

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas *As Engrossed: S3/12/13 S3/20/13 S3/25/13 H4/16/13*

89th General Assembly

# A Bill

Regular Session, 2013

SENATE BILL 821

By: Senators K. Ingram, E. Williams, *B. Sample, Rapert, R. Thompson, Maloch*

*By: Representatives Vines, Slinkard, Ferguson*

## For An Act To Be Entitled

AN ACT CONCERNING INITIATIVES AND REFERENDUMS; TO  
*REQUIRE SPONSORS TO FILE CERTAIN INFORMATION*  
*REGARDING PAID CANVASSERS OF INITIATIVE AND*  
REFERENDUM PETITIONS WITH THE SECRETARY OF STATE  
BEFORE CANVASSING; TO REQUIRE NOTICE TO THE STATE  
POLICE OR TO COUNTY PROSECUTING ATTORNEYS OF  
SUSPECTED FORGERY OF SIGNATURES ON PETITIONS; TO  
REQUIRE SPONSORS OF STATEWIDE PETITIONS TO ASSUME THE  
BURDEN OF DEFENDING THE SUFFICIENCY OF POPULAR NAMES  
AND BALLOT TITLES IN JUDICIAL PROCEEDINGS; TO  
REGULATE THE COUNTING OF SIGNATURES ON INITIATIVE AND  
REFERENDUM PETITIONS; TO REPEAL PROVISIONS OF  
ARKANSAS LAW PROVIDING FOR REVIEW OF THE LEGAL  
SUFFICIENCY OF STATEWIDE INITIATIVE PETITIONS AND  
BALLOT TITLES BEFORE COMPLETED PETITIONS ARE FILED;  
TO DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.

## Subtitle

TO AMEND THE LAWS PERTAINING TO  
INITIATIVE AND REFERENDUM PETITIONS; AND  
TO DECLARE AN EMERGENCY.

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

SECTION 1. DO NOT CODIFY. Legislative findings.

(a) The General Assembly finds that:



(1) Through Amendment 7 to the Arkansas Constitution, the people of Arkansas have reserved to themselves the power to propose legislative measures, laws, and amendments to the Arkansas Constitution and to enact or reject the proposed measures, laws, and amendments at the polls independently of the General Assembly;

(2) The citizens of this state have an expectation that their right of initiative and referendum will be respected and that the process of gathering signatures of registered voters will be free of fraud, forgery, and other illegal conduct by sponsors, canvassers, notaries, and petitioners;

(3) Sponsors and paid canvassers may have an incentive to knowingly submit forged or otherwise invalid signatures in order to obtain additional time to gather signatures and submit supplemental petitions;

(4) In 2012, sponsors of four (4) separate initiative petitions submitted petitions to the Secretary of State containing over two hundred ninety-eight thousand (298,000) purported signatures of registered voters;

(5) Of the four petitions submitted, none had an initial validity rate in excess of fifty-six percent (56%), and three (3) of the petitions had an initial validity rate below thirty-one percent (31%); and

(6) Of the three petitions with the lowest initial validity rate, there were widespread instances of apparent fraud, forgery, and false statements in the signature-gathering process.

(b) It is further found and determined by the General Assembly that if an effort is not made to address these issues:

(1) Untrained paid canvassers will continue to obtain and submit forged and otherwise facially invalid signatures; and

(2) Unscrupulous sponsors and canvassers will continue to have an incentive to submit forged and otherwise facially invalid signatures and make false statements to the Secretary of State.

(c) It is further found and determined by the General Assembly that if this act becomes law:

(1) Sponsors and canvassers of proposed initiative measures will be held more accountable for their actions in gathering signatures from registered voters; and

(2) The earlier determination of the insufficiency of petitions rife with false statements, forged signatures, and otherwise facially invalid signatures will result in less confusion and frustration with the initiative

process.

(d) For the reasons stated in this section, the General Assembly finds that passage of this act will make sponsors and canvassers more accountable to the people of this state, facilitate the initiative process, conserve state resources, and help to restore the confidence and trust of the people in the initiative process.

SECTION 2. Arkansas Code § 7-9-101 is amended to read as follows:

7-9-101. Definitions.

