

By: Senator(s) Burton

To: Elections

SENATE BILL NO. 2579

1 AN ACT ENTITLED THE "MISSISSIPPI RECALL ACT OF 2006" TO
 2 PROVIDE A PROCEDURE FOR THE RECALL OF STATE AND LOCAL ELECTED
 3 OFFICIALS; TO PROVIDE DEFINITIONS; TO PRESCRIBE THOSE OFFICERS
 4 SUBJECT TO RECALL; TO PRESCRIBE THE NUMBER OF ELECTORS NEEDED TO
 5 DEMAND A RECALL; TO PRESCRIBE GROUNDS FOR RECALL; TO PROVIDE FOR
 6 THE APPLICATION FOR AND TIME OF FILING A RECALL PETITION BY
 7 SPONSORS; 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 INFRACTIONS, AND TO PROVIDE CRIMINAL
 21 PENALTIES THEREFOR; TO REPEAL SECTIONS 25-5-3 THROUGH 25-5-37,
 22 MISSISSIPPI CODE OF 1972, WHICH PROVIDE A RECALL PROCEDURE FOR
 23 LOCAL OFFICIALS PURSUANT TO PETITION AND ELECTION; AND FOR RELATED
 24 PURPOSES.

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

26 **SECTION 1.** This act shall be known and may be cited as the
 27 "Mississippi Recall Act of 2006."

28 **SECTION 2.** As used in this act, the term:

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 area in which the
44 electors reside who are qualified to vote for any of the
45 candidates offering for a particular office.

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; and

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.

69 (g) "Legal sufficiency" means, solely as applied to the
70 duties or functions of the board of election commissioners, a

71 determination of the completeness of an application for a recall
72 petition or a recall petition and a determination that an
73 application for a recall petition or a recall position contains a
74 sufficient number of valid signatures. Such determinations shall
75 not include any review of the sufficiency of the ground or grounds
76 for the recall and the fact or facts upon which such ground or
77 grounds are based.

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

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

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

92 (a) In the case of a state officer whose electoral
93 district encompasses the entire state, the number of electors
94 necessary to petition the recall of the officer shall be equal to
95 at least fifteen percent (15%) of the number of electors who were
96 registered and qualified to vote at the last preceding election
97 for any candidate offering for the office held by the officer. At
98 least one-fifteenth (1/15) of the number of electors necessary to
99 petition the recall of the officer must reside in each of the
100 United States congressional districts in the state as said
101 congressional districts may now or hereafter exist; or

102 (b) In the case of a state officer whose electoral
103 district encompasses only a part of the state or in the case of a

104 local officer, the number of electors necessary to petition the
105 recall of the officer shall be equal to at least thirty percent
106 (30%) of the number of electors registered and qualified to vote
107 at the last preceding election for any candidate offering for the
108 office held by the officer.

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 such public official has, while holding
114 any public office, conducted himself or herself in a manner which
115 relates to and adversely affects the administration of his or her
116 current office and adversely affects the rights and interests of
117 the public if one or more additional grounds for recall exist as
118 set forth in Section 2(f)(ii) of this act.

119 **SECTION 4.** (1) No application for a recall petition may be
120 filed during the first one hundred eighty (180) days or last one
121 hundred eighty (180) days of the term of office of any public
122 official subject to recall. No person shall be authorized to
123 circulate, sponsor or sign such application unless such person is
124 an elector or sponsor as defined in Section 2 of this act.

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

126 (i) The name and office of the person sought to be
127 recalled;

128 (ii) The printed names and signatures of the
129 official sponsors, the date signed, residence addresses and the
130 name of the county of residence;

131 (iii) The designation of one of the sponsors as
132 the petition chairperson who shall represent the sponsors on all
133 matters pertaining to the recall application and petition;

134 (iv) A statement that: _____ (name and
135 office) has, while holding public office, conducted himself or
136 herself in a manner which relates to and adversely affects the

