HOUSE BILL NO. 634


BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 25-5-3, Mississippi Code of 1972, is amended as follows:

25-5-3. The Governor is hereby empowered, in accordance with the provisions of Section 139 of the Mississippi Constitution of 1890, through the procedure and under the regulations prescribed in Sections 25-5-3 through 25-5-37 and for the reasons and causes set forth, to remove any elective statewide, state-district, county or municipal officer in this state; and every elective officer of the state or any state-district, county or municipality in this state may be removed from office by the Governor or Lieutenant Governor, if the Governor is the officer to be removed, at any time when done in compliance with the regulations hereinafter set forth.

SECTION 2. Section 25-5-7, Mississippi Code of 1972, is amended as follows:

25-5-7. Before the Governor shall consider the removal from a statewide, state-district, county or municipal office of any elective statewide, state-district county or municipal officer, there shall be first filed with him a petition signed by not less than fifty-one percent (51%) of the qualified electors of the state, state-district, county or municipality, as the case may be,
demanding the removal of the officer. The petition shall contain a general statement, in not more than two hundred (200) words, of the ground or grounds on which the removal is demanded, which statement shall be for the information of the officer involved, for the information of the council hereinafter provided, and for the information of the qualified electors of the state, state-district, county or municipality, as the case may be.

All removal petitions with reference to only supervisors, justice court judges and constables must be signed by at least fifty-one percent (51%) of the qualified electors of the beat or district from which they were originally elected.

Upon the request of any qualified elector, it shall be the duty of the Attorney General in the case of a statewide or state-district office, the county and district prosecuting attorney in the case of a county office, or, the municipal prosecuting attorney, in the case of a municipal office, to advise the person as to the provisions of Sections 25-5-3 through 25-5-37 and how to comply with the same.

SECTION 3. Section 25-5-9, Mississippi Code of 1972, is amended as follows:

25-5-9. The removal petitions shall be in substantially the following forms:

(a) **REMOVAL PETITION**

(For Statewide and State-District Officers)

(WARNING.--It is a misdemeanor, punishable by fine and imprisonment, for any person to sign any removal petition with any name other than his own, or knowingly to sign his name more than once to the petition, or knowingly to sign the petition when he is not a qualified elector.)

Date: ___________________

TO THE GOVERNOR OF THE STATE OF MISSISSIPPI:

We, the undersigned qualified electors of the State of Mississippi or state-district __________, State of Mississippi,
respectfully demand that ____, holding the office of ____ in the state or state-district, be removed from office by the Governor (or if the Governor is being removed, the Lieutenant Governor) for the following reasons, to wit: (Setting out the reasons for removal in not more than two hundred words); that a special election, after lawful notice, be called to permit the qualified electors of the state or state-district to vote on the question of whether or not the officer shall be removed;

That we each for himself say that: I am a qualified elector of the state or state-district, and my voting precinct is correctly written after my name, and that it was stated to me before the signing of the petition that after signing the same I would not be permitted to remove my name from the petition.

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(b) REMOVAL PETITION

(For County Officers)

(WARNING.--It is a misdemeanor, punishable by fine and imprisonment, for any person to sign any removal petition with any name other than his own, or knowingly to sign his name more than once to the petition, or knowingly to sign the petition when he is not a qualified elector.)

Date: ______________

TO THE GOVERNOR OF THE STATE OF MISSISSIPPI:

We, the undersigned qualified electors of ____ County, State of Mississippi, respectfully demand that ____, holding the office of ____ in the county, be removed from office by the Governor for the following reasons, to wit: (Setting out the reasons for removal in not more than two hundred words); that a special election, after lawful notice, be called to permit the qualified
electors of the county to vote on the question of whether or not the officer shall be removed;

That we each for himself say that: I am a qualified elector of the county, and my voting precinct is correctly written after my name, and that it was stated to me before the signing of the petition that after signing the same I would not be permitted to remove my name from the petition.

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(c) REMOVAL PETITION

(For Municipal Officers)

(WARNING.--It is a misdemeanor, punishable by fine and imprisonment, for any person to sign any removal petition with any name other than his own, or knowingly to sign his name more than once to the petition, or knowingly to sign the petition when he is not a qualified elector.)

