

A Citizen's Guide

Constitutional Initiatives in Mississippi



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DISCLAIMER:

This guide is for general information purposes only. Initiative sponsors should review the constitutional and statutory provisions related to Mississippi's constitutional initiative and the relevant case law. Those provisions constitute state law regarding the initiative process.

The information contained therein is not intended to be, nor does it constitute, legal advice.

Petition sponsors in need of legal advice regarding the initiative process should retain the services of a competent attorney.

Constitutional Initiatives in Mississippi: A Citizen's Guide

On November 3, 1992, the people of Mississippi approved a new law allowing citizens to propose changes to the state constitution through the initiative process.

In discussions about citizen initiatives, we often hear the term “initiative and referendum.” In a sense, every measure appearing on the ballot is a referendum, such as a bond election. However, in the context of initiative and referendum, “referendum” refers to the process by which voters can veto the action of the Legislature.

Mississippi does not have “referendum.” In that sense, “initiative” is the right of the voters to propose new laws. The Mississippi law passed in 1992 provides for initiative only for constitutional amendments, not new laws in general.

Mississippi’s initiative law is a form of “indirect” initiative. This means that after the petition signatures have been gathered — but before the initiative is placed on the ballot — the Legislature has an opportunity to hold hearings and propose alternatives to the citizen initiative. The Legislature cannot veto or amend the original citizen initiative, but it can pass an alternative that will appear on the ballot alongside the original initiative. A “direct” initiative allows for a citizen initiative to be placed directly on the ballot without legislative consideration. Mississippi does not have a “direct” initiative.

This booklet outlines the initiative process. Prospective initiative sponsors are directed to carefully study both the constitutional and statutory requirements for the initiative process. Constitutional and statutory provisions are reprinted at the end of this booklet, and are current at the time of this printing.



DELBERT HOSEMANN
Secretary of State

A handwritten signature in blue ink that reads "Delbert". The signature is written in a cursive, flowing style.

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Overview of the Initiative Process

In general, the initiative process works like this:

1. A citizen conceives an idea for a new Mississippi constitutional law and, in conjunction with the Attorney General, develops the written text of the constitutional law.
2. After registering the written initiative with the Secretary of State, the citizen gathers the required number of signatures of registered voters on petitions and has all signatures certified by each respective County's Circuit Clerk.
3. Upon securing the required number of certified signatures, the initiative is referred to the Legislature and is thereafter placed on the ballot of the next statewide general election. If a sufficient number of voters approve the initiative, the initiative becomes Mississippi constitutional law.

I. Getting Started: Registering the Initiative

The sponsor of an initiative begins by drafting a “measure” or amendment to the Mississippi Constitution of 1890. In doing so, he or she must include the amount and source of revenue required to implement the initiative and indicate if the initiative requires a reduction in government revenue or a reallocation from currently-funded programs. If a reduction is required, the initiative text must identify which program or programs’ funding must be reduced or eliminated to implement the initiative. (*Miss. Code Ann. §23-17-11 (1972)*)

The initiative process cannot be used for any of the following:

1. To modify the Bill of Rights;
2. To amend any law or constitutional provision relating to the Public Employees Retirement System (“PERS”);
3. To amend or repeal Mississippi’s “Right to Work” constitutional provision; and
4. To modify the initiative process as set for in § 273(5) of the Mississippi Constitution of 1890 for proposing amendments to the Mississippi Constitution.

If the voters reject an initiative proposal, no similar proposal can be submitted to the people for two years after the date of the election at which the initiative was rejected. (*Miss. Code Ann. §23-17-43 (1972)*)

Registering the petition

1. Once the sponsor has drafted the proposed initiative measure language, he or she must file with the Mississippi Secretary of State a typewritten copy of the proposed initiative measure accompanied by an affidavit affirming that the sponsor is a qualified elector (registered voter) of the State of Mississippi. (*Miss. Code Ann. §23-17-1 (1972)*)
2. The Secretary of State submits a copy of the initiative measure to the Office of the Attorney General, and provides the sponsor with notice of its submission. Within ten (10) business days of receipt of the submission, the Office of the Attorney General makes advisory recommendations to the sponsor regarding the proposed initiative measure language. (*Miss. Code Ann. §23-17-5 (1972)*)
3. The Office of the Attorney General issues a Certificate of Review to the sponsor that the measure has been reviewed. The sponsor may accept or reject any of the recommendations from the Office of the Attorney General. (*Miss. Code Ann. §23-17-5 (1972)*)
4. Within fifteen (15) business days of the sponsor's receipt of notice that the Secretary of State has submitted the initiative measure to the Attorney General's Office, the sponsor must submit both the initiative measure (including changes, if any) and the Certificate of Review to the Secretary of State. (*Miss. Code Ann. §23-17-5 (1972)*)
5. The Secretary of State assigns the initiative measure a serial number, then forwards a copy of the measure to the Attorney General's Office. (*Miss. Code Ann. §23-17-7 (1972)*)
6. The Attorney General drafts the following within seven (7) calendar days of receiving the initiative from the Secretary of State:

- A concise statement of the initiative, posed as a question, not to exceed 20 words. This is commonly referred to as the “ballot title” and is the language that will appear on the ballot.
 - A summary of the initiative, not to exceed 75 words. This is commonly referred to as the “ballot summary.” (*Miss. Code Ann. §23-17-9 (1972)*)
7. After the Attorney General files the ballot title and ballot summary with the Secretary of State, the Secretary of State notifies the sponsor by certified mail, return receipt requested, of the exact language in the ballot title and ballot summary. (*Miss. Code Ann. §23-17-11 (1972)*)
 8. Within ten (10) days after the ballot title and ballot summary have been filed, the Secretary of State publishes the title and summary in a newspaper or newspapers of general circulation throughout Mississippi. (*Miss. Code Ann. §23-17-11 (1972)*)
 9. If the sponsor or another person is dissatisfied with the ballot title or ballot summary drafted by the Attorney General, they have five (5) days from the date of publication in the newspaper to file an appeal in the Circuit Court of the First Judicial District of Hinds County. The court may hear arguments and, within ten (10) days, shall render its decision, which is final. (*Miss. Code Ann. §23-17-13 (1972)*)

II. The Petition Process: Collecting Signatures

Once the ballot title and ballot summary language have been finalized, the sponsor may begin collecting signatures.