137 administration of his or her office and adversely affects the
138 rights and interests of the public and stating the appropriate
139 ground or grounds for recall as set forth in Section 2(f)(ii) of
140 this act with a brief statement of the fact or facts upon which
141 the ground or grounds are based. The statement shall be typed,
142 printed or reproduced by the board of election commissioners on
143 the face of each application issued; and

144 (v) An affidavit by the petition chairperson and
145 the person circulating such recall application that each person
146 sponsoring or signing the recall application is an elector of the
147 electoral district of the officer sought to be recalled and that
148 the fact or facts upon which the ground or grounds for recall are
149 based are true. The affidavit required by this subparagraph (v)
150 shall be in the following form:

151 AFFIDAVIT OF CIRCULATOR AND PETITION CHAIRPERSON

152 State of Mississippi

153 County of _____

154 Under the penalty of a violation of Section 97-9-59,
155 Mississippi Code of 1972, relating to perjury, we the undersigned
156 do depose and say that each person sponsoring or signing the
157 recall application of _____ is an elector of the
158 electoral district of the officer sought to be recalled and
159 further depose and say that the fact or facts upon which the
160 ground or grounds for recall are based are true.

161 _____
162 (Signature of circulator)

163 _____
164 (Residence address)
165 Number and street or route)

166 _____
167 (City)

168 _____
169 (Signature of petition chairperson)

170 _____
171 (Residence address)
172 (Number and street or route)
173 _____
174 (City)

175 Subscribed and sworn to before me this _____ day of
176 _____, _____.
177 _____

178 Notary public
179 _____, Mississippi

180 My commission expires on the _____ day of _____,
181 _____.

182 No notary public may sign the application as an elector or
183 serve as a circulator of any application which he or she
184 notarized. Any and all sheets of an application for a recall
185 petition that have the circulator's affidavit notarized by a
186 notary public who also served as a circulator of one or more
187 sheets of the application for a recall petition or who signed one
188 of the sheets of the petition as an elector shall be disqualified
189 and rejected.

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

199 (c) The official application forms shall be printed by
200 the Office of the Secretary of State in substantially the form
201 prescribed in this subsection and distributed to boards of
202 election commissioners.

203 (3) The number of official sponsors necessary to file an
204 application for a recall petition must be equal in number to at
205 least one hundred (100) electors or equal in number to at least
206 ten percent (10%) of the number of electors who were registered to
207 vote at the last preceding election for any of the candidates
208 offering for the office held by the public official sought to be
209 recalled, whichever is smaller.

210 (4) Sponsors of a recall petition, before causing the
211 petition to be circulated, shall submit the application for the
212 petition to the board of election commissioners designated in
213 Section 2 of this act and request official recall petition forms.

214 (5) At any time prior to the date the board of election
215 commissioners receives the application for a recall petition, an
216 elector who has signed the application as an official sponsor may
217 request withdrawal of his or her signature from the application by
218 executing and filing an affidavit signed and sworn to before a
219 notary public which affirms the elector's intention to withdraw
220 his or her signature from the application. The official affidavit
221 of signature withdrawal shall be printed by the Office of the
222 Secretary of State and distributed to boards of election
223 commissioners. The form of the affidavit shall be substantially
224 as prescribed in Section 8 of this act.

225 (6) (a) No application for recall petition shall be
226 accepted for verification if more than fifteen (15) days have
227 elapsed since the application forms were issued to the sponsors.
228 If an application for a recall petition contains more than one (1)
229 sheet, the application, when offered for filing, shall be bound
230 together and each sheet shall be numbered consecutively at the
231 foot of each page beginning with page one.

232 (b) On receipt of the application, the board of
233 election commissioners shall file the application and proceed to
234 determine the legal sufficiency of the application and determine
235 if the signers are qualified electors eligible to sign the

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

255 (c) The board of election commissioners shall
256 immediately notify in writing the public officer named for recall
257 in the application that a completed application for a recall
258 petition has been filed with the board of election commissioners
259 for verification.

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

263 (8) Upon certifying the legal sufficiency of the
264 application, the board of election commissioners shall immediately
265 officially file the certification of the application, issue
266 official recall petition forms, assign a number to the recall
267 petition, which number shall appear on the face of each petition
268 form, and issue the number to the sponsors. A record of each

269 application, including the date of its receipt and the number
270 assigned and issued to the sponsors, shall be maintained by the
271 board of election commissioners.

