# 2013-14 Initiatives and Referenda

## Facts and Information for the 2014 General Election


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**NOTE:** Nothing herein should be considered a legal opinion. This short synopsis is meant to be informational only. If the reader has questions concerning Act 1413 of 2013 or any provision of the Constitution or statues concerning initiatives and referenda, the reader should contact his or her own attorney for a legal opinion as to specific facts. Court cases can affect the law and how it is applied. Please consult with an attorney to advise you and answer questions.

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# 2013 - 2014 FACT SHEET
# STATEWIDE INITIATIVE AND REFERENDUM

## DEADLINES

**Thursday, August 15, 2013 -** Deadline to file a statewide Referendum petition with the Secretary of State's Office is no later than ninety (90) days AFTER the final adjournment of the session at which the Act being referred was passed by the Legislature. To refer any Act passed by the Legislature during the 2013 regular session, petitions must be filed with the Secretary of State no later than this date.

**Saturday, June 7, 2014** – Sponsor is required to publish the proposed measure in a paper of general circulation, at least 30 days before filing the petition signatures with the Secretary of State. If the petition signatures are filed on the July 7 deadline, publication deadline is June 7, 2014. Even though the deadline falls on a Saturday it likely will NOT be extended to the next Monday.

**Monday, July 7, 2014** -- Deadline to file statewide Initiative measures with the Secretary of State's office in order to place the measure on the November 2014 General Election Ballot.

**Thursday, August 21, 2014** – Deadline for Secretary of State to certify ballot issues for the November General Election.

**Tuesday, November 4, 2014** – General Election

## SIGNATURE REQUIREMENTS

### INITIATIVES

**Constitutional Amendment** – **78,133** - (Included in that number, there must be sufficient signatures from 15 different counties; see attached spreadsheet, pages 43-44)

**Initiated Act** – **62,507** - (Included in that number, there must be sufficient signatures from 15 different counties; see attached spreadsheet, pages 43-44)

### REFERENDUM

**Statewide Referendum** – **46,880** - (Included in that number, there must be sufficient signatures from 15 different counties; see attached spreadsheet, pages 43-44)

For more information contact:

**Arkansas Secretary of State**
Elections Division
State Capitol, Room 026
Little Rock, AR 72201
501-682-5070 or 1-800-482-1127
www.sos.arkansas.gov

**Arkansas Attorney General**
323 Center Street, Suite 200
Little Rock, AR 72201
501-682-2007
www.ag.arkansas.gov

**Arkansas Ethics Commission**
910 West Second Street, Suite 100
Little Rock, AR 72201
501-324-9600
www.arkansasethics.com

# INITIATIVE AND REFERENDUM

(SUMMARY)

Article 5, Section 1 of the Arkansas Constitution, formerly codified as, and popularly referred to as, **Amendment 7**, provides a process by which voters may propose statewide or local legislative measures or acts and statewide amendments to the Constitution. Such petitions are referred to as **initiatives**. The Arkansas Constitution also reserves to the people the right to call for a vote to approve or reject any act and any item of an appropriation bill or measure passed by the state legislature or a local government. These petitions are referred to as **referenda**.

**INITIATIVES**: To place an initiated **measure** on the ballot, it is necessary for a sponsoring group to follow certain procedures. An initiative petition may propose an Act or an Amendment to the Arkansas Constitution. The difference between the two types of measures is an initiated Act approved by a vote of the people creates a statute that may be altered or repealed by the Arkansas Legislature by a two-thirds vote. An initiated Amendment to the Arkansas Constitution may only be changed by another vote of the people unless otherwise specified.[1]

For an initiated act, a petition must contain the signatures of qualified electors in the amount of eight percent (8%) of the total number of votes cast for the office of governor in the last preceding general election. For a constitutional amendment it is necessary for a petition to contain signatures of qualified electors in the amount of ten percent (10%) of the total number of votes cast for the office of governor in the last preceding general election. Initiated measures may only be voted upon in a general election. In order for the measure to be placed on the general election ballot, an initiative petition must be filed with the Secretary of State not less than four (4) months before the election.

All proposed constitutional amendments and statewide initiated acts must be filed with the Secretary of State. Local initiatives for municipalities and counties have different requirements; this is addressed in a later section. (See page 32).

**REFERENDA**: A referendum petition is one that refers an act passed by the state legislature to a vote for approval or rejection. A petition for a statewide referendum requires that the petition contain signatures of qualified electors in the amount of six percent (6%) of the total number of votes cast for the office of governor in the last preceding general election. Referendum petitions regarding state measures are required to be filed with the Secretary of State not later than ninety (90) days after the final adjournment of the session at which the act was passed. An exception occurs when a recess or adjournment is taken temporarily for a longer period than ninety (90) days, in which case such petition shall be filed not later than ninety (90) days after such recess or temporary adjournment. Any measure referred to the people by referendum generally remains in abeyance until such vote is scheduled. However, a referendum does not hold an act in abeyance if there is an emergency clause. Referenda on local measures have different requirements; this is addressed in a later section. (See page 32).

[1] Amendment 51 to the Arkansas Constitution, concerning voter registration, specifically provides that sections 5 through 15 of the Amendment may be amended by a two-thirds (2/3) vote of the General Assembly.

**SIGNATURES**: At the time of filing a statewide initiative or referendum petition, it is necessary to file, at a minimum, the number of signatures required to place the measure on the ballot. For a constitutional amendment, the petition must contain at least 78,133 signatures at the time of filing. For an initiated act, the petition must contain at least 62,507 signatures. For a referendum, the petition must contain at least 46,880 signatures at the time of filing.

In addition to the minimum number of signatures, the petition, at the time of filing, must contain signatures from at least fifteen (15) counties in the state. Each of these fifteen counties' petitions must contain the signatures of not less than one half of the designated percentage of the electors from that county. This requirement has historically been interpreted as requiring qualified signatures of at least half of the designated percentage from fifteen different counties, for each petition. (1/2 of 10% = 5% for an amendment; 1/2 of 8% = 4% for an act; 1/2 of 6% = 3% for a referendum). In other words, if 1000 people voted for governor in a particular county and it is a petition for an amendment, 5% (half of the designated percentage) would be 50 qualified electors. See the chart attached below on pages 43-44.

# PROCEDURES

**NOTE 1** – The 89th General Assembly made significant changes to the statutory law governing initiatives and referendum with the passage of Act 1413 of 2013.[2] A lawsuit was filed in the Pulaski County Circuit Court. (See *Spencer v. Martin*, 60CV-13-4020). The trial judge found a number of the sections in Act 1413 of 2013 to be unconstitutional and enjoined the Secretary of State's Office from enforcing those specific sections. The trial court decision will be appealed to the Arkansas Supreme Court.

The Secretary of State's Office has attempted to incorporate the changes made by Act 1413 as well as the trial Court's decision in *Spencer*, into the procedures that follow. However, since the changes in the law were extensive, it may be helpful to review Act 1413 of 2013 and the trial court orders in *Spencer v. Martin*. A PDF copy of the Act and the trial court's orders are posted on the Secretary of State's website at http://www.sos.arkansas.gov/elections/Pages/initiativeReferendums.aspx.

Act 1413 of 2013 contained an emergency clause and the Act became effective on the date that it was signed by Governor Beebe – April 22, 2013.

**NOTE 2** – Nothing herein should be considered a legal opinion. This short synopsis is meant to be informational only. If the reader has questions concerning Act 1413 of 2013, Act 1432 of 2013,[3] the effect of the Circuit Court's orders in *Spencer v. Martin*, 60CV-13-4020 or any provision of the Constitution or statues concerning initiatives and referenda, the reader should contact his or her own attorney for a legal opinion as to specific facts.

[2] Act 1432 of 2013 changed the Arkansas Code concerning initiative petitions for wet/dry issues and the sale of alcoholic beverages. That Act was not included in the lawsuit challenging the provisions of Act 1413. Act 1432 also added the crime of "petition fraud" which applies to ALL initiative and referendum petitions.
[3] A PDF copy of Act 1432 of 2013 can also be found on the SOS website.

Court cases can affect the law and how it is applied. Please consult with an attorney to advise you and answer questions.

## DEFINITIONS

The following terms are used throughout the initiative and referendum process. Knowing their definitions will aid in understanding the process.

**Canvasser:** The person who circulates the petition and seeks the signatures of Petitioners. The Canvasser must sign the affidavit included on the petition under oath. It is not necessary for the Canvasser to be a registered voter or an Arkansas resident. However, it is recommended that he or she be at least eighteen (18) years of age due to the oath required.

**Paid Canvasser:** A person who is paid money or anything of value for soliciting or obtaining signatures on a petition.

**Petition Part:** A single petition that includes all of the required elements, including, but not limited to the following: Attorney General Instructions to Canvassers, Popular Name, Ballot Title, complete text of the Measure, Petitioners' oath, Petitioners' signatures, and Canvasser's Oath.

**Petitioner:** The person who signs an initiative or referendum petition requesting that the measure be placed on the ballot. Petitioner must be a qualified elector (legal voter) at the time he or she signs the petition.

**Qualified Elector or Legal Voter:** A Qualified Elector is a person who is registered to vote by the County Clerk. Only the County Clerk can register voters. Having a person complete a voter registration application does not register the person to vote. A person who completes an application should not be allowed to sign a petition until after the County Clerk registers the voter. A Legal Voter is a Qualified Elector and vice-versa.

**Sponsor:** A Sponsor is the person responsible for the petition and either arranges for the circulation of the petition, or who files the petition with the elected official responsible for verifying the signatures.

## PROCESS FOR STATEWIDE PETITIONS

The following outline provides a general guideline for **statewide** measures:

1. A petition Sponsor or group who receives contributions or makes expenditures in excess of $500 for purposes of expressly advocating the passage or defeat of an initiative must file a statement of organization as a Ballot Question Committee with the Arkansas Ethics Commission. A petition Sponsor or group who receives contributions or makes expenditures in excess of $500 for purposes of expressly advocating the passage or defeat of a referendum must file a statement of organization as a Legislative Question Committee. A Ballot Question Committee and a Legislative Question Committee must

also file financial reports with the Ethics Commission every month. Financial reports are likewise required to be filed by an individual spending his or her own personal funds. A copy of the Statement of Organization can be found at the end of this booklet beginning on page 39. Other bills passed by the 2013 General Assembly changed the requirements for some of the forms which must be filed by a Ballot Question Committee or Legislative Question Committee. Please see the Secretary of State's website or the Ethics Commission website for a copy of the current forms. Forms are also available by contacting the Arkansas Ethics Commission.

2. Prior to circulating the petition and gathering signatures, a Sponsor of a statewide initiative or referendum petition must submit the proposal to the Arkansas Attorney General. The full text of the measure along with a popular name and ballot title must be submitted. The Attorney General will issue an opinion on the popular name and ballot title. If rejected, the Sponsor can amend and resubmit to the Attorney General.

3. Each petition that is circulated must contain the following information: Canvasser's Instruction provided by the Attorney General; Popular Name and Ballot Title approved by the Attorney General; full text of the measure; Petitioner's oath requesting that the measure be placed on the ballot; signature page; and Canvasser's affidavit which must be signed and notarized.

