

1 **State of Arkansas**
2 **80th General Assembly**
3 **First Extraordinary Session, 1995**

A Bill

Call Item No. 2
ACT 1 OF 1995
HOUSE BILL 1005

4 **By:**
5 **Representatives Dietz, Harris, Hudson, Malone, Willems, Critcher, Thicksten, Hill, Bisbee,**
6 **Roberts, Davis, and Cash**

For An Act To Be Entitled

7
8
9
10 "AN ACT TO CALL A CONSTITUTIONAL CONVENTION WITH THE
11 AUTHORITY AND RESPONSIBILITY TO REVISE THE CONSTITUTION OF
12 THE STATE OF ARKANSAS; TO PRESCRIBE THE METHOD OF
13 SELECTING DELEGATES TO THE CONVENTION; TO PRESCRIBE THE
14 METHODS FOR RATIFYING THE CALL AND FOR SUBMISSION OF
15 PROPOSED REVISIONS OF THE CONSTITUTION TO A VOTE OF THE
16 PEOPLE; DECLARING AN EMERGENCY; AND FOR OTHER PURPOSES."

Subtitle

17
18
19 "TO CALL A CONSTITUTIONAL CONVENTION."

20
21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

22
23 SECTION 1. FINDINGS AND DETERMINATIONS. It is hereby found and
24 determined by the General Assembly that many of the provisions of the Arkansas
25 Constitution of 1874, as amended, are not reasonable or appropriate at the
26 present time and do not reflect the needs of a modern and vital state
27 government and should be revised; and that the amendment process is not
28 sufficient to effect the necessary revisions. When the processes of free
29 government are to be modified, the people have a right to act, and this right
30 can be constitutionally exercised by means of legislative action of the
31 General Assembly and a vote of the people in providing by law for the call of
32 a constitutional convention to reconstruct and reform government.

33
34 SECTION 2. CONVENTION CALLED. There is hereby called, subject to
35 ratification by a statewide vote of the people as prescribed in this Act, a
36 Constitutional Convention for the purpose of drafting a new Constitution of

1 the State of Arkansas. The Convention shall be known as the "Arkansas
2 Constitutional Convention for the 21st Century."

3

4 SECTION 3. DELEGATES. The Convention shall be composed of sixty-one
5 (61) delegates.

6 (a) Thirty-five (35) delegates, nominated as set forth in Section 5 of
7 this act, shall be elected by popular vote, with one such delegate being
8 elected from each existing district of the Arkansas Senate by plurality vote
9 at a special election called for that purpose; and

10 (b) Twenty-six (26) delegates, nominated as set forth in this section,
11 who are members of the Arkansas General Assembly, shall be elected by popular
12 vote as a part of the decision by the people to call a Convention. Ten (10)
13 delegates shall come from members of the Senate and sixteen (16) delegates
14 shall come from members of the House of Representatives.

15 (c) The ten (10) delegates from the Senate shall be nominated by the
16 President Pro Tempore of the Arkansas Senate.

17 (d) The sixteen (16) delegates from the House of Representatives shall
18 be nominated by the Speaker of the House of Representatives. Four (4)
19 Representatives shall be nominated from each House Caucus District from a list
20 of not more than ten (10) Representatives submitted by the members of the
21 respective House Caucus Districts.

22 (e) The names of these twenty-six (26) nominees shall be certified by
23 the respective nominating officials to the Secretary of State no later than
24 five (5) days after the commencement of the district delegate filing period
25 established by the Governor's Proclamation calling the special election
26 provided in Section 4 of this act.

27 (f) The provisions of Ark. Code Sec. 7-7-305 and/or any other similar
28 law regarding the form or length of the candidate's name or other candidate
29 ballot information shall not apply to any ballot containing names of
30 candidates nominated from the General Assembly for delegate to the Convention
31 at any election conducted under this act. The Secretary of State shall
32 certify for the ballot the name of any such delegate. The delegate's primary
33 occupation or profession, the delegate's hometown, and the designation of
34 Senator or Sen. or Representative or Rep. shall appear on the ballot if
35 possible.

1 (g) Delegates nominated from the General Assembly shall be submitted
2 for approval or disapproval as a group at the special election provided in
3 Section 4 of this act.

