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2 89th General Assembly

A Bill

3 Regular Session, 2013

SENATE BILL 821

4

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

6 *By: Representatives Vines, Slinkard, Ferguson*

7

8

For An Act To Be Entitled

9 AN ACT CONCERNING INITIATIVES AND REFERENDUMS; TO
10 REQUIRE PAID CANVASSERS OF INITIATIVE AND REFERENDUM
11 PETITIONS TO REGISTER WITH THE SECRETARY OF STATE
12 BEFORE CANVASSING; TO REQUIRE NOTICE TO THE STATE
13 POLICE OR TO COUNTY PROSECUTING ATTORNEYS OF
14 SUSPECTED FORGERY OF SIGNATURES ON PETITIONS; TO
15 REQUIRE SPONSORS OF STATEWIDE PETITIONS TO ASSUME THE
16 BURDEN OF DEFENDING THE SUFFICIENCY OF POPULAR NAMES
17 AND BALLOT TITLES IN JUDICIAL PROCEEDINGS; TO
18 REGULATE THE COUNTING OF SIGNATURES ON INITIATIVE AND
19 REFERENDUM *PETITIONS; TO REPEAL PROVISIONS OF*
20 *ARKANSAS LAW PROVIDING FOR REVIEW OF THE LEGAL*
21 *SUFFICIENCY OF STATEWIDE INITIATIVE PETITIONS AND*
22 *BALLOT TITLES BEFORE COMPLETED PETITIONS ARE FILED;*
23 *TO DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.*

24

25

26

Subtitle

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

30

31

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

33

34 SECTION 1. DO NOT CODIFY. Legislative findings.

35 (a) The General Assembly finds that:

36 (1) Through Amendment 7 to the Arkansas Constitution, the people



1 of Arkansas have reserved to themselves the power to propose legislative
2 measures, laws, and amendments to the Arkansas Constitution and to enact or
3 reject the proposed measures, laws, and amendments at the polls independently
4 of the General Assembly;

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

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

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

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

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

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

23 (1) Unregistered and untrained paid canvassers will continue to
24 obtain and submit forged and otherwise facially invalid signatures; and

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

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

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

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

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

6
7 SECTION 2. Arkansas Code § 7-9-101 is amended to read as follows:

8 7-9-101. Definitions.

9 As used in this subchapter:

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

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

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

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

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

23 ~~(6) (5) "Measure" means either an amendment, or an act, or an~~
24 ordinance;

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

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

30 ~~(7) (8) "Petitioner" means a person who signs an initiative or~~
31 ~~referendum petition ordering a vote upon an amendment or an act having~~
32 ~~general application throughout the state on a measure; and~~

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

36 ~~(8) (10) "Sponsor" means a person or group of persons filing who~~

1 arranges for the circulation of an initiative or referendum petition with the
2 Secretary of State or who files an initiative or referendum petition with the
3 official charged with verifying the signatures.

4
5 SECTION 3. Arkansas Code § 7-9-103 is amended to read as follows:

6 7-9-103. Signing of petition – Penalty for falsification – Notice of
7 suspected forgery.

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

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

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

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

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

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

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

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

35 (3) A person who is under eighteen (18) years of age shall not
36 act as a canvasser.

1 (4) A person shall not act as a paid canvasser on a statewide
 2 initiative or referendum petition if the person is not registered as a
 3 canvasser with the Secretary of State at the time he or she solicits
 4 signatures on a petition.

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

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

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

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

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

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

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

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

21 (4) Knowingly pays a person any form of compensation in exchange
 22 for signing a petition as a petitioner;

23 (5) Accepts or pays money or anything of value for obtaining
 24 signatures on a petition when the person acting as a canvasser, sponsor, or
 25 agent of a sponsor knows that the person acting as a canvasser is not
 26 registered with the Secretary of State or that his or her registration has
 27 been terminated or revoked;

28 ~~(4)~~ (6) Knowingly ~~and falsely~~ misrepresents the purpose and
 29 effect of the petition or the measure affected for the purpose of causing
 30 ~~anyone~~ a person to sign a petition;

31 ~~(5)~~ (7) ~~Acting in the capacity of~~ As a canvasser, knowingly
 32 makes a false statement on a petition verification form; ~~or~~

33 ~~(6)~~ (8) ~~Acting in the capacity of~~ As a notary, knowingly fails
 34 to witness a canvasser's affidavit ~~either~~ by witnessing the signing of the
 35 instrument in person and either personally knowing the signer or by being
 36 presented with proof of the identity of the signer; or

1 (9) As a sponsor, files a petition part with the official
2 charged with verifying the signatures knowing that the petition part contains
3 one (1) or more false or fraudulent signatures unless each false or
4 fraudulent signature is clearly stricken by the sponsor before filing.