272 (9) The board of election commissioners shall immediately
273 notify in writing the public officer named for recall in the
274 application that a recall petition has been officially issued for
275 circulation.

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

279 **SECTION 5.** (1) Within four (4) days after the date of
280 submission of the application for a recall petition for
281 verification, excluding Saturdays, Sundays and legal holidays, the
282 officer sought to be recalled may file a petition in the circuit
283 court of the county in which the officer is domiciled applying for
284 a review of the sufficiency of the ground or grounds for the
285 recall and the fact or facts upon which the ground or grounds are
286 based as set forth in such recall application.

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

290 (3) Upon the filing of a sufficiency review petition under
291 this section, the clerk of the circuit court having jurisdiction
292 shall immediately notify the Chief Justice of the Supreme Court of
293 proceedings filed under this act.

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

297 (5) After a judge has agreed to preside over the case, the
298 Chief Justice of the Supreme Court shall enter an order in the
299 circuit court of the county where the proceeding was filed
300 appointing the judge, and the judge shall promptly begin presiding

301 over the proceedings in the court and shall determine same as soon
302 as practicable.

303 (6) The review shall be limited solely to a review of the
304 legal sufficiency of the recall ground or grounds and the legal
305 sufficiency of the alleged fact or facts upon which such ground or
306 grounds are based as set forth in the recall application. The
307 review of the alleged fact or facts shall include a determination
308 if whether probable cause exists to believe that the alleged fact
309 or facts are true. The burden shall be on the petition
310 chairperson to prove that probable cause exists. The judge shall
311 consider the review petitions on an expedited basis. Discovery
312 shall be permitted but shall not delay the consideration of the
313 review petition by the judge. The judge may enter such orders as
314 the judge deems necessary and appropriate to expedite any
315 discovery and the consideration of the review petition.

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

334 insufficiency is rendered by such judge, then a discretionary
335 appeal may be filed in the Supreme Court within ten (10) days
336 after the date of such ruling, excluding Saturdays, Sundays and
337 legal holidays, and such court shall consider such appeal on an
338 expedited basis.

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

341 RECALL PETITION

342 _____
343 (Official application no.)

344 _____
345 (county or city)

346 To _____
347 (Name of board of election commissioners)

348 _____
349 (Address)

350 _____
351 (City, state, zip code)

352 We, the electors registered to vote in the recall election
353 herein petitioned, demand the recall of _____ (name
354 and office) on the grounds that said official has, while holding
355 public office, conducted himself or herself in a manner which
356 relates to and adversely affects the administration of his or her
357 office and adversely affects the rights and interest of the public
358 and that said official _____ (State the appropriate
359 ground or grounds for recall as set forth in Section 2(f)(ii) of
360 this act and a brief statement, not to exceed five (5) lines, of
361 the fact or facts upon which such ground or grounds are based.).

362	Date of	Residence	County of	
363	Name	Signing	Address	Residence
364	_____			
365	(Signature)	(Number and street or route)		
366	_____			

367 (Printed name of elector) (City)

368 (Ten (10) lines for signatures and printed names)

369 (2) The following statement shall be written or printed on
370 each petition and each signer must read, or be read, the following
371 statements:

372 "(a) Any person who gives or receives money or any
373 other thing of value for signing a recall petition or for signing
374 an affidavit of signature withdrawal shall be guilty of a
375 misdemeanor;

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

380 (3) Each recall petition shall contain a statement
381 specifically designating the name and office of the official
382 sought to be recalled, a statement that the named official has,
383 while holding public office, conducted himself or herself in a
384 manner which relates to and adversely affects the administration
385 of his or her office and adversely affects the rights and
386 interests of the public, a statement containing the appropriate
387 ground or grounds for recall as set forth in Section 2(f)(ii) of
388 this act, and a brief statement of the fact or facts upon which
389 such ground or grounds are based. The statements shall be written
390 or printed on each petition and each signer must read, or be read,
391 the statements.