4 (h) In the event of a vacancy in any delegate position prior to the
5 convening of the Convention, the Governor shall fill such vacancy by
6 appointment with a replacement delegate who has the class qualifications of
7 the delegate being replaced. A delegate vacancy occurring after the
8 Convention is convened shall not be filled.

9

10 SECTION 4. SPECIAL ELECTION TO RATIFY CALL OF CONVENTION AND TO ELECT
11 OTHER DELEGATES.

12 (a) The question of whether or not to call a Constitutional
13 Convention and approve the *twenty-six (26)* delegates nominated to the
14 Convention from the General Assembly shall be submitted to the registered
15 voters of the state for adoption or rejection at a special election to be
16 called by the Governor. The question shall be in substantially the following
17 form:

18 (1) For calling a Constitutional Convention to
19 propose a new Constitution for the State of Arkansas, as provided in Act
20 ___ of the Acts of the First Extraordinary Session of the Eightieth (80th)
21 General Assembly of 1995, and subject to the terms of that Act, and electing
22 the nominated Convention delegates listed below:"

23 (Names of 26 nominated delegates from the General Assembly)

24 (2) Against calling a Constitutional Convention."

25 If a majority of the registered voters voting in the special
26 election vote for calling the Convention, the Convention shall proceed as set
27 forth in this Act. If a majority of the registered voters voting in the
28 special election vote against calling the Convention, the Convention shall not
29 be held.

30 (b) The thirty-five (35) district delegates described in Section
31 3(a) of this Act shall be elected at the same special election.

32

33 SECTION 5. PROCEDURE FOR ELECTION OF DISTRICT DELEGATES.

34 (a) On the date of the special election, candidates seeking
35 election as district delegates shall be at least twenty-one (21) years of age,

1 registered voters, and residents of the Senate District from which election is
2 sought for at least one (1) year.

3 (b) The election of delegates to the Convention shall be on a
4 nonpartisan basis, and no candidate shall designate political party
5 affiliation at the time of filing as a candidate for election.

6 (c) (1) (A) Each person desiring to be elected a district delegate
7 shall file with the Secretary of State nominating petitions with at least two
8 hundred (200) signatures thereon of persons who are registered voters within
9 the Senate district. No sheet of any nominating petition shall contain the
10 signatures of registered voters in more than one county within the Senate
11 district. To be considered legally sufficient, each voter signature shall be
12 accompanied by the voter's printed name, street address and date of birth.

13 (B) When filing nominating petitions, each candidate for
14 district delegate shall pay a filing fee of twenty-five dollars (\$25.00) to
15 the Secretary of State, said funds to be deposited as Special Revenues into
16 the State Central Services Fund to help defray costs associated with the
17 Convention.

18 (C) A statement signed by the candidate stating the
19 candidate's willingness to accept the nomination and serve as a delegate shall
20 be filed with the nominating petition.

21 (2) Persons who circulate nominating petitions shall
22 execute and file with each petition an affidavit concerning the genuineness of
23 the signatures in like manner and as now required for the circulators of
24 petitions for initiated acts and constitutional amendments.

25 (3) All candidates for delegate position shall file with
26 their nominating petitions a political practices pledge on a form provided by
27 the Secretary of State which substantially complies with Ark. Code Sec. 7-6-
28 102.

29 (4) The original and one photocopy of all nominating
30 petitions shall be filed with the Secretary of State not later than a date and
31 time set in the Governor's proclamation but in any event not less than forty
32 (40) days before the special election. The Secretary of State shall
33 distribute the petitions to the appropriate county clerks, who shall verify
34 the petition signatures and certify the number of verified signatures for each
35 delegate candidate to the Secretary of State within the time specified in the

1 Governor's proclamation of special election, but not later than thirty-two
2 (32) days prior to the date of the special election.

3 (d) The County Board of Election Commissioners shall include on
4 special election ballots the names of all candidates for delegate to the
5 Constitutional Convention as certified by the Secretary of State. The
6 provisions of Arkansas Code Section 7-5-407 shall not apply to the special
7 election provided for in Section 4 of this Act. The county board of election
8 commissioners shall prepare official absentee ballots and deliver them to the
9 county clerk for mailing to all qualified applicants as soon as practicable
10 before the last day on which the ballot will be counted but in any event not
11 less than twenty (20) days before the special election.

12 (e) (1) The candidate receiving the greatest number of the votes
13 cast in the special election shall be declared elected as the district
14 delegate to the Convention from each Senate district.