5 (d) When the official charged with verifying the signatures has
6 reasonable grounds to believe that one (1) or more signatures on a petition
7 is forged, excluding signatures apparently signed by one (1) spouse for
8 another, the official shall report the suspected forgery and *basis for*
9 *suspecting* forgery to:

10 (1) The Department of Arkansas State Police, in the case of a
11 statewide petition; or

12 (2) The prosecuting attorney of the county, in the case of a
13 local petition.

14
15 SECTION 4. Arkansas Code § 7-9-104(a), concerning the form of an
16 initiative petition, is amended to read as follows:

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

20 "INITIATIVE PETITION

21 _____
22 To the Honorable

23 _____
24 Secretary of State of the State of Arkansas, or County Clerk, or City
25 Clerk

26 We, the undersigned ~~legal~~ registered voters of the State of Arkansas,
27 or _____ County, Arkansas, or City of _____, or Incorporated Town of
28 _____, Arkansas (as the case may be), respectfully propose the following
29 amendment to the Constitution of the State or ~~law act~~ or ordinance (as the
30 case may be), ~~to-wit:~~

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

32 _____
33 _____
34 and by this, our petition, order that the same be submitted to the people of
35 said state, or county, or municipality (as the case may be), to the end that
36 the same may be adopted, enacted, or rejected by the vote of ~~legal~~ the

1 registered voters of said (state, county, or municipality) at the regular
2 general election to be held ~~in said~~ _____ on the ___ day of ____, 20__, and
3 each of us for himself or herself says:

4 I have personally signed this petition; I am a ~~legal~~ registered voter
5 of the State of Arkansas, or _____ County, Arkansas, or City of _____,
6 or Incorporated Town of _____, Arkansas (as the case may be), and my
7 printed name, date of birth, residence, city or town of residence, and date
8 of signing this petition are correctly written after my signature.

9 (Here insert popular name and ballot title of initiated measure.)

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

11 BE IT ENACTED BY THE PEOPLE OF THE STATE OF ARKANSAS, OR _____ COUNTY,
12 ARKANSAS, OR CITY OF _____ OR INCORPORATED TOWN OF _____, ARKANSAS (as the
13 case may be)):

14 (Here insert full text of initiated measure.)”

15
16 SECTION 5. Arkansas Code § 7-9-104, concerning the form of an
17 initiative petition and the sufficiency of signatures, is amended to add an
18 additional subsection to read as follows:

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

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

25
26 SECTION 6. Arkansas Code § 7-9-105(a), concerning the form of a
27 referendum petition, is amended to read as follows:

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

30 “PETITION FOR REFERENDUM PETITION

31 _____
32 To the Honorable

33 _____
34 Secretary of State of the State of Arkansas, or County Clerk, or City
35 Clerk

36 We, the undersigned ~~legal~~ registered voters of the State of Arkansas,

1 or _____ County, Arkansas, or City or Incorporated Town of _____, Arkansas
 2 (as the case may be) respectfully order by this, our petition, that Act No.
 3 _____ of the General Assembly of the State of Arkansas, approved on the ____ day
 4 of _____, 20____, entitled ‘An Act _____’ or Ordinance No. _____, passed by the
 5 county quorum court, the city (or town) council of the City (or Incorporated
 6 Town), or County of _____, Arkansas, on the ____ day of _____, 20____, entitled,
 7 ‘An Ordinance _____,’ be referred to the people of said state, county, or
 8 municipality (as the case may be), to the end that the same may be approved
 9 or rejected by the vote of the ~~legal~~ registered voters of the state, or of
 10 said county or municipality (as the case may be) at the biennial (or annual,
 11 as the case may be, if a city ordinance) regular general election (or at a
 12 special election, as the case may be) to be held on the ____ day of _____,
 13 20____; and each of us for himself or herself says:

14 I have personally signed this petition; I am a ~~legal~~ registered voter
 15 of the State of Arkansas, or _____ County, Arkansas, or City of _____,
 16 or Incorporated Town of _____, Arkansas (as the case may be), and my
 17 printed name, date of birth, residence, city or town of residence, and date
 18 of signing this petition are correctly written after my signature.

