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4

A Bill

SENATE BILL 1118

5 By: Senator K. Ingram
6

For An Act To Be Entitled

8 AN ACT TO AMEND AND CREATE SECTIONS RELATING TO
9 INITIATED ACT NO. 1 OF 1942 CONCERNING LOCAL OPTION
10 ELECTION PETITION PROCEDURES; TO ENACT A LOCAL OPTION
11 ELECTION PETITION FRAUD OFFENSE; AND FOR OTHER
12 PURPOSES.
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Subtitle

15 TO AMEND AND CREATE SECTIONS RELATING TO
16 INITIATED ACT NO. 1 OF 1942 CONCERNING
17 LOCAL OPTION ELECTION PETITION
18 PROCEDURES; AND TO ENACT A LOCAL OPTION
19 ELECTION PETITION FRAUD OFFENSE.
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23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
24

25 SECTION 1. Arkansas Code § 3-8-204 is amended to read as follows:
26 3-8-204. Petition procedure.

27 (a) Every petition for a local option election shall be prepared in
28 accordance with Initiated Act No. 1 of 1942, §§ 3-8-201 – 3-8-203 and 3-8-205
29 – 3-8-209, and it shall be filed and the subsequent proceedings thereupon
30 shall be had and conducted in the manner provided for county initiated
31 measures by Arkansas Constitution, Amendment 7, and enabling acts pertaining
32 thereto.

33 (b) Every petition for a local option election under Initiated Act No.
34 1 of 1942, §§ 3-8-201 - 3-8-203 and 3-8-205 - 3-8-209, shall be prepared
35 substantially in the form provided for initiative petitions in § 7-9-104,
36 except that the petitions shall be directed to the county clerk instead of to



1 the Secretary of State.

2 (c) All petitions shall have attached thereto the form of verification
3 and shall be signed by the person circulating the petitions in the same form
4 or manner as is provided in § 7-9-109.

5 (d) In all other respects, the petitions shall be circulated and
6 sufficiency thereof shall be determined, and may be reviewed in the same
7 manner and procedure, insofar as are applicable thereto, as provided in Acts
8 1935, No. 4 [repealed], for initiated county measures.

9 (e) Any person who is a qualified elector of the State of Arkansas and
10 who is a resident and registered voter of the county, municipality, ward,
11 precinct, or other defined area in which a local option election is being
12 requested by petitions under Initiated Act No. 1 of 1942, §§ 3-8-201 – 3-8-
13 203 and 3-8-205 – 3-8-209, may sign the local option petition in his or her
14 own proper handwriting and not otherwise.

15 ~~(f) A person shall be guilty of a Class A misdemeanor if that person:~~

16 ~~(1) Signs any name other than his or her own to any petition;~~

17 ~~(2) Knowingly signs his or her name more than once to any~~

18 ~~petition;~~

19 ~~(3) Knowingly signs a petition when he or she is not legally~~
20 ~~entitled to sign a petition;~~

21 ~~(4) Knowingly and falsely misrepresents the purpose and effect~~
22 ~~of the petition for the purpose of causing anyone to sign the petition.~~

23 ~~(5) Acting in the capacity of canvasser, knowingly makes a false~~
24 ~~statement on a petition verification form; or~~

25 ~~(6) Acting in the capacity of a notary, knowingly fails to~~
26 ~~witness a canvasser's affidavit either by witnessing the signing of the~~
27 ~~instrument and personally knowing the signer or being presented with proof of~~
28 ~~identity of the signer.~~

29 ~~(g)(1)(f)(1)~~ The provisions of this section are intended to be
30 supplemental to Initiated Act No. 1 of 1942, §§ 3-8-201 – 3-8-203 and 3-8-205
31 – 3-8-209, and to establish reasonable and necessary provisions for providing
32 safeguards in the form of petitions and the circulation thereof and to
33 prohibit unauthorized persons from signing the petitions.

34 (2) Therefore, the provisions of this section shall be deemed to
35 repeal only such parts of the Initiated Act No. 1 of 1942, §§ 3-8-201 - 3-8-
36 203 and 3-8-205 - 3-8-209 as may be specifically inconsistent herewith.

1
2 SECTION 2. Arkansas Code Title 3, Chapter 8, is amended to add an
3 additional subchapter to read as follows:

4 Subchapter 6 – Disclosure Act for Initiative Proceedings

5
6 3-8-601. Title.

7 This subchapter shall be known and may be cited as the “Disclosure Act
8 for Initiative Proceedings”.

9
10 3-8-602. Definitions.

