

Stricken language would be deleted from and underlined language would be added to the Arkansas Constitution.

State of Arkansas
94th General Assembly
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As Engrossed: S2/22/23

SJR 2

By: Senator J. Payton
By: Representatives Cavanaugh, G. Hodges

SENATE JOINT RESOLUTION

AN AMENDMENT TO THE ARKANSAS CONSTITUTION TO CREATE A PROCEDURE FOR THE RECALL OF PERSONS ELECTED TO THE OFFICES OF GOVERNOR, LIEUTENANT GOVERNOR, ATTORNEY GENERAL, SECRETARY OF STATE, TREASURER OF STATE, AUDITOR OF STATE, COMMISSIONER OF STATE LANDS, MEMBER OF THE HOUSE OF REPRESENTATIVES, MEMBER OF THE SENATE, CHIEF JUSTICE OF THE SUPREME COURT, JUSTICE OF THE SUPREME COURT, CHIEF JUDGE OF THE COURT OF APPEALS, JUDGE OF THE COURT OF APPEALS, CIRCUIT JUDGE, DISTRICT JUDGE, PROSECUTING ATTORNEY, COUNTY JUDGE, JUSTICE OF THE PEACE, SHERIFF, CIRCUIT CLERK, COUNTY CLERK, ASSESSOR, CORONER, TREASURER, COUNTY SURVEYOR, COLLECTOR OF TAXES, OR CONSTABLE.

Subtitle

A CONSTITUTIONAL AMENDMENT TO CREATE A PROCEDURE FOR THE RECALL OF CERTAIN ELECTED OFFICIALS.

BE IT RESOLVED BY THE SENATE OF THE NINETY-FOURTH GENERAL ASSEMBLY OF THE STATE OF ARKANSAS, AND BY THE HOUSE OF REPRESENTATIVES, A MAJORITY OF ALL MEMBERS ELECTED TO EACH HOUSE AGREEING THERETO:

THAT the following is proposed as an amendment to the Constitution of the State of Arkansas, and upon being submitted to the electors of the state for approval or rejection at the next general election for Representatives



and Senators, if a majority of the electors voting thereon at the election adopt the amendment, the amendment shall become a part of the Constitution of the State of Arkansas, to wit:

SECTION 1. The Arkansas Constitution is amended to add an additional amendment to read as follows:

§ 1. Definitions.

As used in this amendment:

(1) "Elected official" means a person elected or appointed to one (1) of the following offices:

- (A) Governor;
- (B) Lieutenant Governor;
- (C) Attorney General;
- (D) Secretary of State;
- (E) Treasurer of State;
- (F) Auditor of State;
- (G) Commissioner of State Lands;
- (H) Member of the House of Representatives;
- (I) Member of the Senate;
- (J) Chief Justice of the Supreme Court;
- (K) Justice of the Supreme Court;
- (L) Chief Judge of the Court of Appeals;
- (M) Judge of the Court of Appeals;
- (N) Circuit court judge;
- (O) District court judge;
- (P) Prosecuting attorney;
- (Q) County judge;
- (R) Justice of the peace;
- (S) Sheriff;
- (T) Circuit clerk;
- (U) County clerk;
- (V) Assessor;
- (W) Coroner;
- (X) Treasurer;
- (Y) County surveyor;
- (Z) Collector of taxes; or

(AA) Constable.

(2) "Recall" means the voting by the electors of the state or a district, circuit, county, or township, as the case may be, to ascertain whether or not it is the desire of the majority of the electors to allow an elected official to remain in that office for the duration of his or her elected term; and

(3) "Recall petition" means one (1) or more sheets of signatures of qualified electors demanding the recall of an elected official.

§ 2. Petition.

(a) The qualified electors of the state or a district, circuit, county, or township, as the case may be, 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 twenty-five percent (25%) of the votes cast for Governor at the last general election at which a Governor was elected.

(B) At least ten percent (10%) of the number of statewide signatures of qualified electors collected under subdivision (b)(1)(A) of this section shall be from at least fifty (50) different counties of the state.

(2) 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 twenty-five percent (25%) of the votes cast for Governor within the district at the last general election at which a Governor was elected.

(3) The recall petition for an elected official elected by a circuit shall be signed by qualified electors of the circuit in which the elected official is serving in a number of at least twenty-five percent (25%) of the votes cast for Governor within the circuit at the last general election at which a Governor was elected.

(4) The recall petition for an elected official elected by a county shall be signed by qualified electors of the county in which the elected official is serving in a number of at least twenty-five percent (25%) of the votes cast for Governor within the county at the last general election

at which a Governor was elected.

(5) The recall petition for an elected official elected by a township shall be signed by qualified electors of the township in which the elected official is serving in a number of at least twenty-five percent (25%) of the votes cast for Governor within the township at the last general election at which a Governor was elected.

(c) If an elected official's position requires performing the duties of more than one (1) office under § 1(1) of this amendment, a single recall petition is required which shall encompass all offices.

§ 3. Recall of elected officials.

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

(B) If the Secretary of State is the subject of the recall petition, the notice of intent shall be filed with the Attorney General.

(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 elected official 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 elected official who will be the subject of a recall petition by certified mail with return receipt requested.

(b)(1) Each sheet of a recall petition shall contain signatures from only one (1) county.

(2) The sheets of a recall petition shall be organized by county to facilitate voter identification.

(c)(1) The recall petition 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.

(2) If the Secretary of State is the subject of the recall petition, the recall petition shall be filed with the Attorney General.

