

Stricken language would be deleted from and underlined language would be added to present law.
Act 1251 of the Regular Session

State of Arkansas
90th General Assembly
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As Engrossed: H3/20/15 S3/31/15
A Bill

HOUSE BILL 1790

By: Representatives Vines, Broadaway

By: Senator K. Ingram

For An Act To Be Entitled

AN ACT TO CLARIFY THE LAW CONCERNING THE PETITION
PROCEDURE FOR PETITIONS FOR A LOCAL OPTION ELECTION;
TO AMEND THE LAW CONCERNING LOCAL OPTION ELECTIONS;
TO MAKE TECHNICAL CORRECTIONS TO THE LAW; AMENDING
PORTIONS OF THE LAW RESULTING FROM INITIATED ACT 1 OF
1942; AND FOR OTHER PURPOSES.

Subtitle

TO CLARIFY THE LAW CONCERNING THE
PETITION PROCEDURE FOR PETITIONS FOR A
LOCAL OPTION ELECTION; AND AMENDING
PORTIONS OF THE LAW RESULTING FROM
INITIATED ACT 1 OF 1942.

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

SECTION 1. Arkansas Code § 3-8-205 is amended to read as follows:

3-8-205. Determination of sufficiency of petition – Calling of
election.

~~(a)(1) When thirty eight percent (38%) of the qualified electors shall
file petitions with the county clerk of any county within this state praying
that an election be held in a designated county, township, municipality,
ward, or precinct to determine whether or not licenses shall be granted for
the manufacture or sale or the bartering, loaning, or giving away of
intoxicating liquor within the designated territory, the county clerk within
ten (10) days thereafter shall determine the sufficiency of the petition.~~



~~(2) The total number of voters registered as certified by the county clerk to the Secretary of State by the first of June of each year pursuant to Arkansas Constitution, Amendment 51, shall be the basis upon which the number of signatures of qualified electors on petitions shall be computed.~~

~~(3) A person shall be a registered voter at the time of signing the petition.~~

~~(b) If it is found that thirty eight percent (38%) of the qualified electors have signed the petition~~

(a) If the petition is determined to be sufficient under § 3-8-801 et seq., the county clerk shall certify that finding to the county board of election commissioners, and the question shall be placed on the ballot in the county, township, municipality, ward, or precinct at the next biennial general election as provided in § 3-8-101.

~~(e)(1)(b)(1)~~ If an appeal is taken from the certification of the county clerk, it shall be taken within ten (10) days and shall be considered by the circuit court within ten (10) days, or as soon as practicable, after the appeal is lodged with the court.

(2) The circuit court shall render its decision within thirty (30) days thereafter.

~~(d)(c)~~ If an appeal is taken, the election shall be had no sooner than sixty-five (65) days after the appeal is determined, if the decision is in favor of the petitioners.

~~(e)(1)(A)(d)(1)(A)~~ The decision shall be certified immediately to the county board of election commissioners, and the day for the election shall be fixed by the county board of election commissioners for not earlier than sixty-five (65) days nor later than ninety (90) days after the certification of the decision of the circuit court.

(B) Any appeal from the final decision of the circuit court shall be taken within ten (10) days and shall be advanced and immediately determined by the Supreme Court.

(2) In that event, the county board of election commissioners may, in its discretion, delay the election until after the final decision of the Supreme Court.

(3) If the decision is in favor of the petitioners, then the county board of election commissioners shall set the day for the election,

which shall be not earlier than sixty-five (65) days nor later than ninety (90) days after the final decision of the Supreme Court.

~~(f)~~-(e) Except as provided in this section, a petition for local option election shall be governed by § 7-9-101 et seq. and the Disclosure Act for *Initiative Proceedings*, § 3-8-701 et seq.

SECTION 2. Arkansas Code, Title 3, Chapter 8, the title of Subchapter 8 is amended to read as follows:

Subchapter 8 – ~~Paid Canvassers~~ Petition for Local Option Election

SECTION 3. Arkansas Code § 3-8-801 is amended to read as follows:
3-8-801. Definitions.