11 As used in this subchapter:

12 (1)(A) “Contribution” means, whether direct or indirect,
13 advances, deposits, transfers of funds, contracts, or obligations, whether or
14 not legally enforceable, payments, gifts, subscriptions, assessments,
15 payments for services, dues, advancements, forbearance, loans, pledges, or
16 promises of money or anything of value, whether or not legally enforceable,
17 to a person for the purpose of expressly advocating the qualification,
18 disqualification, passage, or defeat of a local-option ballot question.

19 (B) “Contribution” includes the purchase of tickets for
20 events such as dinners, luncheons, rallies, and similar fundraising events
21 and the granting of discounts or rebates by television and radio stations and
22 newspapers not extended on an equal basis to all persons for the purpose of
23 expressly advocating the qualification, disqualification, passage, or defeat
24 of a local-option ballot question.

25 (C) “Contribution” does not include:

26 (i) Noncompensated, nonreimbursed volunteer personal
27 services or travel;

28 (ii) Activities designed solely to encourage
29 individuals to vote or to register to vote; or

30 (iii) Any communication by a bona fide church or
31 religious denomination to its own members or adherents for the sole purpose
32 of protecting the right to practice the religious tenets of the church or
33 religious denomination;

34 (2) “Disqualification of a local-option ballot question” means
35 any action or process, legal or otherwise, that seeks to prevent a local-
36 option ballot question from being on the ballot at an election;

1 (3)(A) "Expenditure" means a purchase, payment, distribution,
2 gift, loan, or advance of money or anything of value, and a contract,
3 promise, or agreement to make an expenditure for goods, services, materials,
4 or facilities for the purpose of expressly advocating the qualification,
5 disqualification, passage, or defeat of a local-option ballot question.

6 (B) "Expenditure" does not include an expenditure made for
7 communication by a person strictly with the person's paid members or
8 shareholders;

9 (4) "Local-option ballot question" means a question in the form
10 of a local-option initiative that is submitted or intended to be submitted to
11 a popular vote at an election, whether or not it qualifies for the ballot;

12 (5)(A) "Local-option ballot question committee" means any
13 person, located within or outside Arkansas, that receives contributions for
14 the purpose of expressly advocating the qualification, disqualification,
15 passage, or defeat of a local-option ballot question or any person, other
16 than a public servant, a governmental body expending public funds, or an
17 individual, located within or outside Arkansas, that makes expenditures for
18 the purpose of expressly advocating the qualification, disqualification,
19 passage, or defeat of a local-option ballot question.

20 (B) A person other than an individual or an approved
21 political action committee as defined in § 7-6-201, located within or outside
22 Arkansas, also qualifies as a local-option ballot question committee if two
23 percent (2%) or more of the committee's annual revenues, operating expenses,
24 or funds are used to make a contribution or contributions to another ballot
25 question committee and if the contribution or contributions exceed ten
26 thousand dollars (\$10,000) in value;

27 (6)(A) "Person" means any individual, business, proprietorship,
28 firm, partnership, joint venture, syndicate, business trust, labor
29 organization, company, corporation, association, committee, or any other
30 organization or group of persons acting in concert.

31 (B) "Person" includes a public servant or governmental
32 body using public funds to expressly advocate the qualification,
33 disqualification, passage, or defeat of a local-option ballot question; and

34 (7) "Qualification of a local-option ballot question" means any
35 action or process, legal or otherwise, through which a local-option ballot
36 question obtains certification to be on the ballot at an election.

1
2 3-8-603. Filing deadlines.

3 (a)(1)(A) A local-option ballot question committee shall file a Ballot
4 Question Committee Statement of Organization with the Arkansas Ethics
5 Commission within five (5) days of receiving contributions or making
6 expenditures in excess of five hundred dollars (\$500) for the purpose of
7 expressly advocating the qualification, passage, or defeat of a local-option
8 ballot question.

9 (B) The commission shall maintain the statement of
10 organization until notified of the committee's dissolution.

11 (2) A local-option ballot question committee failing to file a
12 statement of organization required by this section shall be subject to a late
13 filing fee not to exceed fifty dollars (\$50.00) for each day the statement
14 remains not filed.

15 (b) The statement of organization shall include the information
16 required by the statement of organization form prescribed by the director of
17 the commission, and any further information the director may by regulation
18 require.

19 (c) Rules regarding dissolution shall be governed by the rule of the
20 commission.

21
22 3-8-604. Contributions and expenditures limited.

23 (a) No local-option ballot question committee shall accept any
24 contribution in cash, meaning currency or coin, that exceeds one hundred
25 dollars (\$100).

26 (b) No local-option ballot question committee shall accept any
27 contribution from a prohibited political action committee as defined in § 7-
28 6-201.

29 (c) No local-option ballot question committee or individual shall make
30 an expenditure in cash that exceeds fifty dollars (\$50.00) to influence the
31 qualification, disqualification, passage, or defeat of a local-option ballot
32 question.