4. The popular name and ballot title, which were approved by the Attorney General, and the complete text of the measure to be voted upon are required to be attached to each page containing petition signatures. In addition, each petition should contain the Instructions to the Canvasser, which are provided by the Attorney General in the letter approving the popular name and ballot title. Those instructions must be in bold type and attached to a statewide petition under the signature of the Attorney General.

5. Act 1413 of 2013 requires that the signature portion of an initiative or referendum petition be formatted and contain the number of signature lines prescribed by the Secretary of State. Please submit the signature portion of the petition to the Secretary of State's Office for review when drafting the petition and prior to circulation.

6. The signature page of the petition should be **LANDSCAPE ON LEGAL SIZE PAPER** and the lines should be wide enough to allow the Petitioner sufficient space to print the required information with a maximum of ten (10) signature lines per page. The signature page should include spaces for the Petitioner's signature, printed name, address, birth date and date of signing. Although not required, it might be helpful for the Petitioner to identify the County in which he or she is registered to vote.

An example form for the layout of signatures is provided herein on page 45.

7. Each petition must contain an affidavit signed by the Canvasser in front of a notary. Due to changes made in Act 1413 of 2013, the affidavit should contain the following information:[4]

a. Each Petitioner signed the petition in the presence of the Canvasser;

[4] The changes to Ark. Code Ann. § 7-9-109 were challenged in the Pulaski County lawsuit and the trial court enjoined enforcement of those changes. However, the changes to Ark Code Ann. § 7-9-108 were not challenged. Sponsors should review both sections when determining what language should be included in the Canvasser's affidavit.

b. To the best of his/her knowledge and belief, the Canvasser believes that each signature is genuine;
c. To the best of his/her knowledge and belief, the Canvasser believes each signer is a registered (legal) voter; and
d. The Canvasser's (current) residence; and signature.

8. Each petition page with the Canvasser's affidavit must be notarized. Because this type of notarization is an oath, it is necessary for the Canvasser to appear before the notary to sign the oath. The notary must be a current notary in good standing and the notary's signature and seal must be on the petition page. The notary seal must be legible and must be visible when photocopied. To determine if a notary is in good standing, please review the notary database on the SOS webpage at http://www.sos.arkansas.gov/corps/notary/index.php.

9. After the Attorney General certifies the popular name and ballot title, but prior to circulating the petition and before gathering signatures, the Sponsor is required by Act 1413 of 2013 to file a copy of the petition "in the exact form that will be used for obtaining signatures" with the Secretary of State's Office.

10. At least thirty (30) days prior to filing the petition signatures with the Secretary of State, the measure must be published at the Sponsor's expense in a newspaper with statewide circulation. Even though Act 1413 of 2013 removed the statutory requirement concerning publication, Article 5, Section 1 of the Arkansas Constitution still requires that the measure be published at least thirty (30) days prior to filing the petition signatures with the Secretary of State. Sponsors should contact the Secretary of State to arrange for publication of their proposal at the earliest possible time after approval of the popular name and ballot title by the Attorney General. Publication in the newspaper is often completed prior to circulation of the petitions for gathering signatures.

11. In order to be placed on the November 2014 General Election ballot, statewide initiatives (constitutional amendments and initiated acts) must be filed with the requisite number of signatures with the Secretary of State by Monday, July 7, 2014. The deadline for filing a referendum petition with the requisite number of signatures is ninety (90) days AFTER the final adjournment of the session at which the Act being referred was passed by the Legislature.

12. When the petition with signatures is filed with the Secretary of State:
a. The petition pages must be separated by county.
b. The Sponsor must file an affidavit stating the number of Petition Parts and the total number of signatures being filed.
c. The Sponsor must provide the list of the designated fifteen counties.

13. At the time of filing, the petition must contain the requisite number of signatures, or it will be determined to be facially invalid and rejected without verifying any signatures. In other words, an initiated amendment petition must contain at least 78,133 signatures (also referred to as the initial count) **and** the required numbers from at least 15 counties, or it will be rejected without verifying any signatures. An initiated act petition must contain at least 62,507 signatures and the required numbers from 15 counties. A referendum petition

must contain 46,880 signatures and the required numbers from 15 counties. See pages 43-44 for exact county numbers.

14. Prior to performing an initial count, the Secretary of State will review each Petition Part and will cull any page which contains the following errors or omissions:

a. The Petition Part is a photocopy, not an original;

b. A legible copy of the entire text of the measure is not attached to each petition sheet containing signatures (Petition Part); or

c. The popular name and ballot title are not attached to each petition sheet containing signatures (Petition Part).

Prior to counting the signatures from the 15 designated counties, the Secretary of State will cull Petition Parts or signatures which obviously do not contain the signatures of registered voters from that designated county. As an example, signatures from Pulaski County voters would not qualify as potential registered voters from Washington or Sebastian County.

15. After all of the Petition Parts and signatures have been culled due to the reasons listed in paragraph 14 above, the remaining signatures will be counted to determine whether the Sponsor submitted sufficient signatures to meet the initial count requirement and the 15 designated county requirement. If the Sponsor submitted a sufficient number of signatures, then the petition will be accepted for verification and the signature verification process will begin.

If the petition does not contain the requisite number of signatures in the initial count or the requisite number of signatures in the designated 15 counties, the petition will be determined to be facially invalid and rejected without verifying any signatures.

16. The Secretary of State will not accept additional signatures after the initial submission until a determination of sufficiency is made.

17. If a petition is submitted for signature verification and it is determined that the petition does not contain the requisite number of valid signatures of registered voters, the Secretary of State will advise the Sponsor of the deficiency. A Sponsor may, within 30 days of notification of the insufficiency, do any or all of the following:

A) Solicit and obtain additional signatures;
B) Submit proof that all or some of the rejected signatures are good and should be counted;
C) Make the petition more definite or certain.

18. The Secretary of State will verify signatures up to 10% above the required number.

# PAID CANVASSERS

Act 1413 of 2013 added language concerning paid canvassers. All sections concerning Paid Canvassers were struck by the Circuit Court and the Secretary of State was enjoined

from enforcing those provisions. However, Act 1432 of 2013 contains similar requirements for Paid Canvassers circulating initiative petitions on wet/dry issues or the sale of alcoholic beverages. The provisions of Act 1432 of 2013 were NOT challenged in the Pulaski County Circuit Court lawsuit challenging portions of Act 1413. Please contact your own attorney to discuss the impact of Act 1413, Act 1432, and the *Spencer* case on your local option petition and the use of Paid Canvassers.

# FREQUENTLY ASKED QUESTIONS

**1) Why would a signature be invalidated during the signature verification process?**

The Secretary of State conducts a reasonable review of each Petition Part. The following are common reasons why individual signatures may be invalidated:

a. Not a registered voter;
b. Illegible handwriting;
c. Signature is illegible and is not accompanied by any other personally identifying information;
d. No signature or verification of a mark;
e. The signature is a forgery;
f. If litigated, a challenger may allege that the signer did not sign in the presence of the Canvasser.

It is important that each signature be accompanied by as much information as possible for identification and verification as a registered voter. The date of birth is one of the most helpful identifiers.

**2) During the signature verification process what are examples of errors or omissions that will cause an entire page of petition signatures to be invalidated?**

a. Photocopy, not an original;
b. Not signed by a Canvasser;
c. A petition part signed by more than 1 Canvasser;
d. Not signed by a Canvasser under oath;
e. Canvasser's verification dated earlier than the date the petition was signed by a Petitioner;
f. Not notarized;
g. Lacking a notary seal;
h. A petition part is lacking a notary signature or is notarized by more than 1 notary;
i. A forged notary or Canvasser signature;
j. A notary notarizing his or her own signature;
k. A notary using the Great Seal of Arkansas;
l. Failure to attach a legible copy of the entire text of the measure to each petition sheet containing signatures;

m. Failure to attach the popular name and ballot title to each petition sheet containing signatures;
n. If litigated, a challenger may claim that the Canvasser failed to sign the affidavit in the presence of the notary;
o. If litigated, a challenger may claim that the affidavit of the Canvasser is false.

**3) When submitting petition pages they must be separated by county. How can I determine if the Petition Part contains signatures from more than one county?**

Determining whether a Petitioner has signed the correct petition is not always obvious. Many cities cross county boundaries. As an example, Springdale is in both Washington and Benton Counties. Also, Petitioners may have a mailing address in one county, but physically reside in another county. There are voters whose home is in Saline County, but whose mailing address is Little Rock, because they receive their mail from a Little Rock post office. Those voters would list their address in Little Rock, but are registered to vote in Saline County, because their home is located in Saline County. This occurs frequently with voters whose homes are near a county border.

When circulating the petition, Canvassers should confirm with the Petitioner in which county he/she is registered to vote and have the Petitioner sign a petition from that county. After the signature has been obtained, the Sponsor can check whether the Petitioner signed the correct county petition by finding the Petitioners name on the list of registered voters for that county.

**4) What is considered a public forum to circulate petitions? Where can I circulate petitions?**

This is a complicated issue. Not all public buildings are public forums that could allow access for signature gathering. The right to use government property for soliciting signatures depends upon whether the property by law or tradition has been given the status of a public forum, or rather has been reserved for specific official purposes. In other words, a government building may have a non-solicitation policy, which could preclude signature gathering. A Sponsor should check with each agency to determine the policy. Even if a public building is considered a public forum, the government may still implement reasonable time, place and manner restrictions.

As for private property, the owner normally determines that policy.

A Sponsor who gathers signatures at a polling site should be aware that a Canvasser must remain at least 100 feet from the polling site. The local election officials monitor this distance.

**5) Does a Canvasser have to be a registered voter to circulate a petition in Arkansas?**

No. A Canvasser does not have to be a registered voter. It is recommended that he or she be at least eighteen (18) years of age due to the oath required of Canvassers.

**6) Do you have to be an Arkansas resident to circulate a petition?**

No.

**7) May Canvassers be paid in Arkansas?**

Yes.

**8) How should a petition be delivered to the Secretary of State's Office?**

Statewide Petitions should be delivered to the Elections Division of the Secretary of State's Office in Room 026 of the State Capitol. In order to obtain timely assistance, it is advisable to call the Elections Division several days in advance of filing. The petitions are required to be separated and filed by county. The Sponsor must file a statement indicating the fifteen designated counties. The Sponsor must also file an affidavit stating the number of Petition Parts and the total number of signatures being filed. Early submission is encouraged.

**9) Can a Petition Part be turned in with only one signature?**

Yes.

**10) If the Secretary of State determines that a petition does not contain enough valid signatures, can the Sponsor submit more?**

At the time of filing, the petition must contain the requisite number of signatures or it will be determined to be facially invalid and rejected without verifying any signatures. In other words, an initiated amendment petition must contain at least 78,133 signatures and the required numbers from at least 15 counties or it will be rejected without verifying any signatures. An initiated act petition must contain at least 62,507 signatures and the required numbers from at least 15 counties; and a referendum petition must contain at least 46,880 signatures and the required numbers from at least 15 counties, or they will be rejected without verifying any signatures.

