MISSISSIPPI LEGISLATURE REGULAR SESSION 2012

By: Representative Perkins

To: Apportionment and Elections

HOUSE BILL NO. 950

AN ACT ENTITLED THE "MISSISSIPPI RECALL ACT OF 2012" TO PROVIDE A PROCEDURE FOR THE RECALL OF STATE AND LOCAL ELECTED OFFICIALS; TO PROVIDE DEFINITIONS; TO PRESCRIBE THOSE OFFICERS SUBJECT TO RECALL; TO PRESCRIBE THE NUMBER OF ELECTORS NEEDED TO DEMAND A RECALL; TO PRESCRIBE GROUNDS FOR RECALL; TO PROVIDE FOR THE APPLICATION FOR AND TIME OF FILING A RECALL PETITION BY SPONSORS; TO PROVIDE FOR THE REVIEW OF THE GROUNDS STATED IN THE APPLICATION; TO PROVIDE A FORM FOR THE RECALL PETITION; TO PRESCRIBE THOSE ELECTORS ELIGIBLE TO SIGN A RECALL PETITION AND A PROCEDURE FOR THE VERIFICATION OF SIGNATURES; TO PROHIBIT CERTAIN PERSONS FROM CIRCULATING A PETITION OR APPLICATION; TO PROVIDE FOR THE DETERMINATION OF LEGAL SUFFICIENCY OF A PETITION BY THE CIRCUIT COURT; TO PROVIDE FOR THE MANNER OF CONDUCTING A RECALL ELECTION; TO PROVIDE FOR THE FILING OF SUBSEQUENT RECALL PETITIONS FOLLOWING A RECALL ELECTION OR DENIAL OF RECALL PETITION; TO AUTHORIZE THE STATE BOARD OF ELECTION COMMISSIONERS TO PROMULGATE REGULATIONS TO IMPLEMENT THIS ACT; TO AUTHORIZE AN APPLICATION TO THE CIRCUIT COURT TO COMPEL COMPLIANCE WITH RECALL PROCEDURES; TO PROHIBIT GIVING OR RECEIVING MONEY TO SIGN PETITIONS OR AFFIDAVITS FOR RECALL AND OTHER RECALL INFRACTION, AND TO PROVIDE CRIMINAL PENALTIES; TO REPEAL SECTIONS 25-5-3 THROUGH 25-5-37, MISSISSIPPI CODE OF 1972, WHICH PROVIDE A RECALL PROCEDURE FOR LOCAL OFFICIALS PURSUANT TO PETITION AND ELECTION; AND FOR RELATED PURPOSES.

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

SECTION 1. This act shall be known and may be cited as the "Mississippi Recall Act of 2012."

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

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

(b) "Board of election commissioners" means:

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

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

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

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

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

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

(f) "Grounds for recall" means:

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

(ii) That the official:

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

2. Has violated his or her oath of office;

3. Has committed an act of misconduct in office;

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

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

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

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

(g) "Legal sufficiency" means, solely as applied to the duties or functions of the board of election commissioners, a determination of the completeness of either a recall petition or an application for a recall petition and a determination that the recall petition or the application for a recall petition contains a sufficient number of valid signatures. The determinations shall not include any review of the sufficiency of the ground or grounds for the recall or the fact or facts upon which such ground or grounds are based.

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

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

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

(a) In the case of a state officer whose electoral district encompasses the entire state, the number of electors necessary to petition the recall of the officer shall be equal to at least ten percent (10%) of the total number of qualified electors who voted at the last election in which such officer was elected. At least one-fifteenth (1/15) of the number of electors necessary to petition the recall of the officer must reside in

each of the United States congressional districts in the state as said congressional districts may now or hereafter exist; or

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

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

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

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

(2) (a) The application shall include:

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

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

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

(iv) A statement that: _____ (name and office) has, while holding public office, conducted himself or herself in a manner which relates to and adversely affects the administration of his or her office and adversely affects the rights and interests of the public and stating the appropriate ground or grounds for recall as set forth in Section 2(f) of this

act with a brief statement of the fact or facts upon which the ground or grounds are based. The statement shall be typed, printed or reproduced by the board of election commissioners on the face of each application issued; and

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

AFFIDAVIT OF CIRCULATOR AND PETITION CHAIRPERSON

State of Mississippi

County of _____

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

_____

(Signature of circulator)

_____

(Residence address)

(Number and street or route)

_____

(City)

_____

(Signature of petition chairperson)

_____

(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 _____, _____.

No notary public may sign the application as an elector or serve as a circulator of any application which he or she notarized. Any and all sheets of an application for a recall petition that have the circulator's affidavit notarized by a notary public who also served as a circulator of one or more sheets of the application for a recall petition or who signed one (1) of the sheets of the petition as an elector shall be disqualified and rejected.

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

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

(3) The number of official sponsors necessary to file an application for a recall petition must be equal in number to at

least ten percent (10%) of the total number of qualified electors who voted at the last election in which such officer was elected.

