

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

SJR 9

4
5 By: Senator Glover
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8 **SENATE JOINT RESOLUTION**

9 AMENDING THE ARKANSAS CONSTITUTION CONCERNING
10 SERVICE IN ELECTED POSITIONS; PROPOSING AN
11 AMENDMENT TO THE ARKANSAS CONSTITUTION CONCERNING
12 THE RECALL OF PERSONS ELECTED TO CONSTITUTIONAL
13 OFFICES, MEMBERS OF THE SENATE, MEMBERS OF THE
14 HOUSE OF REPRESENTATIVES, DISTRICT JUDGES,
15 CIRCUIT JUDGES, JUDGES OF THE COURT OF APPEALS,
16 JUSTICES OF THE SUPREME COURT, CIRCUIT CLERKS,
17 COUNTY CLERKS, COUNTY JUDGES, COUNTY SHERIFFS,
18 COUNTY ASSESSORS, COUNTY CORONERS, COUNTY
19 TREASURERS, OR COUNTY SURVEYORS BY QUALIFIED
20 ELECTORS OF THE STATE OF ARKANSAS; SPECIFYING THE
21 PROCEDURE FOR REQUESTING AND CONDUCTING A RECALL
22 ELECTION; PROPOSING AN AMENDMENT TO THE ARKANSAS
23 CONSTITUTION CONCERNING INCREASING THE LENGTH OF
24 TERMS OF CIRCUIT CLERKS, COUNTY CLERKS, COUNTY
25 JUDGES, COUNTY SHERIFFS, COUNTY ASSESSORS, COUNTY
26 CORONERS, COUNTY TREASURERS, COUNTY SURVEYORS,
27 AND JUSTICES OF THE PEACE FROM TWO (2) YEARS TO
28 FOUR (4) YEARS; AMENDING AMENDMENT 55 OF THE
29 ARKANSAS CONSTITUTION CONCERNING THE
30 QUALIFICATIONS TO SERVE AS A JUSTICE OF THE PEACE
31 AND THE COMMISSION RECEIVED BY A JUSTICE OF THE
32 PEACE; REPEALING OBSOLETE LANGUAGE; PROVIDING
33 THAT PERSONS ELECTED TO THE HOUSE OF
34 REPRESENTATIVES MAY SERVE SIX (6) TWO-YEAR TERMS;
35 PROVIDING THAT PERSONS ELECTED TO THE SENATE MAY
36 SERVE THREE (3) FOUR- YEAR TERMS; AND PROVIDING



1 THAT JUDGES OF THE SUPREME COURT AND COURT OF
2 APPEALS MAY SERVE NO MORE THAN TWO (2) EIGHT-YEAR
3 TERMS.

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5 **Subtitle**

6 AMENDING THE ARKANSAS CONSTITUTION
7 CONCERNING SERVICE IN ELECTED POSITIONS.
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10 BE IT RESOLVED BY THE SENATE OF THE EIGHTY-SIXTH GENERAL ASSEMBLY OF THE
11 STATE OF ARKANSAS AND BY THE HOUSE OF REPRESENTATIVES, A MAJORITY OF ALL
12 MEMBERS ELECTED TO EACH HOUSE AGREEING THERETO:
13

14 That the following is proposed as an amendment to the Constitution of
15 the State of Arkansas, and upon being submitted to the electors of the state
16 for approval or rejection at the next general election for Senators and
17 Representatives, if a majority of the electors voting thereon at the election
18 adopt the amendment, the amendment shall become a part of the Constitution of
19 the State of Arkansas, to wit:
20

21 SECTION 1. Definitions.

22 As used in this amendment:

23 (1) "Elected county official" means a person elected to the
24 position of circuit clerk, county clerk, county judge, county sheriff, county
25 assessor, county coroner, county treasurer, or county surveyor;

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

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

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

36 (5) "Recall petition" means a petition demanding the recall of

an elected official.

Petition.

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

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

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

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

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

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

(3) The recall petition for an elected county official shall be signed by qualified electors of the county in which the elected county official is serving in a number of at least fifty-one percent (51%) of the votes cast for Governor in the county at the last general election in which a Governor was elected.

Recall of officers elected statewide and members of the General Assembly.

