

Stricken language would be deleted from and underlined language would be added to the Arkansas Constitution.

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

SJR 3

4
5 By: Senator Glover

6
7
8 **SENATE JOINT RESOLUTION**

9 PROPOSING AN AMENDMENT TO THE ARKANSAS
10 CONSTITUTION CONCERNING THE RECALL OF PERSONS
11 ELECTED TO CONSTITUTIONAL OFFICES, MEMBERS OF THE
12 SENATE, MEMBERS OF THE HOUSE OF REPRESENTATIVES,
13 DISTRICT JUDGES, CIRCUIT JUDGES, JUDGES OF THE
14 COURT OF APPEALS, AND JUSTICES OF THE SUPREME
15 COURT BY QUALIFIED ELECTORS OF THE STATE OF
16 ARKANSAS; AND SPECIFYING THE PROCEDURE FOR
17 REQUESTING AND CONDUCTING A RECALL ELECTION.

18
19 **Subtitle**

20 TO ESTABLISH A PROCEDURE FOR THE RECALL
21 OF STATE CONSTITUTIONAL OFFICERS,
22 MEMBERS OF THE GENERAL ASSEMBLY, AND
23 JUDICIAL OFFICERS.

24
25 BE IT RESOLVED BY THE SENATE OF THE EIGHTY-FIFTH GENERAL ASSEMBLY OF THE
26 STATE OF ARKANSAS AND BY THE HOUSE OF REPRESENTATIVES, A MAJORITY OF ALL
27 MEMBERS ELECTED TO EACH HOUSE AGREEING THERETO:

28
29 That the following is proposed as an amendment to the Constitution of
30 the State of Arkansas, and upon being submitted to the electors of the state
31 for approval or rejection at the next general election for Representatives
32 and Senators, if a majority of the electors voting thereon at the election,
33 adopt the amendment, the amendment shall become a part of the Constitution of
34 Arkansas, to wit:



1 SECTION 1. Definitions.

2 As used in this amendment:

3 (1) "Elected judicial office" means the office of district
4 judge, circuit judge, judge of the Court of Appeals, and justice of the
5 Supreme Court;

6 (2) "Elected official" means any person elected to a state
7 constitutional office, the Senate, the House of Representatives, or an
8 elected judicial office; and

9 (3) "Recall" means the voting by the electors of the state or a
10 district to ascertain whether or not it is the desire of the majority of the
11 electors to allow an elected official to remain in that capacity for the
12 duration of his or her elected term; and

13 (4) "Recall petition" means a petition demanding the recall of
14 an elected official.

15
16 SECTION 2. Petition.

17 (a) The qualified electors of the state or a district may petition for
18 the recall of an elected official by filing a recall petition demanding the
19 recall of the elected official.

20 (b)(1)(A) The recall petition for the recall of an elected official
21 elected statewide shall be signed by qualified electors of the state in a
22 number of at least fifteen percent (15%) of the votes cast for Governor at
23 the last general election at which a Governor was elected.

24 (B) The petition shall include signatures of qualified
25 electors from at least thirty-five (35) counties in the state.

26 (C) No more than one-half (1/2) of the total number of
27 signatures may be from any one (1) county.

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

32 (B) However, in a district that encompasses at least two
33 (2) whole counties, no more than one-half (1/2) of the total number of
34 signatures may be from any one (1) county.

35
36 SECTION 3. Recall of officers elected statewide and members of the

1 General Assembly.

2 (a)(1)(A) The recall of a member of the General Assembly or an elected
 3 official elected statewide shall be initiated by filing a notice of intent to
 4 circulate a recall petition with the Secretary of State.

5 (B) The notice of intent shall not be filed during the
 6 first six (6) months of a term of office.

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

9 (3) The notice of intent to circulate a recall petition shall
 10 state the reason the member of the General Assembly or elected official
 11 elected statewide should be recalled.

12 (4) The filer of the notice of intent to circulate a recall
 13 petition shall within five (5) calendar days after filing the notice of
 14 intent notify the member of the General Assembly or elected official elected
 15 statewide who will be the subject of a recall petition by certified mail with
 16 return receipt requested.

17 (b) A separate recall petition for each county shall be used and
 18 recall petitions from each county shall be kept separate to facilitate voter
 19 identification.

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

23 (d) Within thirty (30) calendar days after the recall petition is
 24 filed, the Secretary of State shall determine whether the petition is
 25 sufficient and if sufficient, shall state the sufficiency in a certificate
 26 attached to the recall petition.

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

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

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

35 (f)(1)(A) Immediately upon finding an original or amended recall
 36 petition sufficient, the Secretary of State shall notify the Governor who

1 shall immediately call a special election for the purpose of submitting the
2 recall proposal to the electors.

3 (B) However, if the Governor is the subject of the recall
4 petition, then the special election shall be called by the Lieutenant
5 Governor.

