

By: Representative Perkins

To: Apportionment and  
Elections

HOUSE BILL NO. 431

1 AN ACT ENTITLED THE "MISSISSIPPI RECALL ACT" TO PROVIDE A  
2 PROCEDURE FOR THE RECALL OF STATE AND LOCAL ELECTED OFFICIALS; TO  
3 PROVIDE DEFINITIONS; TO PRESCRIBE THOSE OFFICERS SUBJECT TO  
4 RECALL; TO PRESCRIBE THE NUMBER OF ELECTORS NEEDED TO DEMAND A  
5 RECALL; TO PRESCRIBE GROUNDS FOR RECALL; TO PROVIDE FOR THE  
6 APPLICATION FOR AND TIME OF FILING A RECALL PETITION BY SPONSORS;  
7 TO PROVIDE FOR THE REVIEW OF THE GROUNDS STATED IN THE  
8 APPLICATION; TO PROVIDE A FORM FOR THE RECALL PETITION; TO  
9 PRESCRIBE THOSE ELECTORS ELIGIBLE TO SIGN A RECALL PETITION AND A  
10 PROCEDURE FOR THE VERIFICATION OF SIGNATURES; TO PROHIBIT CERTAIN  
11 PERSONS FROM CIRCULATING A PETITION OR APPLICATION; TO PROVIDE FOR  
12 THE DETERMINATION OF LEGAL SUFFICIENCY OF A PETITION BY THE  
13 CIRCUIT COURT; TO PROVIDE FOR THE MANNER OF CONDUCTING A RECALL  
14 ELECTION; TO PROVIDE FOR THE FILING OF SUBSEQUENT RECALL PETITIONS  
15 FOLLOWING A RECALL ELECTION OR DENIAL OF RECALL PETITION; TO  
16 AUTHORIZE THE STATE BOARD OF ELECTION COMMISSIONERS TO PROMULGATE  
17 REGULATIONS TO IMPLEMENT THIS ACT; TO AUTHORIZE AN APPLICATION TO  
18 THE CIRCUIT COURT TO COMPEL COMPLIANCE WITH RECALL PROCEDURES; TO  
19 PROHIBIT GIVING OR RECEIVING MONEY TO SIGN PETITIONS OR AFFIDAVITS  
20 FOR RECALL AND OTHER RECALL INFRACTION, AND TO PROVIDE CRIMINAL  
21 PENALTIES; TO REPEAL SECTIONS 25-5-3 THROUGH 25-5-37, MISSISSIPPI  
22 CODE OF 1972, WHICH PROVIDE A RECALL PROCEDURE FOR LOCAL OFFICIALS  
23 PURSUANT TO PETITION AND ELECTION; AND FOR RELATED PURPOSES.

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

25 **SECTION 1.** This act shall be known and may be cited as the  
26 "Mississippi Recall Act."

27 **SECTION 2.** As used in this act, the following terms shall  
28 have the following meanings:



29           (a) "Elective office" means an office filled by the  
30 exercise of the franchise of vote by electors as defined in  
31 paragraph (c) of this section in a general or special election as  
32 defined under the laws of this state.

33           (b) "Board of election commissioners" means:

34               (i) In the case of any elected state officers, the  
35 State Board of Election Commissioners;

36               (ii) In the case of any elected county officers,  
37 the county board of election commissioners; and

38               (iii) In the case of any elected municipal  
39 officers, the municipal board of election commissioners.

40           (c) "Elector" means any person who possesses all of the  
41 qualifications for voting now or hereafter prescribed by the laws  
42 of this state and who has registered to vote.

43           (d) "Electoral district" means the geographical area in  
44 which the electors who are qualified to vote for any of the  
45 candidates offering for a particular office reside.

46           (e) "Failure to perform duties prescribed by law" means  
47 the willful neglect or failure by an official to perform a duty  
48 imposed by statute.

49           (f) "Grounds for recall" means:

50               (i) That the official has, while holding public  
51 office, conducted himself or herself in a manner which relates to  
52 and adversely affects the administration of his or her office and  
53 adversely affects the rights and interests of the public;



54 (ii) That the official:

55 1. Has committed an act or acts of  
56 malfeasance while in office;

57 2. Has violated his or her oath of office;

58 3. Has committed an act of misconduct in  
59 office;

60 4. Is guilty of a failure to perform duties  
61 prescribed by law; or

62 5. Has willfully misused, converted or  
63 misappropriated, without authority, public property or public  
64 funds entrusted to or associated with the elective office to which  
65 the official has been elected or appointed.