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

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

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

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

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

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

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

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

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

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

(3) Within fifteen (15) calendar days after filing the amended recall petition, the Secretary of State shall examine the recall petition again to determine sufficiency and shall attach a certificate stating the findings to the recall petition.

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

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

(2)(A) The special election for the purpose of submitting the recall proposal to the electors shall be held within sixty (60) calendar days

after the call for a special election.

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

Recall petitions for statewide elected officers and members of the General Assembly.

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

"PETITION FOR RECALL

To the Secretary of State:

We, the undersigned legal voters of

(Arkansas or District)

respectfully order that

(Name of Elected Official)

be referred to the people of

(Arkansas or District)

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

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

"STATE OF ARKANSAS)

COUNTY)

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

Signature

1 Address

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

3 Signature

4 Notary Public

5 My Commission Expires: "

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

10 Recall of elected official other than a statewide officer or member of
11 the General Assembly.

12 (a)(1) The recall of an elected official other than an elected
13 official elected statewide or a member of the General Assembly, including an
14 elected county official, shall be initiated by filing a notice of intent to
15 circulate a recall petition.

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

18 (3) The notice of intent to circulate a recall petition shall
19 state the reason the elected official or elected county official should be
20 recalled.

21 (4) The notice of intent to circulate a recall petition seeking
22 the recall of the elected official or elected county official shall be filed
23 with the county clerk of the county of residence of the elected official or
24 elected county official.

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

29 (b) A separate recall petition shall be used for each county and
30 recall petitions from each county shall be kept separate to facilitate voter
31 identification.

32 (c) The recall petition shall be filed with the county clerk of the
33 county of residence of the elected official or elected county official not
34 less than sixty (60) calendar days nor more than eighty (80) calendar days
35 after the filing of the notice of intent to circulate a recall petition.

36 (d)(1) Within thirty (30) calendar days after the recall petition is

filed, the county clerk shall determine whether the petition is sufficient and, if sufficient, shall state the sufficiency in a certificate attached to the recall petition.

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

(e)(1) If the petition is found to be insufficient, the county clerk shall attach a certificate to the recall petition that states the reasons creating the insufficiency.

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

(3) Within fifteen (15) calendar days after filing the amended recall petition, the county clerk shall examine the recall petition again to determine whether it is sufficient and shall attach a certificate stating his or her findings regarding sufficiency.

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

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

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

Recall petitions for elected official other than a statewide officer or member of the General Assembly.

(a) The recall petition of an elected official other than an elected official who is elected statewide or a member of the General Assembly, including an elected county official, shall be in substantially the following

form:

"PETITION FOR RECALL

To the County Clerk of _____ County:

We, the undersigned legal voters of _____

(District)

respectfully order that _____

(Name of Elected Official or Elected

County Official)

be referred to the people of _____

(District or County)

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

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

"STATE OF ARKANSAS)

COUNTY)

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

Signature _____

Address _____

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

Signature _____

Notary Public

My Commission Expires: _____ "

(c) The forms provided in this section are not mandatory, and if substantially followed in any recall petition it shall be sufficient,

purposes of applicable laws on measures referred to voters.

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

SECTION 2. Section 19 of Article 7 of the Arkansas Constitution is amended to read as follows:

§ 19. Circuit clerks - Election - Term of office - Ex-officio duties - County clerks elected in certain counties.

The clerks of the circuit courts shall be elected by the qualified electors of the several counties for the term of ~~two~~ four (4) years, and shall be ex-officio clerks of the county and probate courts and recorder; provided, that ~~in any county having a population exceeding fifteen thousand inhabitants, as shown by the last Federal census, there shall be elected~~ may elect a county clerk, in like manner as the clerk of the circuit court, for the term of four (4) years, and in such case the county clerk shall be ex-officio clerk of the probate court of such county until otherwise provided by the General Assembly.

SECTION 3. Section 29 of Article 7 of the Arkansas Constitution is amended to read as follows:

§ 29. County judge - Election - Term - Qualifications.

The Judge of the County Court shall be elected by the qualified electors of the county for the term of ~~two~~ four (4) years. He or she shall be at least twenty-five (25) years of age, a citizen of the United States, a ~~man~~ person of upright character, of good business education, and a resident of the State for two (2) years before his or her election; and a resident of the county at the time of his or her election, and during his or her continuance in office.