Date: ___________________

TO THE GOVERNOR OF THE STATE OF MISSISSIPPI:

We, the undersigned qualified electors of the City of ___, ___, County, State of Mississippi, respectfully demand that ___, holding the office of ____ in the municipality, be removed from office by the Governor for the following reasons, to wit:

(Setting out the reasons for removal in not more than two hundred words); that a special election, after lawful notice, be called to permit the qualified electors of the municipality to vote on the question of whether or not the officer shall be removed;

That we each for himself say that: I am a qualified elector of the municipality, and my voting precinct is correctly written after my name, and that it was stated to me before the signing of the petition that after signing the same I would not be permitted to remove my name from the petition.
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**SECTION 4.** Section 25-5-13, Mississippi Code of 1972, is amended as follows:

25-5-13. Each and every petition, or separately circulated section thereof, containing signatures shall be verified on the last page thereof in substantially one of the following forms:

(a) **STATE OF MISSISSIPPI**

State-District

I, ____, a qualified elector of the state or state-district do now state under oath that every person who signed the foregoing petition signed his or her name thereto in my presence, and that before the signing of the petition the signator was told that after signing the same his or her name could not be removed from the petition; that I believe that each has stated his or her name and district correctly, and that so far as I know each signer is a qualified elector of the state or state-district, and I further certify that the date appearing on the foregoing petition is the correct date on which the first signature was affixed to the petition or any section thereof.

(Signature)

Sworn to and subscribed before me, this _____ day of ____, 20__.

(b) **STATE OF MISSISSIPPI**

County of __________

I, ____, a qualified elector of the county do now state under oath that every person who signed the foregoing petition signed his or her name thereto in my presence, and that before the signing of the petition the signator was told that after signing
the same his or her name could not be removed from the petition;
that I believe that each has stated his or her name and precinct
correctly, and that so far as I know each signer is a qualified
elector of this county, and I further certify that the date
appearing on the foregoing petition is the correct date on which
the first signature was affixed to the petition or any section
thereof.

(Signature) _______________________

Sworn to and subscribed before me, this _____ day of _____,
20__.

_____________________

_____________________

(c) STATE OF MISSISSIPPI

City of ____, County of ____

I, ____, a qualified elector of the municipality do now state
under oath that every person who signed the foregoing petition
signed his or her name thereto in my presence, and that before the
signing of the petition the signator was told that after signing
the same his or her name could not be removed from the petition;
that I believe that each has stated his or her name and precinct
correctly, and that so far as I know each signer is a qualified
elector of this municipality, and I further certify that the date
appearing on the foregoing petition is the correct date on which
the first signature was affixed to the petition or any section
thereof.

(Signature) _______________________

Sworn to and subscribed before me, this _____ day of _____,
20__.

_____________________

_____________________

SECTION 5. Section 25-5-15, Mississippi Code of 1972, is
amended as follows:
25-5-15. Before the submission of the petitions to the Governor or Lieutenant Governor, if the Governor is the officer to be removed, to be filed by him, all sections of the same shall be consolidated and delivered to the Secretary of State in the case of a statewide or state-district officer, registrar of the county or municipality, as the case may be, in which the petition has been circulated. No signatures shall be thereafter added. The Secretary of State or registrar shall compare the signatures of the persons appearing on the petition with the names of the qualified electors appearing on the poll books of the county or municipality, and shall attach to said petition, or to each section of the petition if the same has been circulated in sections, the following certificate:

STATE OF MISSISSIPPI

State-District ______________

County of ____ (Municipality of ____)

I, ____, Secretary of State or registrar in and for the county or municipality aforesaid, do hereby certify that I have compared the signatures on the preceding sheets of the removal petition attached hereto, and to the best of my knowledge and belief the * * * petition (or section of petition) contains the signatures of ____ qualified electors of the state, state-district, county or municipality, as the case may be, and I have drawn a line in red ink through the names of those signators who appear by the records in my office not to be qualified electors, or who have died. I further certify that as of the date of the petitions there were ____ qualified electors in this state, state-district, county or municipality, as the case may be.

Given under my hand and seal of office, this the ____ day of ____, 20__.  

_____________________________
Secretary of State,  
County or Municipal Registrar
SECTION 6. Section 25-5-17, Mississippi Code of 1972, is amended as follows:

25-5-17. The certificate by the Secretary of State, county or municipal registrar shall be prima facie evidence of the facts stated therein and of the qualification of the electors whose signatures are thus certified. The Governor or the Lieutenant Governor, if the Governor is the officer to be removed, shall consider and count only those signatures on the petition as shall be so certified by the Secretary of State or registrar; however, any officer sought to be removed or any citizen of the state, state-district, county or municipality shall have the privilege of submitting evidence in writing, under oath, to the Governor as to the question of whether or not any signator to the petition was in fact a qualified elector at the time of the signing of the petition, or has since died. The decision of the Governor or the Lieutenant Governor, if the Governor is the officer to be removed, as to whether or not any particular person was or was not a qualified elector at the time of the signing of the petition, or whether or not any particular person has since died, shall be final and shall not be subject to review. The status of the signator as to whether or not he or she was a qualified elector at the time of signing the petition shall be determined as of the date of the petition and not by any other date.