As used in this subchapter:

(1) "Act" means ~~any~~ an act having general application throughout the state, whether originating in the General Assembly or proposed by the people, ~~and referred acts;~~

(2) "Amendment" means ~~any proposed~~ an amendment to the Arkansas Constitution, ~~whether that is proposed by the General Assembly or by the~~ people;

(3) "Canvasser" means a person who circulates an initiative or referendum petition or a part or parts of an initiative or referendum petition to obtain the signatures of petitioners thereto;

(4) "Election" means a regular general election at which state and county officers are elected for regular terms;

~~(5) "Legal voter" means a person who is registered at the time of signing the petition pursuant to Arkansas Constitution, Amendment 51;~~

~~(6) (5) "Measure" means either an amendment, or an act, or an ordinance;~~

(6) "Ordinance" means an ordinance of a municipality or county, whether originating in the legislative body of the municipality or county or proposed by the people;

(7) "Petition part" means a petition signature sheet containing the information required under § 7-9-104 or § 7-9-105;

~~(7) (8) "Petitioner" means a person who signs an initiative or referendum petition ordering a vote upon an amendment or an act having general application throughout the state on a measure; and~~

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

~~(8)~~ (10) "Sponsor" means a person ~~or group of persons filing who~~ arranges for the circulation of an initiative or referendum petition with the Secretary of State or who files an initiative or referendum petition with the official charged with verifying the signatures.

SECTION 3. Arkansas Code § 7-9-103 is amended to read as follows:

7-9-103. Signing of petition – Penalty for falsification – Notice of suspected forgery.

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

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

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

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

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

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

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

(ii) 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.

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

(b) A person ~~shall be deemed guilty of~~ commits a Class A misdemeanor if the person:

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

(2) Knowingly signs his or her name more than ~~one~~ one (1) time to ~~any a~~ a petition; or

(3) Knowingly signs a petition when he or she is not legally entitled to sign ~~it;~~ the petition.

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

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

(2) Prints a name, address, or birth date other than his or her own to a petition unless the signer requires assistance due to disability and the person complies with § 7-9-103;

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

(4) Knowingly 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 Secretary of State under § 7-9-601;

~~(4)~~ (6) Knowingly ~~and falsely~~ misrepresents the purpose and effect of the petition or the measure affected for the purpose of causing ~~anyone~~ a person to sign a petition;

~~(5)~~ (7) Acting in the capacity of As a canvasser, knowingly makes a false statement on a petition verification form; ~~or~~

~~(6)~~ (8) Acting in the capacity of As a notary, knowingly fails to witness a canvasser's affidavit ~~either~~ by witnessing the signing of the instrument in person and either personally knowing the signer or by being

presented with proof of the identity of the signer~~;~~ or

(9) 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.

(d) 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.

SECTION 4. Arkansas Code § 7-9-104(a), concerning the form of an initiative petition, is amended to read as follows:

(a) The petition for ~~any~~ an ordinance, ~~law act~~, or amendment ~~to the Arkansas Constitution~~ proposed by initiative shall be on substantially the following form:

“INITIATIVE PETITION

\_\_\_\_\_  
To the Honorable

\_\_\_\_\_  
Secretary of State of the State of Arkansas, or County Clerk, or City Clerk

We, the undersigned ~~legal~~ registered voters of the State of Arkansas, or \_\_\_\_\_ County, Arkansas, or City of \_\_\_\_\_, or Incorporated Town of \_\_\_\_\_, Arkansas (as the case may be), respectfully propose the following amendment to the Constitution of the State or ~~law act~~ or ordinance (as the case may be), ~~to wit:~~

~~(Here insert title and full text of measure proposed.)~~

\_\_\_\_\_  
\_\_\_\_\_  
and by this, our petition, order that the same be submitted to the people of said state, or county, or municipality (as the case may be), to the end that

the same may be adopted, enacted, or rejected by the vote of ~~legal~~ the registered voters of said (state, county, or municipality) at the regular general election to be held ~~in said~~ \_\_\_\_\_ on the \_\_\_ day of \_\_\_, 20\_\_\_, and each of us for himself or herself says:

I have personally signed this petition; I am a ~~legal~~ registered voter of the State of Arkansas, or \_\_\_\_\_ County, Arkansas, or City of \_\_\_\_\_, or Incorporated Town of \_\_\_\_\_, Arkansas (as the case may be), 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 popular name and ballot title of initiated measure.)

