

1 **State of Arkansas**

2 **78th General Assembly**

3 **Regular Session, 1991**

S.J.R. 10

4 **By: Senators Beebe, Harriman and Malone**

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SENATE JOINT RESOLUTION

8

PROPOSING AN AMENDMENT TO THE ARKANSAS CONSTITUTION TO

9

REVISE THE JUDICIAL ARTICLE.

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11 BE IT RESOLVED BY THE SENATE OF THE SEVENTY-EIGHTH GENERAL ASSEMBLY OF THE

12 STATE OF ARKANSAS AND BY THE HOUSE OF REPRESENTATIVES, A MAJORITY OF ALL

13 MEMBERS ELECTED TO EACH HOUSE AGREEING THERETO:

14

15 That the following is hereby proposed as an amendment to the Constitution

16 of the State of Arkansas, and upon being submitted to the electors of the

17 State for approval or rejection at the next general election for

18 Representatives and Senators, if a majority of the electors voting thereon at

19 such election adopt such amendment, the same shall become a part of the

20 Constitution of the State of Arkansas, to wit:

21

22 SECTION 1. JUDICIAL POWER. The judicial power is vested in the Judicial

23 Department, consisting of a Supreme Court and other courts established by this

24 Constitution.

25

26 SECTION 2. THE SUPREME COURT.

27 (A) The Supreme Court shall be composed of seven justices, one of whom

28 shall serve as Chief Justice. The justices of the Supreme Court shall be

29 elected from the State at large until such time as merit selection is approved

30 by the voters.

31 (B) The Chief Justice shall be selected for that position in the same

32 manner as the other justices are selected. During any temporary period of

33 absence or incapacity of the Chief Justice an acting Chief Justice shall be

34 selected by the Court.

35 (C) The concurrence of at least four justices shall be required for a

1 decision in all cases.

2 (D) The Supreme Court shall have statewide appellate jurisdiction and
3 its members shall be selected from the state at large.

4 (E) The Supreme Court shall have:

5 (1) original jurisdiction to issue writs of quo warranto to all
6 persons holding judicial office, and to officers of political corporations
7 when the question involved is the legal existence of such corporations;

8 (2) original jurisdiction to answer questions of state law
9 certified by a court of the United States, which may be exercised pursuant to
10 Supreme Court Rule; and

11 (3) only other original jurisdiction as provided by this
12 Constitution.

13 (F) The Supreme Court shall have power to issue and determine any and
14 all writs necessary in aid of its jurisdiction and to delegate to its several
15 justices the power to issue such writs.

16 (G) Clerk and reporter. The Supreme Court shall appoint its clerk and
17 reporter, who shall hold their offices for six years subject to removal for
18 good cause. The clerk and reporter serving at the time this amendment becomes
19 effective shall continue in office for the remainder of their current terms.

20 (H) Place of holding court. The sessions of the Supreme Court shall be
21 held at the seat of government at the times that now are, or may be, provided
22 by law.

23

24 SECTION 3. RULES OF PLEADING, PRACTICE AND PROCEDURE.

25 The Supreme Court shall prescribe the rules of pleading, practice and
26 procedure for all courts; provided, these rules shall not abridge, enlarge or
27 modify any substantive right and shall preserve the right of trial by jury as
28 declared in this Constitution. *Provided, however, the General Assembly may,*
29 *by three-fifths (3/5 ths) vote of the membership of each house, prescribe*
30 *procedural rules of pleading, practice, and procedure which are not in*
31 *conflict with rules previously prescribed by the Supreme Court.*

32

33 SECTION 4. SUPERINTENDING CONTROL.

34 The Supreme Court shall exercise general superintending control over all
35 courts of the state, and may temporarily assign judges, with their consent, to
36 courts or divisions other than that for which they were elected or appointed.

1 These functions shall be administered by the Chief Justice.

2

3 SECTION 5. COURT OF APPEALS.

4 There shall be a Court of Appeals which may have divisions thereof as
5 established by Supreme Court rule. The Court of Appeals shall have such
6 original jurisdiction as now or hereafter provided by law and members and
7 appellate jurisdiction as the Supreme Court shall by rule determine.

