

Stricken language would be deleted from and underlined language would be added to law as it existed prior to the 82nd General Assembly.

1 State of Arkansas  
2 82nd General Assembly  
3 Regular Session, 1999

*As Engrossed: S1/28/99 H3/8/99*

# A Bill

SENATE BILL 10

4  
5 By: Senator Walters  
6  
7

## For An Act To Be Entitled

9 "AN ACT TO ESTABLISH A PROCEDURE FOR THE RECALL OF  
10 ELECTED STATE, DISTRICT, COUNTY, TOWNSHIP, MUNICIPAL,  
11 AND SCHOOL DISTRICT OFFICIALS AND OTHER ELECTED  
12 OFFICIALS IN THE STATE; AND FOR OTHER PURPOSES."

### Subtitle

14  
15 "TO ESTABLISH A PROCEDURE FOR THE RECALL  
16 OF ELECTED OFFICIALS."  
17

18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
19

20 SECTION 1. For the purpose of this act:

21 (1) "Elected official" means any person elected to any state, district,  
22 county, township, municipal, school district, or other public office.

23 (2) "Judicial office" means the office of municipal judge, probate  
24 judge, chancery judge, circuit judge, Judge or Chief Judge of the Arkansas  
25 Court of Appeals, and Associate Justice or Chief Justice of the Arkansas  
26 Supreme Court; and

27 (3) "Recall" means the voting by the citizens of the State of Arkansas  
28 to ascertain whether or not it is the desire of the majority of the electors  
29 therein to allow an elected state, district, county, township, or municipal  
30 official or any other elected official to remain in that capacity for the  
31 duration of his or her elected term.

32  
33 SECTION 2. (a)(1) The qualified electors of the state or of any  
34 district, county, township, municipality or school district in which any  
35 elected official or officials are elected by the electors thereof, may  
36 petition for the recall of any elected official by filing a petition demanding

1 the recall of the elected official.

2 (2) This act shall not apply to:

3 (A) Any judicial office; and

4 (B) An elected official, other than a member of the General  
5 Assembly, with a two (2) year term of office.

6 (b) The petition must be filed after the first six (6) months and  
7 before the last year of the term for which the elected official was elected.

8 (c)(1) The petition for the recall of an elected official who was  
9 elected by a vote of the electors of the entire state shall be signed by  
10 qualified electors of the State in a number of at least fifteen percent (15%)  
11 of the votes cast for governor at the last general election at which a  
12 governor was elected, and the petition shall include signatures of qualified  
13 electors from each of fifteen (15) counties in the State in a number of at  
14 least seven and one-half percent (7 1/2%) of the number of votes cast for  
15 governor at the election in the counties.

16 (2) The petition for the recall of any other elected official  
17 shall be signed by qualified electors of the district, county, township,  
18 municipality, or school district in which the elected official is serving in a  
19 number of at least ten percent (10%) of the registered voters in the district,  
20 county, township, municipality, or school district, except that for cities of  
21 the second class and incorporated towns at least twenty-five percent (25%)  
22 shall be required.

23  
24 SECTION 3. Recall of statewide officer and member of the General  
25 Assembly.

26 (a) The recall of an elected official who is elected statewide or the  
27 recall of a member of the General Assembly shall be initiated by filing a  
28 notice of intent to circulate a recall petition. No petition shall be  
29 circulated before the notice of intent is filed. The notice of intent to  
30 circulate a recall petition shall state the reason the elected official should  
31 be recalled. The notice of intent to circulate a petition seeking the recall  
32 of the elected official shall be filed with the Secretary of State. The  
33 sponsor shall within five (5) days notify the elected official who will be the  
34 subject of a recall petition by certified mail with return receipt requested.

35 (b) Petitions from each county shall be kept separate to facilitate  
36 voter identification.

1 (c) The recall petitions shall be filed with the Secretary of State not  
2 less than sixty (60) days nor more than eighty (80) days after the filing of  
3 the notice of intent to circulate a recall petition.