66 Discretionary performance of a lawful act or a prescribed  
67 duty shall not constitute a ground for recall of an elected public  
68 official; or

69 (iii) That the official changes political party  
70 affiliation while holding office.

71 (g) "Legal sufficiency" means, solely as applied to the  
72 duties or functions of the board of election commissioners, a  
73 determination of the completeness of either a recall petition or  
74 an application for a recall petition and a determination that the  
75 recall petition or the application for a recall petition contains  
76 a sufficient number of valid signatures. The determinations shall  
77 not include any review of the sufficiency of the ground or grounds



78 for the recall or the fact or facts upon which the ground or  
79 grounds are based.

80 (h) "Misconduct in office" means an unlawful act  
81 committed willfully by an elected public official.

82 (i) "Official sponsors" or "sponsors" means the  
83 electors who circulate or file an application for a recall  
84 petition who were registered and eligible to vote in the last  
85 general or special election for the office held by the officer  
86 sought to be recalled and who reside in the electoral district of  
87 the officer sought to be recalled.

88 **SECTION 3.** (1) Every public official who holds elective  
89 office, either by election or by appointment for an unexpired  
90 term, is subject to recall from office by electors who are  
91 registered and qualified to vote in the recall election and who  
92 reside in the electoral district from which candidates are elected  
93 to that office:

94 (a) In the case of a state officer whose electoral  
95 district encompasses the entire state, the number of electors  
96 necessary to petition the recall of the officer shall be equal to  
97 at least ten percent (10%) of the total number of qualified  
98 electors who voted at the last election in which the officer was  
99 elected. At least one-fifteenth (1/15) of the number of electors  
100 necessary to petition the recall of the officer must reside in  
101 each of the United States congressional districts in the state as  
102 the congressional districts may now or hereafter exist; or



103           (b) In the case of a state officer whose electoral  
104 district encompasses only a part of the state or in the case of a  
105 local officer, the number of electors necessary to petition the  
106 recall of the officer shall be equal to at least ten percent (10%)  
107 of the total number of qualified electors who voted at the last  
108 election in which the officer was elected.

109           (2) No recall petition shall demand the recall of more than  
110 one (1) public official.

111           (3) Every public official who holds elective office, either  
112 by election or by appointment for an unexpired term, is subject to  
113 recall on the grounds that the public official has, while holding  
114 any public office, conducted himself or herself in a manner as set  
115 forth in Section 2(f) of this act.

116           **SECTION 4.** (1) No person shall be authorized to circulate,  
117 sponsor or sign the application unless the person is an elector or  
118 sponsor as defined in Section 2 of this act.

119           (2) (a) The application shall include:

120                   (i) The name and office of the person sought to be  
121 recalled;

122                   (ii) The printed names and signatures of the  
123 official sponsors, the date signed, residence addresses and the  
124 name of the county of residence;

125                   (iii) The designation of one (1) of the sponsors  
126 as the petition chairperson who shall represent the sponsors on  
127 all matters pertaining to the recall application and petition;



128 (iv) A statement that: \_\_\_\_\_ (name and  
129 office) has, while holding public office, conducted himself or  
130 herself in a manner which relates to and adversely affects the  
131 administration of his or her office and adversely affects the  
132 rights and interests of the public and \_\_\_\_\_ (State the  
133 appropriate ground or grounds for recall as set forth in Section  
134 2(f) of this act with a brief statement of the fact or facts upon  
135 which the ground or grounds are based.). The statement shall be  
136 typed, printed or reproduced by the board of election  
137 commissioners on the face of each application issued; and

138 (v) An affidavit by the petition chairperson and  
139 the person circulating the recall application that each person  
140 sponsoring or signing the recall application is an elector of the  
141 electoral district of the officer sought to be recalled and that  
142 the fact or facts upon which the ground or grounds for recall are  
143 based are true. The affidavit required by this subparagraph (v)  
144 shall be in the following form:

145 **AFFIDAVIT OF CIRCULATOR AND PETITION CHAIRPERSON**

146 State of Mississippi  
147 County of \_\_\_\_\_

148 Under the penalty of a violation of Section 97-9-59,  
149 Mississippi Code of 1972, relating to perjury, we the undersigned  
150 do depose and say that each person sponsoring or signing the  
151 recall application of \_\_\_\_\_ is an elector of the  
152 electoral district of the officer sought to be recalled and



153 further depose and say that the fact or facts upon which the  
154 ground or grounds for recall are based are true.

