

1 State of Arkansas
2 91st General Assembly
3 Regular Session, 2017
4

A Bill

HOUSE BILL 2074

5 By: Representative Leding
6

For An Act To Be Entitled

8 AN ACT TO AMEND PROVISIONS CONCERNING INITIATIVES AND
9 REFERENDA; AND FOR OTHER PURPOSES.
10

Subtitle

11
12 TO AMEND PROVISIONS CONCERNING
13 INITIATIVES AND REFERENDA.
14
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16
17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
18

19 SECTION 1. Arkansas Code § 7-9-101, concerning definitions, is amended
20 to add an additional subdivision to read as follows:

21 (11) "Canvassing company" means a company hired to provide paid
22 canvassers for the purpose of gathering signatures for a petition.
23

24 SECTION 2. Arkansas Code § 7-9-103(a), concerning signing of the
25 petition is amended to read as follows:

26 (a)(1)(A) A person who is a registered voter of this state may sign
27 his or her own name and print his or her own name, ~~address~~, birth date, and
28 the date of signing on an initiative or referendum petition in his or her own
29 proper handwriting, and not otherwise, to order an initiative or referendum
30 vote upon a proposed amendment or a proposed or referred act.

31 (B) If a person signing a petition under subdivision
32 (a)(1)(A) of this section requires assistance due to disability, another
33 person:

34 (i) May print the name, ~~address~~, birth date, and the
35 date of signing; and

36 (ii) Shall sign and print his or her name in the



1 margin of the petition.

2 (2)(A) A person who is a registered voter of a municipality or
 3 county of this state may sign his or her own name and print his or her own
 4 name, ~~address~~, birth date, and the date of signing on an initiative or
 5 referendum petition in his or her own proper handwriting, and not otherwise,
 6 to order an initiative or referendum vote upon a proposed or referred
 7 ordinance.

8 (B) If a person signing a petition under subdivision
 9 (a)(2)(A) of this section requires assistance due to disability, another
 10 person:

11 (i) May print the name, ~~address~~, birth date, and the
 12 date of signing; and

13 (ii) Shall sign and print his or her name in the
 14 margin of the petition.

15 (3) A person who is under eighteen (18) years of age shall not
 16 act as a canvasser.

17 (4) A person shall not act as a paid canvasser on a statewide
 18 initiative or referendum petition if the sponsor has not provided the
 19 information required under § 7-9-601 to the Secretary of State before the
 20 person solicits signatures on a petition.

21 (5) A signature under subdivision (a)(1) of this section or
 22 subdivision (a)(2) of this section shall not be struck if it is incomplete.

23
 24 SECTION 3. Arkansas Code § 7-9-107, concerning approval of ballot
 25 titles and popular names of petitions prior to circulation, is amended to add
 26 an additional subsection to read as follows:

27 (e) A challenge to the ballot title shall be made no later than thirty
 28 (30) days after approval of the ballot title by the Attorney General.

29
 30 SECTION 4. Arkansas Code § 7-9-109(c)(1), concerning form of
 31 verification, is amended to read as follows:

32 (c)(1) Petitions shall not be disqualified due to clerical or
 33 technical errors made by a petitioner, canvasser, clerk, notary, judge, or
 34 justice of the peace when verifying the canvasser's signature.

35
 36 SECTION 5. Arkansas Code § 7-9-111(b), concerning determination of

1 sufficiency of petition, is repealed.

2 ~~(b) In considering the sufficiency of initiative and referendum~~
 3 ~~petitions, if it is made to appear beyond a reasonable doubt that twenty~~
 4 ~~percent (20%) or more of the signatures on any one (1) part thereof are~~
 5 ~~fictitious, forged, or otherwise clouded or that the challenged petitioners~~
 6 ~~were ineligible to sign the petition, which fact was known or could have been~~
 7 ~~ascertained by the exercise of reasonable diligence on the part of the~~
 8 ~~canvasser, then the Secretary of State shall require the sponsors to assume~~
 9 ~~the burden of proving that all other signatures appearing on the part are~~
 10 ~~genuine and that the signers are qualified electors and are in all other~~
 11 ~~respects entitled to sign the petition. If the sponsors refuse or fail to~~
 12 ~~assume and meet the burden, then the Secretary of State shall reject the part~~
 13 ~~and shall not count as petitioners any of the names appearing thereon.~~

14
 15 SECTION 6. Arkansas Code § 7-9-113(c), concerning publication of
 16 notice, is amended to read as follows:

17 (c) ~~At least one (1) notice~~ Notice shall contain the number, the
 18 popular name, the ballot title, and a ~~complete text of the measure~~ link to
 19 the Secretary of State's website providing a complete copy of the measure to
 20 be submitted and shall be published in a camera-ready format in a type no
 21 smaller than ten-point type.

22
 23 SECTION 7. Arkansas Code § 7-9-117(c)(2)(B), concerning ballot form,
 24 is amended to read as follows:

25 (B) ~~Initiated constitutional amendments, if any~~ Amendments
 26 of initiated acts in order of certification date;

27
 28 SECTION 8. Arkansas Code § 7-9-121(b), concerning contest of returns
 29 and certification, is amended to read as follows:

30 (b)(1) Any contest may be brought in the Pulaski County Circuit Court
 31 and shall be conducted under any ~~rules and regulations~~ rule as may be made
 32 and promulgated by the Supreme Court.

