

1 State of Arkansas
2 94th General Assembly
3 Regular Session, 2023
4
5 By: Representative Ray
6 By: Senator J. Payton
7

As Engrossed: H2/6/23

A Bill

HOUSE BILL 1320

For An Act To Be Entitled

9 AN ACT TO AMEND THE LAW CONCERNING INITIATIVE
10 PETITIONS AND REFERENDUM PETITIONS; TO REQUIRE THE
11 ATTORNEY GENERAL TO REVIEW AN INITIATIVE PETITION OR
12 REFERENDUM PETITION BEFORE CIRCULATION; AND FOR OTHER
13 PURPOSES.

Subtitle

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17 TO AMEND THE LAW CONCERNING INITIATIVE
18 PETITIONS AND REFERENDUM PETITIONS; AND
19 TO REQUIRE THE ATTORNEY GENERAL TO REVIEW
20 AN INITIATIVE PETITION OR REFERENDUM
21 PETITION BEFORE CIRCULATION.
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24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

25
26 SECTION 1. Arkansas Code § 7-4-101(f)(12), concerning the authority of
27 the State Board of Election Commissioners, is repealed:

28 ~~(12) Consider the certification of the ballot title and popular name~~
29 ~~submitted on a statewide initiative petition or statewide referendum petition~~
30 ~~under § 7-9-111;~~
31

32 SECTION 2. Arkansas Code § 7-9-107 is amended to read as follows:

33 7-9-107. Filing of original draft before circulation.

34 (a) Before any initiative petition or referendum petition ordering a
35 vote upon any amendment or act shall be circulated for obtaining signatures
36 of petitioners, the sponsors shall ~~file~~ submit the original draft with the



1 ~~Secretary of State~~ Attorney General.

2 (b) The original draft shall include:

- 3 (1) The full text of the proposed measure;
4 (2) A ballot title for the proposed measure; and
5 (3) A popular name for the proposed measure.

6 (c) ~~The Secretary of State~~ Attorney General shall return to the
7 sponsor a file-marked copy of the original draft that shall serve as evidence
8 that the original draft was filed in compliance with this section.

9 ~~(d)(1) The sponsor may begin circulating an initiative petition or~~
10 ~~referendum petition upon receipt of the file marked copy under subsection (e)~~
11 ~~of this section~~ Within ten (10) business days, the Attorney General shall
12 approve and certify or shall substitute and certify a more suitable and
13 correct ballot title and popular name for each amendment or act.

14 (2) The ballot title so submitted or supplied by the Attorney
15 General shall briefly and concisely state the purpose of the proposed
16 measure.

17 (e) If, as a result of his or her review of the ballot title and
18 popular name of a proposed initiated act or a proposed amendment to the
19 Arkansas Constitution, the Attorney General determines that the ballot title
20 or the nature of the issue, is presented in such manner that the ballot title
21 would be misleading or designed in such manner that a vote "FOR" the issue
22 would be a vote against the matter or viewpoint that the voter believes
23 himself or herself casting a vote for, or, conversely, that a vote "AGAINST"
24 the issue would be a vote for a viewpoint that the voter is against, the
25 Attorney General may reject the entire ballot title, popular name, and
26 petition and state his or her reasons therefor and instruct the petitioners
27 to redesign the proposed measure and the ballot title and popular name in a
28 manner that would not be misleading.

29 (f) If the Attorney General refuses to act or if the sponsors feel
30 aggrieved at the Attorney General's acts in such premises, the sponsors may,
31 by petition, apply to the Supreme Court for proper relief.

32
33 SECTION 3. Arkansas Code § 7-9-111(i), concerning the determination of
34 the sufficiency of a statewide initiative petition or statewide referendum
35 petition is repealed.

36 ~~(i)(1) When a statewide initiative petition or statewide referendum~~

1 petition is submitted to the Secretary of State for determination of the
2 sufficiency of the signatures, the Secretary of State shall submit the ballot
3 title and popular name of the proposed measure to the board for certification
4 as required by Arkansas Constitution, Article 5, § 1.

5 (2) The board shall determine whether to certify the ballot
6 title and popular name submitted for a proposed measure within thirty (30)
7 days after the ballot title and popular name are submitted by the Secretary
8 of State under subdivision (i)(1) of this section.