15 (2) A tie vote for a district delegate position shall be
16 determined by drawing lots in the presence of a judge of a court of record in
17 the Senate District within five (5) days from the date of the special
18 election.

19 (f) The results of the elections on calling the Convention and
20 electing delegates shall be certified to the Secretary of State in the manner
21 provided by law not later than seven (7) days after election day.

22 (g) The general election laws of the state shall apply to any
23 circumstance or situation not provided for in this Act.

24

25 SECTION 6. OFFICIALS OF THE CONVENTION.

26 (a) The President Pro Tempore of the Arkansas Senate and the
27 Speaker of the Arkansas House of Representatives, or their jointly designated
28 substitute if both are absent, shall alternate days presiding at meetings of
29 the Convention and shall perform other duties assigned to them by the
30 Convention. Neither presiding official, or their substitute if both are
31 absent, shall be entitled to vote on any matter before the Convention, except
32 in the event of a tie vote on any issue, when the presiding officer of the day
33 may cast a vote as a delegate.

34 (b) There shall be an Executive Committee of the Convention,
35 composed of the two presiding officers and four (4) delegate vice-presidents

1 elected by the delegates from the respective Congressional Districts.

2 (c) The Convention shall have a Secretary, and such other officers
3 of the Convention as the Convention shall designate. The Executive Committee
4 of the Convention shall select the Secretary of the Convention. All officers
5 of the Convention except the presiding officers and Secretary shall be
6 delegates. The Secretary shall perform such duties as the Executive Committee
7 or the Convention shall direct.

8

9 SECTION 7. ASSISTANCE TO CONVENTION.

10 (a) The Governor, Speaker of the House of Representatives, and
11 President Pro Tempore of the Senate may designate and are authorized to call
12 upon employees of the Office of the Governor, the Arkansas Legislative
13 Council, the House of Representatives, the Senate, and any other state agency
14 to provide information, support, and staff assistance to the Convention.

15 (b) The Governor, the Secretary of State, the Speaker of the House
16 of Representatives and the President Pro Tempore of the Senate are authorized
17 to make any public facilities under their control available for use by the
18 Convention.

19

20 SECTION 8. PROCEEDINGS.

21 (a) The delegates to the Convention shall assemble upon the call
22 of the Governor for an organizational session of no longer than two (2) days
23 duration, for the purposes of electing the Executive Committee, employment of
24 personnel to staff the Convention, and for such other organizational purposes
25 as the Convention may deem necessary. At that time each delegate to the
26 Convention shall take an oath to support the Constitution of the United States
27 and to discharge faithfully all duties as a delegate to the Convention.

28 (b) A majority of the delegates serving shall constitute a quorum,
29 and thirty-four (34) votes shall be necessary for final adoption of any
30 measure by the Convention.

31 (c) At all sessions of the Convention, delegates shall be
32 addressed as "Mr.," "Mrs.," "Miss" or "Delegate," or other appropriate
33 title, except "Senator" or "Representative."

34 (d) The Executive Committee is empowered to act with respect to
35 organization and personnel matters between sessions of the Convention.

1 (e) Within seven (7) days following the organizational session,
2 the delegates to the Convention shall assemble for the regular session of the
3 Convention in the Chambers of the House of Representatives at the State
4 Capitol Building, or at another place designated by the Executive Committee.

5 (f) The first orders of business shall be the election of any
6 other officers desired by the Convention (other than the presiding officers,
7 Secretary, and the Executive Committee); the adoption of rules or procedures
8 to be followed by the Convention, including the time and place of recess; the
9 number and responsibilities of committees of the Convention; and the
10 employment of additional personnel to staff the Convention, within the
11 limitations of appropriations made therefor. The rules may specifically
12 provide that meetings of the Convention need not be conducted on days that
13 committee meetings are conducted.

14 (g) *The Convention shall meet for not more than thirty-two (32)*
15 *days between January 2, 1996, and March 15, 1996. The Convention shall*
16 *adjourn sine die not later than midnight March 15, 1996. The Convention shall*
17 *not meet on any day on which the Arkansas General Assembly is in session, and*
18 *no such day shall be charged against the days allowed to the Convention.*

19 (h) The Convention shall draft a proposed new Constitution for
20 the State of Arkansas for submission to the registered voters of the state.

21 (I) Upon adjournment sine die, the presiding officers of the
22 Convention shall certify an official draft of the proposed new Constitution,
23 as approved by the Convention, to the Governor and the Secretary of State.