If the petition does not contain the requisite number of signatures at the time of filing, both initial count and from the 15 designated counties, the Sponsor is NOT permitted to submit more signatures. However, if the petition contains the requisite number of signatures at the time of filing, then the Secretary of State will proceed with verification of signatures.

If, after reviewing signatures, the Secretary of State determines that the petition does not contain enough valid signatures, a Sponsor will be given an opportunity to submit additional signatures. The Secretary of State will provide a deadline for submitting additional signatures when the Sponsor is notified of the insufficiency. The Secretary of State will not accept any additional signatures until after the Sponsor is notified of the insufficiency.

**11) What happens if two conflicting measures pass?**

If conflicting measures are approved at the same election, the one receiving the highest number of affirmative votes shall become law.

# COMPLETE TEXT OF ARKANSAS CONSTITUTION, ARTICLE 5, SECTION 1

## (POPULARLY REFERRED TO AS AMENDMENT 7)

**§ 1. Initiative and Referendum.**
The legislative power of the people of this State shall be vested in a General Assembly, which shall consist of the Senate and House of Representatives, but the people reserve to themselves the power to propose legislative measures, laws and amendments to the Constitution, and to enact or reject the same at the polls independent of the General Assembly; and also reserve the power, at their own option to approve or reject at the polls any entire act or any item of an appropriation bill.

**Initiative.** The first power reserved by the people is the initiative. Eight per cent of the legal voters may propose any law and ten per cent may propose a constitutional amendment by initiative petition and every such petition shall include the full text of the measure so proposed. Initiative petitions for state-wide measures shall be filed with the Secretary of State not less than four months before the election at which they are to be voted upon; provided, that at least thirty days before the aforementioned filing, the proposed measure shall have been published once, at the expense of the petitioners, in some paper of general circulation.

**Referendum.** The second power reserved by the people is the referendum, and any number not less than six per cent of the legal voters may, by petition, order the referendum against any general Act, or any item of an appropriation bill, or measure passed by the General Assembly, but the filing of a referendum petition against one or more items, sections or parts of any such act or measure shall not delay the remainder from becoming operative. Such petition shall be filed with the Secretary of State not later than ninety days after the final adjournment of the session at which such Act was passed, except when a recess or adjournment shall be taken temporarily for a longer period than ninety days, in which case such petition shall be filed not later than ninety days after such recess or temporary adjournment. Any measure referred to the people by referendum petition shall remain in abeyance until such vote is taken. The total number of votes cast for the office of Governor in the last preceding general election shall be the basis upon

which the number of signatures of legal voters upon state-wide initiative and referendum petitions shall be computed.

Upon all initiative or referendum petitions provided for in any of the sections of this article, it shall be necessary to file from at least fifteen of the counties of the State, petitions bearing the signature of not less than one-half of the designated percentage of the electors of such county.

**Emergency.** If it shall be necessary for the preservation of the public peace, health and safety that a measure shall become effective without delay, such necessity shall be stated in one section, and if upon a yea and nay vote two-thirds of all the members elected to each house, or two-thirds of all the members elected to city or town councils, shall vote upon separate roll call in favor of the measure going into immediate operation, such emergency measure shall become effective without delay. It shall be necessary, however, to state the fact which constitutes such emergency.
Provided, however, that an emergency shall not be declared on any franchise or special privilege or act creating any vested right or interest or alienating any property of the State. If a referendum is filed against any emergency measure such measure shall be a law until it is voted upon by the people, and if it is then rejected by a majority of the electors voting thereon, it shall be thereby repealed. The provision of this sub-section shall apply to city or town councils.

**Local for Municipalities and Counties.** The initiative and referendum powers of the people are hereby further reserved to the legal voters of each municipality and county as to all local, special and municipal legislation of every character in and for their respective municipalities and counties, but no local legislation shall be enacted contrary to the Constitution or any general law of the State, and any general law shall have the effect of repealing any local legislation which is in conflict therewith.
Municipalities may provide for the exercise of the initiative and referendum as to their local legislation. General laws shall be enacted providing for the exercise of the initiative and referendum as to counties. Fifteen per cent of the legal voters of any municipality or county may order the referendum, or invoke the initiative upon any local measure. In municipalities the number of signatures required upon any petition shall be computed upon the total vote cast for the office of mayor at the last preceding general election; in counties upon the office of circuit clerk. In municipalities and counties the time for filing an initiative petition shall not be fixed at less than sixty days nor more than ninety days before the election at which it is to be voted upon; for a referendum petition at not less than thirty days nor more than ninety days after the passage of such measure by a municipal council; nor less than ninety days when filed against a local or special measure passed by the General Assembly.
Every extension, enlargement, grant, or conveyance of a franchise or any rights, property, easement, lease, or occupation of or in any road, street, alley or any part thereof in real property or interest in real property owned by municipalities, exceeding in value three hundred dollars, whether the same be by statute, ordinance, resolution, or otherwise, shall be subject to referendum and shall not be subject to emergency legislation.

## General Provisions

**Definition.** The word "measure" as used herein includes any bill, law, resolution, ordinance, charter, constitutional amendment or legislative proposal or enactment of any character.

**No Veto.** The veto power of the Governor or mayor shall not extend to measures initiated by or referred to the people.

**Amendment and Repeal.** No measure approved by a vote of the people shall be amended or repealed by the General Assembly or by any city council, except upon a yea and nay vote on roll call of two-thirds of all the members elected to each house of the General Assembly, or of the city council, as the case may be.

**Election.** All measures initiated by the people whether for the State, county, city or town, shall be submitted only at the regular elections, either State, congressional or municipal, but referendum petitions may be referred to the people at special elections to be called by the proper official, and such special elections shall be called when fifteen per cent of the legal voters shall petition for such special election, and if the referendum is invoked as to any measure passed by a city or town council, such city or town council may order a special election.

**Majority.** Any measure submitted to the people as herein provided shall take effect and become a law when approved by a majority of the votes cast upon such measure, and not otherwise, and shall not be required to receive a majority of the electors voting at such election. Such measures shall be operative on and after the thirtieth day after the election at which it is approved, unless otherwise specified in the Act.

This section shall not be construed to deprive any member of the General Assembly of the right to introduce any measure, but no measure shall be submitted to the people by the General Assembly, except a proposed constitutional amendment or amendments as provided for in this Constitution.

**Canvass and Declaration of Results.** The result of the vote upon any State measure shall be canvassed and declared by the State Board of Election Commissioners (or legal substitute therefor); upon a municipal or county measure, by the county election commissioners (or legal substitute therefor).

**Conflicting Measures.** If conflicting measures initiated or referred to the people shall be approved by a majority of the votes severally cast for and against the same at the same election, the one receiving the highest number of affirmative votes shall become law.

## The Petition

**Title.** At the time of filing petitions the exact title to be used on the ballot shall by the petitioners be submitted with the petition, and on state-wide measures, shall be submitted to the State Board of Election Commissioners, who shall certify such title to the Secretary of State, to be placed upon the ballot; on county and municipal measures such title shall

be submitted to the county election board and shall by said board be placed upon the ballot in such county or municipal election.

**Limitation.** No limitation shall be placed upon the number of constitutional amendments, laws, or other measures which may be proposed and submitted to the people by either initiative or referendum petition as provided in this section. No petition shall be held invalid if it shall contain a greater number of signatures than required herein.

**Verification.** Only legal votes shall be counted upon petitions. Petitions may be circulated and presented in parts, but each part of any petition shall have attached thereto the affidavit of the person circulating the same, that all signatures thereon were made in the presence of the affiant, and that to the best of the affiant's knowledge and belief each signature is genuine, and that the person signing is a legal voter and no other affidavit or verification shall be required to establish the genuineness of such signatures.

**Sufficiency.** The sufficiency of all state-wide petitions shall be decided in the first instance by the Secretary of State, subject to review by the Supreme Court of the State, which shall have original and exclusive jurisdiction over all such causes. The sufficiency of all local petitions shall be decided in the first instance by the county clerk or the city clerk as the case may be, subject to review by the chancery court.

**Court Decisions.** If the sufficiency of any petition is challenged such cause shall be a preference cause and shall be tried at once, but the failure of the courts to decide prior to the election as to the sufficiency of any such petition, shall not prevent the question from being placed upon the ballot at the election named in such petition, nor militate against the validity of such measure, if it shall have been approved by a vote of the people.

**Amendment of Petition.** If the Secretary of State, county clerk or city clerk, as the case may be, shall decide any petition to be insufficient, he shall without delay notify the sponsors of such petition, and permit at least thirty days from the date of such notification, in the instance of a state-wide petition, or ten days in the instance of a municipal or county petition, for correction or amendment. In the event of legal proceedings to prevent giving legal effect to any petition upon any grounds, the burden of proof shall be upon the person or persons attacking the validity of the petition.

**Unwarranted Restrictions Prohibited.** No law shall be passed to prohibit any person or persons from giving or receiving compensation for circulating petitions, nor to prohibit the circulation of petitions, nor in any manner interfering with the freedom of the people in procuring petitions; but laws shall be enacted prohibiting and penalizing perjury, forgery, and all other felonies or other fraudulent practices, in the securing of signatures or filing of petitions.

**Publication.** All measures submitted to a vote of the people by petition under the provisions of this section shall be published as is now, or hereafter may be provided by law.

**Enacting Clause.** The style of all bills initiated and submitted under the provisions of this section shall be, "Be It Enacted by the People of the State of Arkansas, (municipality or county, as the case may be)." In submitting measures to the people, the Secretary of

State and all other officials shall be guided by the general election laws or municipal laws as the case may be until additional legislation is provided therefor.

**Self-Executing.** This section shall be self-executing, and all its provisions shall be treated as mandatory, but laws may be enacted to facilitate its operation. No legislation shall be enacted to restrict, hamper or impair the exercise of the rights herein reserved to the people. [As amended by Const. Amend. 7]

# ARKANSAS CODE SECTIONS CONCERNING INITIATIVE AND REFERENDUM

**NOTE 1** – The 89th General Assembly made significant changes to the statutory law governing initiatives and referendum with the passage of Act 1413 of 2013.[5] A lawsuit was filed in the Pulaski County Circuit Court. (See *Spencer v. Martin*, 60CV-13-4020). The trial judge found a number of the sections in Act 1413 of 2013 to be unconstitutional and enjoined the Secretary of State's Office from enforcing those specific sections. The trial court decision will be appealed to the Arkansas Supreme Court.

The Secretary of State's Office has made many changes to this Initiatives and Referendum Handbook to reflect the new requirements imposed by Act 1413. However, since the changes in the law were extensive, it may be helpful to review Act 1413 of 2013 and the court orders in *Spencer v. Martin*. A PDF copy of the Act and the trial court's orders are posted on the Secretary of State's website at http://www.sos.arkansas.gov/elections/Pages/initiativeReferendums.aspx.