9 (3) If the board determines that the ballot title and popular
10 name, and the nature of the issue, is presented in a manner that is not
11 misleading and not designed in such manner that a vote "FOR" the issue would
12 be a vote against the matter or viewpoint that the voter believes himself or
13 herself to be casting a vote for, or, conversely, that a vote "AGAINST" an
14 issue would be a vote for a viewpoint that the voter is against, the ballot
15 title and popular name of the statewide initiative petition or statewide
16 referendum petition shall be certified to the Secretary of State to be placed
17 upon the ballot if the signatures on the statewide initiative petition or
18 statewide referendum petition are determined to be sufficient.

19 (4)(A) If the board determines that the ballot title or popular
20 name, or the nature of the issue, is presented in such a manner that the
21 ballot title or popular name would be misleading or designed in such manner
22 that a vote "FOR" the issue would be a vote against the matter or viewpoint
23 that the voter believes himself or herself to be casting a vote for, or,
24 conversely, that a vote "AGAINST" an issue would be a vote for a viewpoint
25 that the voter is against, the board shall:

26 (i) Not certify the ballot title and popular name;

27 (ii)(a) Notify the sponsors in writing, through
28 their designated agent, that the ballot title and popular name were not
29 certified and set forth its reasons for so finding.

30 (b) If the ballot title and popular name are
31 not certified, the sponsor shall not submit a redesigned ballot title or
32 popular name to the board; and

33 (iii) Notify the Secretary of State that the ballot
34 title and popular name were not certified.

35 (B) If the ballot title and popular name are not certified
36 under subdivision (i)(4)(A) of this section, the Secretary of State shall

1 ~~declare the proposed measure insufficient for inclusion on the ballot for the~~
2 ~~election at which the statewide initiative petition or statewide referendum~~
3 ~~petition would be considered.~~

4
5 SECTION 4. Arkansas Code § 7-9-112 is amended to read as follows:

6 (a) ~~If the Secretary of State determines that the signatures submitted~~
7 ~~on a statewide initiative petition or statewide referendum petition are~~
8 ~~insufficient or the State Board of Election Commissioners does not certify~~
9 ~~the ballot title or popular name of a proposed measure resulting in the~~
10 ~~Secretary of State's finding the proposed measure insufficient, the following~~
11 ~~persons may challenge that determination by petition petitioning the Supreme~~
12 ~~Court to determine if the signatures submitted on the statewide initiative~~
13 ~~petition or statewide referendum petition are sufficient or if the ballot~~
14 ~~title or popular name of the proposed measure should be certified:~~

15 (1) ~~The sponsor of the statewide initiative petition or~~
16 ~~statewide referendum petition; or~~

17 (2) ~~A registered voter.~~

18 (b) ~~The Supreme Court shall act expeditiously to review the~~
19 ~~sufficiency of the signatures or the certification of the ballot title or~~
20 ~~popular name in a timely manner and shall make every effort to reach a~~
21 ~~decision in advance of the election at which the proposed measure would be~~
22 ~~considered.~~

23 (c)(1)(A) ~~If the Supreme Court decides that the signatures submitted~~
24 ~~on a statewide initiative petition or statewide referendum petition are~~
25 ~~sufficient, the Supreme Court shall order the Secretary of State to certify~~
26 ~~the sufficiency for placing the proposed measure on the election ballot if~~
27 ~~the ballot title and popular name are sufficient.~~

28 ~~(B) If the Supreme Court decides that the ballot title and~~
29 ~~popular name should be certified, the Supreme Court shall order the board to~~
30 ~~certify the ballot title and popular name to the Secretary of State, who~~
31 ~~shall declare the proposed measure sufficient to be placed upon the ballot if~~
32 ~~the signatures on the statewide initiative petition or statewide referendum~~
33 ~~petition are sufficient.~~

34 (2) ~~On a proper showing that the signatures are not sufficient~~
35 ~~or the ballot title or popular name should not be certified, the Supreme~~
36 ~~Court may enjoin the Secretary of State from certifying the proposed measure~~

1 for inclusion on the ballot for the election at which the proposed measure
2 would be considered or, in the event that the proposed measure will appear on
3 the election ballot, from canvassing and certifying the vote on the proposed
4 measure.

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6 SECTION 5. Arkansas Code § 7-9-126(b)(2), concerning the count of
7 signatures for an initiative petition or referendum petition, is amended to
8 read as follows:

9 (2) The petition does not conform to the ~~original draft filed~~
10 version of the measure approved and certified under § 7-9-107;

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12 SECTION 6. Arkansas Code § 7-9-126(c)(6), concerning the count of
13 signatures for an initiative petition or referendum petition, is amended to
14 read as follows:

15 (6) A signature obtained before the ~~filing of the original draft~~
16 ~~for circulation~~ submission and approval of the ballot title under § 7-9-107;
17 and

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19 /s/Ray

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