A petition is valid only for a period of twelve (12) months. This period begins the day the initiative sponsor receives the official ballot title and summary from the Secretary of State via certified mail. The Secretary of State cannot accept any petition submitted more than twelve (12) months after this date. (*Mississippi Attorney General’s Opinion to Senator Dick Hall dated July 16, 1996, and Miss. Code Ann. §23-17-17 (1972) and House Bill No. 472, 1996 Regular Session.*) This date may change if the ballot title and

summary are contested or if other litigation regarding the proposed initiative takes place.

The entire petition, with all signatures verified as qualified electors by each respective County's Circuit Clerk, must be submitted to the Secretary of State not less than ninety (90) days before the first day of the legislative session to which it is submitted. (*Miss. Code Ann. §23-17-3 (1972)*)

Factors to keep in mind concerning petitions:

1. Petitions must be in the form prescribed in the statute and designed by the Secretary of State. Initiative sponsors must use the petition form provided by the Secretary of State's Office. Contact the Secretary of State's Office for the current version of the initiative petition form. (*Miss. Code Ann. §23-17-19 (1972)*)
2. A full, true and correct copy of the initiative text must be printed on the reverse side of each petition page or attached to each petition page. (*Miss. Code Ann. §23-17-19 (1972)*)
3. The total required number of signatures must be equally divided among Mississippi's five congressional districts as they existed in the year 2000. (*§273 (3) Mississippi Constitution of 1890 and Mississippi Attorney General's Opinion to Secretary C. Delbert Hosemann dated January 9, 2009*)
4. Certified signature totals: A minimum of 107,216 certified signatures must be collected and submitted to the Secretary of State as a single package by the sponsor.* The number 107,216 corresponds to 12% of the total votes cast for the office of Governor at the last (2011) gubernatorial general election. (*Miss. Code Ann. §23-17-23 (1972) and §273(3), Mississippi Constitution of 1890.*)
5. According to §273 of the Mississippi Constitution, not more than one-fifth of the overall minimum number of signatures may come from any single congressional district. However, following the 2000 decennial census, the State of Mississippi was redistricted into four congressional districts. However, the Attorney General has opined that the required signatures

should be geographically distributed among the five congressional districts existing at the time of the creation of the initiative and referendum process. (*Hosemann, January 9, 2009*)

6. The number of petition signatures that must be secured refers to the number of certified signatures, not the number of “raw” signatures gathered. Experienced initiative sponsors often gather extra signatures to help assure they meet the certified signature thresholds.
7. The job of certifying signatures falls upon each County Circuit Clerk. The Circuit Clerk must compare the petition signature with the voter registration record before the signature can be certified. Initiative sponsors are advised to meet with Circuit Clerks early in the petition process to help ensure that the clerks are prepared to accommodate the workload in a timely manner. (*Miss. Code Ann. §23-17-21 (1972)*)
8. Initiative sponsors must be especially vigilant about signatures gathered in counties split by two or more congressional districts. These split counties require the Circuit Clerk to track the number of signatures certified in each congressional district. Also, petition-signature gatherers may need to help voters establish the congressional district in which the voter resides.
9. Petition circulators (signature gatherers) must be residents of Mississippi. (*§273 (12) Mississippi Constitution of 1890*)
10. Petition circulators should be well-trained. Petition circulators should ensure that petition signers do not sign more than one petition, and that they do not sign the name of any other persons. Since petitions first must be submitted to each respective County Circuit Clerks, gatherers must avoid mixing on the same petition signatures of voters from one county with those of other counties.
11. Petition circulators should assure that the date, name, address, and other voter data are fully legible. If the information is not legible, the Circuit Clerk will not be able to certify the signatures.

12. Petition circulators may not solicit or obtain signatures within 150 feet of any polling place on any election day. (*Miss Code Ann. §23-17-17 (1972)*)
13. Petition circulators must sign and complete all information required in the “Certificate of Petition Circulator” on each petition page.

** Figures are subject to change by reference to the voter turnout in the most recent gubernatorial General Election. The number of signatures now required represents 12% of the total number of votes cast for Governor in 2011.*

III. Certifying Signatures

Certifying the petition signatures is one of the most demanding tasks in the initiative process. Careful and advance preparation is essential because the initiative sponsor must work closely with all, or nearly all, of Mississippi’s 82 Circuit Clerks in order to certify the required signatures.

The Secretary of State’s Office advises initiative sponsors to contact each Circuit Clerk early in the process since the certification process may occur during the busy pre-election season. The initiative law has several important requirements concerning certifying petition signatures, including the following:

The Certification Process

1. Before the initiative sponsor files the entire petition with the Secretary of State, the signatures of each petition must be certified by the Circuit Clerk of each county of residence of each individual who signed the petition.
2. The Circuit Clerk verifies the name of each individual who signed the petition to ensure that each individual is a qualified elector, meaning registered voter of the State of Mississippi. The Circuit Clerk will attach a certification or other document to attest to the total number of qualified electors who have signed that petition in that county. In counties that have two

or more congressional districts, the Circuit Clerk must certify how many qualified electors have signed the petition from each congressional district.

3. Circuit Clerks may not receive any fee, salary, or compensation from any private person or private legal entity as part of the certification process.
4. After the initiative sponsor has secured the required number of certified signatures including the required number of certified signatures from each congressional district, the initiative sponsor submits the entire petition as a single unit to the Secretary of State.
5. At the time of filing the entire petition with the Secretary of State, the initiative sponsor must pay a filing fee of five hundred dollars (\$500) to cover part of the publication and administrative costs to the Secretary of State as required by law. (*Miss. Code Ann. §23-17-21 (1972)*)

Reasons for Rejection of Petition

By law, the Secretary of State must reject any petition if it:

- Is not in the required form, or
- Lacks the required number of certified signatures, or
- Lacks the \$500 filing fee, or
- Contains one or more signatures obtained in violation of *Miss. Code Ann. §23-17-17(2), §23-17-57(2), §23-17-57(3),* or
- Is submitted more than twelve (12) months after the initiative sponsor receives by certified mail (return receipt requested) the ballot title and ballot summary of the initiative from the Secretary of State. (*Miss. Code Ann. §23-17-23 (1972)*)