4 (d) Within thirty (30) days after the petition is filed, the Secretary  
5 of State shall determine by careful examination whether the petition is  
6 sufficient and so state in a certificate attached to the petition.

7 (e) If the petition is found to be insufficient, the certificate shall  
8 state the reasons creating the insufficiency. The petition may be amended to  
9 correct any insufficiency within thirty (30) days following the filing of the  
10 original certificate. Within fifteen (15) calendar days after filing the  
11 amended petition, it shall again be carefully examined to determine  
12 sufficiency and a certificate stating the findings shall be attached.

13 (f) Immediately upon finding an original or amended petition  
14 sufficient, the Secretary of State notify the Governor who shall immediately  
15 call a special election for the purpose of submitting the proposal to the  
16 electors. However, if the Governor is the subject of the recall petition,  
17 then the election shall be called by the Lieutenant Governor. The election  
18 shall be held within sixty (60) days after the call for a special election.  
19 However, if the general election is to be held within ninety (90) days, the  
20 recall proposal shall be held and submitted at the general election.

21  
22 SECTION 4. Recall of statewide officer and members of the General  
23 Assembly.

24 (a) The petition for recall of an elected official who is elected  
25 statewide or the recall of a member of the General Assembly shall be in  
26 substantially the following form:

27 'PETITION FOR RECALL

28 To the Secretary of State:

29 We, the undersigned legal voters of \_\_\_\_\_

30 (Arkansas or District)

31 respectfully order that \_\_\_\_\_

32 (Name of Elected Official)

33 be referred to the people of \_\_\_\_\_

34 (Arkansas or District)

35 to the end that the elected official may be approved or rejected by the  
36 vote of the legal voters at an election to be held for this purpose; and each

1 of us for himself or herself says: I have personally signed this petition; I  
2 am a legal voter of the State of Arkansas, and my printed name, date of birth,  
3 residence, city or town of residence, and date of signing this petition are  
4 correctly written after my signature.'

5 (b) Each sheet of each petition containing the signatures shall be  
6 verified in substantially the following form by the person who circulated the  
7 sheet of the petition by his or her affidavit thereon as a part thereof. The  
8 affidavit shall be in substantially the following form:

9 'STATE OF ARKANSAS \_\_\_\_\_ )  
10 COUNTY \_\_\_\_\_ )

11 I, \_\_\_\_\_ being first duly sworn, state the above listed  
12 person signed this sheet of the foregoing petition, and each of them signed  
13 his or her name thereunto in my presence. I believe that each has correctly  
14 stated his or her name, date of birth, residence, city or town of residence,  
15 and date of signing the petition.

16 Signature \_\_\_\_\_

17 P. O. \_\_\_\_\_

18 Subscribed and sworn to before me this the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

19 Signature \_\_\_\_\_

20 Notary Public

21 My Commission Expires: \_\_\_\_\_'

22 (c) The forms provided in this section are not mandatory, and if  
23 substantially followed in any petition it shall be sufficient, disregarding  
24 clerical and technical errors.

25  
26 SECTION 5. Recall of elected official other than a statewide officer or  
27 member of the General Assembly.

28 (a) The recall of an elected official other than an elected official who  
29 is elected statewide or a member of the General Assembly shall be initiated by  
30 filing a notice of intent to circulate a recall petition. No petition shall  
31 be circulated before the notice of intent is filed. The notice of intent to  
32 circulate a recall petition shall state the reason the elected official should  
33 be recalled. The notice of intent to circulate a petition seeking the recall  
34 of the elected official shall be filed with the county clerk of the county of  
35 residence of the elected official. The sponsor shall within five (5) days  
36 notify the elected official who will be the subject of a recall petition by

1 certified mail with return receipt requested.

2 (b) Petitions from each county shall be kept separate to facilitate  
3 voter identification.

4 (c) The recall petitions shall be filed with the county clerk of the  
5 county of residence of the elected official not less than sixty (60) days nor  
6 more than eighty (80) days after the filing of the notice of intent to  
7 circulate a recall petition.