To assist the reader, the statutes that follow are a "marked-up" copy that include the prior law and the changes made by Act 1413 of 2013. The sections of Act 1413 that were enjoined by the Pulaski County Circuit Court reverted back to the prior law -----

- Text that contains a strikethrough was deleted from the prior law by Act 1413 (e.g. ~~any proposed~~)
- Text that is underlined was added by Act 1413. (e.g. <u>any proposed</u>)
- Text that has no marking was in the prior law and was not amended by Act 1413. (e.g. any proposed) Provisions that were enjoined by the trial court revert back to the prior law and will appear as having "no marking."

Act 1413 of 2013 contained an emergency clause, and the Act became effective on the date that it was signed by Governor Beebe – April 22, 2013.

**NOTE 2** – In a separate bill, the Legislature added the crime of "petition fraud" to the criminal code. (See Act 1432 of 2013).[6] The relevant section from Act 1432 of 2013 is

[5] Act 1432 of 2013 changed the Arkansas Code concerning initiative petitions for wet/dry issues and the sale of alcoholic beverages. That Act was not included in the lawsuit challenging the provisions of Act 1413. Act 1432 also added the crime of "petition fraud" which applies to ALL initiative and referendum petitions.
[6] A PDF copy of Act 1432 of 2013 can also be found on the SOS website.

included at the end of the statutes concerning statewide petitions. (See pages 31-32). The effective date for Act 1432 was August 16, 2013.

**7-9-101. Definitions.**

As used in this subchapter:

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

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

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

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

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

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

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

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

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

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

~~**(8)**~~ **(10)** "Sponsor" means a person ~~or group of persons filing~~ who arranges for the circulation of an initiative or referendum petition ~~with the Secretary of State~~ or who files an initiative or referendum petition with the official charged with verifying the signatures.

**7-9-102. Duties of election officers -- Penalty for failure to perform.**

**(a) (1)** The duties imposed by this act upon members of the State Board of Election Commissioners and county boards of election commissioners, election officials, and all other officers expressly named in this act are declared to be mandatory.

**(2)** These duties shall be performed in good faith within the time and in the manner provided.

**(b) (1)** If any member of any board, any election official, or any other officer so charged with the duty shall knowingly and willfully fail or refuse to perform his or her duty or shall knowingly and willfully commit a fraud in evading the performance of his or her duty, then he or she shall be guilty of a violation.

**(2)** Upon conviction, he or she shall be fined any sum not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) and also shall be removed from office.

### 7-9-103. Signing of petition -- Penalty for falsification[7]

**(a) (1)** Any person who is a qualified elector of the State of Arkansas may sign an initiative or referendum petition in his or her own proper handwriting, and not otherwise, to order an initiative or referendum vote upon a proposed measure or referred act.

**(2)** Any person who is an elector of any municipality of this state may sign any petition for the referendum of any ordinance passed by the council of the municipality.

[8]**(b)** A person shall be deemed guilty of a Class A misdemeanor if the person:

**(1)** Signs any name other than his or her own to any petition;

**(2)** Knowingly signs his or her name more than once to any petition;

**(3)** Knowingly signs a petition when he or she is not legally entitled to sign it;

**(4)** ~~Knowingly and falsely misrepresents the purpose and effect of the petition or the measure affected for the purpose of causing anyone to sign a petition~~;

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

**(6)** ~~Acting in the capacity of a notary, knowingly fails to witness a canvasser's affidavit either by witnessing the signing of the instrument and personally knowing the signer or by being presented with proof of identity of the signer~~.

### 7-9-104. Form of initiative petition -- Sufficiency of signatures.

**(a)** The petition for ~~any~~ <u>an</u> ordinance, ~~law~~ <u>act</u>, or amendment ~~to the Arkansas Constitution~~

[7] Pulaski County Circuit Court in *Spencer v. Martin*, 60CV-13-4020 found changes to this section by Act 1413 of 2013 to be unconstitutional. Language here reflects text without any of the changes from Act 1413.
[8] **NOTE: 7-9-103(b)** was repealed by Act 1432 of 2013. Act 1432 was effective as of August 16, 2013.

proposed by initiative shall be on substantially the following form:

"INITIATIVE PETITION

To the Honorable _____
Secretary of State of the State of Arkansas, or County Clerk, or City Clerk
We, the undersigned ~~legal~~ registered voters of the State of Arkansas, or _____ County, Arkansas, or City of _____ ,or Incorporated Town of _____, Arkansas (as the case may be), respectfully propose the following amendment to the Constitution of the State, or ~~law~~ act, or ordinance (as the case may be), ~~to wit:~~
~~(Here insert title and full text of measure proposed.)~~
_____
_____ and by this, our petition, order that the same be submitted to the people of said state, or county, or municipality (as the case may be), to the end that the same may be adopted, enacted, or rejected by the vote of ~~legal~~ the registered voters of said (state, county, or municipality) at the regular general election to be held ~~in said~~ _____on the _____ day of _____, 20 __, and each of us for himself or herself says:

I have personally signed this petition; I am a ~~legal~~ registered voter of the State of Arkansas , or_____, County, Arkansas, or City of_____, or Incorporated Town of_____, Arkansas (as the case may be), 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.
(Here insert popular name and ballot title of initiated measure.)
(In the case of a proposed initiated act or ordinance, insert the following:
BE IT ENACTED BY THE PEOPLE OF THE STATE OF ARKANSAS, OR_____ COUNTY, ARKANSAS, OR CITY OF _____ OR INCORPORATED TOWN OF _____, ARKANSAS (as the case may be)):
(Here insert full text of initiated measure.)"

**(b)** The information provided by the person on the petition may be used as evidence of the validity or invalidity of the signature. However, if a signature of a registered voter on the petition is sufficient to verify the voter's name, then it shall not be adjudged invalid for failure to sign the name or write the residence and city or town of residence exactly as it appears on voter registration records, for failure to print the name in the space provided, for failure to provide the correct date of birth, nor for failure to provide the correct date of signing the petition, all the information being an aid to verification rather than a mandatory requirement to perfect the validity of the signature.

**(c)** No additional sheets of voter signatures shall be attached to any petition unless the sheets contain the full language of the petition.

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

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

**7-9-105. Form of referendum petition -- Sufficiency of signatures.**

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

"~~PETITION FOR~~ REFERENDUM PETITION
To the Honorable _____
Secretary of State of the State of Arkansas, or County Clerk, or City Clerk
We, the undersigned ~~legal~~ registered voters of the State of Arkansas, or _____ County, Arkansas, or City or Incorporated Town of _____, Arkansas (as the case may be) respectfully order by this, our petition, that Act No. _____ of the General Assembly of the State of Arkansas, approved on the _____ day of _____, 20__, entitled 'An Act _____' or Ordinance No. _____, passed by the county quorum court, the city (or town) council of the City (or Incorporated Town), or County of _____, Arkansas, on the _____ day of _____, 20__, entitled, 'An Ordinance _____,' be referred to the people of said state, county, or municipality (as the case may be), to the end that the same may be approved or rejected by the vote of the ~~legal~~ registered voters of the state, or of said county or municipality (as the case may be) at the biennial (or annual, as the case may be, if a city ordinance) regular general election (or at a special election, as the case may be) to be held on the _____ day of _____, 20__; and each of us for himself or herself says:

I have personally signed this petition; I am a ~~legal~~ registered voter of the State of Arkansas, or _____ County, Arkansas, or City of _____, or Incorporated Town of _____, Arkansas (as the case may be), 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.
(Here insert popular name and ballot title of referred measure.)
REFERRED TO THE PEOPLE OF THE STATE OF ARKANSAS, OR _____ COUNTY, ARKANSAS, OR CITY OF _____ OR INCORPORATED TOWN OF _____, ARKANSAS (as the case may be):
(Here insert full text of referred measure.)"

**(b)** The information provided by the person on the petition may be used as evidence of the validity or invalidity of the signature. However, if a signature of a registered voter on the petition is sufficient to verify the voter's name, then it shall not be adjudged invalid for failure to sign the name or write the residence and city or town of residence exactly as it appears on voter registration records, for failure to print the name in the space provided, for failure to provide the correct date of birth, nor for failure to provide the correct date of signing the petition, all of that information being an aid to verification rather than a mandatory requirement to perfect the validity of the signature.

**(c)** No additional sheets of voter signatures shall be attached to any petition unless the sheets contain the full language of the petition.

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

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

**7-9-106. Required attachments to petitions.**

**(a)** To every petition for the initiative shall be attached a full and correct copy of the title and the measure proposed.

**(b)** To every petition for the referendum shall be attached a full and correct copy of the measure on which the referendum is ordered.

**7-9-107. Approval of ballot titles and popular names of petitions prior to circulation -- Publication.**

**(a)** Before any initiative or referendum petition ordering a vote upon any amendment or act shall be circulated for obtaining signatures of petitioners, the sponsors shall submit the original draft to the Attorney General, with a proposed legislative or ballot title and popular name.

**(b)** Within ten (10) days, the Attorney General shall approve and certify or shall substitute and certify a more suitable and correct ballot title and popular name for each amendment or act. The ballot title so submitted or supplied by the Attorney General shall briefly and concisely state the purpose of the proposed measure.

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

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

~~**(e) (1) (A)** If a sponsor of any proposed statewide initiative elects to submit its popular name and ballot title to the Attorney General for certification prior to September 30 of the year preceding the year in which the initiative would be voted on, then, within ten (10) days of certification by the Attorney General, who shall deliver such certification to the Secretary of State on the day of certification, the Secretary of State shall approve and certify the sufficiency of such popular name and ballot title as certified by the Attorney General and shall cause to be published in a newspaper with statewide circulation the~~

~~entire proposal with its certified popular name and ballot title and a notice informing the public of such certification and the procedure identified in this section to govern any party who may contest such certification before the Supreme Court.~~

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

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

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

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

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

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

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

**7-9-108. Procedure for circulation of petition.**

**(a)** Each initiative or referendum petition ordering a vote upon a measure having general application throughout the state shall be prepared and circulated in fifteen (15) or more parts or counterparts, and each shall be an exact copy or counterpart of all other such parts upon which signatures of petitioners are to be solicited. When a sufficient number of parts are signed by a requisite number of qualified electors and are filed and duly certified by the Secretary of State, they shall be treated and considered as one (1) petition.

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

**(c)** Preceding every petition, there shall be set out in boldface type, over the signature of

the Attorney General, any instructions to canvassers and signers as may appear proper and beneficial informing them of the privileges granted by the Constitution and of the penalties imposed for violations of this act. The instructions on penalties shall be in larger type than the other instructions.

**(d)** No part of any initiative or referendum petition shall contain signatures of petitioners from more than one (1) county.

### 7-9-109. Form of verification -- Penalty for false statement.[9]

**(a)** Each petition containing the signatures shall be verified in substantially the following form, by the person who circulated the sheet of the petition by his or her affidavit thereon as a part thereof:

"State of Arkansas )
County of _____ )

I, (print name of canvasser), being first duly sworn, state that the foregoing persons signed this sheet of the foregoing petition, and each of them signed his or her name thereunto in my presence. I believe that each has stated his or her name, date of birth, residence or town of residence correctly, and that each signer is a legal voter of the State of Arkansas, _____ County, or City or Incorporated Town of _____.