155 \_\_\_\_\_  
156 (Signature of circulator)

157 \_\_\_\_\_  
158 (Residence address)

159 (Number and street or route)

160 \_\_\_\_\_  
161 (City)

162 \_\_\_\_\_  
163 (Signature of petition chairperson)

164 \_\_\_\_\_  
165 (Residence address)

166 (Number and street or route)

167 \_\_\_\_\_  
168 (City)

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

171 \_\_\_\_\_  
172 Notary Public

173 \_\_\_\_\_, Mississippi

174 My commission expires on the \_\_\_\_\_ day of \_\_\_\_\_,  
175 \_\_\_\_\_.

176 No notary public may sign the application as an elector or  
177 serve as a circulator of any application which he or she



178 notarized. Any sheets of an application for a recall petition  
179 that have the circulator's affidavit notarized by a notary public  
180 who also served as a circulator of one or more sheets of the  
181 application for a recall petition or who signed one (1) of the  
182 sheets of the petition as an elector shall be disqualified and  
183 rejected.

184 (b) Applications shall be issued by the board of  
185 election commissioners who shall assign a number to each  
186 application. The number shall appear on the face of each  
187 application. The board of election commissioners shall keep  
188 records of applications issued, including the date of issuance and  
189 number assigned. The board of election commissioners shall  
190 immediately notify in writing the public officer named for recall  
191 in the application that an application for a recall petition has  
192 been officially issued for circulation.

193 (c) The official application forms shall be printed by  
194 the Office of the Secretary of State in substantially the form  
195 prescribed in this subsection and distributed to boards of  
196 election commissioners.

197 (3) The number of official sponsors necessary to file an  
198 application for a recall petition must be equal in number to at  
199 least ten percent (10%) of the total number of qualified electors  
200 who voted at the last election in which the officer was elected.

201 (4) Sponsors of a recall petition, before causing the  
202 petition to be circulated, shall submit the application for the





203 petition to the board of election commissioners designated in  
204 Section 2 of this act and request official recall petition forms.

205 (5) At any time before the date the board of election  
206 commissioners receives the application for a recall petition, an  
207 elector who has signed the application as an official sponsor may  
208 request withdrawal of his or her signature from the application by  
209 executing and filing an affidavit signed and sworn to before a  
210 notary public which affirms the elector's intention to withdraw  
211 his or her signature from the application. The official affidavit  
212 of signature withdrawal shall be printed by the Office of the  
213 Secretary of State and distributed to boards of election  
214 commissioners. The form of the affidavit shall be substantially  
215 as prescribed in Section 8 of this act.

216 (6) (a) No application for recall petition shall be  
217 accepted for verification if more than fifteen (15) days have  
218 elapsed since the application forms were issued to the sponsors.  
219 If an application for a recall petition contains more than one (1)  
220 sheet, the application, when offered for filing, shall be bound  
221 together and each sheet shall be numbered consecutively at the  
222 foot of each page beginning with page one (1).

223 (b) On receipt of the application, the board of  
224 election commissioners shall file the application and proceed to  
225 determine the legal sufficiency of the application and determine  
226 if the signers are qualified electors eligible to sign the  
227 application. The board of election commissioners is granted



228 unrestricted authority to examine the voter registration records  
229 maintained by the registrar, to receive evidence and testimony,  
230 and to require the personal appearance of any person signing the  
231 application for the purpose of making the determination. If the  
232 board of election commissioners finds that any signer is not a  
233 qualified elector eligible to sign the application, the signature  
234 shall not be counted in determining whether the application  
235 contains a sufficient number of signatures as required by law.  
236 The nullification of a signature on an application shall not  
237 affect the validity of other signatures contained in the  
238 application. The board of election commissioners shall certify  
239 the legal sufficiency or insufficiency of the application for a  
240 recall petition within five (5) days after receiving the  
241 application, excluding Saturdays, Sundays and legal holidays;  
242 however, the judge of the circuit court may, upon proper  
243 application and good cause shown, grant an additional period of  
244 time not to exceed fifteen (15) days for the board of election  
245 commissioners to verify the application.

