and shall comply with the provisions of Acts 261 and 634*
18 *of 1989, as amended, the same being subchapter 4 of chapter 9 of title 7 of*
19 *the Arkansas Code. Neither an elected official who is the subject of a*
20 *recall petition, nor his or her spouse or dependent children, shall take as*
21 *personal income any funds contributed to oppose or defeat the recall petition*
22 *or issue, and such funds shall not be transferred to the elected official, or*
23 *to any person or entity acting on his or her behalf, when he or she is*
24 *seeking nomination or election to any public office.*

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26 SECTION 10. Arkansas Code Annotated §14-48-114 and §14-61-119 are
27 repealed.

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29 SECTION 11. If any provision of this Act or the application thereof to
30 any person or circumstance is held invalid, such invalidity shall not affect
31 other provisions or applications of the Act which can be given effect without
32 the invalid provision or application, and to this end the provisions of this
33 Act are declared to be severable.

34

35 SECTION 12. All provisions of this act of a general and permanent

1 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas
2 Code Revision Commission shall incorporate the same in the Code.

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4 SECTION 13. If any provision of this act or the application thereof to
5 any person or circumstance is held invalid, such invalidity shall not affect
6 other provisions or applications of the act which can be given effect without
7 the invalid provision or application, and to this end the provisions of this
8 act are declared to be severable.

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10 SECTION 14. All laws and parts of laws in conflict with this act are
11 hereby repealed.

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/s/Boozman et al

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