8 (d) Within thirty (30) days after the petition is filed, the county  
9 clerk shall determine by careful examination whether the petition is  
10 sufficient and so state in a certificate attached to the petition. If the  
11 district from which the elected official was elected includes all or a part of  
12 more than one county the county clerks of the other counties shall assist the  
13 county clerk of the county in which the petition was file to determine the  
14 validity of the names of legal voters on parts of the petition with signatures  
15 from their respective counties.

16 (e) If the petition is found to be insufficient, the certificate shall  
17 state the reasons creating the insufficiency. The petition may be amended to  
18 correct any insufficiency within thirty (30) days following the filing of the  
19 original certificate. Within fifteen (15) calendar days after filing the  
20 amended petition, it shall again be carefully examined to determine  
21 sufficiency and a certificate stating the findings shall be attached.

22 (f) Immediately upon finding an original or amended petition  
23 sufficient, the county clerk of the county in which the elected voter resides  
24 shall notify the county board of election commissions of the county in which  
25 the elected official resides and the board shall immediately call a special  
26 election for the purpose of submitting the proposal to the electors. The  
27 election shall be held within sixty (60) days after the call for a special  
28 election. However, if the general election is to be held within ninety (90)  
29 days, the recall proposal shall be held and submitted at the general election.

30  
31 SECTION 6. Recall of elected official other than a statewide officer or  
32 member of the General Assembly.

33 (a) The petition for recall of an elected official other than an elected  
34 official who is elected statewide or a member of the General Assembly shall be  
35 in substantially the following form:

36 'PETITION FOR RECALL

1 To the County Clerk of \_\_\_\_\_ County:  
 2 We, the undersigned legal voters of \_\_\_\_\_  
 3 (District, County, Township, or Municipality)  
 4 respectfully order that \_\_\_\_\_  
 5 (Name of Elected Official)  
 6 be referred to the people of \_\_\_\_\_  
 7 (District, County, Township, or Municipality)  
 8 to the end that the elected official may be approved or rejected by the  
 9 vote of the legal voters at an election to be held for this purpose; and each  
 10 of us for himself or herself says: I have personally signed this petition; I  
 11 am a legal voter of the State of Arkansas, and my printed name, date of birth,  
 12 residence, city or town of residence, and date of signing this petition are  
 13 correctly written after my signature.'

14 (b) Each sheet of each petition containing the signatures shall be  
 15 verified in substantially the following form by the person who circulated the  
 16 sheet of the petition by his or her affidavit thereon as a part thereof. The  
 17 affidavit shall be in substantially the following form:

18 'STATE OF ARKANSAS \_\_\_\_\_ )  
 19 COUNTY \_\_\_\_\_ )

20 I, \_\_\_\_\_ being first duly sworn, state the above listed  
 21 person signed this sheet of the foregoing petition, and each of them signed  
 22 his or her name thereunto in my presence. I believe that each has correctly  
 23 stated his or her name, date of birth, residence, city or town of residence,  
 24 and date of signing the petition.

25 Signature \_\_\_\_\_

26 P. O. \_\_\_\_\_

27 Subscribed and sworn to before me this the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

28 Signature \_\_\_\_\_

29 Notary Public

30 My Commission Expires: \_\_\_\_\_'

31 (c) The forms provided in this section are not mandatory, and if  
 32 substantially followed in any petition it shall be sufficient, disregarding  
 33 clerical and technical errors.

34

35 SECTION 7. (a) At the special election the recall issue shall be  
 36 printed on the ballot in substantially the following form:

1 "For Permitting \_\_\_\_\_ to  
 2 Name Office  
 3 continue to serve the term of office for which elected . . . . . /\_/  
 4 Against Permitting \_\_\_\_\_ to  
 5 Name Office  
 6 continue to serve the term of office for which elected . . . . . /\_/"

7 (b) If at the election a majority of the qualified electors voting on  
 8 the issue vote against permitting the elected official to serve the term of  
 9 office to which elected, an immediate vacancy shall exist in the office, and  
 10 the vacancy shall be filled in the manner prescribed by law. If at the  
 11 election a majority of the qualified electors voting on the issue vote for  
 12 permitting the elected official to continue to serve the term of office for  
 13 which elected, the elected official shall serve the full term for which  
 14 elected.

