

1 State of Arkansas
2 81st General Assembly
3 Regular Session, 1997

As Engrossed: S2/10/97 S2/18/97

A Bill

SENATE BILL 16

4 By: Senators Walters and Boozman

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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."

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Subtitle

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

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

19

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

28

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

1 State equal to *thirty five* percent (35%) of the votes cast for governor at the
2 last general election at which a governor was elected, and such petition shall
3 include signatures of qualified electors from each of fifteen counties in the
4 State equal in number to at least seven and one-half percent (7 1/2%) of the
5 number 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 *registered voters*
9 in the *district*. The petition for the recall of any other officeholder shall
10 be signed by qualified electors of the county, district, township,
11 municipality, or school district in which the officeholder is serving equal to
12 at least twenty-five percent (25%) of the registered voters in such district,
13 county, township, municipality, or school district. *If the petition is for*
14 *the recall of an office holder elected within a district which contains more*
15 *than one (1) county, at least one-half (1/2) of the required number of*
16 *signatures must be obtained proportionately from each county or part of a*
17 *county within the district.*

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19 SECTION 3. (a) *The recall of an elected official shall be instituted by*
20 *filing a notice of intent to file a recall petition requesting such recall as*
21 *follows:*

22 (1) *A notice of intent to circulate a petition seeking the recall of*
23 *any state or district officer shall be filed with the Secretary of State.*

24 (2) *A notice of intent to circulate a petition seeking the recall of*
25 *any county, township, municipal, or school district officer shall be filed*
26 *with the county board of election commissioners of the appropriate county.*

27 (b) *The notice of intent to circulate recall petitions shall state the*
28 *reason the elected official should be recalled.*

29 (c) *Recall petitions shall be filed within sixty (60) days after the*
30 *filing of the notice prescribed in subsection (a) and shall be filed with the*
31 *same office as the notice prescribed in subsection (a).*

32 (d) *No action to recall an elected official shall be initiated during*
33 *the last year of the term of office of the elected official.*

34

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

"PETITION FOR RECALL

1 TO _____
2

3 (Secretary of State) (County Board of Election Commissioners)
4 of the _____
5 (County) (State of Arkansas)

6 We, the undersigned legal voters of _____
7 (State), (District), (County), (Township), (Municipality), (Other)
8 respectfully order that _____
9 (Name of Officeholder)

10 be referred to the people of said _____
11 (State), (District), (County), (Township), (Municipality), (Other)

12 to the end that such person or persons may be approved or rejected by the
13 vote of the legal voters of _____

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

15 at an election to be held for this purpose; and each of us for himself or
16 herself says: I am a qualified elector of _____

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

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

20 Name _____ Residence _____ Postoffice _____ Voting Precinct _____ "

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

25 STATE OF ARKANSAS)

26 COUNTY _____)

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

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

33 Signature _____

34 P. O. _____

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

36 Signature _____

1 (Clerk, Notary, Judge or J.P.)

2 P. O. _____

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

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

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23 SECTION 6. At the special election the recall issue shall be printed on
24 the ballot in substantially the following form:

25 "For Permitting _____ to

26 Name Office

27 continue to serve the term of office for which elected /_/"

28 Against Permitting _____ to

29 Name Office

30 continue to serve the term of office for which elected /_/"

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

35 If at such election a majority of the qualified electors voting on the
36 issue vote for permitting the official to serve the term of office for which

1 elected, such official shall continue to serve the term for which elected.

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3 SECTION 7. After one (1) recall petition and special election, no
4 further recall petition shall be filed against the same official during the
5 same term of office.

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

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14 SECTION 9. Any recall issue shall be considered a "ballot question"
15 pursuant and subject to the provisions of Acts 261 and 634 of 1989, as
16 amended, the same being Subchapter 4 of Chapter 9 of Title 7 of the Arkansas
17 Code. An elected official, any person or entity acting on behalf of such
18 official, or any other person or entity who receives contributions or makes
19 expenditures for the purpose of attempting to influence the qualification,
20 passage or defeat of a recall petition or issue shall be considered a "ballot
21 question committee" and shall comply with the provisions of Acts 261 and 634
22 of 1989, as amended, the same being Subchapter 4 of Chapter 9 of Title 7 of
23 the Arkansas Code.

24

25 SECTION 10. *The provisions of this act shall not apply to:*

26 (a) *Any judicial office; and*

27 (b) *Any officeholder, other than a member of the General Assembly, with*
28 *a two (2) year term of office.*

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30 SECTION 11. Arkansas Code Annotated §14-48-114 and §14-61-119 are
31 repealed.

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33 SECTION 12. All provisions of this act of a general and permanent
34 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas
35 Code Revision Commission shall incorporate the same in the Code.

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

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

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/s/Walters et al

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