19 (Here insert popular name and ballot title of referred measure.)
 20 REFERRED TO THE PEOPLE OF THE STATE OF ARKANSAS, OR _____ COUNTY, ARKANSAS,
 21 OR CITY OF _____ OR INCORPORATED TOWN OF _____, ARKANSAS (as the case may
 22 be):

23 (Here insert full text of referred measure.)”
 24

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

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

31 (2) Before the circulation of a statewide petition for
 32 signatures, the sponsor shall file a printed petition part with the Secretary
 33 of State in the exact form that will be used for obtaining signatures.
 34

35 SECTION 8. Arkansas Code § 7-9-107(d), concerning the certification of
 36 ballot titles by the Attorney General before circulation of a petition, is

1 amended to read as follows:

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

5

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

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

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

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

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

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

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

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

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

8
 9 SECTION 10. Arkansas Code § 7-9-108(b), concerning the procedure for
 10 circulating a petition, is amended to read as follows:

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

18
 19 SECTION 11. Arkansas Code § 7-9-109(a), concerning the form of
 20 verification for canvassers, is amended to read as follows:

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

24 "State of Arkansas

25 County of _____

26 I, (print name of canvasser), being ~~first~~ duly sworn, state that each
 27 of the foregoing persons signed ~~this sheet of the foregoing petition, and~~
 28 ~~each of them signed~~ his or her own name ~~thereunto~~ to this sheet of the
 29 petition in my presence. To the best of my knowledge and belief, I believe
 30 ~~that each has stated his or her name, date of birth, residence or town of~~
 31 ~~residence correctly, and that~~ each signature is genuine and each signer is a
 32 legal registered voter of the State of Arkansas, _____ County, or City or
 33 Incorporated Town of _____. At all times during the circulation of this
 34 signature sheet, an exact copy of the popular name, ballot title, and text
 35 was attached to the signature sheet. My current residence address is
 36 correctly stated below.

1 Signature _____
 2 Residence _____
 3 Indicate one: Paid Canvasser Volunteer/Unpaid Canvasser
 4 Subscribed and sworn to before me ~~the~~ this __ day of _____, 20__
 5 Signature _____

6
 7 Clerk, Notary, Judge or J.P.
 8 Residence _____”
 9 (Seal)”

10
 11 SECTION 12. Arkansas Code § 7-9-110 is amended to read as follows:
 12 7-9-110. Designation of number and popular name.

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

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

22
 23 SECTION 13. Arkansas Code § 7-9-111(a), concerning the Secretary of
 24 State’s determination of the sufficiency of a petition, is amended to add an
 25 additional subdivision to read as follows:

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

30
 31 SECTION 14. Arkansas Code § 7-9-111(d), concerning the determination
 32 of the sufficiency of signatures on a petition, is amended to add an
 33 additional subdivision to read as follows:

34 (3) The Secretary of State shall ascertain and declare the
 35 sufficiency or insufficiency of additional signatures submitted by the
 36 sponsors under this subsection within thirty (30) days of the filing of the

1 supplemental petitions.

2

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

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

9 (2) If signatures were obtained by paid canvassers, the person
10 filing the petitions under this subsection shall also submit a statement
11 identifying the paid canvassers by name and registration number.

12

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

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

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

28

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

32 (a) ~~For purposes of~~ As used in this section+, "property"

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

36 (2) ~~"Amendment" means any proposed amendment to the Arkansas~~

1 ~~Constitution, whether proposed under the provisions of Amendment 7 or Article~~
2 ~~19, § 22;~~

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

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

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

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

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

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

16
17 SECTION 18. Arkansas Code Title 7, Chapter 9, Subchapter 1, is amended
18 to add an additional section to read as follows:

19 7-9-126. Count of signatures.

20 (a) Upon the initial filing of an initiative or referendum petition,
21 the official charged with verifying the signatures shall:

22 (1) Perform an initial count of the signatures; and

23 (2) Determine whether the petition contains, on its face and
24 before verification of the signatures of registered voters, the designated
25 number of signatures required by the Arkansas Constitution and statutory law
26 in order to certify the measure for the election ballot.