SECTION 4. Section 38 of Article 7 of the Arkansas Constitution is repealed.

~~§ 38. Justices of the peace Election Term Oath.~~

~~The qualified electors of each township shall elect the Justices of the Peace for the term of two years; who shall be commissioned by the Governor, and their official oath shall be indorsed on the commission."~~

SECTION 5. Section 41 of Article 7 of the Arkansas Constitution is repealed.

~~§ 41. Qualifications of justice of peace.~~

~~A Justice of the Peace shall be a qualified elector and a resident of the township for which he is elected.~~

SECTION 6. Section 46 of Article 7 of the Arkansas Constitution is amended to read as follows:

§ 46. County executive officers - Compensation of county assessor. The qualified electors of each county shall elect one (1) Sheriff, who shall be ex-officio collector of taxes, unless otherwise provided by law; one (1) Assessor, one (1) Coroner, one (1) Treasurer, who shall be ex-officio treasurer of the common school fund of the county, and one (1) County Surveyor; for the term of ~~two~~ four (4) years, with such duties as are now or may be prescribed by law: Provided, that no per centum shall ever be paid to assessors upon the valuation or assessment of property by them.

SECTION 7. Amendment 41 of the Arkansas Constitution is amended to read as follows:

Election of county clerk.

The provisions for the election of a County Clerk upon a population basis are hereby abolished and there may be elected a County Clerk in like manner as a Circuit Clerk, for the term of four (4) years, and in such cases, the County Clerk may be ex officio Clerk of the Probate Court of such county until otherwise provided by the General Assembly.

SECTION 8. Section 2 of Amendment 55 of the Arkansas Constitution is amended to read as follows:

§ 2. Composition of quorum court - Power over elective offices.

(a)(1) No county's Quorum Court shall be comprised of fewer than nine (9) justices of the peace, nor comprised of more than fifteen (15) justices

of the peace.

(2) A justice of the peace shall be elected for a term of four (4) years, except that the term prior to an apportionment shall be a two-year term.

(3) A justice of the peace shall be a qualified elector and a resident of the district for which he or she is elected.

(4) A justice of the peace shall be commissioned by the Governor, and his or her official oath shall be indorsed on the commission.

(5) The number of justices of the peace that comprise a county's Quorum Court shall be determined by law.

(6) The county's Election Commission shall, after each decennial census, divide the county into convenient and single member districts so that the Quorum Court shall be based upon the inhabitants of the county with each member representing, as nearly as practicable, an equal number thereof.

(b) The Quorum Court may create, consolidate, separate, revise, or abandon any elective county office or offices except during the term thereof; provided, however, that a majority of those voting on the question at a general election have approved said action.

SECTION 9. Section 2 of Amendment 73 of the Constitution of the State of Arkansas is amended to read as follows:

§ 2. Legislative Branch.

(a)(1) The Arkansas House of Representatives shall consist of members to be chosen every second year by the qualified electors of the several counties.

(2) No member of the Arkansas House of Representatives may serve more than ~~three~~ six (6) such ~~two-year~~ two-year terms.

(3) For purposes of this section, terms served in the House of Representatives prior to January 1, 1993, the effective date of Amendment 73, shall not be counted in calculating the number of terms served.

(b)(1) The Arkansas Senate shall consist of members to be chosen every four (4) years by the qualified electors of the several districts.

(2) No member of the Arkansas Senate may serve more than ~~two~~ three (3) such four year terms.

(3) For purposes of this section, terms served in the Arkansas Senate prior to January 1, 1993, the effective date of Amendment 73, shall

not be counted in calculating the number of terms served.

SECTION 10. Subdivision (A) of Section 16 of Amendment 80 to the Arkansas Constitution, concerning Justices of the Supreme Court and Judges of the Court of Appeals, is amended to read as follows:

(A) Justices of the Supreme Court and Judges of the Court of Appeals shall have been licensed attorneys of this state for at least eight (8) years immediately preceding the date of assuming office. They shall serve eight-year terms. They shall serve no more than two (2) terms.

SECTION 11. This amendment becomes effective on January 1, 2009.