33 (2) However, the complaint shall be filed within ~~sixty (60)~~
 34 thirty (30) days after the certification of the vote thereon, and the
 35 contestants shall not be required to make bond for the costs.

36

1 SECTION 9. Arkansas Code § 7-9-126(b), concerning count of signatures,
2 is amended to read as follows:

3 (b) A petition part and all signatures appearing on the petition part
4 shall not be counted for any purpose by the official charged with verifying
5 the signatures, including the initial count of signatures, if one (1) or more
6 of the following is true:

7 (1) The petition is not an original petition, including without
8 limitation a petition that is photocopied or is a facsimile transmission;

9 (2) The petition lacks the signature, printed name, and
10 residence address of the canvasser or is signed by more than one (1)
11 canvasser;

12 (3)(A) The canvasser is a paid canvasser whose name and the
13 information required under § 7-9-601 were not submitted by the sponsor to the
14 Secretary of State ~~before the petitioner signed the petition~~ when the sponsor
15 submitted the signatures.

16 (B) A canvasser is a paid canvasser if he or she is paid
17 money or anything of value for soliciting signatures before or after the
18 signatures are obtained;

19 (4)(A) The canvasser verification is not notarized, is notarized
20 by more than one (1) notary, or lacks a notary signature or a notary seal.

21 (B) If the notary in subdivision (b)(4)(A) of this section
22 is not in good standing or the notarization is illegible, a correction page
23 shall be attached to the original petition and the canvasser shall have the
24 signatures notarized by another notary;

25 (5) The canvasser verification is dated earlier than the date on
26 which a petitioner signed the petition, unless the signature date was clearly
27 an error made by the petitioner;

28 (6) The petition fails to comply with § 7-9-104 or § 7-9-105,
29 including the lack of the exact popular name or ballot title approved by the
30 Attorney General for a statewide initiative, a discrepancy in the text of the
31 initiated or referred measure, or the lack of an enacting clause in a
32 statewide petition for an initiated act; or

33 (7) The petition part has a material defect that, on its face,
34 renders the petition part invalid.

35
36 SECTION 10. Arkansas Code § 7-9-404(a)(1)(A), concerning filing

1 deadlines, is amended to read as follows:

2 (a)(1)(A) A ballot question committee or a legislative question
3 committee, including a hired canvassing company, shall file a statement of
4 organization with the Arkansas Ethics Commission within five (5) days of
5 receiving contributions or making expenditures in excess of five hundred
6 dollars (\$500) for the purpose of expressly advocating the qualification,
7 passage, or defeat of a ballot question or the passage or defeat of a
8 legislative question.

9

10 SECTION 11. Arkansas Code § 7-9-601(a) and (b), concerning hiring and
11 training of paid canvassers, are amended to read as follows:

12 (a)(1) A person shall not provide money or anything of value to
13 another person for obtaining signatures on a statewide initiative or
14 referendum petition unless the person receiving the money or item of value
15 meets the requirements of this section.

16 (2) Before a signature is solicited by a paid canvasser, the
17 sponsor shall:

18 (A) Provide the paid canvasser with a copy of the most
19 recent edition of the Secretary of State's initiatives and referenda
20 handbook; and

21 (B) Explain the Arkansas law applicable to obtaining
22 signatures on an initiative or referendum petition to the canvasser; and.

23 ~~(C)(i) Provide a complete list of all paid canvassers' names and current residential addresses to the Secretary of State.~~

24 ~~(ii) If additional paid canvassers agree to solicit signatures on behalf of a sponsor after the complete list is provided, the sponsor shall provide an updated list of all paid canvassers' names and current residential addresses to the Secretary of State.~~

25 (b)(1) To verify that there are no criminal offenses on ~~record~~ the
26 record of a canvasser, a sponsor shall obtain, at its cost, from ~~the~~
27 Department of Arkansas State Police an authorized entity, a current state and
28 federal criminal record search on every paid canvasser to be registered with
29 the Secretary of State.

30 (2) The criminal record search shall be obtained within thirty
31 (30) days ~~prior to the registration of the paid canvasser~~ of the date that
32 the paid canvasser began gathering signatures.

1 (3) Upon submission of its list of paid canvassers to the
 2 Secretary of State, the sponsor shall certify to the Secretary of State that
 3 each paid canvasser in its employ has passed a criminal background search in
 4 accordance with this section.

5 (4) A willful violation of this section by a sponsor or paid
 6 canvasser constitutes a Class A misdemeanor.

7 (5) Signatures incorrectly obtained or submitted under this
 8 section shall not be counted by the Secretary of State.

9
 10 SECTION 12. Arkansas Code § 7-9-601(d), concerning hiring and training
 11 of paid canvassers, is amended to add an additional subdivision to read as
 12 follows:

13 (6) A canvassing company hired for the purpose of providing
 14 canvassers shall provide state and federal background checks on any and all
 15 owners and employees providing services and shall provide a bond of one
 16 hundred thousand dollars (\$100,000) to protect against any legal actions
 17 taken against the signatures.