If the sponsor wishes to appeal any rejection of a petition, he or she must do so by applying to the Mississippi Supreme Court within ten (10) days of the rejection. (*Miss. Code Ann. §23-17-25 (1972)*)

IV. Submitting the Initiative to the Legislature

Once a valid initiative petition is submitted to the Secretary of State, the Secretary of State must submit the initiative to the Legislature on the first day of the next regular session. (*Miss. Code Ann. §23-17-29 (1972)*)

The initiative measure will be submitted to the voters on the next statewide general election ballot. However, the Legislature may choose to place an alternative version of the initiative on the ballot. In that case, both the original initiative measure and the Legislature's alternative version must appear on the ballot and the voter may choose one or the other, or reject both versions. (*Miss. Code Ann. §23-17-29 through §23-17-37 (1972)*)

In addition, the Legislature's chief budget officer prepares a fiscal analysis of all initiatives and all legislative alternatives to inform voters of the expected cost to taxpayers. A summary of these analyses also appears on the ballot. (*Miss. Code Ann. §23-17-31 (1972)*)

V. Approaching the General Election

Publishing Requirements Prior to the Election.

By law, the Secretary of State is responsible for preparing a pamphlet that contains the following for each initiative measure:

- Text of the initiative measure (and legislative alternative, if any)
- Ballot title
- Ballot summary
- 300-word argument for the initiative (and alternative, if any)
- 300-word argument against the initiative (and alternative, if any)
- Fiscal analysis of initiative (and alternative, if any) prepared by the Legislature's chief budget officer.

In addition to the costs of the pamphlet, the Secretary of State bears the costs of publishing the following information in at least one (1) newspaper of general circulation in each county of the state: ballot title, ballot summary, text of each measure, and arguments

or explanations for and against each measure and alternative. This information is published once a week for three (3) consecutive weeks immediately preceding the election. (*Miss. Code Ann. §23-17-45 (1) (1972)*)

Public Hearings

The Secretary of State's Office is responsible for conducting at least one public hearing in each congressional district on each initiative measure. (*Miss. Code Ann. §23-17-45 (2) (1972)*)

V. Election Requirements

Determining adoption or rejection by the voters

Not only must an initiative receive a majority of the total votes cast for that particular initiative, it must also receive a 40% supermajority.

Requirement of a Supermajority

Mississippi's initiative law requires the number of votes in favor of an initiative to be equal to or more than 40% of the total votes cast at the election. (*Miss. Code Ann. §23-17-29 (1972)*)

The supermajority requirement is intended to address the problem of voter "drop-off" as a voter goes down the ballot - the situation created when some voters vote on candidates and issues near the top of the ballot, but then fail to vote on issues near the end of the ballot. The result is while a majority of those voting on an initiative may vote in favor of the initiative, that number may be less than a majority of all voters appearing at the polls.

Ballot Arrangement and Disposition of Initiatives Without Legislative Alternatives.

If the Legislature does not propose a legislative alternative, only the original initiative measure will be submitted to the voters. The ballot title of the measure will appear on the ballot.

The voter votes either for or against the initiative measure.

If a majority of those voting on the initiative votes in favor of the

initiative and that number is at least 40% of the total votes cast at the election, then the measure becomes law. (*Miss. Code Ann. §23-17-29 and §23-17-35 (1972)*)

Ballot Arrangement and Disposition of Initiatives With Legislative Alternatives.

If the Legislature proposes an alternative to the original initiative, a voter in favor of the initiative or the alternative must twice vote in favor of the issue.

For example:

- The ballot requires the voter to cast a vote “For approval of either Initiative No. ___ or Alternative No. ___” or to cast a vote “Against Both Initiative No. ___ and Alternative No. ___”
- The voter who votes for approval is then required to vote again to demonstrate approval of either the initiative or the alternative. (*Miss. Code. Ann. §23-17-37 (1972)*)

An initiative approved by the voters shall take effect thirty (30) days from the date of the official declaration of the vote by the Secretary of State, unless the measure provides otherwise. (*Miss. Code Ann. §23-17-41*)

Campaign Finance Disclosure

Initiative sponsors and persons making expenditures for or against initiatives must file monthly campaign finance reports with the Secretary of State’s Office. A booklet outlining Mississippi’s campaign finance laws is available from the Secretary of State’s Office and may be viewed or downloaded from the Agency’s website at www.sos.ms.gov. (*No attempt to include all campaign finance disclosure requirements is made in this publication. Refer to Miss. Code Ann. §§23-17-47 through 23-17-53 (1972) and Miss. Code Ann. §§23-15-801 through 23-15-815.*)

In summary, the disclosure requirements are:

1. Any person or group which accepts contributions or makes expenditures for or against an initiative (including attempts to place the initiative on the ballot or opposing placement on the

ballot) and those contributions or expenditures total more than \$200 must register with the Secretary of State.

2. This registration is accomplished by completing and filing with the Secretary of State a form entitled "Statement of Organization for a Political Committee." Regardless of what a person or group calls itself, if it accepts enough contributions to total over \$200, or it spends over \$200 on the initiative campaign, it must file the statement of organization and monthly financial reports.
3. Failing to register results in fines of \$50 per day and exposes the committee or individual to possible criminal prosecution.
4. In addition to the statement of organization, the political committee must file monthly financial reports with the Secretary of State. These reports may detail the contributions made to the committee and expenditures made by the committee. These reports are filed on forms available from the Secretary of State.
5. Sponsors, individuals, and other groups involved in the initiative effort must begin filing monthly reports as soon as \$200 has been expended or \$200 has been contributed to the initiative group's effort. Reports are due no later than the 10th day of the month following the month being reported.
6. The committee is required to keep complete records and disclose the total amount of all contributions. In addition, it must itemize the names and addresses of all contributors giving more than \$200 in the aggregate during a calendar year.
7. The committee is required to keep complete records and disclose the total amount of all expenditures. In addition, it must itemize the names and addresses of each person or business receiving more than \$200 in the aggregate during a calendar year.
8. Monthly reports must continue to be filed until no more contributions are accepted and no more expenditures are made. The committee must at that time file a Termination Report. Until a Termination Report is filed, monthly reports must be filed or fines will be assessed.

