

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 86th General Assembly
3 Regular Session, 2007

A Bill

SENATE BILL 13

4
5 By: Senator Glover
6
7

For An Act To Be Entitled

9 AN ACT TO ESTABLISH A PROCEDURE FOR THE RECALL OF
10 STATE CONSTITUTIONAL OFFICERS, MEMBERS OF THE
11 GENERAL ASSEMBLY, AND JUDICIAL OFFICERS; AND FOR
12 OTHER PURPOSES.

Subtitle

13
14 TO ESTABLISH A PROCEDURE FOR THE RECALL
15 OF STATE CONSTITUTIONAL OFFICERS,
16 MEMBERS OF THE GENERAL ASSEMBLY, AND
17 JUDICIAL OFFICERS.
18
19
20

21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
22

23 SECTION 1. Arkansas Code Title 7, Chapter 5 is amended to add an
24 additional subchapter to read as follows:

25 7-5-901. Definitions.

26 As used in this act:

27 (1) "Elected judicial office" means the office of district judge,
28 circuit judge, judge of the Arkansas Court of Appeals, and justice of the
29 Arkansas Supreme Court;

30 (2) "Elected official" means any person elected to a state
31 constitutional office, the Arkansas Senate, the Arkansas House of
32 Representatives, or an elected judicial office; and

33 (3) "Recall" means the voting by the electors of the state or district
34 to ascertain whether or not it is the desire of the majority of the electors
35 to allow an elected official to remain in that capacity for the duration of
36 his or her elected term.



1
2 7-5-902. Petition.

3 (a) The qualified electors of the state or the district may petition
4 for the recall of an elected official by filing a petition demanding the
5 recall of the elected official.

6 (b)(1) The petition for the recall of an elected official elected
7 statewide shall be signed by qualified electors of the state in a number of
8 at least fifteen percent (15%) of the votes cast for Governor at the last
9 general election at which a Governor was elected, and the petition shall
10 include signatures of qualified electors from each of thirty-five (35)
11 counties in the state, but no more than one-half (1/2) of the total number of
12 signatures may be from any one (1) county.

13 (2)(A) The petition for the recall of an elected official
14 elected by district shall be signed by qualified electors of the district in
15 which the elected official is serving in a number of at least thirty percent
16 (30%) of the registered voters in the district.

17 (B) However, in districts which encompass at least two (2)
18 whole counties, no more than one-half (1/2) of the total number of signatures
19 may be from any one (1) county.

20
21 7-5-903. Recall of officers elected statewide and members of the
22 General Assembly.

23 (a)(1) The recall of a member of the General Assembly or an elected
24 official elected statewide shall be initiated by filing a notice of intent to
25 circulate a recall petition. However, the notice of intent shall not be
26 filed during the first six (6) months of a term of office.

27 (2) No petition shall be circulated before the notice of intent
28 is filed.

29 (3) The notice of intent to circulate a recall petition shall
30 state the reason the elected official should be recalled.

31 (4) The notice of intent to circulate a petition seeking the
32 recall of the elected official shall be filed with the Secretary of State.

33 (5) The sponsor shall within five (5) calendar days after filing
34 the notice of intent notify the elected official who will be the subject of a
35 recall petition by certified mail with return receipt requested.

36 (b) Petitions from each county shall be kept separate to facilitate

1 voter identification.

2 (c) The recall petitions shall be filed with the Secretary of State
 3 not less than sixty (60) calendar days nor more than eighty (80) calendar
 4 days after the filing of the notice of intent to circulate a recall petition.

5 (d) Within thirty (30) calendar days after the petition is filed, the
 6 Secretary of State shall determine by careful examination whether the
 7 petition is sufficient and so state in a certificate attached to the
 8 petition.

9 (e)(1) If the petition is found to be insufficient, the certificate
 10 shall state the reasons creating the insufficiency.

11 (2) The petition may be amended to correct any insufficiency
 12 within thirty (30) calendar days after the filing of the original
 13 certificate.

14 (3) Within fifteen (15) calendar days after filing the amended
 15 petition, it shall again be carefully examined to determine sufficiency and a
 16 certificate stating the findings shall be attached.