As used in this subchapter:

(1) “Canvasser” means a person who circulates a local option election petition or a part or parts of a local option election petition to obtain the signatures of petitioners thereto;

(2) “Intoxicating liquor” means any beverage containing more than one-half of one percent (0.5%) of alcohol by weight.

~~(2)~~(3) “Paid canvasser” means a person who is paid or with whom there is an agreement to pay money or anything of value before or after a signature on a local option election petition is solicited in exchange for soliciting or obtaining a signature on a petition;

(4) “Petition part” means a petition signature sheet containing the information required under this subchapter;

~~(3)~~(5) “Petitioner” means a person who signs a petition requesting a local option election; ~~and~~

(6) “Registered voter” means a person who is registered at the time of signing the petition pursuant to Arkansas Constitution, Amendment 51; and

~~(4)~~(7) “Sponsor” means a person who arranges for the circulation of a local option election petition or who files a local option election petition with the official charged with verifying the signatures.

SECTION 4. Arkansas Code § 3-8-802 is amended to read as follows:
3-8-802. Hiring and training of paid canvassers.

(a)(1) A person shall not provide money or anything of value to another

person for obtaining signatures on a local option election petition unless the person receiving the money or item of value meets the requirements of this section.

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

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

~~(B)~~ Explain the Arkansas law applicable to obtaining signatures on a local option election petition to the canvasser; and

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

(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 county clerk*.

(b) Before obtaining a signature on a local option election petition as a paid canvasser, a person shall submit in person or by mail to the sponsor:

(1) The full name and any assumed name of the person;

(2) The current residence address of the person and the person's permanent domicile address if the person's permanent domicile address is different from the person's current residence address;

(3) A signed statement taken under oath or solemn affirmation that states that the person has not pleaded guilty or nolo contendere to or been found guilty of a criminal offense involving a violation of the election laws, fraud, forgery, or identification theft in any state;

(4) A signed statement that the person has read and understands the Arkansas law applicable to obtaining signatures on a local option election petition;

~~(5) A signed statement that the person has been provided a copy of the most recent edition of the Secretary of State's initiatives and referenda handbook by the sponsor; and~~

~~(6)~~(5) A photograph of the person taken within ninety (90) days of the submission of the information required under this section.

(c) A sponsor shall maintain the information required under this

section for each paid canvasser for three (3) years after the general election.

SECTION 5. Arkansas Code Title 3, Chapter 8, Subchapter 8, is amended to add additional sections to read as follows:

3-8-803. Petition to determine granting of licenses for the manufacture or sale or the bartering, loaning, or giving away of intoxicating liquor.

(a) An election to determine whether licenses will be granted for the manufacture or sale or the bartering, loaning, or giving away of intoxicating liquor shall be called by a petition signed by registered voters in the designated county, township, municipality, ward, or precinct in a number equal to thirty-eight percent (38%) of the registered voters.

(b) The petition shall be filed with the county clerk.

(c) The county clerk shall verify the signatures on the petition and determine the sufficiency of the petition no later than ten (10) days after the petition is submitted.

(d) The total number of voters registered as certified by the county clerk to the Secretary of State by the first of June of each year pursuant to Arkansas Constitution, Amendment 51, shall be the basis upon which the number of signatures of qualified electors on petitions shall be computed.

3-8-804. Duties of election officers – Penalty for failure to perform.

(a) The duties imposed by this subchapter upon members of the State Board of Election Commissioners, members of the county boards of election commissioners, election officials, and other officers expressly named in this act shall be performed:

(1) In good faith;

(2) Within the time provided by this subchapter; and

(3) In the manner provided by this subchapter.

(b) If a member of a board, an election official, or another officer charged with a duty under this subchapter knowingly fails to perform that duty, he or she shall be upon conviction:

(1) Fined not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000); and

(2) Removed from his or her office.