Election Practices and Election Crimes

Initiative sponsors and all individuals active in the initiative process must become familiar with the various laws regarding the conduct and regulation of elections. Engaging in prohibited or illegal campaign practices can lead to criminal prosecution and other liability. Refer especially to the Mississippi Election Code and criminal law regarding election crimes. (*Miss. Code Ann. §§ 23-15-1 through 23-15-951 and Miss. Code Ann. §§97-13-1 through 97-13-39*)

APPENDIX A

MISSISSIPPI CONSTITUTION

ARTICLE 15 – AMENDMENTS TO THE CONSTITUTION

§273, Mississippi Constitution of 1890:

(1) Amendments to this Constitution may be proposed by the Legislature or by initiative of the people.

(2) Whenever two-thirds (2/3) of each house of the Legislature, which two-thirds (2/3) shall consist of not less than a majority of the members elected to each house, shall deem any change, alteration or amendment necessary to this Constitution, such proposed amendment, change or alteration shall be read and passed by two-thirds (2/3) vote of each house, as herein provided; public notice shall then be given by the Secretary of State at least thirty (30) days preceding an election, at which the qualified electors shall vote directly for or against such change, alteration or amendment, and if more than one (1) amendment shall be submitted at one (1) time, they shall be submitted in such manner and form that the people may vote for or against each amendment separately; and, notwithstanding the division of the Constitution into sections, the Legislature may provide in its resolution for one or more amendments pertaining and relating to the same subject or subject matter, and may provide for one or more amendments to an article of the Constitution pertaining and relating to the same subject or subject matter, which may be included in and voted on as one (1) amendment; and if it shall appear that a majority of the qualified electors voting directly for or against the same shall have voted for the proposed change, alteration or amendment, then it shall be inserted as a part of the Constitution by proclamation of the Secretary of State certifying that it received the majority vote required by the Constitution; and the resolution may fix the date and direct the calling of elections for the purposes hereof.

(3) The people reserve unto themselves the power to propose and enact constitutional amendments by initiative. An initiative to amend the Constitution may be proposed by a petition signed over a twelve-month period by qualified electors equal in number to at least twelve percent (12%) of the votes for all candidates for Governor in the last gubernatorial election. The signatures of the qualified electors from any congressional district shall not exceed one-fifth (1/5) of the total number of signatures required to qualify an initiative petition for placement upon the ballot. If an initiative petition contains signatures from a single congressional district which exceed one-fifth (1/5) of the total number of required signatures, the excess number of signatures from that congressional district shall not be considered by the Secretary of State in determining whether the petition qualifies for placement on the ballot.

(4) The sponsor of an initiative shall identify in the text of the initiative the amount and source of revenue required to implement the initiative. If the initiative requires a reduction in any source of government revenue, or a reallocation of funding from currently funded programs, the sponsor shall identify in the text of the initiative the program or programs whose funding must be reduced or eliminated to implement the initiative. Compliance with this requirement shall not be a violation of the subject matter requirements of this section of the Constitution.

(5) The initiative process shall not be used:

(a) For the proposal, modification or repeal of any portion of the Bill of Rights of this Constitution;

(b) To amend or repeal any law or any provision of the Constitution relating to the Mississippi Public Employees' Retirement System;

(c) To amend or repeal the constitutional guarantee that the right of any person to work shall not be denied or abridged on account of membership or non-membership in any labor union or organization; or

(d) To modify the initiative process for proposing amendments to this Constitution.

(6) The Secretary of State shall file with the Clerk of the House and the Secretary of the Senate the complete text of the certified initiative on the first day of the regular session. A constitutional initiative may be adopted by a majority vote of each house of the Legislature. If the initiative is adopted, amended or rejected by the Legislature; or if no action is taken within four (4) months of the date that the initiative is filed with the Legislature, the Secretary of State shall place the initiative on the ballot for the next statewide general election.

The chief legislative budget officer shall prepare a fiscal analysis of each initiative and each legislative alternative. A summary of each fiscal analysis shall appear on the ballot.

(7) If the Legislature amends an initiative, the amended version and the original initiative shall be submitted to the electors. An initiative or legislative alternative must receive a majority of the votes thereon and not less than forty percent (40%) of the total votes cast at the election at which the measure was submitted to be approved. If conflicting initiatives or legislative alternatives are approved at the same election, the initiative or legislative alternative receiving the highest number of affirmative votes shall prevail.

(8) If an initiative measure proposed to the Legislature has been rejected by the Legislature and an alternative measure is passed by the Legislature in lieu thereof, the ballot titles of both such measures shall be so printed on the official ballots that a voter can express separately two (2) preferences: First, by voting for the approval of either measure or against both measures, and, secondly, by voting for one measure or the other measure. If the majority of those voting on the first issue is against both measures, then both measures fail, but in that case the votes on the second issue nevertheless shall be carefully counted and made public. If a majority voting on the first issue is for the approval of either measure, then the measure receiving a majority of the votes on the second issue and also receiving not less than forty percent (40%) of the total votes cast at the election at which the measure was submitted for approval shall be law. Any person who votes for the ratification of either measure on the first issue must vote for one (1) of the measures on the second issue in order for the ballot to be valid. Any person who votes against both measures on the first issue may vote but shall not be required to vote for any of the measures on the second issue in order for the ballot to be valid. Substantially the following form shall be a compliance with this subsection:

“INITIATED BY PETITION AND ALTERNATIVE BY LEGISLATURE

Initiative Measure No. _____, entitled (here insert the ballot title of the initiative measure).

Alternative Measure No. _____A, entitled (here insert the ballot title of the alternative measure).

VOTE FOR APPROVAL OF EITHER, OR AGAINST BOTH:

FOR APPROVAL OF EITHER Initiative No. _____ OR Alternative No. _____A ()
AGAINST Both Initiative No. _____ AND Alternative No. _____A. ()

AND VOTE FOR ONE:

FOR Initiative Measure No. _____ ()
FOR Alternative Measure No. _____A ()

(9) No more than five (5) initiative proposals shall be submitted to the voters on a single ballot, and the first five (5) initiative proposals submitted to the Secretary of State with sufficient petitions shall be the proposals which are submitted to the voters. The sufficiency of petitions shall be decided in the first instance by the Secretary of State, subject to review by the Supreme Court of the state, which shall have original and exclusive jurisdiction over all such cases.