24 (j) All meetings of the Convention and each of its committees
25 shall be conducted in public.

26

27 SECTION 9. COMPENSATION. Each delegate to the Convention shall be
28 entitled to receive eighty-two dollars (\$82.00) per day for each day actually
29 engaged in the performance of duties as a Convention delegate. Such per diem
30 compensation shall be in addition to the legislative salary of a delegate, but
31 no delegate from the General Assembly shall receive legislative per diem and
32 per diem under this section for the same day. In addition, each delegate
33 shall be entitled to receive travel reimbursement at the rate of thirty cents
34 (30¢) per mile for one round trip from home to Little Rock and return each
35 week solely for the purpose of attending sessions of the Convention, and for

1 other travel on Convention business which is authorized by the Executive
2 Committee.

3

4 SECTION 10. TRANSCRIPT. A record of the Convention proceedings
5 shall be taken, kept, compiled and maintained as a public record. The
6 Executive Committee shall be responsible for the selection of the person or
7 persons who shall perform this work and the manner in which the record is
8 taken, kept, compiled and maintained.

9

10 SECTION 11. PUBLICATION OF DOCUMENT. At least thirty (30) days and
11 not more than sixty (60) days prior to the election at which the proposed
12 document shall be submitted to a vote of the people, the full text of the
13 proposed constitutional document certified to the Governor and the Secretary
14 of State shall be published one (1) time by the Secretary of State in each of
15 the seventy-five (75) counties in Arkansas, either by (1) insertion of
16 preprinted copies of the proposed new Constitution or (2) as a legal notice in
17 legal newspapers (as defined in Ark. Code Ann. § 16-3-105) having general
18 circulation in one or more counties. If preprinted copies are used, they
19 shall be furnished by the Secretary of State to each such newspaper and to
20 public libraries without charge, shall be in tabloid format and shall be
21 printed in not less than eight-point type. Funding for such publication may
22 be from appropriated public funds, or private funds, or both.

23

24 SECTION 12. POPULAR VOTE. Any new Constitution proposed by the
25 Convention shall be submitted to the registered voters of the state for
26 adoption or rejection at either a special election to be held at the call of
27 the Governor given at least ninety (90) days prior to the special election, or
28 *at the general election in November 1996, at the option of the Governor.*

29

30 SECTION 13. ADDITIONAL AUTHORITY. This Act provides an additional
31 method of calling a Constitutional Convention and does not limit, modify, or
32 repeal the method provided in Ark. Code Ann. § 7-9-301-312.

33

34 SECTION 14. CONSTRUCTION. This Act shall be construed liberally to
35 effectuate the legislative intent and the purposes of this Act as complete and

1 independent authority for the performance of each and every act and thing
2 authorized in this Act, and all powers granted in this Act shall be broadly
3 interpreted to effectuate that intent and those purposes and not as a
4 limitation of powers.

5

6 SECTION 15. CODE PROVISION. All provisions of this act of a
7 general and permanent nature are amendatory to the Arkansas Code of 1987
8 Annotated, and the Arkansas Code Revision Commission shall incorporate the
9 same in the Code.

10

11 SECTION 16. SEVERABILITY CLAUSE. If any provision of this Act or
12 the application thereof to any person or circumstance is held invalid, such
13 invalidity shall not affect other provisions or applications of the Act which
14 can be given effect without the invalid provision or application, and to this
15 end the provisions of this Act are declared to be severable.

16

17 SECTION 17. REPEALER. All laws and parts of laws in conflict with
18 this Act are hereby repealed.

19

20 SECTION 18. EMERGENCY. It is hereby found and determined by the
21 General Assembly that there is an immediate and urgent need for constitutional
22 revision in Arkansas. Since many parts of the Constitution of Arkansas are
23 archaic, obsolete, and unrelated to the needs and demands of the citizens for
24 good government in both the state and local governments; and since the number
25 and types of changes needed are not suitable for piecemeal amendment of the
26 present Constitution; an emergency is hereby declared to exist, and this Act
27 is declared to be necessary for the immediate preservation of the public
28 peace, health and safety and shall be in full force and effect from and after
29 its passage and approval.

30

/s/James Dietz

31

32

APPROVED: 10-19-95

33

34

35

- 1
- 2
- 3
- 4
- 5
- 6
- 7