246 (c) The board of election commissioners shall  
247 immediately notify in writing the public officer named for recall  
248 in the application that a completed application for a recall  
249 petition has been filed with the board of election commissioners  
250 for verification.



251 (7) No application for a recall petition shall be amended,  
252 supplemented or returned after it has been filed with the board of  
253 election commissioners for verification.

254 (8) Upon certifying the legal sufficiency of the  
255 application, the board of election commissioners shall immediately  
256 officially file the certification of the application, issue  
257 official recall petition forms, assign a number to the recall  
258 petition, which number shall appear on the face of each petition  
259 form, and issue the number to the sponsors. A record of each  
260 application, including the date of its receipt and the number  
261 assigned and issued to the sponsors, shall be maintained by the  
262 board of election commissioners.

263 (9) The board of election commissioners shall immediately  
264 notify in writing the public officer named for recall in the  
265 application that a recall petition has been officially issued for  
266 circulation.

267 (10) The official recall petition forms shall be printed by  
268 the Office of the Secretary of State and distributed to the board  
269 of election commissioners.

270 **SECTION 5.** (1) Within four (4) days after the date of  
271 submission of the application for a recall petition for  
272 verification, excluding Saturdays, Sundays and legal holidays, the  
273 officer sought to be recalled may file a petition in the circuit  
274 court of the county in which the officer is domiciled applying for  
275 a review of the sufficiency of the ground or grounds for the



276 recall and the fact or facts upon which the ground or grounds are  
277 based as set forth in the recall application.

278 (2) The circuit court having jurisdiction of a case governed  
279 by this act shall be presided over by a circuit court judge  
280 selected as set out in this section.

281 (3) Upon the filing of a sufficiency review petition under  
282 this section, the clerk of the circuit court having jurisdiction  
283 shall immediately notify the Chief Justice of the Supreme Court of  
284 proceedings filed under this act.

285 (4) The Chief Justice of the Supreme Court shall select a  
286 senior judge, who is not a resident of the circuit wherein the  
287 proceeding was filed, to preside over the case.

288 (5) After a judge has agreed to preside over the case, the  
289 Chief Justice of the Supreme Court shall enter an order in the  
290 circuit court of the county where the proceeding was filed  
291 appointing the judge, and the judge shall promptly begin presiding  
292 over the proceedings in the court and shall determine same as soon  
293 as practicable.

294 (6) The review shall be limited solely to a review of the  
295 legal sufficiency of the recall ground or grounds and the legal  
296 sufficiency of the alleged fact or facts upon which such ground or  
297 grounds are based as set forth in the recall application. The  
298 review of the alleged fact or facts shall include a determination  
299 of whether probable cause exists to believe that the alleged fact  
300 or facts are true. The burden shall be on the petition



301 chairperson to prove that probable cause exists. The judge shall  
302 consider the review petitions on an expedited basis. Discovery  
303 shall be permitted but shall not delay the consideration of the  
304 review petition by the judge. The judge may enter such orders as  
305 the judge deems necessary and appropriate to expedite any  
306 discovery and the consideration of the review petition.

307 (7) During the pendency of the review by the circuit court,  
308 all other recall proceedings shall be suspended. If a ruling of  
309 sufficiency is rendered by the judge, then recall proceedings  
310 shall continue in the manner provided for in this act. The time  
311 for circulating a recall petition after the review of the  
312 sufficiency petition shall begin from the date of the order of the  
313 circuit court or the issuance of recall petition forms, whichever  
314 is later, notwithstanding the fact that recall petition forms were  
315 issued before the filing of the petition for review of the  
316 sufficiency of the recall application. Valid signatures obtained  
317 on a recall petition before the filing of a petition for review of  
318 the sufficiency of a recall application shall be counted. The  
319 officer sought to be recalled may file a discretionary appeal in  
320 the Supreme Court within ten (10) days after the date of an order  
321 finding a recall application sufficient, excluding Saturdays,  
322 Sundays and legal holidays, and the court shall consider the  
323 appeal on an expedited basis. The filing of the appeal shall not  
324 operate to stay the recall proceedings. If a ruling of  
325 insufficiency is rendered by the judge, then a discretionary



326 appeal may be filed in the Supreme Court within ten (10) days  
327 after the date of the ruling, excluding Saturdays, Sundays and  
328 legal holidays, and the court shall consider the appeal on an  
329 expedited basis.