(In the case of a proposed initiated act or ordinance, insert the following:

BE IT ENACTED BY THE PEOPLE OF THE STATE OF ARKANSAS, OR \_\_\_\_\_ COUNTY, ARKANSAS, OR CITY OF \_\_\_\_\_ OR INCORPORATED TOWN OF \_\_\_\_\_, ARKANSAS (as the case may be)):

(Here insert full text of initiated measure.)”

SECTION 5. Arkansas Code § 7-9-104, concerning the form of an initiative petition and the sufficiency of signatures, is amended to add an additional subsection to read as follows:

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

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

SECTION 6. Arkansas Code § 7-9-105(a), concerning the form of a referendum petition, is amended to read as follows:

(a) The petition and order of referendum for an ordinance or act shall be on substantially the following form:

~~“PETITION FOR REFERENDUM~~ PETITION

\_\_\_\_\_  
To the Honorable

\_\_\_\_\_  
Secretary of State of the State of Arkansas, or County Clerk, or City Clerk

We, the undersigned ~~legal~~ registered voters of the State of Arkansas, or \_\_\_\_\_ County, Arkansas, or City or Incorporated Town of \_\_\_\_\_, Arkansas (as the case may be) respectfully order by this, our petition, that Act No. \_\_\_\_ of the General Assembly of the State of Arkansas, approved on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_, entitled ‘An Act \_\_\_\_’ or Ordinance No. \_\_\_\_, passed by the county quorum court, the city (or town) council of the City (or Incorporated Town), or County of \_\_\_\_\_, Arkansas, on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_, entitled, ‘An Ordinance \_\_\_\_,’ be referred to the people of said state, county, or municipality (as the case may be), to the end that the same may be approved or rejected by the vote of the ~~legal~~ registered voters of the state, or of said county or municipality (as the case may be) at the biennial (or annual, as the case may be, if a city ordinance) regular general election (or at a special election, as the case may be) to be held on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_; and each of us for himself or herself says:

I have personally signed this petition; I am a ~~legal~~ registered voter of the State of Arkansas, or \_\_\_\_\_ County, Arkansas, or City of \_\_\_\_\_, or Incorporated Town of \_\_\_\_\_, Arkansas (as the case may be), 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 popular name and ballot title of referred measure.)

REFERRED TO THE PEOPLE OF THE STATE OF ARKANSAS, OR \_\_\_\_\_ COUNTY, ARKANSAS, OR CITY OF \_\_\_\_\_ OR INCORPORATED TOWN OF \_\_\_\_\_, ARKANSAS (as the case may be):

(Here insert full text of referred measure.)”

SECTION 7. Arkansas Code § 7-9-105, concerning the form of a referendum petition and the sufficiency of signatures, is amended to add an additional subsection to read as follows:

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

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

SECTION 8. Arkansas Code § 7-9-107(d), concerning the certification of

ballot titles by the Attorney General before circulation of a petition, is amended to read as follows:

(d) If the Attorney General refuses to act or if the sponsors feel aggrieved at ~~his or her~~ the Attorney General's acts in such premises, ~~they~~ the sponsors may, by petition, apply to the Supreme Court for proper relief.

*SECTION 9. Arkansas Code § 7-9-107(e) and (f), concerning the approval and publication of ballot titles and popular names of petitions before circulation, are repealed.*

~~(e)(1)(A) If a sponsor of any proposed statewide initiative elects to submit its popular name and ballot title to the Attorney General for certification prior to September 30 of the year preceding the year in which the initiative would be voted on, then, within ten (10) days of certification by the Attorney General, who shall deliver such certification to the Secretary of State on the day of certification, the Secretary of State shall approve and certify the sufficiency of such popular name and ballot title as certified by the Attorney General and shall cause to be published in a newspaper with statewide circulation the entire proposal with its certified popular name and ballot title and a notice informing the public of such certification and the procedure identified in this section to govern any party who may contest such certification before the Supreme Court.~~

~~(B) The procedure shall be as follows:~~

~~(i) Any legal action against such certification shall be filed with the Supreme Court within forty five (45) days of the Secretary of State's publication;~~

