

Arkansas Constitution

Amendment 7.

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.

State-wide Petitions

Initiative - The first power reserved by the people is the initiative. Eight percent 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 statewide 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 statewide 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 may 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 provisions of this subsection shall apply to city or town councils.

Local Petitions

Municipalities and Counties - The initiative and referendum powers of the people are hereby further reserved to the local 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 measures. 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 ye 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 elections. Such measures shall be operative on and after the 30th 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 Result - The result of the vote upon any State measure shall be canvassed and declared by the State Board of Election Commissioners (or legal substitute therefore); upon a municipal or county measure, by the County Election Commissioners (or legal substitute therefore).

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 petitioner 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 persons 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 the 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.

Arkansas Statutes

Title 7: Chapter 9

7-9-101. Definitions.

As used in this subchapter, unless the context otherwise requires:

(1) "Act" means any 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 amendment to the Arkansas Constitution, whether 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) "Measure" means either an amendment or an act;

(7) "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; and

(8) "Sponsor" means a person or group of persons filing an initiative or referendum petition with the Secretary of State.

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

(a) 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. 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 duty or shall knowingly and willfully commit a fraud in evading the performance of his duty, then he shall be deemed guilty of a misdemeanor.

(2) Upon conviction, he shall be fined any sum not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1000) and also shall be removed from office.

7-9-103. Signing of petition - Penalty for falsification.

(a) (1) Any person who is a qualified elector of the State of Arkansas may sign an initiative or referendum petition in his 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.

(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 identify of the signer.

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

(a) The following shall be substantially the form of petition for any ordinance, law, or amendment to the Constitution of the State of Arkansas proposed by initiative:

"INITIATIVE PETITION.

To the Honorable Secretary of State of the State of Arkansas, or County Clerk, or City Clerk

We, the undersigned legal 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, 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 voters of said (state, county, or municipality) at the regular general election to be held in said _____ on the _____ day of _____, 19 _____, and each of us for himself says:

I have personally signed this petition; I am a legal voter of the State of Arkansas, 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."

(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 such 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 such 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 such petition unless such sheets contain the full language of the petition.

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

(a) The petition and order of referendum shall be substantially in the following form:

"PETITION FOR REFERENDUM.

To the Honorable Secretary of State of the State of Arkansas, or County Clerk, or City Clerk

We, the undersigned legal 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 _____, 19____, 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 _____, 19____, 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 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 _____, 19____; and each of us for himself says:

I have personally signed this petition; I am a legal voter of the State of Arkansas, 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."

(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.

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) The Attorney General shall, within ten (10) days, 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 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 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 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 acts in such premises, they 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 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 petition shall have attached thereto the affidavit of the person who circulated the petition to the effect that all signatures appearing 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 so signing is a legal 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.

(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, _____, being first duly sworn, state that the foregoing persons signed this sheet of the foregoing petition, and each of them signed his name thereunto in my presence. I believe that each has stated his 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 this the _____ day of _____, 19____.

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) 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.

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

(a)(1) The Secretary of State shall fix and declare the number by which each amendment to the Arkansas Constitution and each initiated and referred measure shall be designated.

(2) The Attorney General shall fix and declare the popular name by which each amendment to the Arkansas Constitution and each initiated and referred measure shall be designated.

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

7-9-111. Determination of sufficiency of petition - Corrections.

(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 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

(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.

(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 not be 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 examine and file any initiative or referendum petition within the time prescribed in § 7-9-111, any twenty-five (25) qualified electors who feel aggrieved thereby 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.

(b) If the Supreme Court shall decide 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.

(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) Publication of the notice for amendments proposed by the General Assembly shall commence six (6) months, and on all other measures 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 (10 pt.) 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 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 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.

(a) Measures proposed by initiative petition shall be captioned, "PROPOSED BY PETITION OF THE PEOPLE."

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

(c) Measures referred to a vote by the General Assembly shall be captioned, "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 order and manner certified by the Secretary of State.

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

FOR PROPOSED INITIATIVE (OR REFERRED) AMENDMENT (OR ACT) NO.

AGAINST PROPOSED INITIATIVE (OR REFERRED) AMENDMENT (OR ACT) NO.

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

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 and 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 and delivered by the county board to the Secretary of State within fifteen (15) 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, 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 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 either the Chancery Court of Pulaski County or the Circuit Court of Pulaski County 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.

(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".

7-9-501. Purpose.

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

7-9-502. Construction.

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

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

7-9-503. Declaration of sufficiency.

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

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

(b) Within thirty (30) days after receipt of the petition for determination, the Secretary of State shall decide and declare, after consultation with the Attorney General, questions on one (1) or both of the following issues:

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

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

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

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

7-9-504. Cure by correction or amendment.

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

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

7-9-505. Right of review.

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

7-9-506. Effect on existing petition.

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

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

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

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

Title 14: Chapter 14

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 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 sixty (60) calendar days nor more than ninety (90) 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 forty (40) 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 forty (40) 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, perpetrated either by the circulator or with his connivance, or evidence that a person has signed a name other than his 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 chancery court for a review of the findings.

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

(a) Jurisdiction of Chancery Court. Jurisdiction is vested upon the chancery courts and chancellors in vacation 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 in term time or in vacation upon five (5) calendar days' notice in writing and shall have precedence over all other suits and matters before the court or

chancellor. When any such action or proceeding is filed, if the court is not in session, it shall be the duty of the chancellor, by order made in vacation, to call a special term of the court to convene, within ten (10) calendar days after notice, to hear and determine the cause.

(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 shall have been declared sufficient, except in chancery 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 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.

(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 thirty (30) calendar days after the date of the order calling the election. However, where the electors exercise their powers to establish the necessity for a special election, the county court shall order an election not more than forty-five (45) calendar days after certification of sufficiency by the county clerk, nor less than thirty (30) calendar days after the date of the order calling the election.

(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 matters 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 chancery 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 must be filed with the county clerk within thirty (30) days after the adoption of any such measure.