17 (f)(1)(A) Immediately upon finding an original or amended petition
 18 sufficient, the Secretary of State shall notify the Governor who shall
 19 immediately call a special election for the purpose of submitting the
 20 proposal to the electors.

21 (B) However, if the Governor is the subject of the recall
 22 petition, then the election shall be called by the Lieutenant Governor.

23 (2)(A) The election shall be held within sixty (60) calendar
 24 days after the call for a special election.

25 (B) However, if the general election is to be held within
 26 ninety (90) calendar days, the recall proposal shall be held and submitted at
 27 the general election.

28
 29 7-5-904. Recall petitions for statewide elected officers and members
 30 of the General Assembly.

31 (a) The petition for recall of an elected official who is elected
 32 statewide or the recall of a member of the General Assembly shall be in
 33 substantially the following form:

34 "PETITION FOR RECALL

35 To the Secretary of State:

36 We, the undersigned legal voters of _____

1 (Arkansas or District)
2 respectfully order that _____

3 (Name of Elected Official)
4 be referred to the people of _____

5 (Arkansas or District)

6 to the end that the elected official may be approved or rejected by the
7 vote of the legal voters at an election to be held for this purpose; and each
8 of us for himself or herself says: I have personally signed this petition; I
9 am a legal voter of [Arkansas or district], and my printed name, date of
10 birth, residence, city or town of residence, and date of signing this
11 petition are correctly written after my signature."

12 (b) Each sheet of each petition containing the signatures shall be
13 verified in substantially the following form by the person who circulated the
14 sheet of the petition by his or her affidavit attached to the petition. The
15 affidavit shall be in substantially the following form:

16 "STATE OF ARKANSAS)

17 COUNTY)

18 I, _____ under oath, state that the above-listed persons
19 signed this sheet, and each of them signed his or her name on this sheet in
20 my presence. I believe that each has correctly stated his or her name, date
21 of birth, residence, city or town of residence, and date of signing the
22 petition.

23 Signature _____

24 Address _____

25 Subscribed and sworn to before me this the _____ day of _____, _____.

26 Signature _____

27 Notary Public

28 My Commission Expires: _____ "

29 (c) The forms provided in this section are not mandatory, and if
30 substantially followed in any petition it shall be sufficient, disregarding
31 clerical and technical errors.

32
33 7-5-905. Recall of elected official other than a statewide officer or
34 member of the General Assembly.

35 (a)(1) The recall of an elected official other than an elected
36 official who is elected statewide or a member of the General Assembly shall

1 be initiated by filing a notice of intent to circulate a recall petition.

2 (2) No petition shall be circulated before the notice of intent
3 is filed.

4 (3) The notice of intent to circulate a recall petition shall
5 state the reason the elected official should be recalled.

6 (4) The notice of intent to circulate a petition seeking the
7 recall of the elected official shall be filed with the county clerk of the
8 county of residence of the elected official.

9 (5) The sponsor shall within five (5) calendar days notify the
10 elected official who will be the subject of a recall petition by certified
11 mail with return receipt requested.

12 (b) Petitions from each county shall be kept separate to facilitate
13 voter identification.

14 (c) The recall petitions shall be filed with the county clerk of the
15 county of residence of the elected official not less than sixty (60) calendar
16 days nor more than eighty (80) calendar days after the filing of the notice
17 of intent to circulate a recall petition.

18 (d)(1) Within thirty (30) calendar days after the petition is filed,
19 the county clerk shall determine by careful examination whether the petition
20 is sufficient and so state in a certificate attached to the petition.

21 (2) If the district from which the elected official was elected
22 includes all or a part of more than one (1) county the county clerks of the
23 other counties shall assist the county clerk of the county in which the
24 petition was filed to determine the validity of the names of legal voters on
25 parts of the petition with signatures from their respective counties.

26 (e)(1) If the petition is found to be insufficient, the certificate
27 shall state the reasons creating the insufficiency.

28 (2) The petition may be amended to correct any insufficiency
29 within thirty (30) calendar days following the filing of the original
30 certificate.