(10) An initiative approved by the electors shall take effect thirty (30) days from the date of the official declaration of the vote by the Secretary of State, unless the measure provides otherwise.

(11) If any amendment to the Constitution proposed by initiative petition is rejected by a majority of the qualified electors voting thereon, no initiative petition proposing the same, or substantially the same, amendment shall be submitted to the electors for at least two (2) years after the date of the election on such amendment.

(12) The Legislature shall provide by law the manner in which initiative petitions shall be circulated, presented and certified. To prevent signature fraud and to maintain the integrity of the initiative process the state has a compelling interest in insuring that no person shall circulate an initiative petition or obtain signatures on an initiative petition unless the person is a resident of this state at the time of circulation. For the purposes of this subsection the term 'resident' means a person who is domiciled in Mississippi as evidenced by an intent to maintain a principal dwelling place in Mississippi indefinitely and to return to Mississippi if temporarily absent, coupled with an act or acts consistent with that intent. Every person who circulates an initiative petition shall print and sign his name on each page of an initiative petition, or on a separate page attached to each page, certifying that he was a resident of this state at the time of circulating the petition. The Secretary of State shall refuse to accept for filing any page of an initiative petition upon which the signatures appearing thereon were obtained by a person who was not a resident of this state at the time of circulating the petition, and an initiative measure shall not be placed on the ballot if the Secretary of State determines that without such signatures the petition clearly bears an insufficient number of signatures. The provisions of this subsection (12) shall be applicable to all initiative measures that have not been placed on the ballot at the time this proposed amendment is ratified by the electorate.

(13) The Legislature may enact laws to carry out the provisions of this section but shall in no way restrict or impair the provisions of this section or the powers herein reserved to the people.

APPENDIX B

MISSISSIPPI STATUTES

Title 23 – Elections

Chapter 17. Amendments to Constitution by Voter Initiative

§ 23-17-1. Prerequisites

(1) For purposes of this chapter, the following term shall have the meaning ascribed herein:

“Measure” means an amendment to the Mississippi Constitution proposed by a petition of qualified electors under Section 273, Mississippi Constitution of 1890.

(2) If any qualified elector of the state desires to initiate a proposed amendment to the Constitution of this state as authorized by subsections (3) through (13) of Section 273 of the Mississippi Constitution of 1890, he shall first file with the Secretary of State a typewritten copy of the proposed initiative measure, accompanied by an affidavit that the sponsor is a qualified elector of this state.

(3) The sponsor of an initiative shall identify in the text of the initiative the amount and source of revenue required to implement the initiative. If the initiative requires a reduction in any source of government revenue, or a reallocation of funding from currently funded programs, the sponsor shall identify in the text of the initiative the program or programs whose funding must be reduced or eliminated to implement the initiative.

(4) The person proposing the measure shall also include all the information required under Section 273, Mississippi Constitution of 1890.

§ 23-17-3. Deadline and duration of petition

The petition for a proposed initiative measure must be filed with the Secretary of State not less than ninety (90) days before the first day of the regular session of the Legislature at which it is to be submitted. A petition is valid for a period of twelve (12) months.

§ 23-17-5. Function of Attorney General

Upon receipt of any proposed initiative measure, the Secretary of State shall submit a copy of the proposed measure to the Attorney General and give notice to the person filing the proposed measure of such transmittal. Upon receipt of the measure, the Attorney General may confer with the person filing the proposed measure and shall within ten (10) working days from receipt thereof review the proposal for matters of form and style, and such matters of substantive import as may be agreeable to the person filing the proposed measure, and shall recommend such revision or alteration of the measure as may be deemed necessary and appropriate. The recommendations of the Attorney General shall be advisory only, and the person filing the proposed measure may accept or reject them in whole or in part. The Attorney General shall

issue a certificate of review certifying that he has reviewed the measure for form and style and that the recommendations thereon, if any, have been communicated to the person filing the proposed measure, and such certificate shall issue whether or not the person filing the proposed measure accepts such recommendations. Within fifteen (15) working days after notification of submittal of the proposed initiative measure to the Attorney General, the person filing the proposed measure, if he desires to proceed with his sponsorship, shall file the measure together with the certificate of review with the Secretary of State for assignment of a serial number and the Secretary of State shall thereupon submit to the Attorney General a certified copy of the measure filed. Upon submitting the proposal to the Secretary of State for assignment of a serial number the Secretary of State shall refuse to make such assignment unless the proposal is accompanied by a certificate of review.

§ 23-17-7. Serial number

The Secretary of State shall give a serial number to each initiative measure, and forthwith transmit one (1) copy of the measure proposed bearing its serial number to the Attorney General. Thereafter, a measure shall be known and designated on all petitions, ballots and proceedings as "Initiative Measure No. _____."

§ 23-17-8. Nonsubstantive clerical or technical corrections in section number reference or designation of proposed amendment

When an amendment to the Mississippi Constitution of 1890 is proposed to the qualified electors of the state under the voter initiative procedure set forth in Section 23-17-1, et seq., the Secretary of State, with the approval of the Attorney General, may make a nonsubstantive clerical or technical correction in the section number reference or designation of the proposed amendment contained in an initiative measure, as may be appropriate or necessary in order to prevent the use of an existing section number or the possibility of the initiative being declared invalid only because of an error in the section number designation. Such a correction may be made at any time after the Attorney General's certificate of review with regard to the initiative measure has been issued, and before the ballot for the initiative measure is printed. The provisions of this section do not authorize the Secretary of State to make any change other than a nonsubstantive correction in the section number reference or designation of the proposed amendment contained in the initiative measure.

§ 23-17-9. Ballot title and summary

Within seven (7) calendar days after the receipt of an initiative measure, the Attorney General shall formulate and transmit to the Secretary of State a concise statement posed as a question and not to exceed twenty (20) words, bearing the serial number of the measure and a summary of the measure, not to exceed seventy-five (75) words, to follow the statement. The statement shall give a true and impartial statement of the purpose of the measure. Neither the statement nor the summary may intentionally be an argument, nor likely to create prejudice, either for or against the measure. Such concise statement shall constitute the ballot title. The ballot title formulated by the Attorney General shall be the ballot title of the measure unless changed on appeal. When practicable, the question posed by the ballot title shall be written in such a way that an affirmative answer to such question and an affirmative

vote on the measure would result in a change in then current law, and a negative answer to the question and a negative vote on the measure would result in no change to then current law.