Signature _____
Residence _____
Subscribed and sworn to before me the _____ day of _____, 20__
Signature _____
Clerk, Notary, Judge or J.P.
Residence _____"

**(b)** Forms herein given are not mandatory, and if substantially followed in any petition it shall be sufficient, disregarding clerical and merely technical errors.

**(c) (1)** Petitions shall not be disqualified due to clerical or technical errors made by a clerk, notary, judge, or justice of the peace when verifying the canvasser's signature.

**(2)** Petitions shall not be disqualified for failure of a clerk, notary, judge, or justice of the peace to sign exactly as his or her name appears on his or her seal if the signature of a clerk, notary, judge, or justice of the peace is sufficient to verify his or her name.

**(d)** A canvasser who knowingly makes a false statement on a petition verification form required by this section shall be deemed guilty of a Class D felony.

[9] Pulaski County Circuit Court in *Spencer v. Martin*, 60CV-13-4020, found changes to this section by Act 1413 of 2013 to be unconstitutional. Language here reflects text without any of the changes from Act 1413.

**7-9-110. Designation of number and popular name.**

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

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

**7-9-111. Determination of sufficiency of petition -- Corrections.**[10]

**(a) (1)** The Secretary of State shall ascertain and declare the sufficiency or insufficiency of each initiative and referendum petition within thirty (30) days after it is filed.

**(2)** The Secretary of State may contract with the various county clerks for their assistance in verifying the signatures on petitions. The county clerk shall return the petitions to the Secretary of State within ten (10) days.

**(b)** In considering the sufficiency of initiative and referendum petitions, if it is made to appear beyond a reasonable doubt that twenty percent (20%) or more of the signatures on any one (1) part thereof are fictitious, forged, or otherwise clouded or that the challenged petitioners were ineligible to sign the petition, which fact was known or could have been ascertained by the exercise of reasonable diligence on the part of the canvasser, then the Secretary of State shall require the sponsors to assume the burden of proving that all other signatures appearing on the part are genuine and that the signers are qualified electors and are in all other respects entitled to sign the petition. If the sponsors refuse or fail to assume and meet the burden, then the Secretary of State shall reject the part and shall not count as petitioners any of the names appearing thereon.

**(c)** If the petition is found to be sufficient, the Secretary of State shall certify and record the finding and do and perform such other duties relating thereto as are required by law.

**(d) (1)** If the petition is found to be insufficient, the Secretary of State shall forthwith notify the sponsors in writing, through their designated agent, and shall set forth his or her reasons for so finding. When the notice is delivered, the sponsors shall have thirty (30) days in which to do any or all of the following:

**(A)** Solicit and obtain additional signatures;

**(B)** Submit proof to show that the rejected signatures or some of them are good and should be counted; or

[10] Pulaski County Circuit Court in *Spencer v. Martin,* 60CV-13-4020 found some of the changes to this section by Act 1413 of 2013 to be unconstitutional. Underlined language reflects changes made by Act 1413 that were not challenged in the *Spencer* case.

**(C)** Make the petition more definite and certain.

**(2)** Any amendments and corrections shall not materially change the purpose and effect of the petition. No change shall be made in the measure, except to correct apparent typographical errors or omissions.

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

**(e) (1)** To assist the Secretary of State in ascertaining the sufficiency or insufficiency of each initiative and referendum petition, all county clerks shall furnish at cost to the Secretary of State a single alphabetical list of all registered voters in their respective counties. The list shall be provided at least four (4) months before the election, and an updated list shall be provided at cost by September 1 in the year of the election. The list shall include the date of birth of each registered voter.

**(2)** The State Board of Election Commissioners, upon the request of the county clerk, may grant a waiver from this provision if the state board determines that the county clerk is unable to provide the list within the time required.

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

**(g)** All county initiative and referendum elections shall be held in accordance with the provisions of § 14-14-917.

**(h)** Municipal referendum petition measures shall be submitted to the electors at a regular general election unless the petition expressly calls for a special election. If the date set by the petition does not allow sufficient time to comply with election procedures, then the city or town council shall fix the date for any special election on the referendum measure. The date of any special election shall be set in accordance with § 7-11-201 et seq. but in no event more than one hundred twenty (120) calendar days after the date of certification of sufficiency by the municipal clerk.

**7-9-112. Failure to act on petition -- Mandamus -- Injunction.**

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

**(b)** If the Supreme Court ~~shall decide~~ decides that the petition is legally sufficient, it shall order the Secretary of State to ~~file and~~ certify the sufficiency ~~thereof as of the date upon which it was first offered for filing, and a certified copy of the judgment shall be attached to~~

~~the petition~~ for placing the initiated or referred measure on the election ballot.

**(c)** On a proper showing that any petition is not sufficient, the Supreme Court may enjoin the Secretary of State from certifying its sufficiency and may also enjoin the various election boards from allowing the ballot title thereof to be printed on the ballots and certifying votes cast on the proposal.

**7-9-113. Publication of notice.**

**(a)** The Secretary of State shall be charged with the duty of letting contracts for publishing notices as authorized in this section.

**(b) (1)** Before the election at which any proposed or referred measure is to be voted upon by the people, notice shall be published in two (2) weekly issues of some newspaper in each county as is provided by law.

**(2) (A)** Publication of the notice for amendments proposed by the General Assembly shall commence six (6) months before the election.

**(B)** Publication of the notice for all other measures shall commence eight (8) weeks before the election.

**(c)** At least one (1) notice shall contain the number, the popular name, the ballot title, and a complete text of the measure to be submitted and shall be published in a camera-ready format in a type no smaller than ten-point type.

**(d)** It shall be the duty of the Secretary of State, in connection with a copy of the proposed amendment, to give notice in the same newspapers that each elector on depositing his or her ballot at the election shall vote for or against the amendment.

**7-9-114. Abstract of proposed measure.**

**(a)** The Attorney General shall prepare a concise abstract of the contents of each statewide initiative and referendum measure proposed under Arkansas Constitution, Amendment 7, and he or she shall transmit it to the Secretary of State not less than twenty (20) days before the election.

**(b)** Not fewer than eighteen (18) days before the election, the Secretary of State shall transmit a certified copy of the abstract to the county boards of election commissioners, who shall cause copies to be printed and posted conspicuously at all polling places in the county for the information of the voters.

**(c)** The cost of printing copies of the abstracts shall be borne by the counties as a regular expense of the election.

**7-9-115. Furnishing ballot title and popular name to election commissioners.**

Not less than eighteen (18) days before the election, the Secretary of State shall furnish the State Board of Election Commissioners and county boards of election commissioners a certified copy of the ballot title and popular name for each proposed measure and each referred act to be voted upon at the ensuing election.

**7-9-116. Captions and designations of numbered issues.**

**(a)** The Secretary of State shall fix and declare the number of the issue by which state measures shall be designated on the ballot.

**(b)** Each state measure shall be identified with the issue number designated by the Secretary of State.

**(c)** Measures proposed by initiative petition shall be captioned, "CONSTITUTIONAL AMENDMENT (OR ACT) PROPOSED BY PETITION OF THE PEOPLE".

**(d)** Measures referred to a vote by petition shall be captioned, "MEASURE REFERRED BY ORDER OF THE PEOPLE".

**(e)** Measures referred to a vote by the General Assembly shall be captioned, "CONSTITUTIONAL AMENDMENT (OR OTHER MEASURE) REFERRED TO THE PEOPLE BY THE GENERAL ASSEMBLY".

**7-9-117. Ballot form.**

**(a)** It shall be the duty of the county board of election commissioners in each county to cause each title and popular name to be printed upon the official ballot to be used in the election at which the measure is to be voted upon, in the manner certified by the Secretary of State.

**(b)** The title and popular name shall be stated plainly, followed by these words:

FOR ISSUE NO. ...
AGAINST ISSUE NO…

**(c) (1)** In arranging the ballot titles on the ballot, the county board shall place each measure separate and apart from others.

**(2)** Each statewide measure shall be designated on the ballot as an issue, and the issues shall be numbered consecutively beginning with "Issue 1" and in the following order:

**(A)** Constitutional amendments proposed by the General Assembly, if any;

**(B)** Initiated constitutional amendments, if any;

**(C)** Statewide initiated acts, if any;

**(D)** Referred acts of the General Assembly, if any;

**(E)** Questions referred by the General Assembly, if any; and

**(F)** Other measures that may be referred, if any.

**(3)** The ballot titles of measures submitted by municipalities, counties, and other political subdivisions that may submit ballot measures to the people shall be:

**(A)** Placed separate and apart on the ballot from the ballot titles of statewide measures and from other ballot titles of measures submitted by municipalities, counties, and other political subdivisions; and

**(B)** Numbered consecutively for each political subdivision in the following order:
(i) Initiated local measures, if any;
(ii) Referred local measures, if any; and
(iii) Other measures that may be referred, if any.

**7-9-118. Failure to place proposal on ballot -- Manner of voting.**

If any election board shall fail or refuse to submit any proposal after its sufficiency has been duly certified, the qualified electors of the county may vote for or against the measure by writing or stamping on their ballot the proposed ballot title, followed by the word "FOR" or "AGAINST". All votes so cast, if otherwise legal, shall be canvassed, counted, and certified.

**7-9-119. Counting, canvass, and return of votes -- Proclamation of result -- Effective date.**

**(a)** The vote on each measure shall be counted, tabulated, and returned by the proper precinct election officials to the county board of election commissioners in each county at the time and in the manner the vote for candidates for state and county officers is tabulated, canvassed, and returned.

**(b)** An abstract of all votes cast on any measure shall be certified by the county board and delivered or postmarked to the Secretary of State no earlier than forty-eight (48) hours and no later than fifteen (15) calendar days after the election is held.

**(c)** It shall be the duty of the Secretary of State to canvass the returns on each measure not later than ten (10) days thereafter and to certify the result to the Governor and to the State Board of Election Commissioners.

**(d) (1) (A)** The Governor shall thereupon issue a proclamation showing the total number of votes cast and the number cast for and the number cast against each measure and shall declare the measure adopted or rejected, as the facts appear.

**(B)** If the Governor declares any measure adopted, it shall be in full force and effect thirty (30) days after the election unless otherwise provided in the measure.

**(2)** However, amendments to the Arkansas Constitution shall also be declared adopted or rejected by the Speaker of the House of Representatives, as is provided by the Arkansas Constitution.

### 7-9-120. Printing of approved measures with general laws -- Certification of city ordinances.

**(a)** The Secretary of State shall cause every measure approved by the people to be printed with the general laws enacted by the next ensuing session of the General Assembly with the date of the Governor's proclamation declaring the same to have been approved by the people.

**(b)** However, city ordinances approved by the people shall only be certified by the Secretary of State to the city clerk or recorder of the municipality for which the ordinance has been approved, who shall immediately record the same as he or she is required by law to record other ordinances of the municipality.