31 (3) Within fifteen (15) calendar days after filing the amended
32 petition, it shall again be carefully examined to determine sufficiency and a
33 certificate stating the findings shall be attached.

34 (f)(1) Immediately upon finding an original or amended petition
35 sufficient, the county clerk of the county in which the elected voter resides
36 shall notify the county board of election commissioners of the county in

1 which the elected official resides and the board shall immediately call a
2 special election for the purpose of submitting the proposal to the electors.

3 (2) The election shall be held within sixty (60) calendar days
4 after the call for a special election.

5 (3) However, if the general election is to be held within ninety
6 (90) calendar days, the recall proposal shall be held and submitted at the
7 general election.

8
9 7-5-906. Recall petitions for elected official other than a statewide
10 officer or member of the General Assembly.

11 (a) The petition for recall of an elected official other than an
12 elected official who is elected statewide or a member of the General Assembly
13 shall be in substantially the following form:

14 "PETITION FOR RECALL

15 To the County Clerk of _____ County:

16 We, the undersigned legal voters of _____

17 (District)

18 respectfully order that _____

19 (Name of Elected Official)

20 be referred to the people of _____

21 (District)

22 to the end that the elected official may be approved or rejected by the
23 vote of the legal voters at an election to be held for this purpose; and each
24 of us for himself or herself says: I have personally signed this petition; I
25 am a legal voter of the district, and my printed name, date of birth,
26 residence, city or town of residence, and date of signing this petition are
27 correctly written after my signature."

28 (b) Each sheet of each petition containing the signatures shall be
29 verified in substantially the following form by the person who circulated the
30 sheet of the petition by his or her affidavit thereon as a part thereof. The
31 affidavit shall be in substantially the following form:

32 "STATE OF ARKANSAS)

33 COUNTY _____)

34 I, _____ under oath, state that the above-listed persons
35 signed this sheet, and each of them signed his or her name on this sheet in
36 my presence. I believe that each has correctly stated his or her name, date

1 of birth, residence, city or town of residence, and date of signing the
2 petition.

3 Signature _____

4 Address _____

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

6 Signature _____

7 Notary Public

8 My Commission Expires: _____ "

9 (c) The forms provided in this section are not mandatory, and if
10 substantially followed in any petition it shall be sufficient, disregarding
11 clerical and technical errors.

12

13 7-5-907. Ballot.

14 (a) At the election the recall issue shall be printed on the ballot in
15 substantially the following form:

16 "For Permitting _____ to

17 Name Office

18 continue to serve the term of office for which elected / /

19 Against Permitting _____ to

20 Name Office

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

22 (b)(1) If at the election a majority of the qualified electors voting
23 on the issue vote against permitting the elected official to serve the term
24 of office to which elected, an immediate vacancy shall exist in the office,
25 and the vacancy shall be filled in the manner prescribed by law.

26 (2) If at the election a majority of the qualified electors
27 voting on the issue vote for permitting the elected official to continue to
28 serve the term of office for which elected, the elected official shall serve
29 the full term for which elected.

30

31 7-5-908. Frequency of recall.

32 After one (1) recall petition and election, no further recall petition
33 shall be filed against the same elected official during the same term of
34 office.

35

36 7-5-909. Recall expenses.

1 All expenses of elections for the recall of elected officials shall be
2 paid for in the same manner and from the same source as provided under
3 Arkansas Code § 7-5-104.

4
5 7-5-910. Ballot question.

6 (a) Any recall issue shall be considered a ballot question for
7 purposes of the Disclosure Act for Public Initiatives, Referendums, and
8 Measures Referred to Voters, §§ 7-9-401 et seq.

9 (b) An elected official, any person or entity acting on behalf of the
10 elected official, or any other person or entity who receives contributions or
11 makes expenditures for the purpose of attempting to influence the
12 qualification, passage, or defeat of a recall petition or issue shall be
13 considered a ballot question committee and shall comply with the Disclosure
14 Act for Public Initiatives, Referendums, and Measures Referred to Voters, §§
15 7-9-401 et seq.