SECTION 7. Section 25-5-19, Mississippi Code of 1972, is amended as follows:

25-5-19. The Secretary of State or the county or municipal registrar shall not retain in his possession any petition or any section thereof for a longer period than two (2) days for the first two hundred (200) signatures thereon and one (1) additional day for each two hundred (200) additional signatures or fraction thereof, and the time consumed in the examination of the petitions
shall not be counted in determining the time between the signing
and the filing of the petitions. At the expiration of the
examination, the registrar shall forthwith file the same with the
Governor or the Lieutenant Governor, if the Governor is the
officer to be removed, with his certificate attached, and shall
obtain a written receipt for the same. The forms herein are not
mandatory, but directory, and if substantially followed in any
petition it shall be sufficient, disregarding clerical and
technical errors. If the Secretary of State or the registrar be
unable to examine the petition, he shall so certify the fact to
the state, county or municipal election commissioners, who shall
in the same manner and time perform all the functions herein
required of the Secretary of State or the registrar. In the event
the Secretary of State or the county or municipal registrar is the
officer whose removal is sought by the petition, then the petition
shall be delivered to one of the state election commissioners or
one of the county or municipal election commissioners of the
county or municipality in which the petition has been circulated,
and the *** commissioners *** shall in the same manner and
within the same time perform all functions herein required of the
registrar. A fee of Five Cents (5¢) per signature shall be
allowed for the *** examination of the petitions, to be paid out
of the general funds of the state, county or municipality upon due
proof of the examination. The Secretary of State or any registrar
or any board of state, county or municipal election commissioners
or member thereof who wilfully fails or refuses to perform the
duty or duties herein required of him or them shall be subject to
a civil penalty of One Thousand Dollars ($1,000.00), to be
recovered in the chancery court of the First Judicial district of
Hinds County or in the chancery court of the county by suit which
may be filed by any qualified elector who signed the petition or
any section thereof.
SECTION 8. Section 25-5-21, Mississippi Code of 1972, is amended as follows:

25-5-21. When the petitions shall have been filed with the Governor or the Lieutenant Governor, if the Governor is the officer to be removed, within ten (10) days of the filing thereof the Governor or the Lieutenant Governor, if the Governor is the officer to be removed, shall cause true copies thereof (photostatic copies being sufficient) to be personally delivered by some officer of the state, county or municipality, designated in writing by the Governor or the Lieutenant Governor, if the Governor is the officer to be removed, to the officer sought to be removed, and shall in like manner and form cause to be personally served on the officer a notice to appear, if he desires, at a time to be fixed by the Governor or the Lieutenant Governor, if the Governor is the officer to be removed, to show cause, if any he can, why the question of his removal should not be submitted to a vote of the qualified electors as hereinafter provided, which notice shall be served upon the officer at least twenty (20) days before the date when his appearance is required. The place of hearing shall be the county courthouse of the county in which the officer resides.

SECTION 9. Section 25-5-23, Mississippi Code of 1972, is amended as follows:

25-5-23. At the time and place designated in the notice, the Governor or the Lieutenant Governor, if the Governor is the officer to be removed, shall cause to be convened a removal council to be composed of three (3) chancery judges appointed by the Governor or the Lieutenant Governor, if the Governor is the officer to be removed, none of whom shall reside in the district in which the officer under question resides, to hear and determine whether there is substantial basis for a removal election consistently with the provisions of Sections 25-5-3 through 25-5-37. The senior chancellor shall serve as the presiding judge.
of the council. The hearing herein provided may continue from day
to day and be recessed from time to time, as in the discretion of
the council may be ordered. The qualified electors of the state,
state-district, county or municipality shall likewise be given
notice by proclamation of the Governor or the Lieutenant Governor,
if the Governor is the officer to be removed, of the time and
place of the hearing. Any interested citizen or citizens may
likewise appear at the time and place listed and make * * *
representations to the council as, in the discretion of the
council, may be material to the issues involved. The council shall
promulgate rules for the hearings, which shall be in writing, but
all representations shall be made under oath, to be administered
by some member of the council. It shall not be necessary that a
stenographic record be kept of the representations, either for or
against removal, but the testimony taken shall be heard as nearly
as practicable in compliance with the usually applicable rules of
evidence. All decisions of the council on any question,
preliminary or final, including the question of whether just cause
for an election has been shown, shall be final and not subject to
review.

The elective officer concerned shall be entitled to be
represented by counsel of his choice at the hearing.

SECTION 10. Section 25-5-25, Mississippi Code of 1972, is
amended as follows:

25-5-25. The council shall keep minutes of its final
judgments, and the disposition of each petition shall be recorded
therein. If it be the judgment of the council that sufficient
cause has not been shown to justify the removal of the officer,
then the petition shall be dismissed and no new petition shall be
filed or entertained for a period of one (1) year from the date of
the order dismissing the petition.