15  
 16 SECTION 8. After one (1) recall petition and special election, no  
 17 further recall petition shall be filed against the same elected official  
 18 during the same term of office.

19  
 20 SECTION 9. All expenses of special elections for the recall of elected  
 21 officials shall be paid for in the same manner and from the same source as  
 22 provided under Arkansas Code 7-5-104, except that elected officials of shcools  
 23 the expenses of special elections shall be paid by the school district under  
 24 Arkansas Code 6-14-118.

25  
 26 SECTION 10. (a) Any recall issue shall be considered a "ballot  
 27 question" for purposes of the "Disclosure Act for Public Initiatives,  
 28 Referendums, and Measures Referred to Voters", beginning at Arkansas Code 7-9-  
 29 401.

30 (b) An elected official, any person or entity acting on behalf of the  
 31 elected official, or any other person or entity who receives contributions or  
 32 makes expenditures for the purpose of attempting to influence the  
 33 qualification, passage or defeat of a recall petition or issue shall be  
 34 considered a ballot question committee and shall comply with the Disclosure  
 35 Act for Public Initiatives, Referendums, and Measures Referred to Voters,  
 36 beginning at Arkansas Code 7-9-401.

SECTION 11. Arkansas Code Annotated 14-48-114 and 14-61-119 are repealed.

~~§ 14-48-114. Removal of mayor or directors.~~

~~(a) Any person holding the office of mayor and any person holding the office of member of the board of directors of any city organized under the provisions of this chapter shall be subject to removal from the office by the electors qualified to vote for a successor of the incumbent.~~

~~(b) The procedure to effect the removal of a person holding the office shall be as follows:~~

~~(1) When petitions requesting the removal of any such officer, signed by qualified electors equal in number to thirty-five percent (35%) of the total number of votes cast for all candidates for that office at the preceding general municipal election at which the office was on the ballot, are filed with the city clerk, the clerk shall determine the sufficiency of the petitions within ten (10) days from the date of the filing.~~

~~(2) If the petitions are deemed sufficient, the clerk shall certify them to the county board of election commissioners.~~

~~(3) The county board of election commissioners shall call a special election on the question and shall fix a date for holding it not less than thirty (30) days nor more than forty (40) days from the date of the certification of the petitions by the clerk.~~

~~(4) At the election, the question shall be submitted to the electors in substantially the following form:~~

~~"FOR the removal of \_\_\_\_\_ from the office of \_\_\_\_\_ (name of officer) \_\_\_\_\_ [ ] \_\_\_\_\_ (Mayor) \_\_\_\_\_ (Director)~~

~~AGAINST the removal of \_\_\_\_\_ from the \_\_\_\_\_ (name of officer) \_\_\_\_\_ office of \_\_\_\_\_ [ ]" \_\_\_\_\_ (Mayor) \_\_\_\_\_ (Director)~~

~~(5)(A) If a majority of the qualified electors voting on the question at the election shall vote for the removal of the officer, a vacancy shall exist in the office.~~

~~(B) If a majority of the qualified electors voting on the question at~~



1 ~~the election shall vote against the removal of the officer, the officer shall~~  
2 ~~continue to serve during the term for which elected.~~

3 ~~(c) No recall petition shall be filed against any officer until he shall~~  
4 ~~have held his office for at least six (6) months.~~

5 ~~§ 14-61-119. Removal of director.~~

6 ~~(a) The holder of office of city director or the mayor is subject to~~  
7 ~~removal by the electors qualified to vote for a successor of the incumbent.~~

8 ~~(b) The procedure to effect the removal of the incumbent of this~~  
9 ~~elective office shall be as follows:~~

10 ~~(1) A petition shall be filed with the city clerk. This petition shall be~~  
11 ~~signed by electors entitled to vote for a successor to the incumbent sought to~~  
12 ~~be removed, equal in number to at least thirty-five percent (35%) of the~~  
13 ~~number of ballots cast for all candidates for the position held by the~~  
14 ~~incumbent sought to be removed at the preceding election for that position.~~