~~(ii) No such action filed later than forty five (45) days following publication shall be heard by the Supreme Court; and~~

~~(iii) An action timely filed shall be advanced by the Supreme Court as a matter of public interest over all other civil cases except contested election cases and shall be heard and decided expeditiously.~~

~~(2) Nothing in this section shall be taken to require any sponsor of a statewide initiative to submit its popular name and ballot title to the Attorney General prior to September 30 of the year preceding the year in which the proposal would be voted on. If the Secretary of State refuses to act as required in this section or if the sponsors feel aggrieved at his or her acts in such premises, they may, by petition, apply to the Supreme Court~~

~~for proper relief.~~

~~(3) Whenever the sponsor of any initiative or referendum petition has obtained final approval of its ballot title and popular name, the sponsor shall file such petition with the Secretary of State prior to obtaining signatures on the petition.~~

~~(f) The cost of the initial publication in a newspaper of the text of a statewide initiative and related information as required in subsection (e) of this section shall be paid by the sponsor of the statewide initiative."~~

SECTION 10. Arkansas Code § 7-9-108(b), concerning the procedure for circulating a petition, is amended to read as follows:

(b) Each part of ~~any~~ a petition shall have attached thereto the affidavit of the ~~person who circulated the petition~~ canvasser to the effect that the canvasser's current residence address appearing on the verification is correct, that all signatures appearing ~~thereon~~ on the petition part were made in the presence of the affiant, and that to the best of the affiant's knowledge and belief each signature is genuine and ~~that the~~ each person ~~so~~ signing is a ~~legal~~ registered voter.

SECTION 11. Arkansas Code § 7-9-109(a), concerning the form of verification for canvassers, is amended to read as follows:

(a) Each petition containing ~~the~~ signatures shall be verified in substantially the following form, by the ~~person who circulated the sheet of the petition by his or her~~ canvasser's affidavit thereon as a part thereof:

"State of Arkansas  
County of \_\_\_\_\_

I, (print name of canvasser), being ~~first~~ duly sworn, state that each of the foregoing persons signed ~~this sheet of the foregoing petition, and each of them signed~~ his or her own name ~~thereunto~~ to this sheet of the petition in my presence. To the best of my knowledge and belief, I believe that each has stated his or her name, date of birth, residence or town of residence correctly, and that each signature is genuine and each signer is a legal registered voter of the State of Arkansas, \_\_\_\_\_ 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 ~~the~~ this \_\_ day of \_\_\_\_\_, 20\_\_

Signature \_\_\_\_\_

Clerk, Notary, Judge or J.P.

Residence \_\_\_\_\_”

(Seal)”

SECTION 12. Arkansas Code § 7-9-110 is amended to read as follows:

7-9-110. Designation of number and popular name.

(a) ~~The Attorney General shall fix and declare the popular name by which each amendment to the Arkansas Constitution and each initiated and referred~~ of each state measure shall be designated as provided in § 7-9-107, and the number of the measure on the ballot shall be designated as provided in § 7-9-116.

(b) In all legal notices and publications, ~~proceedings, and publicity affecting any such amendment or a measure, the amendment or measure shall be designated~~ identified by both the designated number and popular name ~~fixed as provided in subsection (a) of this section.~~

*SECTION 13. Arkansas Code § 7-9-111(a), concerning the Secretary of State’s determination of the sufficiency of a petition, is amended to add an additional subdivision to read as follows:*

*(3) After a petition has been filed under this subchapter, a canvasser shall not circulate a petition or collect, solicit, or obtain any additional signatures for the filed petition until the Secretary of State determines the sufficiency of the petition under this section.*

SECTION 14. Arkansas Code § 7-9-111(d), concerning the determination of the sufficiency of signatures on a petition, is amended to add an additional subdivision to read as follows:

(3) The Secretary of State shall ascertain and declare the sufficiency or insufficiency of additional signatures submitted by the

sponsors under this subsection within thirty (30) days of the filing of the supplemental petitions.

SECTION 15. Arkansas Code § 7-9-111(f), concerning filing petitions with the Secretary of State, is amended to read as follows:

(f)(1) A person filing initiative or referendum petitions with the Secretary of State shall bundle the petitions by county and shall file an affidavit stating the number of petitions and the total number of signatures being filed.