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

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

11
12 SECTION 4. Recall petitions for statewide elected officers and members
13 of the General Assembly.

14 (a) The recall petition of an elected official who is elected statewide
15 or the recall of a member of the General Assembly shall be in substantially
16 the following form:

17 "PETITION FOR RECALL

18 To the Secretary of State:

19 We, the undersigned legal voters of _____

20 (Arkansas or District)

21 respectfully order that _____

22 (Name of Elected Official)

23 be referred to the people of _____

24 (Arkansas or District)

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

31 (b) Each sheet of each recall petition containing the signatures shall
32 be verified in substantially the following form by the person who circulated
33 the sheet of the recall petition by his or her affidavit attached to the
34 recall petition. The affidavit shall be in substantially the following form:

35 "STATE OF ARKANSAS)

36 COUNTY _____)

1 I, _____ under oath, state that the above-listed persons
2 signed this sheet, and each of them signed his or her name on this sheet in
3 my presence. I believe that each has correctly stated his or her name, date
4 of birth, residence, city or town of residence, and date of signing the
5 petition.

6 Signature _____

7 Address _____

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

9 Signature _____

10 _____ Notary Public

11 My Commission Expires: _____ "

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

15
16 SECTION 5. Recall of elected official other than a statewide officer
17 or member of the General Assembly.

18 (a)(1) The recall of an elected official other than an elected
19 official elected statewide or a member of the General Assembly shall be
20 initiated by filing a notice of intent to circulate a recall petition.

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

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

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

28 (5) The filer of the notice of intent to circulate a recall
29 position shall within five (5) calendar days notify the elected official who
30 will be the subject of a recall petition by certified mail with return
31 receipt requested.

32 (b) A separate recall petition for each county shall be used and
33 recall petitions from each county shall be kept separate to facilitate voter
34 identification.

35 (c) The recall petition shall be filed with the county clerk of the
36 county of residence of the elected official not less than sixty (60) calendar

1 days nor more than eighty (80) calendar days after the filing of the notice
 2 of intent to circulate a recall petition.

3 (d)(1) Within thirty (30) calendar days after the petition is filed,
 4 the county clerk shall determine whether the petition is sufficient and if
 5 sufficient, shall state the sufficiency in a certificate attached to the
 6 petition.

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

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

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

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

20 (f)(1) Immediately upon finding an original or amended recall petition
 21 sufficient, the county clerk of the county in which the elected voter resides
 22 shall notify the county board of election commissioners of the county in
 23 which the elected official resides and the board shall immediately call a
 24 special election for the purpose of submitting the recall proposal to the
 25 electors.

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

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

31
 32 SECTION 6. Recall petitions for elected official other than a
 33 statewide officer or member of the General Assembly.

34 (a) The recall petition of an elected official other than an elected
 35 official who is elected statewide or a member of the General Assembly shall
 36 be in substantially the following form:

1 "PETITION FOR RECALL

2 To the County Clerk of _____ County:

3 We, the undersigned legal voters of _____
4 (District)

5 respectfully order that _____
6 (Name of Elected Official)

7 be referred to the people of _____
8 (District)

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

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

19 "STATE OF ARKANSAS)
20 COUNTY _____)

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

26 Signature _____

27 Address _____

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

29 Signature _____

30 Notary Public

31 My Commission Expires: _____ "

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

35

36 SECTION 7. Ballot.

1 (a) At the election the recall proposal shall be printed on the ballot
2 in substantially the following form:

3 “For Permitting _____ to
4 _____ Name _____ Office
5 continue to serve the term of office for which elected / /
6 Against Permitting _____ to
7 _____ Name _____ Office
8 continue to serve the term of office for which elected / /”

9 (b)(1) If at the election a majority of the qualified electors voting
10 on the recall proposal vote against permitting the elected official to serve
11 the term of office to which elected, an immediate vacancy shall exist in the
12 office, and the vacancy shall be filled in the manner prescribed by law.

13 (2) If at the election a majority of the qualified electors
14 voting on the recall proposal vote for permitting the elected official to
15 continue to serve the term of office for which elected, the elected official
16 shall serve the full term for which elected.

17
18 SECTION 8. Frequency of recall.

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

22
23 SECTION 9. Recall expenses.

24 All expenses of an election for the recall of an elected official shall
25 be paid for in the same manner and from the same source as provided by
26 applicable law for election expenses.

27
28 SECTION 10. Ballot question.

29 (a) Any recall issue shall be considered a ballot question for
30 purposes of applicable laws on measures referred to voters.

31 (b) An elected official, any person or entity acting on behalf of the
32 elected official, or any other person or entity who receives contributions or
33 makes expenditures for the purpose of attempting to influence the
34 qualification, passage, or defeat of a recall petition or recall proposal
35 shall be considered a ballot question committee and shall comply with
36 applicable laws on measures referred to voters.