(d)(1)(A) 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 the recall petition is sufficient, shall state the

sufficiency in a letter to the filer of the notice of intent.

(B) If the Secretary of State is the subject of the recall petition, the Attorney General shall determine whether the recall petition is sufficient and, if the recall petition is sufficient, shall state the sufficiency in a letter to the filer of the notice of intent.

(2)(A) If the recall petition is found to be insufficient, the letter shall state the reasons creating the insufficiency.

(B)(i) The recall petition may be amended to correct or amend an insufficiency within thirty (30) calendar days after the original determination of insufficiency.

(ii) An amended or corrected recall petition shall be filed with the Secretary of State or, if the Secretary of State is the subject of the recall petition, the Attorney General.

(C) For a statewide recall petition, correction or amendment of an insufficient recall petition shall be permitted only if:

(i) The recall petition contains valid signatures of qualified electors equal to at least seventy-five percent (75%) of the number of statewide signatures of qualified electors required; and

(ii) At least ten percent (10%) of the number of statewide signatures of qualified electors submitted on the recall petition are from at least fifty (50) counties of the state.

(3)(A) Within fifteen (15) calendar days after the filing of an amended recall petition, the Secretary of State shall examine the recall petition again to determine sufficiency and shall state the sufficiency of the amended recall petition in a letter to the filer of the notice of intent to circulate a recall petition.

(B) If the Secretary of State is the subject of the recall petition, then within fifteen (15) calendar days after the filing of an amended recall petition the Attorney General shall examine the recall petition again to determine sufficiency and shall state the sufficiency of the amended recall petition in a letter to the filer of the notice of intent to circulate a recall petition.

(e)(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 appropriate electors.

(B) If the Secretary of State is the subject of the recall petition, the Attorney General shall notify the Governor immediately upon finding an original or amended recall petition sufficient.

(C) If the Governor is the subject of the recall petition, the Secretary of State shall notify the Lieutenant Governor, who shall immediately call a special election.

(2)(A) The special election for the purpose of submitting the recall proposal to the appropriate electors shall be held within ninety (90) calendar days after the call for a special election.

(B) However, if the next following general election is to be held within one hundred twenty (120) calendar days of the original or amended recall petition being found sufficient, the recall proposal shall be submitted at the next following general election.

(f) If the Attorney General performs one (1) or more duties of the Secretary of State under this section due to the Secretary of State being the subject of the recall petition, the Attorney General may employ outside legal counsel to defend a legal challenge regarding the sufficiency of a recall petition.

§ 4. Form of recall petition.

(a) The recall petition regarding an elected official shall be in substantially the following form:

"PETITION FOR RECALL

To the Secretary of State [or the Attorney General, if the Secretary of State is the subject of the recall petition]:

We, the undersigned qualified electors of

(Arkansas or District, Circuit,

County, or Township)

respectfully order that _____

(Name of Elected Official)

be referred to the people of _____

(Arkansas or District, Circuit, County,

or Township)

to the end that the recall of the elected official may be approved or rejected by the vote of the qualified electors 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 qualified elector of (Arkansas or District, Circuit, County, or Township), 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)(1) Each sheet of each recall petition containing the signatures shall be verified by the person who circulated the sheet of the recall petition by his or her affidavit attached to the recall petition.

(2) 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) A petition shall be sufficient if it substantially follows the format of this section, disregarding clerical and technical errors.

§ 5. Ballot.

(a) At the election the recall proposal shall be printed on the ballot in substantially the following form:

Name: _____ Office: _____

“For Permitting _____ to continue to serve the term of office for which elected /_/_

Name: _____ Office: _____

Against Permitting _____ to continue to serve the term of office for which elected /_/_.”

(b)(1) If at the election a majority of the qualified electors voting

on the recall proposal vote against permitting the elected official to continue to serve the term of office to which he or she was elected, an immediate vacancy shall exist in the office, and the vacancy shall be filled in the manner prescribed by law.

(2) If at the election a majority of the qualified electors voting on the recall proposal vote for permitting the elected official to continue to serve the term of office for which he or she elected, the elected official shall serve the full term for which he or she was elected.

§ 6. Frequency of recall.

After one (1) recall petition and election, no further recall petition shall be filed against the same elected official during the same term of office.

§ 7. Recall expenses.

All expenses of an election for the recall of an elected official shall be paid for in the same manner and from the same source as provided by applicable law for election expenses.

§ 8. Ballot question.

(a) A recall proposal shall be considered a ballot question for purposes of applicable laws on measures referred to voters.

(b) An elected official, any person or entity acting on behalf of an elected 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. EFFECTIVE DATE. This amendment shall be effective on and after January 1, 2025.

SECTION 3. BALLOT TITLE AND POPULAR NAME. When this proposed amendment is submitted to the electors of this state on the general election ballot:

(1) The title of this Joint Resolution shall be the ballot

title; and

(2) The popular name shall be "A Constitutional Amendment to Create a Procedure for the Recall of Persons Elected to the Offices of Governor, Lieutenant Governor, Attorney General, Secretary of State, Treasurer of State, Auditor of State, Commissioner of State Lands, Member of the House of Representatives, Member of the Senate, Chief Justice of the Supreme Court, Justice of the Supreme Court, Chief Judge of the Court of Appeals, Judge of the Court of Appeals, Circuit Judge, District Judge, County Judge, Justice of the Peace, Sheriff, Circuit Clerk, County Clerk, Assessor, Coroner, Treasurer, County Surveyor, Collector of Taxes, or Constable".

/s/J. Payton