15 ~~(2) The petition shall contain a statement of the grounds and reasons on~~  
16 ~~account of which the removal is sought.~~

17 ~~(3) The signatures to the petition need not all be appended to one (1)~~  
18 ~~paper, but each signer shall add to his signature his place of residence,~~  
19 ~~giving street and number, if any.~~

20 ~~(4) One of the signers of each of the papers shall make an oath before an~~  
21 ~~officer competent to administer oaths that the statements therein made are~~  
22 ~~true as he believes and that each signature to the paper appended is a genuine~~  
23 ~~signature of the person whose name it purports to be.~~

24 ~~(c) Within ten (10) days of the date of filing the petition, the city~~  
25 ~~clerk shall ascertain and determine whether or not the petition is signed by~~  
26 ~~the requisite number of qualified electors. If necessary, the board of~~  
27 ~~directors shall allow the city clerk extra help for that purpose.~~

28 ~~(d) The city clerk shall attach to the petition his certificate showing~~  
29 ~~the result of his examination.~~

30 ~~(e) If by the clerk's certificate the petition is shown to be~~  
31 ~~insufficient, it may be amended within ten (10) days.~~

32 ~~(f) Within ten (10) days after an amendment, the clerk shall make like~~  
33 ~~examination of the amended petition.~~

34 ~~(1) If his certificate shall show the amended petition to be~~  
35 ~~insufficient, it shall be returned to the person filing it, without prejudice,~~  
36 ~~however, to the filing of a new petition to the same effect.~~

1 ~~(2) If the petition shall be deemed sufficient, the clerk shall submit it~~  
2 ~~to the board without delay.~~

3 ~~(g) If the board shall find the petition thus submitted to it contains~~  
4 ~~the requisite number of electors signed thereto and is otherwise found to be~~  
5 ~~sufficient, it shall order and fix a date for holding an election. This date~~  
6 ~~shall be not less than thirty (30) days nor more than forty (40) days from the~~  
7 ~~date of the clerk's certificate to the board that a sufficient petition is~~  
8 ~~filed.~~

9 ~~(h) The board shall make, or cause to be made, publication of notice and~~  
10 ~~all arrangements for holding the election.~~

11 ~~(i) The election shall be conducted and returned, and the result thereof~~  
12 ~~declared in all respects as are other such elections under the general~~  
13 ~~election laws of the city.~~

14 ~~(j) At the election, the proposition submitted to the electors shall be:~~  
15 ~~FOR the removal of (name of officer) from the Office of~~  
16 ~~(Director)(Mayor) ..... []~~

17 ~~AGAINST the removal of (name of officer) from the Office of~~  
18 ~~(Director)(Mayor) ..... []~~

19 ~~(k) If the majority of votes cast on the issue shall be in favor of the~~  
20 ~~removal of the officer, the officer shall be deemed removed and his office~~  
21 ~~vacated, and it shall be filled in the manner provided for filling vacancies.~~

22 ~~(l) If the majority of the votes cast on that issue shall be against the~~  
23 ~~removal of the officer, the officer shall continue to serve.~~

24 ~~(m) No recall petition shall be filed against any officer until he shall~~  
25 ~~have held his office for at least six (6) months, nor shall any officer be~~  
26 ~~subject to more than one (1) recall proceeding between biennial elections.~~

27  
28 SECTION 12. Arkansas Code 14-47-112 is hereby repealed.

29  
30 SECTION 13. All provisions of this act of a general and permanent  
31 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas  
32 Code Revision Commission shall incorporate the same in the Code.

33  
34 SECTION 14. If any provision of this act or the application thereof to  
35 any person or circumstance is held invalid, such invalidity shall not affect  
36 other provisions or applications of the act which can be given effect without

1 the invalid provision or application, and to this end the provisions of this  
2 act are declared to be severable.

3

4 SECTION 15. All laws and parts of laws in conflict with this act are  
5 hereby repealed.

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*/s/ Walters*

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