392 **SECTION 7.** (1) All signers of a single recall petition
393 shall be electors who are registered and eligible to vote in the
394 recall election and who reside in the electoral district of the
395 officer sought to be recalled. When a petition for the recall of
396 a public official is circulated in more than one (1) county, each
397 sheet of the petition shall bear the name of the county in which
398 it is circulated, and only electors of the designated county may

399 sign such sheet. No recall petition shall be circulated or signed
400 by any person in any location where alcoholic beverages are sold
401 or served.

402 (2) Every elector signing a recall petition shall do so in
403 the presence of the person circulating the petition, who is to
404 execute the affidavit of verification on the reverse side of the
405 petition form. At the time of signing, the elector shall sign his
406 name, and the elector or the person circulating the petition shall
407 print the name of the elector below the elector's signature and
408 shall print or write in the appropriate spaces following the
409 signature the elector's residence address, giving number and
410 street or route and city, the name of the county, and the date on
411 which the elector signed the petition. No notary public may sign
412 the petition as an elector or serve as a circulator of any
413 petition which he or she notarized. Any and all sheets of a
414 recall petition that have the circulator's affidavit notarized by
415 a notary public who also served as a circulator of one or more
416 sheets of the recall petition or who signed one (1) of the sheets
417 of the petition as an elector shall be disqualified and rejected.

418 (3) If an elector is incapable of signing his or name, he or
419 she may specifically request the circulator of the petition to
420 sign and print his or her name and complete the information
421 required on the petition sheet to accompany the signature;
422 however, the circulator shall also sign his or her full name
423 beside the printed name of such elector.

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

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

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AFFIDAVIT OF CIRCULATOR

State of Mississippi
County of _____

Under the penalty of Section 97-9-59, Mississippi Code of 1972, relating to perjury, I do depose and say that I am an elector registered to vote in the recall election herein petitioned for and that each petitioner signed or caused to be signed the foregoing petition in my presence on the date indicated; and I believe that each signer's name and residence address are correctly stated, and that each signer is an elector of the electoral district in which such recall election will be conducted, and that each signer has read, or was read, the required statements which are also set out on each petition.

(Signature of affiant) _____

(Residence address) _____

(Number and street or route)

(City)

Subscribed and sworn to before me this _____ day of

_____, _____.

Notary public

_____, Mississippi

My commission expires on the ____ day of _____, ____.

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

SECTION 8. (1) At any time prior to the date an application for recall petition or a recall petition is filed for verification, an elector who has signed the application or the recall petition form may request withdrawal of his or her

465 signature from the application or recall petition by executing and
466 filing an affidavit, in the form prescribed by this section, with
467 the board of election commissioners. Any signature so withdrawn
468 shall not be counted in determining the legal sufficiency of the
469 application or recall petition. The affidavit shall:

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

471 (b) State the elector's residence address, giving
472 number and street or route and city, the name of the county of
473 residence, and, in the case of a recall application or petition,
474 the number of the recall application or petition which he or she
475 signed; and

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

478 (2) The affidavit shall be substantially in the following
479 form:

480 AFFIDAVIT OF SIGNATURE WITHDRAWAL

481 State of Mississippi

482 County of _____

483 I, _____ (name as it appears on the application or
484 recall petition), being first duly sworn, say that I am an elector
485 of the _____ (electoral district) in which the recall
486 election will be conducted.

487 That my residence address is _____

488 _____

489 (Number and street or route) (City)

490 That I signed or caused to be signed the application or the
491 petition for the recall of _____ (name and office of
492 person sought to be recalled) and that the recall application or
493 petition has been assigned number _____.

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

496 _____

497 (Signature of elector)

498 Subscribed and sworn to before me this _____ day of
499 _____, _____.
500 _____

501 Notary public
502 _____, Mississippi

503 My commission expires on the _____ day of _____, ____.

504 **SECTION 9.** No county registrar or other person authorized by
505 law to register electors and no person other than an elector of
506 the electoral district of the officer sought to be recalled shall
507 circulate a recall application or petition. No employee of the
508 state shall circulate a recall application or petition. All
509 signatures obtained by any unqualified person shall be void and
510 shall not be counted in determining the legal sufficiency of the
511 petition.