330 **SECTION 6.** (1) The form of the recall petition shall be  
331 substantially as follows:

332 **RECALL PETITION**

333 \_\_\_\_\_  
334 (Official application no.)

335 \_\_\_\_\_  
336 (County or city)

337 To \_\_\_\_\_  
338 (Name of board of election commissioners)

339 \_\_\_\_\_  
340 (Address)

341 \_\_\_\_\_  
342 (City, state, zip code)

343 We, the electors registered to vote in the recall election  
344 herein petitioned, demand the recall of \_\_\_\_\_ (name  
345 and office) on the grounds that the official has, while holding  
346 public office, \_\_\_\_\_ (State the appropriate ground  
347 or grounds for recall as set forth in Section 2(f) of this act and  
348 a brief statement, not to exceed five (5) lines, of the fact or  
349 facts upon which such ground or grounds are based.).

350 Date of Residence County of



351	Name	Signing	Address	Residence
352	<hr/>			
353	(Signature)	(Number and street or route)		
354	<hr/>			
355	(Printed name of elector)	(City)		
356	(Ten (10) lines for signatures and printed names)			

357 (2) The following statement shall be written or printed on  
358 each petition and each signer must read, or be read, the following  
359 statements:

360 " (a) Any person who gives or receives money or any  
361 other thing of value for signing a recall petition or for signing  
362 an affidavit of signature withdrawal shall be guilty of a  
363 misdemeanor;

364 (b) If (insert appropriate number) electors sign this  
365 petition, there will be an election at which a majority of the  
366 electors voting therein will determine whether the above-named  
367 official will be removed from office."

368 (3) Each recall petition shall contain a statement  
369 specifically designating the name and office of the official  
370 sought to be recalled, a statement containing the appropriate  
371 ground or grounds for recall as set forth in Section 2(f) of this  
372 act, and a brief statement of the fact or facts upon which such  
373 ground or grounds are based. The statements shall be written or  
374 printed on each petition and each signer must read, or be read,  
375 the statements.



376           SECTION 7. (1) All signers of a single recall petition  
377 shall be electors who are registered and eligible to vote in the  
378 recall election and who reside in the electoral district of the  
379 officer sought to be recalled. When a petition for the recall of  
380 a public official is circulated in more than one (1) county, each  
381 sheet of the petition shall bear the name of the county in which  
382 it is circulated, and only electors of the designated county may  
383 sign the sheet. No recall petition shall be circulated or signed  
384 by any person in any location where alcoholic beverages are sold  
385 or served.

386           (2) Every elector signing a recall petition shall do so in  
387 the presence of the person circulating the petition, who is to  
388 execute the affidavit of verification on the reverse side of the  
389 petition form. At the time of signing, the elector shall sign his  
390 or her name, and the elector or the person circulating the  
391 petition shall print the name of the elector below the elector's  
392 signature and shall print or write in the appropriate spaces  
393 following the signature the elector's residence address, giving  
394 number and street or route and city, the name of the county, and  
395 the date on which the elector signed the petition. No notary  
396 public may sign the petition as an elector or serve as a  
397 circulator of any petition which he or she notarized. Any sheets  
398 of a recall petition that have the circulator's affidavit  
399 notarized by a notary public who also served as a circulator of  
400 one or more sheets of the recall petition or who signed one (1) of





401 the sheets of the petition as an elector shall be disqualified and  
402 rejected.

403 (3) If an elector is incapable of signing his or her name,  
404 he or she may specifically request the circulator of the petition  
405 to sign and print his or her name and complete the information  
406 required on the petition sheet to accompany the signature;  
407 however, the circulator shall also sign his or her full name  
408 beside the printed name of such elector.

409 (4) The person before whom the electors signed the recall  
410 petition shall verify, in an affidavit subscribed and sworn to by  
411 him or her before a notary public, that each of the names on the  
412 petition form was signed in his or her presence on the date  
413 indicated and that in his or her belief each signer was an elector  
414 of the electoral district of the officer sought to be recalled.