### 7-9-121. Contest of returns and certification.

**(a)** The right to contest the returns and certification of the votes cast upon any measure is expressly conferred upon any twenty-five (25) qualified electors of the state.

**(b)** Any contest may be brought in the Pulaski County Circuit Court and shall be conducted under any rules and regulations as may be made and promulgated by the Supreme Court. However, the complaint shall be filed within sixty (60) days after the certification of the vote thereon, and the contestants shall not be required to make bond for the costs.

### 7-9-122. Adoption of conflicting measures.

If two (2) or more conflicting measures shall be approved by a majority of the votes severally cast for and against the measures at the same election, the measure receiving the greatest number of affirmative votes shall become law.

### 7-9-123. Preservation of records.

All petitions, notices, certificates, or other documentary evidence of procedural steps taken in submitting any measure shall be filed and preserved. Petitions with signatures shall be retained for two (2) years and thereafter destroyed. The measure and the certificates relating thereto shall be recorded in a permanent record and duly attested by the Secretary of State.

**7-9-124. Voter registration signature imaging system -- Creation of fund.**

**(a)** There is hereby established in the office of the Secretary of State a voter registration signature imaging system, and the Secretary of State is authorized to acquire and maintain the necessary equipment and facilities to accommodate the system.

**(b)** The Department of Information Systems shall cooperate with and assist the Secretary of State in determining the computer equipment and software needed in the office of the Secretary of State for the voter registration signature imaging system.

**(c)** There is hereby created on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a fund to be known as the "Voter Registration Signature Imaging System Fund".

**7-9-125. Definitions -- Prohibition of profit -- Penalties -- Freedom of information**

**(a)** ~~For purposes of~~ As used in this section~~:~~, "property"

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

~~**(2)** "Amendment" means any proposed amendment to the Arkansas Constitution, whether proposed under the provisions of Amendment 7 or Article 19, § 22;~~

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

~~**(4)** "Initiative petition" means a form of petition which conforms to the requirements of § 7-9-104;~~

~~**(5)** "Measure" means either an amendment or an act;~~

~~**(6)** "Property"~~ means both real and personal property and includes, ~~but is not limited to~~, without limitation both tangible and intangible property~~;~~

~~**(7)** "Referendum petition" means a form of petition which conforms to the requirements of § 7-9-105; and~~

~~**(8)** "Sponsor" means a person or persons who arrange for the circulation of initiative, referendum, or constitutional amendment petitions or who file an initiative, referendum, or constitutional amendment with the Secretary of State or other authorized recipient of the petitions~~.

**(b) (1)** No person who is a sponsor of an initiative petition, referendum petition, or constitutional amendment which proposes the sale of property owned by a municipality or county shall receive anything of value as a result of the passage of the act sponsored by

the person.

**(2)** A sponsor of an initiative petition, referendum petition, or constitutional amendment which proposes the sale of property owned by a municipality or county shall file, within sixty (60) calendar days of the election at which the initiative, referendum, or constitutional amendment has been voted upon, with the Secretary of State an accounting of all expenditures by the sponsor in connection with the petition or amendment.

**(3)** No person shall directly or indirectly benefit from sponsorship of a petition or amendment which proposes the sale of property owned by a municipality or county by contracting sponsorship activities to any business enterprise in which the sponsor has a substantial interest.

**(4)** Nothing in this act shall prohibit the circulation of petitions or compensation to persons who circulate the petitions.

**(c) (1) (A)** If a sponsor violates any provision of subsection (b) of this section, the sponsor shall be fined an amount equal to twice the amount of the person's personal gain.

**(B)** The fine shall be paid to the state, municipality, or county in which the petition or amendment was voted upon.

**(2)** This section shall be enforced by the:

**(A)** City attorney of the municipality;

**(B)** Prosecuting attorney of the county; or

**(C)** Attorney General of this state.

**(d)** The expense reports filed by the sponsor of the petition shall be subject to the Freedom of Information Act of 1967, § 25-19-101 et seq.

**7-9-126. Count of signatures.**

ENJOINED BY COURT

**7-9-601. Hiring and training of paid canvassers.**

ENJOINED BY COURT

# CRIMINAL OFFENSES – PETITION FRAUD

In a separate bill, the Legislature added the crime of "petition fraud" to the criminal code. (See Act 1432 of 2013). Statewide initiatives and referendums are included in the definition of "petition" in the criminal code.

**5-55-601. Petition fraud.**

**(a)** As used in this section, "petition" means a petition under § 3-8-201 et seq., § 3-8-701 et seq., or §7-9-101 et seq.

**(b)** A person commits the offense of petition fraud:

**(1)** If the person knowingly:

**(A)** Signs a name other than his or her name to a petition;

**(B)** Signs his or her name more than one (1) time to a petition; or

**(C)** Signs a petition when he or she is not legally entitled to sign the petition;

**(2)** If the person acting as a canvasser, notary, sponsor as defined under § 7-9-101, or agent of a sponsor:

**(A)** Signs a name other than his or her own to a petition;

**(B**) Prints a name, address, or birth date other than his or her own to a petition unless the signor requires assistance due to disability and the person complies with § 7-9-103;[11]

**(C)** Solicits or obtains a signature to a petition knowing that the person signing is not qualified to sign the petition;

**(D)** Knowingly pays a person any form of compensation in exchange for signing a petition as a petitioner;

**(E)** Accepts or pays money or anything of value for obtaining signatures on a petition when the person acting as a canvasser, sponsor, or agent of a sponsor knows that the person acting as a canvasser's name or address is not included on the sponsor's list filed with the Secretary of State under § 7-9-601;[12] or

**(F)** Knowingly misrepresents the purpose and effect of the petition or the measure affected for the purpose of causing a person to sign a petition;

[11] Language similar to this subsection was found unconstitutional in the Pulaski County Circuit Court case, *Spencer v. Martin*, 60CV-13-4020. Act 1432 of 2013 was NOT challenged in the *Spencer* case.
[12] Language similar to this subsection was found unconstitutional in the Pulaski County Circuit Court case, *Spencer v. Martin*, 60CV-13-4020. Act 1432 of 2013 was NOT challenged in the *Spencer* case.

**(3)** If the person acting as a canvasser, knowingly makes a false statement on a petition verification form;

**(4)** If the person acting as a notary, knowingly fails to witness a canvasser's affidavit by witnessing the signing of the instrument in person and either personally knowing the signor or by being presented with proof of the identity of the signer; or

**(5)** If the person acting as a sponsor, files a petition or part of a petition with the official charged with verifying the signatures knowing that the petition or part of the petition contains one (1) or more false or fraudulent signatures unless each false or fraudulent signature is clearly stricken by the sponsor before filing.

**(c)** Petition fraud is a Class A misdemeanor.

# LOCAL MEASURES

This publication is primarily focused on statewide measures. Article 5, Section 1 of the Arkansas Constitution, does allow the initiative and referendum petition process at the local level.

The statutes included above, Arkansas Code Annotated §§ 7-9-101 et seq. have general application to a county or municipal initiative or referendum. Several of the above statutes specifically refer to local measures. See e.g. Arkansas Code Annotated §§ 7-9-104 and 7-9-105 on the form of petitions.

However, there are specific statutes outlining the process for county measures and those are attached to this booklet beginning in the below section. For guidance at the municipal level, please review any municipal ordinance that may have been passed concerning initiative or referendum petitions.

Local initiatives concerning wet/dry issues, local option, and the sale of alcoholic beverages are also governed by the Arkansas Code concerning alcoholic beverages. See generally, Ark. Code Ann. §§ 3-8-101 et. seq. Act 1432 of 2013 amended several sections of the code concerning the sale of alcoholic beverages. Act 1432 specifically adds restrictions on the use of Paid Canvassers for local option initiatives. Even though the restrictions on the use of Paid Canvassers was enjoined in *Spencer v. Martin*, 60CV-13-4020 as unconstitutional, Act 1432 and the changes made to the Arkansas Code concerning alcoholic beverages were not challenged in *Spencer*. Please contact your own attorney to discuss the impact of Act 1413, Act 1432 and the *Spencer* case on your local option petition.

# COUNTY-WIDE INITIATIVES & REFERENDUM

**14-14-914. Initiative and referendum generally.**

**(a) County Legislative Powers Reserved.** The powers of initiative and referendum are reserved to the electors of each county government pursuant to Arkansas Constitution, Amendment 7.

**(b) Restrictions.** No county legislative measure shall be enacted contrary to the Arkansas Constitution or any general state law which operates uniformly throughout the state, and any general law of the state shall have the effect of repealing any county ordinance which is in conflict therewith. All ordinances adopted by the county quorum court providing for alternative county organizations and all proposed reorganizations of county government that may be proposed by initiative petition of electors of the county under Arkansas Constitution, Amendment 7 shall be submitted to the electors of the county only at the next following general election. However, such referendum shall be subject to initiative petition.

**(c) Petition by Electors.** The qualified electors of each county may initiate and amend ordinances and require submission of existing ordinances to a vote of the people by petition if signed by not less than fifteen percent (15%) of the qualified electors voting in the last general election for the office of circuit clerk, or the office of Governor where the electors have abolished the office of circuit clerk.

**(d) Suspension of Force. (1) General Ordinance.** A referendum petition on a general ordinance, or any part thereof, shall delay the effective date on such part included in the petition until the ordinance is ratified by the electors. However, the filing of a referendum petition against one (1) or more items, sections, or parts of any ordinance shall not delay the remainder from becoming operative.

**(2) Emergency Ordinance.** A referendum petition on an emergency ordinance shall not suspend the force of the law, but the measure may be law until it is voted upon by the electors.

**14-14-915. Initiative and referendum requirements.**

**(a) Style Requirements of Petitions.** A petition for county initiative or referendum filed by the electors shall:

**(1)** Embrace only a single comprehensive topic and shall be styled and circulated for signatures in the manner prescribed for county ordinances and amendments to ordinances established in this section and § 7-9-101 et seq.;

**(2)** Set out fully in writing the ordinance sought by petitioners; or in the case of an amendment, set out fully in writing the ordinance sought to be amended and the proposed amendment; or in the case of referendum, set out the ordinance, or parts thereof, sought to be repealed; and

**(3)** Contain a written certification of legal review by an attorney at law duly registered and licensed to practice in the State of Arkansas. This legal review shall be conducted for the purpose of form, proper title, legality, constitutionality, and conflict with existing ordinances. Legal review shall be concluded prior to the circulations of the petition for signatures. No change shall be made in the text of any initiative or referendum petition measure after any or all signatures have been obtained.

**(b) Time Requirements for Filing Petitions.**

**(1) Initiative Petitions.** All petitions for initiated county measures shall be filed with the county clerk not less than ninety (90) calendar days nor more than one hundred twenty (120) calendar days prior to the date established for the next regular election.

**(2) Referendum Petitions.** All petitions for referendum on county measures must be filed with the county clerk within sixty (60) calendar days after passage and publication of the measure sought to be repealed.

**(3) Certification.** All initiative and referendum petitions must be certified sufficient to the county board of election commissioners not less than seventy (70) calendar days prior to a regular general election to be included on the ballot. If the adequacy of a petition is determined by the county clerk less than seventy (70) days prior to the next regular election, the election on the measure shall be delayed until the following regular election unless a special election is called on a referendum measure as provided by law.