§ 23-17-11. Notice of title and summary

Upon the filing of the ballot title and summary for an initiative measure in his office, the Secretary of State shall forthwith notify by certified mail return receipt requested, the person proposing the measure and any other individuals who have made written request for such notification of the exact language of the ballot title. The Secretary of State shall publish the title and summary for an initiative measure within ten (10) days after filing such title and summary in a newspaper or newspapers of general circulation throughout the State of Mississippi.

§ 23-17-13. Review

If any person is dissatisfied with the ballot title or summary formulated by the Attorney General, he or she may, within five (5) days from the publications of the ballot title and summary by the office of the Secretary of State, appeal to the circuit court of the First Judicial District of Hinds County by petition setting forth the measure, the title or summary formulated by the Attorney General, and his or her objections to the ballot title or summary and requesting amendment of the title or summary by the court.

A copy of the petition on appeal together with a notice that an appeal has been taken shall be served upon the Secretary of State, upon the Attorney General and upon the person proposing the measure if the appeal is initiated by someone other than that person. Upon the filing of the petition on appeal or at the time to which the hearing may be adjourned by consent of the appellant, the court shall accord first priority to examining the proposed measure, the title or summary prepared by the Attorney General and the objections to that title or summary. The court may hear arguments, and, within ten (10) days, shall render its decision and file with the Secretary of State a certified copy of such ballot title or summary as it determines will meet the requirements of Section 23-17-9. The decision of the court shall be final.

§ 23-17-15. Filing and transmission

When the ballot title and summary are finally established, the Secretary of State shall file the instrument establishing it with the proposed measure and transmit a copy thereof by certified mail return receipt requested, to the person proposing the measure and to any other individuals who have made written request for such notification. Thereafter such ballot title shall be the title of the measure in all petitions, ballots and other proceedings in relation thereto. The summary shall appear on all petitions directly following the ballot title.

§ 23-17-17. Initiator to print blank petitions; qualifications to circulate petition

(1) The person proposing an initiative measure shall print blank petitions upon single sheets of paper of good writing quality not less than eight and one-half (8-1/2) inches in width and not less than fourteen (14) inches in length. Each sheet shall have a full, true and correct copy of the proposed measure referred to therein printed on the

reverse side of the petition or attached thereto.

(2) Only a person who is a qualified elector of this state may circulate a petition or obtain signatures on a petition.

§ 23-17-19. Form of petition

The Secretary of State shall design the form each sheet of which shall contain the following:

“WARNING: EVERY PERSON WHO SIGNS THIS PETITION WITH ANY OTHER THAN HIS OR HER TRUE NAME, KNOWINGLY SIGNS MORE THAN ONE OF THESE PETITIONS RELATING TO THE SAME INITIATIVE MEASURE, SIGNS THIS PETITION WHEN HE OR SHE IS NOT A QUALIFIED ELECTOR OR MAKES ANY FALSE STATEMENT ON THIS PETITION MAY BE PUNISHED BY FINE, IMPRISONMENT, OR BOTH.

PETITION FOR INITIATIVE MEASURE

To the Honorable _____, Secretary of State of the State of Mississippi:

We, the undersigned citizens and qualified electors of the State of Mississippi, respectfully direct that this petition and the proposed measure known as Initiative Measure No._____, entitled (here insert the established ballot title of the measure), a full, true and correct copy of which is printed or attached on the reverse side of this petition, be transmitted to the Legislature of the State of Mississippi at its next ensuing regular session, and we respectfully petition the Legislature to adopt the proposed measure; and each of us for himself or herself says: I have personally signed this petition, I am a qualified elector of the State of Mississippi in the city (or town), county and congressional district written after my name, my residence address is correctly stated and I have knowingly signed this petition only once.”

Each sheet shall also provide adequate space for the following information: Petitioner’s signature; print name for positive identification; residence address, street and number, if any; city or town; county; precinct; and congressional district.

§ 23-17-21. Certification and filing of petition

Before a person may file a petition with the Secretary of State, the petition must be certified by the circuit clerk of each county in which the petition was circulated. The circuit clerk shall certify the signatures of qualified electors of that county and shall state the total number of qualified electors signing the petition in that county. The circuit clerk shall verify the name of each qualified elector signing on each petition. A circuit clerk may not receive any fee, salary or compensation from any private person or private legal entity for the clerk’s duties in certifying an initiative petition. When the person proposing any initiative measure has secured upon the petition a number of signatures of qualified electors equal to or exceeding the minimum number required by Section 273(3) of the Mississippi Constitution of 1890 for the proposed measure, and such signatures have been certified by the circuit clerks of the various counties, he may submit the petition to the Secretary of State for filing. The Secretary of State shall collect a fee of Five Hundred Dollars (\$500.00) from the person filing the petition to pay part of the administrative and publication costs.

§ 23-17-23. Refusal to file

The Secretary of State shall refuse to file any initiative petition being submitted upon any of the following grounds:

(a) That the petition is not in the form required by Section 23-17-19;

(b) That the petition clearly bears insufficient signatures;

(c) That one or more signatures appearing on the petition were obtained in violation of Section 23-17-17(2), Section 23-17-57(2) or Section 23-17-57(3);

(d) That the time within which the petition may be filed has expired; or

(e) That the petition is not accompanied by the filing fee provided for in Section 23-17-21.

In case of such refusal, the Secretary of State shall endorse on the petition the word “submitted” and the date, and retain the petition pending appeal.

If none of the grounds for refusal exists, the Secretary of State shall accept and file the petition.

§ 23-17-25. Action to compel filing

If the Secretary of State refuses to file an initiative petition when submitted to him for filing, the person submitting it for filing, within ten (10) days after his refusal, may apply to the Supreme Court for an order requiring the Secretary of State to bring the petition before the court and for a writ of mandamus to compel him to file it. The application shall be considered an emergency matter of public concern and shall be heard and determined with all convenient speed. If the Supreme Court decides that the petition is legal in form, apparently contains the requisite number of signatures of qualified electors, was filed within the time prescribed in the Constitution and was accompanied with the proper filing fee, it shall issue its mandate directing the Secretary of State to file the petition in his office as of the date of submission.