415 (5) The affidavit printed on the reverse side of each recall  
416 petition form shall be in the following form:

417 **AFFIDAVIT OF CIRCULATOR**

418 State of Mississippi

419 County of \_\_\_\_\_

420 Under the penalty of Section 97-9-59, Mississippi Code of  
421 1972, relating to perjury, I do depose and say that I am an  
422 elector registered to vote in the recall election herein  
423 petitioned for and that each petitioner signed or caused to be  
424 signed the foregoing petition in my presence on the date  
425 indicated; and I believe that each signer's name and residence



426 address are correctly stated, and that each signer is an elector  
427 of the electoral district in which the recall election will be  
428 conducted, and that each signer has read, or was read, the  
429 required statements which are also set out on each petition.

430 (Signature of affiant) \_\_\_\_\_

431 (Residence address) \_\_\_\_\_

432 (Number and street or route)

433 \_\_\_\_\_

434 (City)

435 Subscribed and sworn to before me this \_\_\_\_\_ day of

436 \_\_\_\_\_, \_\_\_\_\_.

437 \_\_\_\_\_

438 Notary Public

439 \_\_\_\_\_, Mississippi

440 My commission expires on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

441 (6) An elector may change the way his or her signature and  
442 residence address appear on the recall petition at any time before  
443 the filing of the petition for verification by striking through  
444 his or her name and initialing the strike-through and re-signing  
445 the petition with his or her printed name corrected accordingly.

446 **SECTION 8.** (1) At any time before the date an application  
447 for recall petition or a recall petition is filed for  
448 verification, an elector who has signed the application or the  
449 recall petition form may request withdrawal of his or her  
450 signature from the application or recall petition by executing and



451 filing an affidavit, in the form prescribed by this section, with  
452 the board of election commissioners. Any signature so withdrawn  
453 shall not be counted in determining the legal sufficiency of the  
454 application or recall petition. The affidavit shall:

455 (a) Be signed and sworn to before a notary public;

456 (b) State the elector's residence address, giving  
457 number and street or route and city, the name of the county of  
458 residence, and, in the case of a recall application or petition,  
459 the number of the recall application or petition which he or she  
460 signed; and

461 (c) Affirm the elector's intention to withdraw his or  
462 her signature from the application or recall petition.

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

465 **AFFIDAVIT OF SIGNATURE WITHDRAWAL**

466 State of Mississippi

467 County of \_\_\_\_\_

468 I, \_\_\_\_\_ (name as it appears on the application or  
469 recall petition), being first duly sworn, say that I am an elector  
470 of the \_\_\_\_\_ (electoral district) in which the recall  
471 election will be conducted.

472 That my residence address is \_\_\_\_\_

473 \_\_\_\_\_

474 (Number and street or route)

(City)



475 That I signed or caused to be signed the application or the  
476 petition for the recall of \_\_\_\_\_ (name and office of  
477 person sought to be recalled) and that the recall application or  
478 petition has been assigned number \_\_\_\_\_.

479 That it is my intention by the signing and filing of this  
480 affidavit to withdraw my signature therefrom.

481 \_\_\_\_\_  
482 (Signature of elector)

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

485 \_\_\_\_\_  
486 Notary Public  
487 \_\_\_\_\_, Mississippi

488 My commission expires on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_.

489 **SECTION 9.** No county registrar or other person authorized by  
490 law to register electors and no person other than an elector of  
491 the electoral district of the officer sought to be recalled shall  
492 circulate a recall application or petition. No employee of the  
493 state shall circulate a recall application or petition. All  
494 signatures obtained by any unqualified person shall be void and  
495 shall not be counted in determining the legal sufficiency of the  
496 petition.

497 **SECTION 10.** (1) The board of election commissioners shall  
498 be responsible for determining the legal sufficiency of the recall  
499 petition within thirty (30) days after it has been filed with it;



500 however, in cases where more than one (1) recall petition is  
501 subject to review for verification, the board of election  
502 commissioners shall be responsible for determining the legal  
503 sufficiency of any recall petition within forty-five (45) days  
504 after it has been filed with it. The board of election  
505 commissioners or a designee is granted unrestricted authority to  
506 examine the registration records maintained by the county  
507 registrar to receive evidence and testimony, and to require the  
508 personal appearance of any person signing the recall petition for  
509 the purpose of determining if the signers are qualified electors  
510 eligible to sign the recall petition. If the board of election  
511 commissioners shall not be reasonably able to ascertain that any  
512 signature is that of a qualified elector eligible to sign the  
513 recall petition, the signature shall not be counted in determining  
514 whether the petition contains a sufficient number of signatures as  
515 required by law. The nullification of a signature on any sheet of  
516 the recall petition shall not affect the validity of other  
517 signatures contained on the sheet.