**(c) Filing of Petitions.** Initiative and referendum petitions ordering the submission of county ordinances or measures to the electors shall be directed to and filed with the county clerk.

**(d) Sufficiency of Petition.** Within ten (10) days after the filing of any petition, the county clerk shall examine and ascertain its sufficiency. Where the petition contains evidence of forgery, perpetuated either by the circulator or with his or her connivance, or evidence that a person has signed a name other than his or her own to the petition, the prima facie verity of the circulator's affidavit shall be nullified and disregarded, and the burden of proof shall be upon the sponsors of petitions to establish the genuineness of each signature. If the petition is found sufficient, the clerk shall immediately certify such finding to the county board of election commissioners and the quorum court.

**(e) Insufficiency of Petition and Recertification.** If the county clerk finds the petition insufficient, the clerk shall, within ten (10) days after the filing thereof, notify the petitioners or their designated agent or attorney of record, in writing, setting forth in detail every reason for the findings of insufficiency. Upon notification of insufficiency of petition, the petitioners shall be afforded ten (10) calendar days, exclusive of the day notice of insufficiency is receipted, in which to solicit and add additional signatures, or to submit proof tending to show that signatures rejected by the county clerk are correct and should be counted. Upon resubmission of a petition which was previously declared insufficient, the county clerk shall, within five (5) calendar days, recertify its sufficiency or insufficiency in the same manner as prescribed in this section and, thereupon, the clerk's jurisdiction as to the sufficiency of the petition shall cease.

**(f) Appeal of Sufficiency or Insufficiency Findings.** Any taxpayer aggrieved by the action of the clerk in certifying the sufficiency or insufficiency of any initiative or referendum petition, may within fifteen (15) calendar days, but not thereafter, may file a petition in circuit court for a review of the findings.

**14-14-916. Judicial jurisdiction over initiative and referendum.**

**(a) Jurisdiction of Circuit Court.** Jurisdiction is vested upon the circuit courts to hear and determine petitions for writs of mandamus, injunctions, and all other actions affecting the submission of any proposed county initiative or referendum petitions. All such proceedings and actions shall be heard summarily upon five (5) calendar days' notice in writing and shall have precedence over all other suits and matters before the court.

**(b) Limitation of Injunction or Stay of Proceedings.** No procedural steps in submitting an initiative or referendum measure shall be enjoined, stayed, or delayed by the order of any court or judge after the petition has been declared sufficient, except in circuit court on petition to review as provided in this section. During the pendency of any proceeding to review, the findings of the county clerk shall be conclusive and binding and shall not be changed or modified by any temporary order or ruling, and no court or judge shall entertain jurisdiction of any action or proceeding questioning the validity of any such ordinance or measure until after it shall have been adopted by the people.

**14-14-917. Initiative and referendum elections.**

**(a) Time of Election for Initiative and Referendum Measures. (1) Initiative.** Initiative petition measures shall be considered by the electors only at a regular general election at which state and county officers are elected for regular terms.

**(2) Referendum.** Referendum petition measures may be submitted to the electors during a regular general election and shall be submitted if the adequacy of the petition is determined within the time limitation prescribed in this section. A referendum measure may also be referred to the electors at a special election called for the expressed purpose proposed by petition. However, no referendum petition certified within the time limitations established for initiative measures shall be referred to a special election, but shall be voted upon at the next regular election. No referendum election shall be held less than sixty (60) days after the certification of adequacy of the petition by the county clerk.

**(3) Calling Special Elections.** The jurisdiction to establish the necessity for a special election on referendum measures is vested in the electors through the provisions of petition. Where such jurisdiction is not exercised by the electors, the county court of each of the several counties may determine such necessity. However, a quorum court may compel the calling of a special election by a county court through resolution adopted during a regularly scheduled meeting of the quorum court. The resolution may specify a reasonable time limitation in which a county court order calling the special election shall be entered.

**(4) Time of Special Election.** The county court shall fix the date for the conduct of any special elections on referendum measures. The date shall be not less than established under § 7-11-201 et seq. When the electors exercise their powers to establish the necessity for a special election, the county court shall order an election according to the dates stated in § 7-11-201 et seq.

**(b) Certification Requirements. (1) Numeric Designation of Initiative and Referendum Measures.** The county clerk shall, upon finding an initiative or referendum petition sufficient and prior to delivery of such certification to a board of election commissioners and quorum court, cause the measure to be entered into the legislative agenda register of the quorum court. This entry shall be in the order of the original filing of petition, and the register entry number shall be the official numeric designation of the proposed measure for election ballot purposes.

**(2) Certification of Sufficiency.** The certification of sufficiency for initiative and referendum petitions transmitted by the county clerk to the county board of election commissioners and quorum court shall include the ballot title of the proposed measure, the legislative agenda registration number, and a copy of the proposed measure, omitting signatures. The ballot title certified to the board shall be the comprehensive title of the measure proposed by petition, and the delivery of the certification to the chairman or secretary of the board shall be deemed sufficient notice to the members of the board and their successors.

**(c) Notice of Election. (1) Initiative Petitions.** The county clerk shall, upon certification of any initiative or referendum petition measure submitted during the time limitations for a regular election, give notice, through publication by a two-time insertion, at not less than a seven-day interval, in a newspaper of general circulation in the county or as provided by law. Publication notice shall state that the measure will be submitted to the electors for adoption or rejection at the next regular election and shall include the full text, the ballot title, and the official numeric designation of the measure.

**(2) Referendum Petition.** The county clerk shall, upon certifying any referendum petition prior to the time limitations of filing measures established for a regular election, give notice through publication by a one-time insertion in a newspaper of general circulation in the county or as provided by law. Publication notice shall state that the measure will be submitted to the electors for adoption or rejection at the next regular election or a special election when ordered by the county court and shall include the full text, the ballot title, and the official numeric designation of the measure.

**(3) Publication of Special Referendum Election Notice.** Upon filing of a special election order by the county court, the county clerk shall give notice of the election through publication by a two-time insertion, at not less than a seven-day interval, in a newspaper of general circulation in the county or as provided by law. Publication shall state that the measure will be submitted to the electors for adoption or rejection at a special election and shall include the full text, the date of the election, the ballot title, and official numeric designation of the measure.

**(4) Costs.** The cost of all publication notices required in this section shall be paid out of the county general fund.

**(d) Ballot Specifications for Initiative and Referendum Measures.** Upon receipt of any initiative or referendum measure certified as sufficient by a county clerk, it shall be the duty of the members of the county board of election commissioners to take due cognizance and to certify the results of the vote cast thereon. The board shall cause the ballot title to be placed on the ballot to be used in the election, stating plainly and separately the title of the ordinance or measure so initiated or referred to the electors with these words:

FOR PROPOSED INITIATIVE (OR REFERRED) ORDINANCE (OR AMENDMENT)

NO. _____

AGAINST PROPOSED INITIATIVE (OR REFERRED) ORDINANCE (OR AMENDMENT)

NO. _____

so electors may vote upon such ordinance or measure. In arranging the ballot title on the ballot, the commissioners shall place it separate and apart from the ballot titles of the state acts, constitutional amendments, and the like. If the board of election commissioners fails or refuses to submit a proposed initiative or referendum ordinance when it is properly petitioned and certified as sufficient, the qualified electors of the county may vote for or against the ordinance or measure by writing or stamping on their ballots the proposed ballot title, followed by the word "FOR" or "AGAINST", and a majority of the votes so cast shall be sufficient to adopt or reject the proposed ordinance.

**(e) Conflicting Measures.** Where two (2) or more ordinances or measures shall be submitted by separate petition at any one (1) election, covering the same subject matter and being for the same general purpose, but different in terms, words, and figures, the ordinance or measure receiving the greatest number of affirmative votes shall be declared the law, and all others shall be declared rejected.

**(f) Contest of Election.** The right to contest the returns and certification of the vote cast upon any proposed initiative or referendum measure is expressly conferred upon any ten (10) qualified electors of the county. The contest shall be brought in the circuit court and shall be conducted under the procedure for contesting the election of county officers, except that the complaint shall be filed within sixty (60) days after the certification of the vote and no bond shall be required of the contestants.

**(g) Vote Requirement for Enactment of Ordinance.** Any measure submitted to the electors as provided in this section shall take effect and become law when approved by a majority of the votes cast upon the measure, and not otherwise, and shall not be required to receive a majority of the electors voting at the election. The measure so enacted shall be operative on and after the thirtieth day after the election at which it is approved, unless otherwise specified in the ordinance or amendment.

**14-14-918. Passage of initiative and referendum measures.**

**(a) Recording of Enactment.** Upon passage of any initiative or referendum measure by the electors, the county clerk shall record the enactment in the county ordinance and resolution register in the manner provided by law for all county ordinances and resolutions. The register entry number designation shall thereby become the official reference number designating the enactment.

**(b) Quorum Court Authority.** No measure approved by a vote of the electors shall be amended or repealed by a quorum court except by affirmative vote of two-thirds (2/3) of the whole number of justices comprising a court. On the passage of an amendment or repealing measure, the yeas and nays shall be called and recorded in the minutes of the meeting.

**(c) Preservation of Records.** All petitions, certificates, notices, and other evidences of procedural steps taken in submitting any ordinance shall be filed and preserved for a period of three (3) years by the county clerk.

**14-14-919. Referendum petitions on county bond issue.**

All referendum petitions under Arkansas Constitution, Amendment 7, against any measure, as the term is used and defined in Arkansas Constitution, Amendment 7, pertaining to a county bond issue or a short-term financing obligation of a county under Arkansas Constitution, Amendment 78, must be filed with the county clerk within thirty (30) days after the adoption of any such measure.

# BALLOT QUESTION COMMITTEE (BQC)
# STATEMENT OF ORGANIZATION

To be filed with:
Arkansas Ethics Commission
Post Office Box 1917
Little Rock, AR 72203
Phone (501) 324-9600
Fax (501) 324-9606

(Arkansas Ethics Commission File Stamp)

☐ Check if this is an amendment to a previously filed statement of organization

**Section One: BQC Name**

Name of BQC (in full):_____

**Section Two: BQC Address & Phone Number**
If BQC has no office address, use the address of the BQC officer authorized to receive notices on behalf of the BQC.

Address:_____

City:_____State_____Zip_____Telephone Number_____

**Section Three: BQC Officers and Directors**
Provide the name, title, address, and telephone number of the treasurer and other principal officers and directors of the BQC.

Name:_____Title:_____

Address:_____City:_____State:_____Zip:____

Telephone Number:_____

Name:_____Title:_____

Address:_____City:_____State:_____Zip:____
_____

Telephone Number:_____

Name:_____Title:_____

Address:_____City:_____State:_____Zip:____

Telephone Number:_____

Name:_____Title:_____

Address:_____City:_____State:_____Zip:____

Telephone Number:_____

**Section Four: Financial Information**
Provide the name and address of each financial institution in which the BQC deposits money or anything else of monetary value.