(2) If signatures were obtained by paid canvassers, the person filing the petitions under this subsection shall also submit the following:

(A) A statement identifying the paid canvassers by name;  
and

(B) A statement signed by the sponsor indicating that the sponsor:

(i) Provided a copy of the most recent edition of the Secretary of State's initiatives and referenda handbook to each paid canvasser before the paid canvasser solicited signatures; and

(ii) Explained the requirements under Arkansas law for obtaining signatures on an initiative or referendum petition to each paid canvasser before the paid canvasser solicited signatures.

SECTION 16. Arkansas Code § 7-9-112(a) and (b), concerning the failure of the Secretary of State to act on a petition, is amended to read as follows:

(a) If the Secretary of State ~~shall fail or refuse to~~ does not examine and ~~file any~~ certify an initiative or referendum petition within the time prescribed in § 7-9-111, ~~any twenty five (25) qualified electors who feel aggrieved thereby~~ the sponsors may, ~~within fifteen (15) days thereafter,~~ apply to the Supreme Court for a ~~writ of mandamus to compel the officer to certify the sufficiency of the petition~~ appropriate relief.

(b) If the Supreme Court ~~shall decide~~ decides that the petition is legally sufficient, it shall order the Secretary of State to ~~file and~~ certify the sufficiency thereof ~~as of the date upon which it was first offered for filing, and a certified copy of the judgment shall be attached to the petition~~ for placing the initiated or referred measure on the election

ballot.

SECTION 17. Arkansas Code § 7-9-125(a), concerning the definitions to be used regarding prohibitions, penalties, and freedom of information relating to petitions, is amended to read as follows:

(a) ~~For purposes of~~ As used in this section, “property”

~~(1) “Act” means an enactment having general application throughout the state or an ordinance applicable to a municipality or county and enacted by legislative authority or by the people;~~

~~(2) “Amendment” means any proposed amendment to the Arkansas Constitution, whether proposed under the provisions of Amendment 7 or Article 19, § 22;~~

~~(3) “Election” means a general election at which state and county officers are elected for regular terms;~~

~~(4) “Initiative petition” means a form of petition which conforms to the requirements of § 7-9-104;~~

~~(5) “Measure” means either an amendment or an act;~~

~~(6) “Property” means both real and personal property and includes, but is not limited to, without limitation both tangible and intangible property;~~

~~(7) “Referendum petition” means a form of petition which conforms to the requirements of § 7-9-105; and~~

~~(8) “Sponsor” means a person or persons who arrange for the circulation of initiative, referendum, or constitutional amendment petitions or who file an initiative, referendum, or constitutional amendment with the Secretary of State or other authorized recipient of the petitions.~~

SECTION 18. Arkansas Code Title 7, Chapter 9, Subchapter 1, is amended to add an additional section to read as follows:

7-9-126. Count of signatures.

(a) Upon the initial filing of an initiative or referendum petition, 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 certify the measure for the election ballot.

(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 § 7-9-601 were not submitted by the sponsor to the Secretary of State 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 fails to comply with § 7-9-104 or § 7-9-105, including the lack of the exact popular name or ballot title approved by the Attorney General for a statewide initiative, a discrepancy in the text of the initiated or referred measure, or the lack of an enacting clause in a statewide petition for an initiated act;

(7) The petition part of a statewide petition 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 Secretary of State; or

(8) 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.

(d) If the initial count of signatures under this section is less than the designated number of signatures required by the Arkansas Constitution and statutory law in order to certify the measure for the ballot and the deadline for filing petitions has passed, the official charged with verifying the signatures shall declare the petition insufficient and shall not accept and file any additional signatures to cure the insufficiency of the petition on its face.

SECTION 19 Arkansas Code § 7-9-204 is amended to read as follows.

7-9-204. Ballot ~~title~~ titles and popular names of constitutional amendments proposed by the legislature.

The ~~title of~~ General Assembly may designate in the joint resolution proposing an amendment to the Arkansas Constitution ~~shall be the ballot title of the proposed constitutional amendment~~ the popular name and ballot title of the amendment for the election ballot.

SECTION 20. Arkansas Code Title 7, Chapter 9, Subchapter 5 is repealed.