518 (2) A recall petition shall not be accepted for verification  
519 for:

520 (a) Any statewide office if more than ninety (90) days  
521 have elapsed since the date the official recall petition forms  
522 were issued to the sponsors;

523 (b) Any officer holding an office other than statewide  
524 office and for whom not less than five thousand (5,000) signatures



525 are required for the recall petition under Section 3(1)(b) of this  
526 act if more than forty-five (45) days have elapsed since the date  
527 the official recall petition forms were issued to the sponsor; or

528 (c) Any officer holding an office other than a  
529 statewide office and for whom less than five thousand (5,000)  
530 signatures are required under Section 3(1)(b) of this act if more  
531 than thirty (30) days have elapsed since the date the official  
532 recall petition forms were issued to the sponsors.

533 (3) (a) No recall petition shall be amended, supplemented  
534 or returned after it has been filed with the board of election  
535 commissioners for verification.

536 (b) If a recall petition contains more than one (1)  
537 sheet, the recall petition shall, when offered for filing, be  
538 bound together and each sheet shall be numbered consecutively at  
539 the foot of each page beginning with page one (1).

540 (4) Within five (5) days, excluding Saturdays, Sundays and  
541 legal holidays, after the board of election commissioners has  
542 certified the legal sufficiency of a petition, it shall  
543 immediately notify the Governor or the appropriate official, who  
544 shall call the recall election as provided in Section 12 of this  
545 act.

546 (5) Upon certifying the legal sufficiency or insufficiency  
547 of a recall petition, the board of election commissioners shall  
548 immediately notify the petition chairperson and the officeholder



549 in writing of the results and officially file the certification of  
550 the petition.

551 **SECTION 11.** If an officeholder resigns before the recall  
552 election is held, no recall election shall be conducted.

553 **SECTION 12.** (1) Within ten (10) days after having received  
554 certification of the sufficiency of the recall petition by the  
555 board of election commissioners, a recall election shall be called  
556 and published, as provided in this section, and shall be conducted  
557 not less than thirty (30) days nor more than forty-five (45) days  
558 after the call; however, if a primary or general election is to be  
559 held not less than thirty (30) days nor more than forty-five (45)  
560 days after such call is issued, the recall election shall be  
561 conducted on that date.

562 (2) A recall election shall be called:

563 (a) By the Governor, if for a state officer;

564 (b) By the board of election commissioners of the  
565 county, if for a county officer; or

566 (c) By the board of election commissioners of the  
567 municipality, if for a municipal officer.

568 (3) If a recall petition is against an officer who is  
569 directed by this section to call the election, it shall be called:

570 (a) By the Secretary of State, if for the Governor;

571 (b) By the circuit clerk, if for a member of the county  
572 board of election commissioners; or



573 (c) By the governing authorities of a municipality, if  
574 for a municipal election commissioner.

575 (4) The official call for the election shall be published  
576 one (1) time as follows:

577 (a) In a newspaper of general circulation in the  
578 electoral district, if the election is for a state officer;

579 (b) In a newspaper of general circulation in the  
580 county, if the election is for a county officer; or

581 (c) In a newspaper of general circulation in the  
582 municipality, if the election is for a municipal officer.

583 (5) It shall be the duty of the appropriate officials  
584 authorized by law to conduct elections to hold and conduct the  
585 recall election and to declare and certify the results; however,  
586 if the person sought to be recalled is the official authorized by  
587 law to conduct elections, the clerk of the circuit court of the  
588 county in which the recall election is to be held shall hold and  
589 conduct the recall election and declare and certify the results.  
590 The ballot for the recall election shall state the name and office  
591 of the person whose recall has been petitioned, and the ballot  
592 shall be in the form prescribed by law for state, county or  
593 municipal officers. The ballot shall have written or printed  
594 thereon the following:

595 "[ ] YES Shall (name of officeholder), (name of office),  
596 be recalled and removed from public office on  
597 the grounds that the official has, while





598 [ ] NO holding public office, conducted himself or  
599 herself in a manner which relates to and  
600 adversely affects the administration of his or  
601 her office and adversely affects the rights and  
602 interests of the public and on the ground(s)  
603 that the official \_\_\_\_\_  
604 (State the appropriate ground or grounds for  
605 recall as set forth in subparagraph (ii) of  
606 paragraph (f) of Section 2 of this act?"