§ 23-17-27. Petition destroyed if Secretary of State prevails

If no appeal is taken from the refusal of the Secretary of State to file a petition within the time prescribed, or if an appeal is taken and the Secretary of State is not required to file the petition by the mandate of the Supreme Court, the Secretary of State shall destroy it.

§ 23-17-29. Role of Legislature

The Secretary of State shall file with the Clerk of the House and the Secretary of the Senate on the first day of the regular legislative session the complete text of each initiative for which a petition has been certified and filed with him. A constitutional initiative may be adopted or amended by a majority vote of each house of the Legislature. If the initiative is adopted, amended or rejected by the Legislature; or if

no action is taken within four (4) months of the date that the initiative is filed with the Legislature, the Secretary of State shall place the initiative on the ballot for the next statewide general election. If the Legislature amends an initiative, the amended version and the original initiative shall be submitted to the electors. An initiative or legislative alternative must receive a majority of the votes thereon and not less than forty percent (40%) of the total votes cast at the election at which the measure was submitted to be approved. If conflicting initiatives or legislative alternatives are approved at the same election, the initiative or legislative alternative receiving the highest number of affirmative votes shall prevail.

§ 23-17-31. Legislature’s alternative; fiscal analyses

(1) Whenever the Legislature rejects a measure submitted to it by initiative petition and adopts an amendment to the measure proposed by initiative petition, then the Secretary of State shall give the measure adopted by the Legislature the same number as that borne by the initiative measure followed by the letter “A.” Such measure so designated as “Alternative Measure No. -- A,” together with the ballot title thereof, when ascertained, shall be certified by the Secretary of State to the county election commissioners for printing on the ballots for submission to the voters for their approval or rejection at the next statewide general election.

(2) The chief legislative budget officer shall prepare a fiscal analysis of each initiative and each legislative alternative. A summary of each fiscal analysis shall appear on the ballot.

§ 23-17-33. Alternative’s ballot title and summary

For a measure designated by him as “Alternative Measure No. -- A” the Secretary of State shall obtain from the Attorney General a ballot title in the manner provided by Section 23-17-9. The ballot title therefor shall be different from the ballot title of the measure in lieu of which it is proposed, and shall indicate, as clearly as possible, the essential differences in the measure.

§ 23-17-35. Appearance on ballot

Except in the case of alternative voting on a measure initiated by petition, each measure submitted to the people for approval or rejection shall be so printed on the ballot, under the proper heading, that a voter can, by making one (1) choice, express his approval or rejection of such measure. Substantially the following form shall be a compliance with this section:

INITIATIVE MEASURE NO. ____ (Here insert the ballot title of the measure.)

YES ()

NO ()

§ 23-17-37. Procedure when multiple versions

If an initiative measure proposed to the Legislature has been rejected by the Legislature and an alternative measure is passed by the Legislature in lieu thereof, the

serial numbers and ballot titles of both such measures shall be printed on the official ballots so that a voter can express separately two (2) preferences: First, by voting for the approval of either measure or against both measures, and, secondly, by voting for one measure or the other measure. If the majority of those voting on the first issue is against both measures, then both measures fail, but in that case the votes on the second issue nevertheless shall be carefully counted and made public. If a majority voting on the first issue is for the approval of either measure, then the measure receiving a majority of the votes on the second issue and also receiving not less than forty percent (40%) of the total votes cast at the election at which the measure was submitted for approval shall be law. Any person who votes against both measures on the first issue may vote but shall not be required to vote for any of the measures on the second issue in order for the ballot to be valid. Substantially the following form shall be a compliance with this section:

INITIATED BY PETITION AND ALTERNATIVE BY LEGISLATURE

Initiative Measure No. _____, entitled (here insert the ballot title of the initiative measure).

Alternative Measure No. _____ A, entitled (here insert the ballot title of the alternative measure).

VOTE FOR APPROVAL OF EITHER, OR AGAINST BOTH:

FOR APPROVAL OF EITHER Initiative No. ____ OR Alternative No. ____ A ()
AGAINST BOTH initiative No. ____ AND Alternative No. ____ A ()

AND VOTE FOR ONE:

FOR Initiative Measure No. _____ ()
FOR Alternative Measure No. ____ A ()

§ 23-17-39. Maximum number of initiative proposals

No more than five (5) initiative proposals shall be submitted to the voters on a single ballot, and the first five (5) initiative proposals submitted to the Secretary of State with sufficient petitions shall be the proposals which are submitted to the voters.

§ 23-17-41. Effective date of initiative

An initiative approved by the electors shall take effect thirty (30) days from the date of the official declaration of the vote by the Secretary of State, unless the measure provides otherwise.

§ 23-17-43. Resubmission

If any amendment to the Constitution proposed by initiative petition is rejected by a majority of the qualified electors voting thereon, no initiative petition proposing the same, or substantially the same, amendment shall be submitted to the electors for at least two (2) years after the date of the election on such amendment.

§ 23-17-45. Public information concerning initiatives

(1) A pamphlet containing a copy of all initiative measures and legislative alternatives, including the ballot title and ballot summary, arguments or explanations for and against each measure and alternative and the fiscal analysis prepared by the chief legislative budget officer shall be compiled by the Secretary of State. The sponsor may prepare the argument or explanation on the measure. If the sponsor does not prepare the argument or explanation, then the Secretary of State shall do so. Each argument or explanation shall not exceed three hundred (300) words. The Secretary of State shall publish the ballot title, ballot summary, full text of each measure and arguments or explanations for and against each measure and alternative once a week for three (3) consecutive weeks immediately preceding the election in at least one (1) newspaper of general circulation in each county of the state. The costs of such printing and publication shall be borne by the Secretary of State from funds appropriated by the Legislature.

(2) The Secretary of State shall conduct at least one (1) public hearing in each congressional district on each measure to be placed on the ballot and shall give public notice thereof at least thirty (30) days before a hearing.

§ 23-17-47. Definitions

For the purposes of Sections 23-17-47 through 23-17-59, the following terms shall have the meanings ascribed to them in this section:

(a) "Contribution" means any gift, subscription, loan, advance, money or anything of value made by a person or political committee for the purpose of influencing the passage or defeat of a measure on the ballot, for the purpose of obtaining signatures for the proposed ballot measures and attempting to place the proposed measure on the ballot, and for the purpose of opposing efforts to place a proposed measure on the ballot; but does not include noncompensated, nonreimbursed volunteer personal services.