If, however, the council shall be of the opinion that
sufficient cause has been shown to justify the removal of the
officer, then notice to the qualified electors of the state or state-district, county or municipality involved shall be given, in accordance with the general election laws of the State of Mississippi in the matter of filling vacancies in state, state-district, county or municipal offices, that an election shall be held in the county or municipality to determine the question of whether or not the state, state-district, county or municipal official shall be removed from office.

SECTION 11. Section 25-5-27, Mississippi Code of 1972, is amended as follows:

25-5-27. The officer named in the removal petition shall continue to perform the duties of his office until the results of the special removal election shall be officially proclaimed. If, however, the officer named in the petition for removal shall offer his resignation before the issuance of the proclamation for the holding of a special removal election, it shall be accepted, shall take effect on the date it is offered, and the vacancy shall be filled as provided by law for the filling of any vacancy in an elective state, state-district, county or municipal office. The officer who either resigns or is removed shall not be eligible to fill the vacancy caused by his removal or resignation, or serve as deputy in the office from which he resigns or is removed.

SECTION 12. Section 25-5-33, Mississippi Code of 1972, is amended as follows:

25-5-33. The election commissioners of the state, state-district, county or municipality, or a quorum thereof, shall meet at the office of the Secretary of State or the county or municipal registrar at 9:00 a.m. of the day following the special removal election, and shall then proceed to canvass, tabulate, and certify the results of the election as now provided by the general election laws of the State of Mississippi. The certificate of the results, showing the total votes cast for the removal of the officer, the total votes cast against the removal of the officer,
and the total number of qualified electors in the county or municipality in which the election was held, shall be forwarded to the Governor or the Lieutenant Governor, if the Governor is the officer to be removed. If a majority of all qualified electors of the county or municipality in which the election is held shall not have voted in the election, either for or against the removal, or if a majority of the qualified electors voting in the election shall oppose removal, the officer shall not be removed and shall not thereafter during his term of office be subject to another removal election. If a majority of all qualified electors of the state, state-district, county or municipality in which the election is held have voted either for or against removal, and if a majority of the qualified electors voting in the election shall vote for the removal of the officer, then the Governor shall issue his proclamation declaring the office vacant, removing the officer, and appointing a suitable person to fill the vacancy until the same can be filled in a special election to be held not more than sixty (60) days after the proclamation of the Governor. No officer shall be subject to a removal petition until he shall have served at least one (1) year of his term.

SECTION 13. Section 25-5-37, Mississippi Code of 1972, is amended as follows:

25-5-37. (1) Any person who signs any removal petition with any name other than his own, or who knowingly signs his name more than once to such petition, or who knowingly signs such petition when he is not a qualified elector shall be guilty of a felony and, upon conviction, may be punished as such for a term in the penitentiary not to exceed five (5) years.

(2) Any person who knowingly executes any affidavit required by Sections 25-5-3 through 25-3-37 knowing the same to be false, or who issues any certificate required by the same knowing it to be false, shall be guilty of a felony and, upon conviction, may be punished as such for a term in the penitentiary not to exceed five (5) years.
be false, or who makes any statement of any kind required by said
sections to be under oath, either in writing or orally, knowing
the same to be false shall be guilty of perjury and, upon
conviction, may be punished by imprisonment in the State
Penitentiary for a term not to exceed ten (10) years.

(3) It shall be a felony for any officer sought to be
removed under the provisions of the aforesaid sections to attempt
by force, threats, bribery, or intimidation to hinder or interfere
with the free circulation or signing of any removal petition and,
upon conviction thereof, he shall be punished by imprisonment in
the State Penitentiary for not less than one (1) year nor more
than five (5) years.

(4) Any person in the possession of a removal petition who
either wilfully suppresses, neglects, or fails to cause same to be
filed with the Secretary of State or the county or municipal
registrar, as the case may be, shall be guilty of a misdemeanor
and, upon conviction thereof, shall be punished by imprisonment in
the county jail not to exceed six (6) months or by fine not to
exceed Five Hundred Dollars ($500.00), or by both such fine and
imprisonment.

SECTION 14. The Attorney General of the State of Mississippi
shall submit this act, immediately upon approval by the Governor,
or upon approval by the Legislature subsequent to a veto, to the
Attorney General of the United States or to the United States
District Court for the District of Columbia in accordance with the
provisions of the Voting Rights Act of 1965, as amended and
extended.

SECTION 15. This act shall take effect and be in force from
and after the date it is effectuated under Section 5 of the Voting
Rights Act of 1965, as amended and extended.