

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas *As Engrossed: H1/24/01 H2/12/01 H2/27/01*

2 83rd General Assembly

# A Bill

3 Regular Session, 2001

HOUSE BILL 1050

4

5 By: Representative Minton

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## 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.

13

14

## Subtitle

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

17

18

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

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21 SECTION 1. For the purpose of this act:

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

24 (2) "Recall" means the voting by the citizens of the State of Arkansas  
25 to ascertain whether or not it is the desire of the majority of the electors  
26 therein to allow an elected state, district, county, township, or municipal  
27 official or any other elected official to remain in that capacity for the  
28 duration of the elected official's term.

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

35 (2) This act shall not apply to:

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1 (A) An elected official, other than a member of the General  
2 Assembly, with a two-year term of office; and

3 (B) Prosecuting attorneys serving two-year terms of office.

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

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

14 (2)(A) The petition for the recall of any other elected official  
15 shall be signed by qualified electors of the district, county, township,  
16 municipality, or school district in which the elected official is serving in a  
17 number of at least fifteen percent (15%) of the registered voters in the  
18 district, county, township, municipality, or school district, except that for:

19 (i) Cities of the second class and incorporated towns  
20 at least forty percent (40%) shall be required; and

21 (ii) Cities of the first class, at least twenty-five  
22 percent (25%) shall be required.

23 (B) If the elected official represents more than one (1)  
24 district, county, township, municipality, or school district, the percentage  
25 of signatures of qualified electors required shall be divided equally among  
26 the districts, counties, townships, municipalities, or school districts the  
27 elected official represents.

28 (d) On an election day, signatures for the petition recalling an  
29 elected official shall not be collected at a polling site or within one  
30 hundred (100) feet of the polling site.

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32 SECTION 3. Recall of any elected official in the State of Arkansas.

33 (a)(1) The recall of an elected official who is elected statewide or  
34 the recall of a member of the General Assembly shall be initiated by filing a  
35 notice of intent to circulate a recall petition.

36 (2) No petition shall be circulated before the notice of intent

1 is filed.

2 (3) The notice of intent to circulate a recall petition shall  
3 state the reason the elected official should be recalled.

4 (4) The notice of intent to circulate a petition seeking the  
5 recall of the elected official shall be filed with the Secretary of State by  
6 certified mail with a return receipt requested.

7 (5) The sponsor shall, within five (5) days, notify the elected  
8 official who will be the subject of a recall petition by certified mail with  
9 return receipt requested.

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

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

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

18 (e)(1) If the petition is found to be insufficient, the certificate  
19 shall state the reasons creating the insufficiency.

20 (2) The petition may be amended to correct any insufficiency  
21 within thirty (30) days following the filing of the original certificate.

22 (3)(A) Within fifteen (15) calendar days after filing the amended  
23 petition, it shall again be carefully examined to determine sufficiency and a  
24 certificate stating the findings shall be attached.

25 (B) The certificate shall state whether the petition is  
26 sufficient or is insufficient.

27 (f)(1) Immediately upon finding an original or amended petition  
28 sufficient, the Secretary of State shall notify the Governor who shall  
29 immediately call a special election for the purpose of submitting the proposal  
30 to the electors.

31 (2) However, if the Governor is the subject of the recall  
32 petition, then the election shall be called by the Lieutenant Governor.

33 (3) The election shall be held within sixty (60) days after the  
34 call for a special election.

35 (4) However, if the general election is to be held within ninety  
36 (90) days, the recall proposal shall be held and submitted at the general

1 election.

2 (g) All petitions or notice of sufficiency of petitions required under  
3 this section, if mailed, shall be mailed by certified mail with a return  
4 receipt requested.

5

6 SECTION 4. Recall of any elected official in the State of Arkansas.

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

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11 "PETITION FOR RECALL

12 To the Secretary of State:

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

14 (Arkansas or District)

15 respectfully order that \_\_\_\_\_

16 (Name of Elected Official)

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

18 (Arkansas or District)

19

20 to the end that the elected official may be approved or rejected by the vote  
21 of the legal voters at an election to be held for this purpose; and each of us  
22 for himself or herself says: I have personally signed this petition; I am a  
23 legal voter of the State of Arkansas, and my printed name, date of birth,  
24 residence, city or town of residence, and date of signing this petition are  
25 correctly written after my signature."

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

30 "STATE OF ARKANSAS \_\_\_\_\_ )

31 COUNTY \_\_\_\_\_ )

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

1 Signature \_\_\_\_\_

2 P. O. \_\_\_\_\_

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

4 Signature \_\_\_\_\_

5 Notary Public

6 My Commission Expires: \_\_\_\_\_"

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

10

11 SECTION 5. Recall of elected official other than a statewide officer or  
12 member of the General Assembly.

13 (a)(1) The recall of an elected official other than an elected official  
14 who is elected statewide or a member of the General Assembly shall be  
15 initiated by filing a notice of intent to circulate a recall petition.

16 (2) No petition shall be circulated before the notice of intent  
17 is filed with the county clerk.

18 (3) The notice of intent to circulate a recall petition shall  
19 state the reason the elected official should be recalled.