33 (d) No contributions shall be made, directly or indirectly, by any
34 person in a name other than the name by which the person is identified for
35 legal purposes.

36 (e)(1) No person shall make an anonymous contribution totaling fifty

1 dollars (\$50.00) or more to a local-option ballot question committee.

2 (2) Any anonymous contribution actually received by a local-
3 option ballot question committee shall be promptly paid by the recipient to
4 the Secretary of State for deposit into the State Treasury as general
5 revenues.

6
7 3-8-605. Financial reports – Requirement.

8 (a) A local-option ballot question committee that either receives
9 contributions or makes expenditures in excess of five hundred dollars (\$500)
10 for the purpose of expressly advocating the qualification, disqualification,
11 passage, or defeat of a local-option ballot question shall file with the
12 Arkansas Ethics Commission a Ballot Question Committee Financial Report as
13 required by §§ 7-9-407 – 7-9-409.

14 (b) A public servant or governmental body expending public funds in
15 excess of five hundred dollars (\$500) for the purpose of expressly advocating
16 the qualification, disqualification, passage, or defeat of a local-option
17 ballot question shall file with the commission financial reports as required
18 by §§ 7-9-407 – 7-9-409.

19 (c) Except as provided in subsection (f) of this section, a report
20 required by this subchapter shall be deemed timely filed if it is:

21 (1) Hand-delivered to the commission on or before the date due;

22 (2) Mailed to the commission, properly addressed, postage
23 prepaid, bearing a postmark indicating that it was received by the post
24 office or common carrier on or before the date due;

25 (3) Received via facsimile by the commission on or before the
26 date due, provided that the original is received by the commission within ten
27 (10) days of the transmission; or

28 (4) Received by the commission in a readable electronic format
29 that is approved by the commission.

30 (d) Whenever a report under this subchapter becomes due on a day that
31 is a Saturday, Sunday, or legal holiday, the report shall be due the next day
32 that is not a Saturday, Sunday, or legal holiday.

33 (e) A preelection report is timely filed if it is received by the
34 commission no later than seven (7) days prior to the election for which it is
35 filed.

36

1 3-8-606. Financial report – Information.

2 In addition to the information required under § 7-9-407 – 7-9-409, a
3 financial report of a local-option ballot question committee shall contain
4 the following information:

5 (1) The name, address, and telephone number of the committee
6 filing the report;

7 (2) For a local-option ballot question committee:

8 (A) The total amount of contributions received during the
9 period covered by the financial report;

10 (B) The total amount of expenditures made during the
11 period covered by the financial report;

12 (C) The cumulative amount of contributions and
13 expenditures reported under subdivision (2)(A) of this section for each
14 local-option ballot question committee;

15 (D) The balance of cash and cash equivalents on hand at
16 the beginning and the end of the period covered by the financial report;

17 (E) The total amount of contributions received during the
18 period covered by the financial report from persons who contributed less than
19 fifty dollars (\$50.00) and the cumulative amount of that total for each
20 local-option ballot question committee;

21 (F) The total amount of contributions received during the
22 period covered by the financial report from persons who contributed fifty
23 dollars (\$50.00) or more and the cumulative amount of that total for each
24 local-option ballot question committee;

25 (G) The name and street address of each person who
26 contributed fifty dollars (\$50.00) or more during the period covered by the
27 financial report, together with the amount contributed, the date of receipt,
28 and the cumulative amount contributed by that person for each local-option
29 ballot question committee;

30 (H) For each person listed under subdivision (2)(A) of
31 this section, the contributor's principal place of business, employer,
32 occupation, the amount contributed, the date the contribution was accepted by
33 the local-option ballot question committee, and the cumulative amount
34 contributed for each local-option ballot question;

35 (I) The name and address of each person who contributed a
36 nonmoney item, together with a description of the item, the date of receipt,

1 and the value, not including volunteer service by individuals;

2 (J) A list of all paid canvassers, officers, and directors
3 and the amount each person was paid;

4 (K) A list of all expenditures by category, including
5 without limitation the following:

6 (i) Advertising;

7 (ii) Direct mail;

8 (iii) Office supplies;

9 (iv) Travel;

10 (v) Expenses; and

11 (vi) Telephone; and

12 (L) The total amount of nonitemized expenditures made
13 during the period covered by the financial report; and

14 (3) The name and street address of each person to whom
15 reimbursement for expenditures totaling one hundred dollars (\$100) or more
16 was made, together with the date and amount of each separate reimbursement to
17 each person during the period covered by the financial report and the purpose
18 of each expenditure.

19
20 3-8-607. Financial reports – Verification.

