

As Engrossed: 3/11/91 3/26/91

1 **State of Arkansas**
2 **78th General Assembly**
3 **Regular Session, 1991**

A BILL ACT 1014 OF 1991
HOUSE BILL 1815

4 **By: Representatives Schexnayder, McCuiston, Parkerson and Lipton**

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For An Act To Be Entitled

8 "AN ACT TO AMEND ARKANSAS CODE § 7-5-805 TO PROVIDE THAT
9 AN ELECTION CONTEST CONCERNING A MEMBER OF THE *HOUSE OF*
10 *REPRESENTATIVES* SHALL BE FILED WITH THE STATE CLAIMS
11 COMMISSION WHO SHALL MAKE NON-BINDING RECOMMENDATION TO
12 THE *HOUSE OF REPRESENTATIVES*; TO AMEND ARKANSAS CODE § 19-
13 10-204 TO GRANT THE STATE CLAIMS COMMISSION JURISDICTION
14 OVER THE *HOUSE OF REPRESENTATIVES* ELECTION CONTESTS; TO
15 AMEND ARKANSAS CODE § 19-10-207 TO GRANT THE COMMISSION
16 THE AUTHORITY TO SUBPOENA WITNESSES AND RECORDS REGARDING
17 ELECTION CONTESTS; AND FOR OTHER PURPOSES."

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19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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21 *SECTION 1. Arkansas Code § 7-5-805 is hereby amended to read as*
22 *follows:*

23 *"7-5-805. Contest of state legislative offices.*

24 *(a) Any contest to the eligibility, qualifications, or election to*
25 *serve as a member of the Senate of the Arkansas General Assembly shall be in*
26 *accordance with the rules and procedures for election contests as established*
27 *by that chamber under its governing rules.*

28 *(b)(1) Any action to contest eligibility, qualification, or election to*
29 *serve as a member of the House of Representatives of the Arkansas General*
30 *Assembly shall be initiated by filing a complaint with the Arkansas State*
31 *Claims Commission. This procedure shall apply to House election contests*
32 *pursuant to Article 5, §11 of the Arkansas Constitution, to contests of*
33 *eligibility pursuant to Article 5, §9 of the Arkansas Constitution, and to*
34 *actions for expulsion pursuant to Article 5, §12 of the Arkansas Constitution.*

35 *(2) For House election contests, the complaint shall be filed*
36 *within fifteen (15) days after the election returns are certified by the*

1 county board of election commissioners. A responsive pleading shall be filed
2 by the House contestee within fifteen (15) days after receipt of the
3 complaint, unless an earlier or later date is set by the commission for good
4 cause shown. Upon receipt of the complaint, the commission shall establish a
5 schedule for discovery and hearing, which schedule shall allow the commission
6 to take and review evidence presented by the parties and submit a non-binding
7 recommendation to the House of Representatives no later than five (5) days
8 before the date fixed for the assembling of the Arkansas General Assembly.

9 (3) For eligibility contests for the House of Representatives
10 pursuant to Article 5, §9 of the Arkansas Constitution, a complaint shall be
11 filed at any time after the election of the individual to a seat in the House
12 of Representatives. For action for expulsion from the House of
13 Representatives pursuant to Article 5, §12 of the Arkansas Constitution, the
14 complaint shall be filed at any time permitted by law. A responsive pleading
15 shall be filed within twenty (20) days after receipt of the complaint, unless
16 an earlier or later date is set by the commission for good cause shown. The
17 commission shall establish a schedule for discovery and hearing, which
18 schedule shall allow the commission to take and review evidence presented by
19 the parties and submit a non-binding recommendation to the House of
20 Representatives in a timely fashion.

21 (4) An additional copy of all complaints filed pursuant to this
22 subsection shall be served on the Speaker of the House of Representatives.
23 The Speaker of the House shall appoint one (1) member of the chamber from each
24 political party to serve as ex-officio, non-voting members of the Claims
25 Commission for the consideration of all matters relating to the complaint.

26 (5) In these actions concerning a seat in the House of
27 Representatives, the recommendation is to be made to the Speaker of the House
28 of Representatives. The Speaker of the House, shall present the non-binding
29 recommendation to the members of the House and the members shall take such
30 actions as they deem appropriate.

31 (6) The commission is authorized to promulgate any rules and
32 regulations necessary to carry out the provisions set forth herein regarding
33 contests for the seats in the House of Representatives."

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35 SECTION 2. Arkansas Code § 19-10-204 is hereby amended to read as

1 follows:

2 "19-10-204. Jurisdiction.

3 (a) Except as otherwise provided by law, the Arkansas State Claims
4 Commission shall have exclusive jurisdiction over all claims against the State
5 of Arkansas and its several agencies, departments, and institutions but shall
6 have no jurisdiction of claims against municipalities, counties, school
7 districts, or any other political subdivisions of the state.

8 (b) The commission shall have no jurisdiction of, or authority with
9 respect to, claims arising under the Workers' Compensation Act, Employment
10 Security Act, Teacher Retirement Act, Public Employees Retirement Act, State
11 Police Retirement Act, or under laws providing for old age assistance grants,
12 child welfare grants, blind pensions, or any laws of a similar nature.

13 (c) The commission shall have jurisdiction over actions to contest
14 eligibility, qualification, or election to serve as a member of the *House of*
15 *Representatives of the* Arkansas General Assembly, for the purpose of making a
16 non-binding recommendation thereon to *that* chamber of the General Assembly."

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18 SECTION 3. Arkansas Code § 19-10-207 is hereby amended to read as
19 follows:

20 "19-10-207. Power to examine.

21 (a) The Director of the Arkansas State Claims Commission or any member
22 of the commission shall have the authority to administer oaths, to subpoena
23 witnesses, to examine any books, documents, or records that may be relevant to
24 any proceeding before the commission, and to require the production of any
25 such materials.

26 (b) In actions to contest the election of a member of the *House of*
27 *Representatives of the* General Assembly, the commission's general authority to
28 subpoena witnesses and documents shall specifically include the authority to
29 subpoena election officers and to subpoena any and all ballots cast or other
30 election records in the election at issue.

31 (c) If any claimant or witness to whom an oath has been administered as
32 provided in this section shall swear falsely to any fact material to the
33 investigation of a claim, such false swearing shall constitute perjury, and
34 the guilty party shall be subject to prosecution therefor.

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1 SECTION 4. All provisions of this act of general and permanent nature
2 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
3 Revision Commission shall incorporate the same in the Code.

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5 SECTION 5. If any provisions of this act or the application thereof to
6 any person or circumstance is held invalid, the invalidity shall not affect
7 other provisions or applications of the act which can be given effect without
8 the invalid provisions or application, and to this end the provisions of this
9 act are declared to be severable.

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11 SECTION 6. All laws and parts of laws in conflict with this act are
12 hereby repealed.

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15 */s/C. Schexnayder, et al*

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17 APPROVED: 4/8/91