512 **SECTION 10.** (1) The board of election commissioners shall
513 be responsible for determining the legal sufficiency of the recall
514 petition within thirty (30) days after it has been filed with it;
515 however, in cases where more than one (1) recall petition is
516 subject to review for verification, the board of election
517 commissioners shall be responsible for determining the legal
518 sufficiency of any recall petition within forty-five (45) days
519 after it has been filed with it. The board of election
520 commissioners or a designee is granted unrestricted authority to
521 examine the registration records maintained by the county
522 registrar to receive evidence and testimony, and to require the
523 personal appearance of any person signing the recall petition for
524 the purpose of determining if the signers are qualified electors
525 eligible to sign the recall petition. If the board of election
526 commissioners shall not be reasonably able to ascertain that any
527 signature is that of a qualified elector eligible to sign the
528 recall petition, the signature shall not be counted in determining
529 whether the petition contains a sufficient number of signatures as
530 required by law. The nullification of a signature on any sheet of

531 the recall petition shall not affect the validity of other
532 signatures contained on such sheet.

533 (2) A recall petition shall not be accepted for verification
534 for:

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

538 (b) Any officer holding an office other than statewide
539 office and for whom not less than five thousand (5,000) signatures
540 are required for the recall petition under Section 3(1)(b) of this
541 act if more than forty-five (45) days have elapsed since the date
542 the official recall petition forms were issued to the sponsor; or

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

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

551 (b) If a recall petition contains more than one (1)
552 sheet, such recall petition shall, when offered for filing, be
553 bound together and each sheet shall be numbered consecutively at
554 the foot of each page beginning with page one.

555 (4) Within five (5) days, excluding Saturdays, Sundays and
556 legal holidays, after the board of election commissioners has
557 certified the legal sufficiency of a petition, it shall
558 immediately notify the Governor or the appropriate official, who
559 shall call the recall election as provided in Section 12 of this
560 act.

561 (5) Upon certifying the legal sufficiency or insufficiency
562 of a recall petition, the board of election commissioners shall
563 immediately notify the petition chairman and the officeholder in

564 writing of the results and officially file the certification of
565 the petition.

566 SECTION 11. If an officeholder resigns prior to the holding
567 of a recall election, no recall election shall be conducted.

568 SECTION 12. (1) Within ten (10) days after having received
569 certification of the sufficiency of the recall petition by the
570 board of election commissioners, a recall election shall be called
571 and published, as provided in this section, and shall be conducted
572 not less than thirty (30) days nor more than forty-five (45) days
573 after the call; however, if a primary or general election is to be
574 held not less than thirty (30) days nor more than forty-five (45)
575 days after such call is issued, the recall election shall be
576 conducted on that date.

577 (2) A recall election shall be called:

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

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

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

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

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

586 (b) By the circuit clerk, if for a member county board
587 of election commissioners.

588 (4) The official call for the election shall be published
589 one time as follows:

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

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

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

596 (5) It shall be the duty of the appropriate officials
597 authorized by law to conduct elections to hold and conduct the
598 recall election and to declare and certify the results; however,
599 if the person sought to be recalled is the official authorized by
600 law to conduct elections, the clerk of the circuit court of the
601 county in which such recall election is to be held shall hold and
602 conduct the recall election and declare and certify the results.
603 The ballot for the recall election shall state the name and office
604 of the person whose recall has been petitioned, and the ballot
605 shall be in the form prescribed by law for state, county or
606 municipal officers. The ballot shall have written or printed
607 thereon the following:

608 "[] YES Shall (name of officeholder), (name of office),
609 be recalled and removed from public office on
610 the grounds that said official has, while
611 [] NO holding public office, conducted himself or
612 herself in a manner which relates to and
613 adversely affects the administration of his or
614 her office and adversely affects the rights and
615 interests of the public and on the ground(s)
616 that such official _____
617 (State the appropriate ground or grounds for
618 recall as set forth in subparagraph (ii) of
619 paragraph (f) of Section 2 of this act?"