21 The financial reports identified in § 3-8-606 shall be verified by
22 affidavit by the person filing them to the effect that to the best of his or
23 her knowledge and belief the information disclosed is a complete, true, and
24 accurate financial statement of contributions or expenditures.

25
26 3-8-608. Financial reports – Time to file – Late fee.

27 (a)(1) The first financial reports shall be filed no later than
28 fifteen (15) days following the month in which the threshold of five hundred
29 dollars (\$500) under § 3-8-606 is met and thereafter no later than fifteen
30 (15) days after the end of each month until the election is held. However,
31 for any month in which certain days of that month are included in a
32 preelection financial report required under subdivision (a)(2) of this
33 section, no monthly report for that month shall be due, but those days of
34 that month shall be carried forward and included in the final financial
35 report.

36 (2) Additionally, a preelection financial report shall be filed

1 no less than seven (7) days prior to any election on the ballot question or
2 legislative question, such statement to have a closing date of ten (10) days
3 prior to the election.

4 (3) Furthermore, a final financial report shall be filed no
5 later than thirty (30) days after the election.

6 (b) A local-option ballot question committee or individual person who
7 files a late financial report shall be subject to a late filing fee not to
8 exceed fifty dollars (\$50.00) for each day the report remains unfiled.

9
10 3-8-609. Public inspection – Record retention.

11 (a) All statements of organization and financial reports required by
12 this subchapter shall be open to public inspection at the office of the
13 Arkansas Ethics Commission during regular office hours.

14 (b) All records supporting the reports filed under this subchapter
15 shall be:

16 (1) Made available to the commission; and

17 (2) Retained by the filer for a period of four (4) years after
18 the date of filing the report.

19
20 3-8-610. Enforcement.

21 The Arkansas Ethics Commission shall have the same power and authority
22 to enforce the provisions of this subchapter as are provided the commission
23 under §§ 7-6-217 and 7-6-218 for the enforcement of campaign finance laws.

24
25 3-8-611. Reporting the use of state funds to oppose or support a
26 ballot measure.

27 Any funds appropriated to any state agency, board, or commission that
28 are expended, as prescribed in § 7-9-413, for the purpose of opposing or
29 supporting a local-option ballot question that is submitted or intended to be
30 submitted to a popular vote at an election, whether or not it qualifies for
31 the ballot, shall be reported to the Legislative Council if the amount
32 exceeds one hundred dollars (\$100).

33
34 3-8-612. Use of state funds to oppose or support a local-option ballot
35 measure.

36 The use of state funds under this subchapter includes expenditures for:

1 (1) Newspaper, television, radio, and other forms of
 2 communication;

3 (2) Publication materials;

4 (3) Travel expenses relative to reimbursement;

5 (4) Surveys;

6 (5) Private contracts; and

7 (6) Postage.

8
 9 3-8-613. Applicability of §§ 3-8-611 and 3-8-612.

10 This act does not apply to state funds appropriated to any elected
 11 officials.

12
 13 3-8-614. Scope.

14 Nothing in this subchapter may limit, waive, or abrogate the scope of
 15 any statutory or common law privilege, including, but not limited to, the
 16 work product doctrine and the attorney-client privilege.

17
 18 3-8-615. Penalty.

19 Upon conviction, any person who knowingly fails to comply with this
 20 subchapter shall be fined an amount not to exceed one thousand dollars
 21 (\$1,000) or be imprisoned for not more than one (1) year, or both.

22
 23 SECTION 3. Arkansas Code Title 5, Chapter 55, is amended to create a
 24 new subchapter to read as follows:

25 Subchapter 6 – Election, Petition, and Ballot Fraud

26
 27 5-55-601. Petition fraud – Local-option election.

28 (a) As used in this section, "petition" means a petition under § 3-8-
 29 201 et seq.

30 (b) A person commits the offense of petition fraud if the person
 31 knowingly:

32 (1) Signs a name other than his or her name to a petition;

33 (2) Signs his or her name more than one (1) time to a petition;

34 (3) Signs a petition when he or she is not legally entitled to
 35 sign the petition;

36 (4) Misrepresents the purpose and effect of a petition for the

1 purpose of causing a person to sign the petition;

2 (5) Makes a false statement on a petition verification form
3 while acting in the capacity of a canvasser;

4 (6) Acknowledges as a notary public a canvasser's affidavit
5 related to a petition without:

6 (A) Personally witnessing the signing of the affidavit by
7 the canvasser; or

8 (B) Personally knowing the signer of the affidavit or if
9 not personally known, obtaining proof of the identity of the signer; or

10 (7) Pays another person any form of compensation in exchange for
11 signing a petition.

12 (c) Petition fraud is a Class D felony.

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