27 (b) The petition parts and all signatures appearing on the petition
28 parts shall not be counted for any purpose by the official charged with
29 verifying the signatures, including the initial count of signatures, if one
30 (1) or more of the following is true:

31 (1) The petition is not an original petition, including without
32 limitation a petition that is photocopied or is a facsimile transmission;

33 (2) The petition lacks the signature, printed name, and
34 residence address of the canvasser or is signed by more than one (1)
35 canvasser;

36 (3) The canvasser is a paid canvasser who was not registered or

1 whose registration was terminated or revoked when a petitioner signed the
2 petition;

3 (4) The canvasser verification is not notarized, is notarized by
4 more than one (1) notary, or lacks a notary signature or a notary seal;

5 (5) The canvasser verification is dated earlier than the date on
6 which a petitioner signed the petition;

7 (6) The petition fails to comply with § 7-9-104 or § 7-9-105,
8 including the lack of the exact popular name or ballot title approved by the
9 Attorney General for a statewide initiative, a discrepancy in the text of the
10 initiated or referred measure, or the lack of an enacting clause in a
11 statewide petition for an initiated act;

12 (7) The petition part of a statewide petition clearly and
13 unmistakably contains signatures of petitioners from more than one (1) county
14 unless each signature of a petitioner from another county is clearly stricken
15 before the filing of the petition with the Secretary of State; or

16 (8) The petition part has a material defect that, on its face,
17 renders the petition part invalid.

18 (c) The following signatures shall not be counted for any purpose by
19 the official charged with verifying the signatures, including the initial
20 count of signatures:

21 (1) A signature that is not an original signature;

22 (2) A signature that is obviously not that of the purported
23 petitioner;

24 (3) A signature that is illegible and is accompanied by no
25 personally identifying information;

26 (4) A signature for which the corresponding printed name,
27 address, or birth date is written by someone other than the signer except
28 under circumstances of disability of the signer; and

29 (5) A signature that has any other material defect that, on its
30 face, renders the signature invalid.

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

1 its face.

2
3 SECTION 19 Arkansas Code § 7-9-204 is amended to read as follows.

4 7-9-204. Ballot ~~title~~ titles and popular names of constitutional
5 amendments proposed by the legislature.

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

10
11 SECTION 20. Arkansas Code Title 7, Chapter 9, Subchapter 5 is
12 *repealed.*

13 ~~7-9-501.—Purpose.~~

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

17
18 ~~7-9-502.—Construction.~~

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

21 ~~(b) The General Assembly declares that this subchapter is not intended~~
22 ~~to expand the jurisdiction of the Supreme Court under Arkansas Constitution,~~
23 ~~Amendment 7, but is intended to provide a process to timely review the legal~~
24 ~~sufficiency of a measure in a manner which avoids voter confusion and~~
25 ~~frustration which occur when measures are stricken from the ballot on the eve~~
26 ~~of an election on the measure.~~

27
28 ~~7-9-503.—Declaration of sufficiency.~~

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

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

35 ~~(b) Within thirty (30) days after receipt of the petition for~~
36 ~~determination, the Secretary of State shall decide and declare, after~~

1 ~~consultation with the Attorney General, questions on one (1) or both of the~~
2 ~~following issues:~~

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

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

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

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

16
17 ~~7-9-504. Cure by correction or amendment.~~

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

22 ~~(b) Within fifteen (15) days after a correction or amendment is filed~~
23 ~~with the Secretary of State, the Secretary of State shall notify the~~
24 ~~petitioner and sponsor of the measure of this declaration by certified mail~~
25 ~~on the date that it is issued.~~

26
27 ~~7-9-505. Right of review.~~

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

32
33 ~~7-9-506. Effect on existing petition.~~

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

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

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

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

8
9 SECTION 21. Arkansas Code Title 7, Chapter 9, is amended to add an
10 additional subchapter to read as follows:

11 Subchapter 6 – Registration of Paid Canvassers

12
13 7-9-601. Registration and training of paid canvassers.

14 (a)(1)(A) A person shall not provide money or anything of value to
15 another person for obtaining signatures on a statewide initiative or
16 referendum petition unless the person receiving the money or item of value
17 meets the requirements of this section.

18 (B) A person shall not receive money or anything of value
19 for obtaining signatures on an initiative or referendum petition unless the
20 person meets the requirements of this section.

21 (2) A person obtaining the signatures on an initiative or
22 referendum petition shall:

23 (A) Register with the Secretary of State as a canvasser;
24 and

25 (B) Complete the training program established by the State
26 Board of Election Commissioners for paid canvassers, which shall include a
27 summary of the law applicable to obtaining signatures on an initiative or
28 referendum petition.

