

Department of Finance and Administration

Legislative Impact Statement

Bill: SJR5

As Engrossed: 3/20/2013

Bill Subtitle: PROPOSING AN AMENDMENT TO THE ARKANSAS CONSTITUTION CONCERNING CIVIL CLAIMS AND COURT PROCEDURES.

Basic Change :

Sen. Williams,

Senate Joint Resolution 5 proposes amendments to the Arkansas Constitution to be submitted to the voters at the next general election. The amendment would allow the General Assembly to enact laws regulating compensation and damages that may be awarded by courts and administrative agencies under the Workers' Compensation Laws, and also allows the General Assembly to prescribe the rules of pleading, practice and procedure, including the rules of evidence, for all courts. In addition, the amendment would strip the Arkansas Supreme Court of its rule-making authority except as expressly delegated by the General Assembly. The effective date of the amendment is January 1, 2015.

Revenue Impact :

None

Taxpayer Impact :

None

Legal Analysis :

The proposal would alter the balance of power between the branches of government. The Separation of Powers doctrine not only separates the departments of government, but also cordons off the powers of one from the other. Under the classic division of the powers, the legislature makes the laws and appropriates state revenues, the executive administers the laws and expends the appropriations, and the judiciary interprets the laws. See *Chaffin v. Arkansas Game & Fish Comm'n*, 296 Ark. 431, 757 S.W.2d 950 (1988) ("The Arkansas Constitution contains explicit separation of powers provisions which declare that one branch cannot exercise any power belonging to another branch.") This promotes a series of constitutional checks and balances between the branches of government. See, e.g., *Ball v. Roberts*, 291 Ark. 84, 722 S.W.2d 829 (1987).

By restraining the Court from controlling its own practices, procedures, and evidence, the independence of the judiciary is threatened. By allowing the General Assembly the power to restrict the facts, the ways facts are brought forth, and the standards by which a jury may evaluate facts, the protections embodied in the Seventh Amendment are endangered.