(b) "Person" means any individual, family, firm, corporation, partnership, association or other legal entity.

(c) "Political committee" means any person, other than an individual, who receives contributions or makes expenditures for the purpose of influencing the passage or defeat of a measure on the ballot.

(d) "Expenditure" means any purchase, payment, distribution, loan, advance, deposit, gift of money or anything of value, made by any person or political committee for the purpose of influencing any balloted measure, for the purpose of obtaining signatures for a proposed ballot measure and attempting to place the proposed measure on the ballot, and for the purpose of opposing efforts to place a proposed measure on the ballot.

§ 23-17-49. Political committee statement of organization

(1) Each political committee shall file with the Secretary of State a statement of organization no later than ten (10) days after receipt of contributions aggregating in

excess of Two Hundred Dollars (\$200.00), or no later than ten (10) days after having made expenditures aggregating in excess of Two Hundred Dollars (\$200.00).

(2) The statement of organization of a political committee must include:

(a) The name and address of the committee and all officers;

(b) Designation of a director of the committee and a custodian of books and accounts of the committee, who shall be designated treasurer; and

(c) A brief statement identifying the measure that the committee seeks to pass or defeat.

Any change in information previously submitted in a statement of organization shall be reported and filed within ten (10) days.

§ 23-17-51. Financial reports required

(1) A political committee that either receives contributions or makes expenditures in excess of Two Hundred Dollars (\$200.00) shall file financial reports with the Secretary of State.

(2) An individual person who on his or her own behalf expends in excess of Two Hundred Dollars (\$200.00) for the purpose of influencing the passage or defeat of a measure shall file financial reports with the Secretary of State.

(3) The financial reports required in this section shall be filed monthly, not later than the tenth day of the month following the month being reported, after a political committee or an individual exceeds the contribution or expenditure limits. Financial reports must continue to be filed until all contributions and expenditures cease. In all cases a financial report shall be filed thirty (30) days following the election on a measure.

(4) Any person, who violates the provisions of this section, shall be subject to a fine as provided in Section 23-15-813.

§ 23-17-53. Information contained in financial reports

A financial report of a political committee, or an individual person, as required by Section 23-17-51, shall contain the following information:

(a) The name, address and telephone number of the committee or individual person filing the statement.

(b) For a political committee:

(i) The total amount of contributions received during the period covered by the financial report;

(ii) The total amount of expenditures made during the period covered by the financial report;

- (iii) The cumulative amount of those totals for each measure;
 - (iv) The balance of cash and cash equivalents on hand at the beginning and the end of the period covered by the financial report;
 - (v) The total amount of contributions received during the period covered by the financial report from persons who contributed Two Hundred Dollars (\$200.00) or less, and the cumulative amount of that total for each measure;
 - (vi) The total amount of contributions received during the period covered by the financial report from persons who contributed Two Hundred Dollars (\$200.00) or more, and the cumulative amount of that total for each measure; and
 - (vii) The name and street address of each person from whom a contribution(s) exceeding Two Hundred Dollars (\$200.00) was received during the period covered by the financial report, together with the amount contributed, the date of receipt, and the cumulative amount contributed by that person for each measure.
- (c) For an individual person:
- (i) The total amount of expenditures made during the period covered by the financial report;
 - (ii) The cumulative amount of that total for each measure; and
 - (iii) The name and street address of each person to whom expenditures totaling Two Hundred Dollars (\$200.00) or more were made, together with the amount of each separate expenditure to each person during the period covered by the financial report and the purpose of the expenditure.
 - (iv) The total amount of contributions received during the period covered by the financial report, the cumulative amount of that total for each measure, and the name and street address of each person who contributed more than Two Hundred Dollars (\$200.00) and the amount contributed.

§ 23-17-55. Distance from polling place

It is unlawful for any person to distribute or post material in support of or in opposition to a measure within one hundred fifty (150) feet of any entrance to a polling place where the election is held.

§ 23-17-57. Inducements to voters; unlawful acts relating to petitions

(1) It is unlawful for a person to give or offer any consideration to an elector to induce the elector to vote for or against a measure.

(2) It is unlawful for a person to give or offer any consideration to an elector to induce the elector to sign or not sign a petition for a measure.

(3) It is unlawful for any person that pays or compensates another person for circulating a petition or for obtaining signatures on a petition to base the pay or compensation on the number of petitions circulated or the number of signatures obtained.

(4) It is unlawful for any person to solicit signatures on any petition under this chapter within one hundred fifty (150) feet of any polling place on any election day.

(5) It is unlawful for any person who circulates or causes to be circulated an initiative petition to obtain or attempt to obtain a person's signature (a) by intentionally misleading such person as to the substance or effect of the petition, or (b) by intentionally causing such person to be misled as to the substance or effect of the petition.

§ 23-17-59. Interfering with or influencing voters

It is unlawful for a person to interfere with or influence the vote of an elector on a measure by means of violence, threats, intimidation, enforcing the payment of a debt, bringing a suit or criminal prosecution, any threat or action affecting a person's conditions of employment or other corrupt means.

§ 23-17-60. Removal of signature

Any person who alleges that his or her signature on an initiative petition was obtained as the result of fraud or coercion, or that the person was intentionally misled as to the substance or effect of the petition, may have his or her signature removed from the initiative petition upon filing an affidavit to such effect with the Secretary of State anytime before the Secretary of State has accepted and filed the petition under Section 23-17-23.

§ 23-17-61. Sanctions

Any violation of Sections 23-17-49 through 23-17-59 is punishable by imprisonment in the county jail for not more than one (1) year, or by a fine not to exceed One Thousand Dollars (\$1,000.00), or by both such fine and imprisonment.

DISCLAIMER:

This guide is for general information purposes only. Initiative sponsors should review the constitutional and statutory provisions related to Mississippi's constitutional initiative and the relevant case law. Those provisions constitute state law regarding the initiative process.

The information contained therein is not intended to be, nor does it constitute, legal advice.

Petition sponsors in need of legal advice regarding the initiative process should retain the services of a competent attorney.



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