3-8-805. Signing of petition – Penalty for falsification – Notice of suspected forgery.

(a)(1) A person signing a petition under this subchapter shall:

(A) Be a registered voter; and

(B) Sign his or her own name and print his or her own name, address, birth date, and the date of signing on a petition in his or her own handwriting.

(2) If a person signing a petition under subdivision (a)(1) of this section requires assistance due to disability, another person:

(A) May print the name, address, birth date, and the date of signing; and

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

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

(b) A person commits a Class A misdemeanor if the person, acting as a canvasser, notary, sponsor, or agent of a sponsor knowingly:

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

(2) Prints a name, address, or birthdate other than his or her own on a petition unless the signer requires assistance due to disability and the person complies with this section;

(3) Solicits or obtains a signature to a petition knowing that the person signing is not qualified to sign the petition;

(4) Pays a person any form of compensation in exchange for signing a petition as a petitioner;

(5) Accepts or pays money or anything of value for obtaining signatures on a petition when the person acting as a canvasser, sponsor, or agent of a sponsor knows that the person acting as canvasser's name or address is not included on the sponsor's list filed with the *county clerk*; or

(6) As a sponsor, files a petition part with the official charged with verifying the signatures knowing that the petition part contains one (1) or more false or fraudulent signatures unless each false or fraudulent signature is clearly stricken by the sponsor before filing.

(c) When the official charged with verifying the signatures has reasonable grounds to believe that one (1) or more signatures on a petition

is forged, excluding signatures apparently signed by one (1) spouse for another, the official shall report the suspected forgery and basis for suspecting forgery to:

(1) The Department of Arkansas State Police, in the case of a statewide petition; or

(2) The prosecuting attorney of the county, in the case of a local petition.

3-8-806. Form of initiative petition – Sufficiency of signatures.

(a) The petition for an ordinance, act, or amendment proposed by initiative shall be on substantially the following form:

“PETITION FOR LOCAL OPTION ELECTION

To the Honorable _____,

County Clerk or City Clerk

We, the undersigned registered voters of the State of Arkansas, or _____ County, Arkansas, or City or Incorporated Town of _____, Arkansas, respectfully request that an election be held to determine whether licenses will be granted for the manufacture or sale or the bartering, loaning, or giving away of intoxicating liquor in the district described below, to the end that the same may be adopted, enacted, or rejected by the vote of the registered voters of said district. Each of us for himself or herself says:

I have personally signed this petition; I am a registered voter of _____ County, Arkansas, or City or Incorporated Town of _____, Arkansas, 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.

(Here insert a description of the district in which the election shall be held.)”

(b) The information on the petition provided by the person may be used as evidence of the validity or invalidity of the signature. However, if a signature of a registered voter on the petition is sufficient to verify the voter’s name, then it shall not be adjudged invalid for failure to sign the name or write the residence and city or town of residence exactly as it appears on voter registration records, for failure to print the name in the

space provided, for failure to provide the correct date of birth, nor for failure to provide the correct date of signing the petition, all the information being an aid to verification rather than a mandatory requirement to perfect the validity of the signature.

(c) No additional sheets of voter signatures shall be attached to any petition unless the sheets contain the full language of the petition.

(d)(1) The signature section of the petition shall be formatted and shall contain the number of signature lines prescribed by the county clerk.

(2) Before the circulation of a petition for signatures, the sponsor shall file a printed petition part with the county clerk in the exact form that will be used for obtaining signatures.

3-8-807. Procedure for circulation of petition.

(a)(1) Each petition under this subchapter for an election to be held in a district that includes more than one county shall be prepared and circulated in a petition part, and each petition part shall be an exact copy of all other such petition parts upon which signatures of petitioners are to be solicited.

(2) When a sufficient number of petition parts are signed by a requisite number of qualified electors and are filed and duly certified by the county clerk, they shall be treated and considered as one (1) petition.