Name of Financial Institution:_____

Address:_____City:_____State:_____Zip:____

Name of Financial Institution:_____

Address:_____City:_____State:_____Zip:____

**Section Five: Members**
Provide the name of each person who is a member of the committee. A person that is not an individual may be listed by its name without also listing its own members, if any.

_____

_____

_____

_____

**Section Six: Brief Statement**
Provide a brief statement identifying the substance of each ballot question as to which the BQC will expressly advocate the qualification, disqualification, passage, or defeat, and, if known, the date each ballot question shall be presented to a popular vote at an election.

_____

_____

_____ _____
Date Signature of BQC Officer

# LEGISLATIVE QUESTION COMMITTEE (LQC)
# STATEMENT OF ORGANIZATION

To be filed with:
Arkansas Ethics Commission
Post Office Box 1917
Little Rock, AR 72203
Phone (501) 324-9600
Fax (501) 324-9606

(Arkansas Ethics Commission File Stamp)

☐ Check if this is an amendment to a previously filed statement of organization

**Section One: LQC Name**

Name of LQC (in full):_____

**Section Two: LQC Address & Phone Number**
If LQC has no office address, use the address of the LQC officer authorized to receive notices on behalf of the LQC.

Address:_____

City:_____State_____Zip_____Telephone Number_____

**Section Three: LQC Officers and Directors**
Provide the name, title, address, and telephone number of the treasurer and other principal officers and directors of the LQC.

Name:_____Title:_____

Address:_____City:_____State:_____Zip:____

Telephone Number:_____

Name:_____Title:_____

Address:_____City:_____State:_____Zip:____

Telephone Number:_____

Name:_____Title:_____

Address:_____City:_____State:_____Zip:____

Telephone Number:_____

Name:_____Title:_____

Address:_____City:_____State:_____Zip:____

Telephone Number:_____

**Section Four: Financial Information**
Provide the name and address of each financial institution in which the LQC deposits money or anything else of monetary value.

Name of Financial Institution:_____

Address:_____City:_____State:_____Zip:____

Name of Financial Institution:_____

Address:_____City:_____State:_____Zip:____

**Section Five: Members**
Provide the name of each person who is a member of the committee. A person that is not an individual may be listed by its name without also listing its own members, if any.

_____

_____

_____

_____

**Section Six: Brief Statement**
Provide a brief statement identifying the substance of each legislative question as to which the LQC will expressly advocate the passage or defeat, and, if known, the date each legislative question will be presented to a popular vote at an election.

_____

_____

_____

_____

_____ _____
Date Signature of LQC Officer

# SIGNATURE NUMBERS

| County | TOTAL VOTES CAST in 2010 GOVERNOR'S RACE | Constitutional Amendment | | Initiated Act | | Referendum | |
|---|---|---|---|---|---|---|---|
| | VOTE | 10% | 5% | 8% | 4% | 6% | 3% |
| **STATE** | **781,333** | **78,133** | **39,067** | **62,507** | **31,253** | **46,880** | **23,440** |
| Arkansas | 4,933 | 493 | 247 | 395 | 197 | 296 | 148 |
| Ashley | 5,647 | 565 | 282 | 452 | 226 | 339 | 169 |
| Baxter | 14,907 | 1,491 | 745 | 1,193 | 596 | 894 | 447 |
| Benton | 53,194 | 5,319 | 2,660 | 4,256 | 2,128 | 3,192 | 1,596 |
| Boone | 14,947 | 1,495 | 747 | 1,196 | 598 | 897 | 448 |
| Bradley | 2,887 | 289 | 144 | 231 | 115 | 173 | 87 |
| Calhoun | 1,616 | 162 | 81 | 129 | 65 | 97 | 48 |
| Carroll | 8,309 | 831 | 415 | 665 | 332 | 499 | 249 |
| Chicot | 3,007 | 301 | 150 | 241 | 120 | 180 | 90 |
| Clark | 7,629 | 763 | 381 | 610 | 305 | 458 | 229 |
| Clay | 4,148 | 415 | 207 | 332 | 166 | 249 | 124 |
| Cleburne | 9,157 | 916 | 458 | 733 | 366 | 549 | 275 |
| Cleveland | 2,403 | 240 | 120 | 192 | 96 | 144 | 72 |
| Columbia | 7,016 | 702 | 351 | 561 | 281 | 421 | 210 |
| Conway | 6,153 | 615 | 308 | 492 | 246 | 369 | 185 |
| Craighead | 21,449 | 2,145 | 1,072 | 1,716 | 858 | 1,287 | 643 |
| Crawford | 14,760 | 1,476 | 738 | 1,181 | 590 | 886 | 443 |
| Crittenden | 11,761 | 1,176 | 588 | 941 | 470 | 706 | 353 |
| Cross | 5,159 | 516 | 258 | 413 | 206 | 310 | 155 |
| Dallas | 2,459 | 246 | 123 | 197 | 98 | 148 | 74 |
| Desha | 3,537 | 354 | 177 | 283 | 141 | 212 | 106 |
| Drew | 4,427 | 443 | 221 | 354 | 177 | 266 | 133 |
| Faulkner | 27,134 | 2,713 | 1,357 | 2,171 | 1,085 | 1,628 | 814 |
| Franklin | 5,270 | 527 | 264 | 422 | 211 | 316 | 158 |
| Fulton | 3,543 | 354 | 177 | 283 | 142 | 213 | 106 |
| Garland | 30,481 | 3,048 | 1,524 | 2,438 | 1,219 | 1,829 | 914 |
| Grant | 5,228 | 523 | 261 | 418 | 209 | 314 | 157 |
| Greene | 9,190 | 919 | 460 | 735 | 368 | 551 | 276 |
| Hempstead | 4,894 | 489 | 245 | 392 | 196 | 294 | 147 |
| Hot Spring | 8,394 | 839 | 420 | 672 | 336 | 504 | 252 |
| Howard | 3,135 | 314 | 157 | 251 | 125 | 188 | 94 |
| Independence | 9,250 | 925 | 463 | 740 | 370 | 555 | 278 |
| Izard | 4,554 | 455 | 228 | 364 | 182 | 273 | 137 |
| Jackson | 3,949 | 395 | 197 | 316 | 158 | 237 | 118 |
| Jefferson | 18,693 | 1,869 | 935 | 1,495 | 748 | 1,122 | 561 |
| Johnson | 5,951 | 595 | 298 | 476 | 238 | 357 | 179 |
| Lafayette | 2,078 | 208 | 104 | 166 | 83 | 125 | 62 |

| County | TOTAL VOTES CAST for 2010 GOVERNOR'S RACE | Constitutional Amendment | | Initiated Act | | Referendum | |
|---|---|---|---|---|---|---|---|
| Lawrence | 4,654 | 465 | 233 | 372 | 186 | 279 | 140 |
| Lee | 3,009 | 301 | 150 | 241 | 120 | 181 | 90 |
| Lincoln | 3,057 | 306 | 153 | 245 | 122 | 183 | 92 |
| Little River | 3,639 | 364 | 182 | 291 | 146 | 218 | 109 |
| Logan | 6,268 | 627 | 313 | 501 | 251 | 376 | 188 |
| Lonoke | 16,409 | 1,641 | 820 | 1,313 | 656 | 985 | 492 |
| Madison | 5,048 | 505 | 252 | 404 | 202 | 303 | 151 |
| Marion | 5,725 | 573 | 286 | 458 | 229 | 344 | 172 |
| Miller | 10,629 | 1,063 | 531 | 850 | 425 | 638 | 319 |
| Mississippi | 10,757 | 1,076 | 538 | 861 | 430 | 645 | 323 |
| Monroe | 2,695 | 270 | 135 | 216 | 108 | 162 | 81 |
| Montgomery | 2,992 | 299 | 150 | 239 | 120 | 180 | 90 |
| Nevada | 2,486 | 249 | 124 | 199 | 99 | 149 | 75 |
| Newton | 3,369 | 337 | 168 | 270 | 135 | 202 | 101 |
| Ouachita | 7,757 | 776 | 388 | 621 | 310 | 465 | 233 |
| Perry | 3,103 | 310 | 155 | 248 | 124 | 186 | 93 |
| Phillips | 6,361 | 636 | 318 | 509 | 254 | 382 | 191 |
| Pike | 3,119 | 312 | 156 | 250 | 125 | 187 | 94 |
| Poinsett | 6,486 | 649 | 324 | 519 | 259 | 389 | 195 |
| Polk | 6,439 | 644 | 322 | 515 | 258 | 386 | 193 |
| Pope | 15,566 | 1,557 | 778 | 1,245 | 623 | 934 | 467 |
| Prairie | 2,530 | 253 | 127 | 202 | 101 | 152 | 76 |
| Pulaski | 110,880 | 11,088 | 5,544 | 8,870 | 4,435 | 6,653 | 3,326 |
| Randolph | 4,569 | 457 | 228 | 366 | 183 | 274 | 137 |
| Saline | 35,147 | 3,515 | 1,757 | 2,812 | 1,406 | 2,109 | 1,054 |
| Scott | 3,234 | 323 | 162 | 259 | 129 | 194 | 97 |
| Searcy | 3,352 | 335 | 168 | 268 | 134 | 201 | 101 |
| Sebastian | 30,661 | 3,066 | 1,533 | 2,453 | 1,226 | 1,840 | 920 |
| Sevier | 3,281 | 328 | 164 | 262 | 131 | 197 | 98 |
| Sharp | 6,054 | 605 | 303 | 484 | 242 | 363 | 182 |
| St. Francis | 6,927 | 693 | 346 | 554 | 277 | 416 | 208 |
| Stone | 4,992 | 499 | 250 | 399 | 200 | 300 | 150 |
| Union | 12,135 | 1,214 | 607 | 971 | 485 | 728 | 364 |
| Van Buren | 5,472 | 547 | 274 | 438 | 219 | 328 | 164 |
| Washington | 44,652 | 4,465 | 2,233 | 3,572 | 1,786 | 2,679 | 1,340 |
| White | 19,809 | 1,981 | 990 | 1,585 | 792 | 1,189 | 594 |
| Woodruff | 2,211 | 221 | 111 | 177 | 88 | 133 | 66 |
| Yell | 4,610 | 461 | 231 | 369 | 184 | 277 | 138 |

# SAMPLE SIGNATURE LINES

The Secretary of State will accept petitions filed on forms substantially similar to the forms described in Arkansas Code Annotated § § 7-9-104 and 7-9-105, but does not guarantee the acceptance of any form by the courts if litigated. To provide sufficient space for the Petitioner's signature and information, please use legal size paper for the signature form. Although not required, it may be helpful for the Petitioner to identify the county in which he or she is registered to vote.

| | Signature | Printed Name | Date of Birth | Residence | City or Town of Residence | County | Date of Signing |
|---|---|---|---|---|---|---|---|
| **1.** | | | | | | | |
| **2.** | | | | | | | |
| **3.** | | | | | | | |
| **4.** | | | | | | | |
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| **9.** | | | | | | | |
| **10.** | | | | | | | |