8

9 SECTION 6. ANNULMENT OR AMENDMENT OF RULES.

10 Any rules promulgated by the Supreme Court pursuant to Sections 3, 5,
11 7(b), 8(b), (8d) or 9 of this amendment may be annulled or amended in whole or
12 in part by a three-fifths (3/5ths) vote of the membership of each house of the
13 General Assembly.

14

15 SECTION 7. CIRCUIT COURTS.

16 (A) Circuit Courts are established as the trial courts of original
17 jurisdiction of all justiciable matters not otherwise assigned pursuant to
18 this Constitution.

19 (B) The Supreme Court may divide a Circuit Court into subject-matter
20 divisions, and any Circuit Judge within a Circuit may sit in any division.

21 (C) Circuit Judges may temporarily exchange circuits by joint order.
22 Any Circuit Judge who consents may be assigned to another circuit for
23 temporary service under rules adopted by the Supreme Court.

24 (D) The Circuit Courts shall hold their sessions in each county at such
25 times and places as are, or may be, prescribed by law.

26

27 SECTION 8. DISTRICT COURTS.

28 (A) The District Court is established as the trial court of limited
29 jurisdiction as to amount and subject matter, subject to right of appeal
30 to Circuit Courts for a trial de novo.

31 (B) The jurisdictional amount and the subject matter of civil cases that
32 may be heard in the District Courts shall be established by Supreme Court
33 rule. The District Court shall have original jurisdiction of misdemeanors and
34 such other criminal jurisdiction as may be provided pursuant to Section 10 of
35 this amendment.

1 (C) There shall be at least one District Court in each county. If there
2 is only one District Court in a county, it shall have county-wide
3 jurisdiction. The General Assembly may establish the method of distributing
4 fines and penalties received by the District Court and establish the number of
5 employees and the salary of employees of the District Court.

6 (D) The Supreme Court shall have authority to establish subject-matter
7 and territorial divisions of District Courts within a county. A District
8 Judge may serve in two or more counties.

9

10 SECTION 9. REFEREES; MASTERS; MAGISTRATES.

11 (A) A Circuit Court Judge may appoint referees or masters who shall have
12 power to perform such duties of the Circuit Court as may be prescribed by
13 Supreme Court rule in accordance with Section 3 of this amendment.

14 (B) With the concurrence of a majority of the Circuit Court Judges of
15 the Circuit, a District Court Judge may appoint magistrates who shall be
16 subject to the superintending control of the District Court and shall have
17 power to perform such duties of the District Court as may be prescribed by
18 Supreme Court rule in accordance with Section 3 of this amendment.

19

20 SECTION 10. JURISDICTION, VENUE, CIRCUITS, DISTRICTS AND NUMBER OF
21 JUDGES.

22 The General Assembly shall have the power to establish jurisdiction of
23 all courts and venue of all actions therein, unless otherwise provided in this
24 Constitution, and the power to establish judicial circuits and districts and
25 the number of judges for circuit courts and district courts, provided such
26 circuits or districts are comprised of contiguous territories.

27

28 SECTION 11. RIGHT OF APPEAL.

29 There shall be a right of appeal to an appellate court from the Circuit
30 Courts and other right of appeal as may be provided by Supreme Court rule or
31 by law.

32

33 SECTION 12. TEMPORARY DISQUALIFICATION OF JUSTICES OR JUDGES.

34 No Justice or Judge shall preside or participate in any case in which he
35 might be interested in the outcome, or in which any party is related to him or

1 her by consanguinity or affinity within such degree as prescribed by law, or
2 in which he may have been of counsel or have presided in any inferior court.

3

4 SECTION 13. ASSIGNMENT OF SPECIAL AND RETIRED JUDGES.

5 (A) If a Supreme Court Justice is disqualified from participating in a
6 case, the Court or the Justice shall certify the disqualification to the
7 Governor, who shall within fifteen (15) days commission a Special Justice to
8 participate in the determination of the case. If the Governor fails to select
9 a Special Justice within fifteen (15) days, the Lieutenant Governor shall
10 commission a Special Justice. If a Judge of the Court of Appeals is
11 disqualified from participating in a case, the Court or the Judge shall
12 certify the disqualification to the Chief Justice who shall commission a
13 Special Judge.