607 If more than one (1) public officer is subject to a recall  
608 election in the same precinct, the board of election commissioners  
609 may prepare a recall ballot so as to include on a single ballot  
610 separate recall questions for each of the officers sought to be  
611 recalled.

612 (6) Those persons desiring to vote in favor of recall shall  
613 vote "Yes," and those persons desiring to vote against recall  
614 shall vote "No." If more than one-half (1/2) of the votes cast on  
615 the question are in favor of recall, the public office in question  
616 shall immediately become vacant. Otherwise, the public official  
617 named in the recall petition shall continue in office.

618 **SECTION 13.** (1) After a recall petition and election, no  
619 further recall petition shall be filed against the same officer  
620 until at least six (6) months have elapsed from the date of the  
621 previous recall election; and any other recall petitions against



622 that officer outstanding on the date of the recall election shall  
623 be void.

624 (2) If the board of election commissioners finds that a  
625 recall petition is insufficient and fails to verify the same, no  
626 further application for a recall petition shall be filed against  
627 the same officer until at least six (6) months have elapsed from  
628 the date of the denial of the recall petition; however, the  
629 finding of insufficiency shall not bar the verification of any  
630 other recall petition against that officer which is available for  
631 signature or pending verification at the time of such finding of  
632 insufficiency.

633 **SECTION 14.** All recall elections shall be conducted in the  
634 same manner as special elections.

635 **SECTION 15.** The State Board of Election Commissioners is  
636 authorized to promulgate such rules and regulations as are  
637 necessary to carry out this act.

638 **SECTION 16.** (1) If the board of election commissioners  
639 fails to comply with this act, any elector may apply, within ten  
640 (10) days after the refusal, to the circuit court for a writ of  
641 mandamus to compel the board of election commissioners to perform  
642 its official duties. If the court finds that the board of  
643 election commissioners has not complied with this act, the court  
644 shall issue an order for the board to comply.

645 (2) An action against the board of election commissioners  
646 shall be filed in the circuit court of the county of the board of



647 election commissioners, except that an action against the State  
648 Board of Election Commissioners shall be filed in the Circuit  
649 Court of Hinds County.

650 **SECTION 17.** An elector's eligibility to sign an application  
651 for a recall petition or a petition for recall shall be determined  
652 as of the date immediately preceding the date the application or  
653 petition is signed by that elector.

654 **SECTION 18.** (1) Any person who gives or receives money or  
655 any other thing of value for signing a recall application or  
656 petition or for signing an affidavit of signature withdrawal shall  
657 be guilty of a misdemeanor.

658 (2) A person who, by menace or threat either directly or  
659 indirectly, induces or compels or attempts to induce or compel any  
660 other person to sign or subscribe or to refrain from signing or  
661 subscribing that person's name to a recall application or petition  
662 or, after signing or subscribing that person's name, to have that  
663 person's name taken therefrom shall be guilty of a misdemeanor.

664 (3) A person who signs any name other than his or her own to  
665 a recall application or petition, except in a circumstance where  
666 he or she signs for a person in the presence of and at the  
667 specific request of the person who is incapable of signing that  
668 person's own name, or who knowingly signs his or her name more  
669 than once for the same recall application or petition or who  
670 knowingly is not at the time of signing a qualified elector of the



671 electoral district of the officer sought to be recalled shall be  
672 guilty of a misdemeanor.

673           **SECTION 19.** Sections 25-5-3, 25-5-5, 25-5-7, 25-5-9,  
674 25-5-11, 25-5-13, 25-5-15, 25-5-17, 25-5-19, 25-5-21, 25-5-23,  
675 25-5-25, 25-5-27, 25-5-29, 25-5-31, 25-5-33, 25-5-35 and 25-5-37,  
676 Mississippi Code of 1972, which provide a recall procedure for  
677 local officials pursuant to petition and election, provide for the  
678 verification of the petition, provide for examination of a  
679 petition for recall by the election commissioners, provide for  
680 notice of a hearing, provide for the appointment of a removal  
681 council, provide for the conduct of a removal election, provide  
682 for the results of a removal election, provide for appeals and  
683 penalties, are hereby repealed.

684           **SECTION 20.** This act shall take effect and be in force from  
685 and after July 1, 2018.