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

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

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

(b) On receipt of the application, the board of election commissioners shall file the application and proceed to determine the legal sufficiency of the application and determine if the signers are qualified electors eligible to sign the application. The board of election commissioners is granted unrestricted authority to examine the voter registration records maintained by the registrar, to receive evidence and testimony, and to require the personal appearance of any person signing such application for the purpose of making such determination. If the

board of election commissioners finds that any signer is not a qualified elector eligible to sign the application, the signature shall not be counted in determining whether the application contains a sufficient number of signatures as required by law. The nullification of a signature on an application shall not affect the validity of other signatures contained in such application. The board of election commissioners shall certify the legal sufficiency or insufficiency of the application for a recall petition within five (5) days after receiving the application, excluding Saturdays, Sundays and legal holidays; however, the judge of the circuit court may, upon proper application and good cause shown, grant an additional period of time not to exceed fifteen (15) days for the board of election commissioners to verify the application.

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

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

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

(9) The board of election commissioners shall immediately notify in writing the public officer named for recall in the

application that a recall petition has been officially issued for circulation.

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

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

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

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

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

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

(6) The review shall be limited solely to a review of the legal sufficiency of the recall ground or grounds and the legal sufficiency of the alleged fact or facts upon which such ground or grounds are based as set forth in the recall application. The

review of the alleged fact or facts shall include a determination if whether probable cause exists to believe that the alleged fact or facts are true. The burden shall be on the petition chairperson to prove that probable cause exists. The judge shall consider the review petitions on an expedited basis. Discovery shall be permitted but shall not delay the consideration of the review petition by the judge. The judge may enter such orders as the judge deems necessary and appropriate to expedite any discovery and the consideration of the review petition.

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

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

RECALL PETITION

_____

(Official application no.)

_____

(County or city)

To _____

(Name of board of election commissioners)

_____

(Address)

_____

(City, state, zip code)

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

Name	Date of Signing	Residence Address	County of Residence
_____			
(Signature)		(Number and street or route)	
_____			_____
(Printed name of elector)			(City)

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

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

"(a) Any person who gives or receives money or any other thing of value for signing a recall petition or for signing

an affidavit of signature withdrawal shall be guilty of a misdemeanor;

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

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

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

(2) Every elector signing a recall petition shall do so in the presence of the person circulating the petition, who is to execute the affidavit of verification on the reverse side of the petition form. At the time of signing, the elector shall sign his name, and the elector or the person circulating the petition shall print the name of the elector below the elector's signature and shall print or write in the appropriate spaces following the signature the elector's residence address, giving number and street or route and city, the name of the county, and the date on

which the elector signed the petition. No notary public may sign the petition as an elector or serve as a circulator of any petition which he or she notarized. Any and all sheets of a recall petition that have the circulator's affidavit notarized by a notary public who also served as a circulator of one or more sheets of the recall petition or who signed one (1) of the sheets of the petition as an elector shall be disqualified and rejected.

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

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

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

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

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

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

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

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

AFFIDAVIT OF SIGNATURE WITHDRAWAL

State of Mississippi

County of _____

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

That my residence address is _____

_____

(Number and street or route) (City)

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

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

_____

(Signature of elector)

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

_____

Notary public

_____, Mississippi

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

SECTION 9. No county registrar or other person authorized by law to register electors and no person other than an elector of the electoral district of the officer sought to be recalled shall circulate a recall application or petition. No employee of the state shall circulate a recall application or petition. All

signatures obtained by any unqualified person shall be void and shall not be counted in determining the legal sufficiency of the petition.

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

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

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

(b) Any officer holding an office other than statewide office and for whom not less than five thousand (5,000) signatures are required for the recall petition under Section 3(1)(b) of this

act if more than forty-five (45) days have elapsed since the date the official recall petition forms were issued to the sponsor; or

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

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

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

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

(5) Upon certifying the legal sufficiency or insufficiency of a recall petition, the board of election commissioners shall immediately notify the petition chairman and the officeholder in writing of the results and officially file the certification of the petition.

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

SECTION 12. (1) Within ten (10) days after having received certification of the sufficiency of the recall petition by the board of election commissioners, a recall election shall be called and published, as provided in this section, and shall be conducted not less than thirty (30) days nor more than forty-five (45) days after the call; however, if a primary or general election is to be

held not less than thirty (30) days nor more than forty-five (45) days after such call is issued, the recall election shall be conducted on that date.

(2) A recall election shall be called:

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

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

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

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

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

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

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

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

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

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

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

(5) It shall be the duty of the appropriate officials authorized by law to conduct elections to hold and conduct the recall election and to declare and certify the results; however, if the person sought to be recalled is the official authorized by law to conduct elections, the clerk of the circuit court of the county in which such recall election is to be held shall hold and conduct the recall election and declare and certify the results. The ballot for the recall election shall state the name and office of the person whose recall has been petitioned, and the ballot

shall be in the form prescribed by law for state, county or municipal officers. The ballot shall have written or printed thereon the following:

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

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

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

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

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

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

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

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

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

(2) An action against the board of election commissioners shall be filed in the circuit court of the county of the board of election commissioners, except that an action against the State Board of Election Commissioners shall be filed in the Circuit Court of Hinds County.

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

SECTION 18. (1) Any person who gives or receives money or any other thing of value for signing a recall application or

petition or for signing an affidavit of signature withdrawal shall be guilty of a misdemeanor.

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

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

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

SECTION 20. 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 21. 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.