14 (B) If a Circuit Judge or District Judge is temporarily disqualified or
15 unable to serve, a Special Judge may be assigned by the Chief Justice or
16 elected by the bar of that Court, as provided by Supreme Court rule, to serve
17 during the period of temporary disqualification.

18 (C) Retired Justices and Judges may, with their consent, be selected and
19 assigned for temporary judicial service, under rules prescribed by the Supreme
20 Court.

21 (D) Special and retired Judges shall be compensated as provided by law.

22

23 SECTION 14. PROHIBITION OF PRACTICE OF LAW.

24 Justices and Judges, except District Judges, shall not practice law
25 during their respective terms of office. The General Assembly may, by
26 classification, prohibit District Judges from practicing law.

27

28 SECTION 15. PROHIBITION ON CANDIDACY FOR NON-JUDICIAL OFFICE.

29 If a Judge or Justice files as a candidate for non-judicial governmental
30 office, that candidate's judicial office shall immediately become vacant.

31

32 SECTION 16. QUALIFICATIONS AND TERMS OF JUSTICES AND JUDGES.

33 (A) Justices of the Supreme Court and Judges of the Court of Appeals
34 shall have been licensed attorneys of this state for at least eight years
35 immediately preceding the date of assuming office. They shall serve for

1 eight-year terms.

2 (B) Circuit Judges shall have been licensed attorneys of this state for
3 at least six years immediately preceding the date of assuming office. They
4 shall serve for six-year terms.

5 (C) District Judges shall have been licensed attorneys of this state for
6 at least four years immediately preceding the date of assuming office. They
7 shall serve for four-year terms.

8 (D) All Judges and Justices shall be qualified electors of the
9 geographical area from which they are chosen and circuit and district judges
10 shall reside in that geographical area at the time of election and during
11 their period of service. "Geographical area" may include any county
12 contiguous to the county to be served when there are no qualified candidates
13 available in the county to be served.

14 (E) A Special Justice or Judge shall possess the qualifications required
15 by this amendment for the regular Justice or Judge in the position being
16 filled.

17 (F) Salaries and expenses of Justices and Judges. The General Assembly
18 shall by law determine the amount and method of payment of Justices and
19 Judges. Such salaries and expenses may be increased but not diminished during
20 the term for which such Justices or Judges are selected or elected. Salaries
21 of Circuit Judges shall be uniform throughout the state.

22 (G) Circuit, District and Appellate Court judges and justices shall not
23 be allowed any fees or perquisites of office except as authorized by law, or
24 hold any other office or duties for profit in this state or the United States.
25

26 SECTION 17. ELECTION OF JUDGES.

27 (A) Supreme Court Justices, Court of Appeals Judges, Circuit Judges and
28 District Judges shall be elected on a nonpartisan basis by a majority of
29 qualified electors voting for such office. Provided however, the General
30 Assembly may refer to a vote of the people at any general election the issue
31 of merit selection of members of the Supreme Court and the Court of Appeals.
32 If the voters approve the merit selection system, the General Assembly shall
33 enact laws to create a judicial nominating commission for the purpose of
34 making merit selections of members of the Supreme Court and Court of Appeals.

35 (B) Vacancies in these offices shall be filled by appointment by the

1 Governor, except at such time the voters provide for the merit selection of
2 members of the Supreme Court and Court of Appeals, vacancies in those offices
3 shall be filled by appointment by the judicial nominating commission.

4

5 SECTION 18. TRANSITION PROVISIONS - TENURE OF PRESENT JUSTICES AND
6 JUDGES - JURISDICTION OF PRESENT COURTS.

7 (A) Tenure of Present Justices and Judges.

8 (1) Justices of the Supreme Court and Judges of the Court of
9 Appeals in office at the time this Amendment takes effect shall continue in
10 office until the end of the terms for which they were elected or appointed.

11 (2) All Circuit, all Chancery, and all Circuit-Chancery Judges in
12 office at the time this Amendment takes effect shall continue in office as
13 Circuit Judges until the end of the terms for which they were elected or
14 appointed; provided further, the respective jurisdictional responsibilities
15 for matters legal, equitable or juvenile in nature as presently exercised by
16 such Judges shall continue until changed pursuant to law.