(b) Each petition part shall have attached to it the affidavit of the canvasser stating that:

(1) The canvasser's current residence address appearing on the verification is correct;

(2) All signatures appearing on the petition part were made in the presence of the affiant; and

(3) To the best of the affiant's knowledge and belief each signature is genuine and each person signing is a registered voter.

(c) No petition part under this section shall contain signatures of petitioners from more than one (1) county.

3-8-808. Form of verification – Penalty for false statement.

(a) Each petition containing signatures shall be verified in substantially the following form by the canvasser's affidavit thereon as a part thereof:

“State of Arkansas County of _____

I, _____ (print name of canvasser) _____, being duly sworn, state that each of the foregoing persons signed his or her own name to this sheet of the petition in my presence. To the best of my knowledge and belief, each signature is genuine and each signer is a registered voter of _____ County, or City or Incorporated Town of _____. At all times during the circulation of this signature sheet, an exact copy of the popular name, ballot title, and text was attached to the signature sheet. My current residence address is correctly stated below.

Signature _____

Residence _____

Indicate one: _____ Paid Canvasser _____ Volunteer/Unpaid Canvasser

Subscribed and sworn to before me this _____ day of _____, 20__

Signature _____

Clerk, Notary, Judge, or Justice of the Peace

Seal _____ ”

(b)(1) If the form under this section is substantially followed in a petition it is sufficient

(2) The form shall not be held insufficient for clerical and merely technical errors.

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

(2) Petitions shall not be disqualified for failure of a clerk, notary, judge, or justice of the peace to sign exactly as his or her name appears on his or her seal if the signature of a clerk, notary, judge, or justice of the peace is sufficient to verify his or her name.

(d) A canvasser or paid canvasser who knowingly makes a false statement on a petition verification form required by this section shall be deemed guilty of a Class D felony.

3-8-809. Failure to act on petition – Mandamus – Injunction.

(a) If the county clerk does not examine and certify a petition under this chapter within the time prescribed in § 3-8-803, the sponsors may apply

to the circuit court with jurisdiction for appropriate relief.

(b) If the court decides that the petition is legally sufficient, it shall order the county clerk to certify the sufficiency of the petition and set an election date.

(c) On a proper showing that any petition is not sufficient, the court may enjoin the county clerk from:

- (1) Certifying its sufficiency; or
- (2) Setting an election date.

3-8-810. Preservation of records.

All petitions, notices, certificates, or other documentary evidence of procedural steps taken under this subchapter shall be filed and preserved. Petitions with signatures shall be retained for two (2) years after submission to the county clerk.

3-8-811. Count of signatures.

(a) Upon the initial filing of a petition under this subchapter, the official charged with verifying the signatures shall:

- (1) Perform an initial count of the signatures; and
- (2) Determine whether the petition contains, on its face and before verification of the signatures of registered voters, the designated number of signatures required by the Arkansas Constitution and statutory law in order to call an election.

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

- (1) The petition is not an original petition, including without limitation a petition that is photocopied or is a facsimile transmission;
- (2) The petition lacks the signature, printed name, and residence address of the canvasser or is signed by more than one (1) canvasser;
- (3)(A) The canvasser is a paid canvasser whose name and the information required under § 3-8-802 were not submitted by the sponsor to the county clerk before the petitioner signed the petition.

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

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

(5) The canvasser verification is dated earlier than the date on which a petitioner signed the petition;

(6) The petition part clearly and unmistakably contains signatures of petitioners from more than one (1) county unless each signature of a petitioner from another county is clearly stricken before the filing of the petition with the county clerk; or

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

(c) The following signatures shall not be counted for any purpose by the official charged with verifying the signatures, including the initial count of signatures:

(1) A signature that is not an original signature;

(2) A signature that is obviously not that of the purported petitioner;

(3) A signature that is illegible and is accompanied by no personally identifying information;

(4) A signature for which the corresponding printed name, address, or birth date is written by someone other than the signer except under circumstances of disability of the signer; and

(5) A signature that has any other material defect that, on its face, renders the signature invalid.

/s/Vines

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