~~7-9-501. Purpose.~~

~~The purpose of this subchapter is to provide for the timely and expeditious review of the legal sufficiency of initiative petitions by the Supreme Court.~~

~~7-9-502. Construction.~~

~~(a) The General Assembly declares that this subchapter be construed as a measure to facilitate the provisions of Arkansas Constitution, Amendment 7.~~

~~(b) The General Assembly declares that this subchapter is not intended to expand the jurisdiction of the Supreme Court under Arkansas Constitution, Amendment 7, but is intended to provide a process to timely review the legal~~

~~sufficiency of a measure in a manner which avoids voter confusion and frustration which occur when measures are stricken from the ballot on the eve of an election on the measure.~~

~~7-9-503. Declaration of sufficiency.~~

~~(a)(1) Any Arkansas taxpayer and voter may submit a written petition to the Secretary of State requesting the determination of legal sufficiency of statewide initiative petitions.~~

~~(2) The petitioner shall notify the sponsor of the measure of the petition for determination by certified mail on the date that it is submitted to the Secretary of State.~~

~~(b) Within thirty (30) days after receipt of the petition for determination, the Secretary of State shall decide and declare, after consultation with the Attorney General, questions on one (1) or both of the following issues:~~

~~(1) Whether the popular name and ballot title of the measure are fair and complete; and~~

~~(2) Whether the measure, if subsequently approved by the electorate, would violate any state constitutional provision or any federal constitutional, statutory, or regulatory provision or would be invalid for any other reason.~~

~~(c) The declaration shall be in writing and shall be mailed to the petitioner and the sponsor of the measure by certified mail on the date that it is issued.~~

~~(d) The scope of review authorized by this subchapter shall be strictly limited to the questions referred to in subsection (b) of this section and shall not include questions regarding the sufficiency or validity of signatures on the initiative petitions.~~

~~7-9-504. Cure by correction or amendment.~~

~~(a) If the Secretary of State declares the initiative petition legally insufficient, the sponsors of such measure may attempt to cure the insufficiency by correction or amendment, as provided in Arkansas Constitution, Amendment 7.~~

~~(b) Within fifteen (15) days after a correction or amendment is filed with the Secretary of State, the Secretary of State shall notify the~~

~~petitioner and sponsor of the measure of this declaration by certified mail on the date that it is issued.~~

~~7-9-505. Right of review.~~

~~The petitioner, the sponsor of the measure, and any Arkansas taxpayer and voter shall have the immediate right to petition the Supreme Court to review the determination of the Secretary of State regarding the sufficiency of the initiative petition.~~

~~7-9-506. Effect on existing petition.~~

~~(a)(1) This subchapter shall be applicable to any initiative petition which has received the approval of the Attorney General and has been filed with the Secretary of State, pursuant to § 7-9-107, as of March 25, 1999.~~

~~(2) The Secretary of State shall review all initiative petitions approved by the Attorney General within two (2) months after March 25, 1999.~~

~~(3) If this review is not completed within the stated period, the initiative petition will be presumed sufficient and subject to immediate review by the Supreme Court.~~

~~(b) In addition, this subchapter shall be applicable to all initiative petitions submitted to the Attorney General after March 25, 1999~~

SECTION 21. Arkansas Code Title 7, Chapter 9, is amended to add an additional subchapter to read as follows:

Subchapter 6 – Paid Canvassers

7-9-601. 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 statewide initiative or referendum 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 an initiative or referendum petition to the canvasser; and

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

(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.

(b) Before obtaining a signature on an initiative or referendum 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 an initiative or referendum 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) 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.

(d) As used in this section, "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 an initiative or referendum petition is solicited in exchange for soliciting or obtaining a signature on a petition.

SECTION 22. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that existing procedures for

initiating and referring state laws and ordinances pursuant to Amendment 7 to the Arkansas Constitution and state statutes are inadequate to prevent fraudulent practices by sponsors and canvassers in obtaining ballot access; that this act addresses these inadequacies; and that this act is immediately necessary to prevent fraudulent practices because petition campaigns are either being conducted at the present time or may be conducted immediately upon the adjournment of the General Assembly with respect to either initiated or referred measures. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on:

(1) The date of its approval by the Governor;

(2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or

(3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.

*/s/K. Ingram*