17 (3) Municipal Court Judges in office at the time this Amendment
18 takes effect shall continue in office through December 31, 1996, and all
19 jurisdiction vested in municipal, corporation, police, mayor, justice of the
20 peace and courts of common pleas in existence at the time of passage of this
21 amendment shall be vested in the municipal court through December 31, 1996;
22 provided, should a vacancy occur in an office of a Municipal Judge, that
23 vacancy shall be filled for a term which shall end December 31, 1996.

24 (B) JURISDICTION OF PRESENT COURTS.

25 (1) The jurisdiction conferred on Circuit Courts established by
26 this Amendment includes all matters previously cognizable by Circuit, Chancery
27 and Probate Courts. The geographic circuits and subject matter divisions of
28 these courts existing at the time this Amendment takes effect shall become
29 circuits and divisions of the Circuit Court as herein established until
30 changed pursuant to this Amendment. Circuit Courts shall assume the
31 jurisdiction of Circuit, Chancery and Probate Courts.

32 (2) District Courts shall have the jurisdiction vested in
33 Municipal, Corporation, Police, Mayor's, Justice of the Peace Courts, and
34 Courts of Common Pleas at the time this Amendment takes effect. District
35 Courts shall assume the jurisdiction of these Courts of limited jurisdiction

1 and other jurisdiction conferred in this Amendment on January 1, 1997.

2 (C) CONTINUATION OF COURTS.

3 The Supreme Court provided for in this Constitution shall be a
4 continuation of the Supreme Court now existing. The Court of Appeals shall be
5 regarded as a continuation of the Court of Appeals now existing. All laws and
6 parts of laws relating to the Supreme Court and to the Court of Appeals which
7 are not in conflict or inconsistent with this Amendment shall remain in full
8 force and effect and shall apply to the Supreme Court and Court of Appeals,
9 respectively, established by this Amendment until amended, repealed or
10 superseded by appropriate action of the General Assembly or the Supreme Court
11 pursuant to this Amendment. The Circuit Courts shall be regarded as a
12 continuation of the Circuit, Chancery, Probate and Juvenile Courts now
13 existing. The District Courts shall be regarded as a continuation of the
14 Municipal Courts, Police Courts, Mayor's Courts, and Justice of Peace Courts
15 now existing. All the papers and records pertaining to these courts shall be
16 transferred accordingly and no suit or prosecution of any kind or nature shall
17 abate because of any change made by this Amendment. All writs, actions,
18 suits, proceedings, civil or criminal liabilities, prosecutions, judgments,
19 decrees, orders, sentences, regulations, causes of action, and appeals
20 existing on the effective date of this Amendment shall continue unaffected
21 except as modified in accordance with this Amendment.

22

23 SECTION 19. PROSECUTING ATTORNEYS.

24 A Prosecuting Attorney shall be elected by the qualified electors of
25 each circuit. Prosecuting Attorneys shall have been licensed attorneys of
26 this state for at least four years immediately preceding the date of assuming
27 office. They shall be qualified electors of the circuit from which elected
28 and shall reside in that geographical area at the time of election and during
29 their period of service. They shall serve four year terms.

30

31 SECTION 20. EFFECTIVE DATE.

32 This Amendment shall become effective on July 1 of the year following its
33 approval by the people.

34

35 SECTION 21. REPEALER.

1 (A) The following sections of Article 7 of the Constitution of the
2 State of Arkansas are hereby repealed effective July 1, 1993; 1 through 18; 20
3 through 22; 24; 25; 32; 34; 35; 39; 40; 42; 44; 45 and 50.

4 (B) Sections 1 and 2 of Amendment 24 to the Constitution of the State
5 of Arkansas are hereby repealed effective July 1, 1993.

6 (C) Section 43 of Article 7 of the Constitution of the State of
7 Arkansas is hereby repealed effective January 1, 1997.

8 (D) No other provision of the Constitution of the State of Arkansas
9 shall be repealed by this Amendment unless the provision is in irreconcilable
10 conflict with the provisions of this Amendment.

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/s/Beebe et al

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