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

625 (6) Those persons desiring to vote in favor of recall shall
626 vote "Yes," and those persons desiring to vote against recall
627 shall vote "No." If more than one-half (1/2) of the votes cast on
628 such question are in favor of recall, the public office in

629 question shall immediately become vacant. Otherwise, the public
630 official named in the recall petition shall continue in office.

631 **SECTION 13.** (1) After a recall petition and election, no
632 further recall petition shall be filed against the same officer
633 until at least six (6) months have elapsed from the date of the
634 previous recall election; and any other recall petitions against
635 that officer outstanding on the date of the recall election shall
636 be void.

637 (2) If the board of election commissioners finds that a
638 recall petition is insufficient and fails to verify the same, no
639 further application for a recall petition shall be filed against
640 the same officer until at least six (6) months have elapsed from
641 the date of the denial of such recall petition; however, the
642 finding of insufficiency shall not bar the verification of any
643 other recall petition against that officer which is available for
644 signature or pending verification at the time of such finding of
645 insufficiency.

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

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

651 **SECTION 16.** (1) If the board of election commissioners
652 fails to comply with this act, any elector may apply, within ten
653 (10) days after such refusal, to the circuit court for a writ of
654 mandamus to compel the board of election commissioners to perform
655 its official duties. If the court finds that the board of
656 election commissioners has not complied with this act, the court
657 shall issue an order for the board to comply.

658 (2) An action against the board of election commissioners
659 shall be filed in the circuit court of the county of the board of
660 election commissioners, except that an action against the State

661 Board of Election Commissioners shall be filed in the Circuit
662 Court of Hinds County.

663 **SECTION 17.** An elector's eligibility to sign an application
664 for a recall petition or a petition for recall shall be determined
665 as of the date immediately preceding the date the application or
666 petition is signed by that elector.

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

671 (2) A person who, by menace or threat either directly or
672 indirectly, induces or compels or attempts to induce or compel any
673 other person to sign or subscribe or to refrain from signing or
674 subscribing that person's name to a recall application or petition
675 or, after signing or subscribing that person's name, to have that
676 person's name taken therefrom shall be guilty of a misdemeanor.

677 (3) A person who signs any name other than his or her own to
678 a recall application or petition, except in a circumstance where
679 he or she signs for a person in the presence of and at the
680 specific request of such person who is incapable of signing that
681 person's own name, or who knowingly signs his or her name more
682 than once for the same recall application or petition or who
683 knowingly is not at the time of signing a qualified elector of the
684 electoral district of the officer sought to be recalled shall be
685 guilty of a misdemeanor.

686 **SECTION 19.** Sections 25-5-3, 25-5-5, 25-5-7, 25-5-9,
687 25-5-11, 25-5-13, 25-5-15, 25-5-17, 25-5-19, 25-5-21, 25-5-23,
688 25-5-25, 25-5-27, 25-5-29, 25-5-31, 25-5-33, 25-5-35 and 25-5-37,
689 Mississippi Code of 1972, which provide a recall procedure for
690 local officials pursuant to petition and election, provide for the
691 verification of the petition, provide for examination of a
692 petition for recall by the election commissioners, provide for
693 notice of a hearing, provide for the appointment of a removal

694 council, provide for the conduct of a removal election, provide
695 for the results of a removal election, provide for appeals and
696 penalties, are hereby repealed.

697 **SECTION 20.** The Attorney General of the State of Mississippi
698 shall submit this act, immediately upon approval by the Governor,
699 or upon approval by the Legislature subsequent to a veto, to the
700 Attorney General of the United States or to the United States
701 District Court for the District of Columbia in accordance with the
702 provisions of the Voting Rights Act of 1965, as amended and
703 extended.

704 **SECTION 21.** This act shall take effect and be in force from
705 and after the date it is effectuated under Section 5 of the Voting
706 Rights Act of 1965, as amended and extended.