20 (4) The notice of intent to circulate a petition seeking the  
21 recall of the elected official shall be filed with the county clerk of the  
22 county of residence of the elected official.

23 (5) The sponsor shall within five (5) days notify the elected  
24 official who will be the subject of a recall petition by certified mail with  
25 return receipt requested.

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

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

32 (d)(1) Within thirty (30) days after the petition is filed, the county  
33 clerk shall determine by careful examination whether the petition is  
34 sufficient and so state in a certificate attached to the petition.

35 (2) If the district from which the elected official was elected  
36 includes all or a part of more than one county, the county clerks of the other

1 counties shall assist the county clerk of the county in which the petition was  
2 filed to determine the validity of the names of legal voters on parts of the  
3 petition with signatures from their respective counties.

4 (e)(1) If the petition is found to be insufficient, the certificate  
5 shall state the reasons creating the insufficiency.

6 (2) The petition may be amended to correct any insufficiency  
7 within thirty (30) days following the filing of the original certificate.

8 (3) Within fifteen (15) calendar days after filing the amended  
9 petition, it shall again be carefully examined to determine sufficiency and a  
10 certificate stating the findings shall be attached.

11 (f)(1) Immediately upon finding an original or amended petition  
12 sufficient, the county clerk of the county in which the elected voter resides  
13 shall notify the county board of election commissions of the county in which  
14 the elected official resides and the board shall immediately call a special  
15 election for the purpose of submitting the proposal to the electors.

16 (2) The election shall be held within sixty (60) days after the  
17 call for a special election.

18 (3) However, if the general election is to be held within ninety  
19 (90) days, the recall proposal shall be held and submitted at the general  
20 election.

21 (g) All petitions or notice of sufficiency of petitions required under  
22 this section, if mailed, shall be mailed by certified mail with a return  
23 receipt requested.

24  
25 SECTION 6. Recall of elected official other than a statewide officer or  
26 member of the General Assembly.

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

30 "PETITION FOR RECALL

31 To the County Clerk of \_\_\_\_\_ County:

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

33 (District, County, Township, or Municipality)

34 respectfully order that \_\_\_\_\_

35 (Name of Elected Official)

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

1 (District, County, Township, or Municipality)  
 2 to the end that the elected official may be approved or rejected by the vote  
 3 of the legal voters at an election to be held for this purpose; and each of us  
 4 for himself or herself says: I have personally signed this petition; I am a  
 5 legal voter of the State of Arkansas, and my printed name, date of birth,  
 6 residence, city or town of residence, and date of signing this petition are  
 7 correctly written after my signature."

8 (b)(1) Each sheet of each petition containing the signatures shall be  
 9 verified in substantially the following form by the person who circulated the  
 10 sheet of the petition by his or her affidavit thereon as a part thereof.

11 (2) The affidavit shall be in substantially the following form:

12 "STATE OF ARKANSAS \_\_\_\_\_ )

13 COUNTY \_\_\_\_\_ )

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

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

20 P. O. \_\_\_\_\_

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

22 Signature \_\_\_\_\_

23 Notary Public

24 My Commission Expires: \_\_\_\_\_"

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

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 29 SECTION 7. Recall issue on the ballot.

30 (a) At the special election the recall issue shall be printed on the  
 31 ballot in substantially the following form:

32 "For Permitting \_\_\_\_\_ to

33 Name \_\_\_\_\_ Office \_\_\_\_\_

34 continue to serve the term of office for which elected ..... /\_/\_

35 Against Permitting \_\_\_\_\_ to

36 Name \_\_\_\_\_ Office \_\_\_\_\_

1 continue to serve the term of office for which elected . . . . . /\_/"

2 (b)(1) If at the election a majority of the qualified electors voting  
3 on the issue vote against permitting the elected official to serve the term of  
4 office to which elected, an immediate vacancy shall exist in the office, and  
5 the vacancy shall be filled in the manner prescribed by law.

6 (2) If at the election a majority of the qualified electors  
7 voting on the issue vote for permitting the elected official to continue to  
8 serve the term of office for which elected, the elected official shall serve  
9 the full term for which elected.

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11 SECTION 8. Prohibition on more than one recall.

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

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16 SECTION 9. Election Expenditures.

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

21  
22 SECTION 10. (a) Any recall issue shall be considered a "ballot  
23 question" for purposes of the "Disclosure Act for Public Initiatives,  
24 Referendums, and Measures Referred to Voters", beginning at Arkansas Code 7-9-  
25 401.

26  
27 (b) An elected official, any person or entity acting on behalf of the  
28 elected official, or any other person or entity who receives contributions or  
29 makes expenditures for the purpose of attempting to influence the  
30 qualification, passage or defeat of a recall petition or issue shall be  
31 considered a ballot question committee and shall comply with the Disclosure  
32 Act for Public Initiatives, Referendums, and Measures Referred to Voters,  
33 beginning at Arkansas Code 7-9-401.

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35 SECTION 11. This act shall not apply to removal procedures for elected  
36 officials in city-manager or city-administrative forms of government, as



1 provided in Arkansas Code §§ 14-48-114, 14-61-119, and 14-47-112.

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/s/ Minton