29 (b) To register as a paid canvasser, a person shall submit in person
30 or by mail to the Secretary of State a completed application, which shall
31 include the following:

32 (1) The full name and any assumed name of the applicant;

33 (2) The current residence address of the applicant and the
34 applicant's permanent domicile address if the applicant's permanent domicile
35 address is different from the applicant's current residence address;

36 (3) A list of the petition or petitions on which the applicant

1 intends to gather signatures, including the name and address of the sponsor
2 or sponsors of each petition;

3 (4) A signed statement taken under oath or solemn affirmation
4 that states that the applicant has not pleaded guilty or nolo contendere to
5 or been found guilty of a criminal offense involving a violation of the
6 election laws, fraud, forgery, or identification theft in any state;

7 (5) A signed statement that the applicant has read and
8 understands the Arkansas law applicable to obtaining signatures on an
9 initiative or referendum petition;

10 (6) Evidence indicating that the applicant has completed the
11 training program required by the State Board of Election Commissioners; and

12 (7) A photograph of the applicant taken within ninety (90) days
13 of the submission of the application.

14 (c)(1) If a qualified applicant satisfactorily completes a
15 registration application under this section, the Secretary of State shall
16 register the applicant and assign the applicant a registration number within
17 five (5) business days of receiving the completed application.

18 (2)(A) A person who is currently registered as a paid canvasser
19 under this section is not required to reapply for registration in order to
20 obtain signatures on an additional initiative or referendum petition for a
21 period of two (2) years following the date of registration.

22 (B) However, a person who is currently registered as a
23 paid canvasser under this section shall submit to the Secretary of State a
24 list of the petitions on which the person intends to gather signatures as a
25 paid canvasser before soliciting signatures on a petition for which the
26 canvasser is paid.

27 (d)(1) A person may not pay or offer to pay money or anything of value
28 to another person on a basis related to the number of signatures obtained on
29 an initiative or referendum petition.

30 (2) Subdivision (d)(1) of this section does not prohibit the
31 payment of salary and expenses for the circulation of a petition on a basis
32 that is not related to the number of signatures obtained.

33
34 7-9-602. Proof of registration – Canvassing more than one petition.

35 (a)(1) A paid canvasser registered under this subchapter shall carry
36 evidence of registration while acting as a canvasser.

1 (2) The evidence of registration required under subdivision
2 (a)(1) of this section shall include the registration number of the canvasser
3 and the photograph submitted to the Secretary of State under § 7-9-601.

4 (b) A paid canvasser may obtain signatures on more than one (1)
5 petition at the same time if the paid canvasser is registered as a paid
6 canvasser for each petition for which the canvasser is paid.

7
8 7-9-603. Termination or revocation of registration.

9 (a) Registration as a paid canvasser to obtain signatures on a
10 petition terminates with respect to the petition when one (1) of the
11 following occurs:

12 (1) The deadline for filing signatures expires without any
13 signatures having been filed by the sponsors;

14 (2) The official charged with verifying the signatures makes a
15 final administrative determination of the sufficiency or insufficiency of the
16 petition;

17 (3) The canvasser submits a written statement of voluntary
18 termination to the Secretary of State; or

19 (4) The sponsors using a paid canvasser notify the Secretary of
20 State in writing that the person is no longer authorized to act as a paid
21 canvasser with respect to the petition.

22 (b) The Secretary of State shall revoke the registration of a paid
23 canvasser and shall notify the person of the revocation in writing and by
24 electronic means if:

25 (1) The Secretary of State determines that information that the
26 person submitted with the application for registration is materially false or
27 misleading; or

28 (2) The person is convicted of or has pled guilty or nolo
29 contendere to a violation of the election laws, fraud, forgery, or
30 identification theft in any state.

31
32 SECTION 22. EMERGENCY CLAUSE. It is found and determined by the
33 General Assembly of the State of Arkansas that existing procedures for
34 initiating and referring state laws and ordinances pursuant to Amendment 7 to
35 the Arkansas Constitution and state statutes are inadequate to prevent
36 fraudulent practices by sponsors and canvassers in obtaining ballot access;

1 that this act addresses these inadequacies; and that this act is immediately
2 necessary to prevent fraudulent practices because petition campaigns are
3 either being conducted at the present time or may be conducted immediately
4 upon the adjournment of the General Assembly with respect to either initiated
5 or referred measures. Therefore, an emergency is declared to exist, and this
6 act being immediately necessary for the preservation of the public peace,
7 health, and safety shall become effective on:

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

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

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

14
15 */s/K. Ingram*
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