

1 State of Arkansas
2 93rd General Assembly
3 Regular Session, 2021
4

A Bill

HOUSE BILL 1473

5 By: Representative Cloud
6

For An Act To Be Entitled

8 AN ACT TO REMOVE THE AUTHORIZATION FOR CASINO GAMING
9 IN POPE COUNTY; TO AMEND ARKANSAS CONSTITUTION,
10 AMENDMENT 100, PURSUANT TO THE AUTHORITY GRANTED BY
11 ARKANSAS CONSTITUTION, ARTICLE 5, § 1; TO DECLARE AN
12 EMERGENCY; AND FOR OTHER PURPOSES.
13
14

Subtitle

15 TO REMOVE THE AUTHORIZATION FOR CASINO
16 GAMING IN POPE COUNTY; TO AMEND ARKANSAS
17 CONSTITUTION, AMENDMENT 100; AND TO
18 DECLARE AN EMERGENCY.
19
20
21

22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
23

24 SECTION 1. DO NOT CODIFY. LEGISLATIVE INTENT. (a) The General
25 Assembly finds that:

26 (1) Arkansas Constitution, Article 5, § 1, provides that "[n]o
27 measure approved by a vote of the people shall be amended or repealed by the
28 General Assembly. . . except upon a yea and nay vote on roll call of two-
29 thirds of all the members elected to each house of the General Assembly . .
30 .";

31 (2) Arkansas Constitution, Article 5, § 1, defines a "measure"
32 to include any bill, law, resolution, ordinance, charter, constitutional
33 amendment or legislative proposal or enactment of any character;

34 (3) The plain language of the definition of "measure" in
35 Arkansas Constitution, Article 5, § 1, clearly includes amendments to the
36 Arkansas Constitution, meaning that the General Assembly may amend such



1 measures with a two-thirds (2/3) vote of each house;

2 (4) Despite observing that the definition of "measure" in
3 Arkansas Constitution, Article 5, § 1, includes "constitutional amendment(s)
4 or legislative proposals of any character", the Supreme Court in Arkansas
5 Game and Fish Commission v. Edgmon, 218 Ark. 207, 235 S.W.2d 554 (1951),
6 declined to construe the language literally and held that the General
7 Assembly lacked the power to amend or repeal amendments to the Arkansas
8 Constitution by a two-thirds (2/3) vote of each house;

9 (5) In Board of Trustees of the University of Arkansas v.
10 Andrews, 2018 Ark. 12 (2018), the Supreme Court overturned years of precedent
11 by holding that the General Assembly cannot waive by law the state's
12 sovereign immunity granted by Arkansas Constitution, Article 5, § 20;

13 (6) In reaching its decision in Andrews, supra, the Supreme
14 Court held that the language of Arkansas Constitution, Article 5, § 20,
15 should be interpreted "precisely as it reads";

16 (7) In Buonaiuto v. Gibson, 2020 Ark. 352, the Arkansas Supreme
17 Court noted that the phrase "four-lane highway" as used in Arkansas
18 Constitution, Amendment 91, had been "given a specific meaning that is plain
19 and unambiguous" and thus funds under Arkansas Constitution, Amendment 91,
20 could not be used to improve six-lane portions of interstate highways; and

21 (8) An interpretation of Arkansas Constitution, Article 5, § 1,
22 "precisely as it reads" clearly leads to the conclusion that the General
23 Assembly may amend all measures, including constitutional amendments, by a
24 two-thirds (2/3) vote of each house, as the term "measure" has been given a
25 plain and unambiguous definition in Arkansas Constitution, Article 5, § 1.

26 (b) By the passage of this act, the General Assembly expresses its
27 belief that, upon consideration of this act using the standard of review
28 established in Andrews, supra, the Supreme Court will:

29 (1) Interpret Arkansas Constitution, Article 5, § 1, precisely
30 as it reads in consideration of its plain and unambiguous language;

31 (2) Overturn its decision in Edgmon, supra, as inconsistent with
32 its holding in Andrews, supra, and Buonaiuto, supra; and

33 (3) Uphold the constitutional authority of the General Assembly
34 under Arkansas Constitution, Article 5, § 1, to amend or repeal amendments to
35 the Arkansas Constitution by a two-thirds (2/3) vote of each house.

36

1 SECTION 2. Arkansas Constitution, Amendment 100, § 4, subsections (i)
2 - (n), are amended to read as follows:

3 (i) The Arkansas Racing Commission shall issue ~~four~~ three casino
4 licenses.

5 (j) The Arkansas Racing Commission shall issue a casino license, as
6 provided in this Amendment, to a Franchise holder located in Crittenden
7 County, there being only one, to conduct casino gaming at a casino to be
8 located at or adjacent to the Franchise holder's greyhound racing track and
9 gaming facility as of December 31, 2017 in Crittenden County. The Arkansas
10 Racing Commission shall also issue a casino license, as provided in this
11 Amendment, to a Franchise holder located in Garland County, there being only
12 one, to conduct casino gaming at a casino to be located at or adjacent to the
13 Franchise holder's horse racing track and gaming facility as of December 31,
14 2017 in Garland County. Casino licenses to be issued to Franchise holders
15 shall be issued upon:

16 (1) Adoption by the Arkansas Racing Commission of rules
17 necessary to carry out the purposes of this Amendment; and

18 (2) Initial laws and appropriations required by this Amendment
19 being in full force and effect.

20 ~~(k) The Arkansas Racing Commission shall award a casino license to a~~
21 ~~casino applicant for a casino to be located in Pope County within two miles~~
22 ~~of the city limits of the county seat.~~ The Arkansas Racing Commission shall
23 also award a casino license to a casino applicant for a casino to be located
24 in Jefferson County within two miles of the city limits of the county seat.

25 (l) Casino licensees are required to conduct casino gaming for as long
26 as they have a license.

27 (m) The Arkansas Racing Commission shall require all casino applicants
28 for a casino license in ~~Pope County~~ and Jefferson County to demonstrate
29 experience conducting casino gaming.

30 (n) The Arkansas Racing Commission shall require all casino applicants
31 for a casino license in ~~Pope County~~ and Jefferson County to submit either a
32 letter of support from the county judge or a resolution from the quorum court
33 in ~~the county where the proposed casino is to be located~~ Jefferson County
34 and, if the proposed casino is to be located within a city or town, shall
35 also require all casino applicants to include a letter of support from the
36 mayor in the city or town where the applicant is proposing the casino to be

1 located.

2
 3 SECTION 3. RETROACTIVITY. This act is retroactive to November 14,
 4 2018.

5
 6 SECTION 4. EMERGENCY CLAUSE. It is found and determined by the
 7 General Assembly of the State of Arkansas that the statewide adoption of
 8 Arkansas Constitution, Amendment 100, has authorized casino gaming in Pope
 9 County despite the voters in that county rejecting the measure; that the
 10 conducting of casino gaming has a major impact on the public health and
 11 safety of the citizens of Pope County and should not be undertaken against
 12 the obvious public opinion on the issue; and that this act should become
 13 effective at the earliest opportunity to forestall any process to allow
 14 casino gaming in Pope County and preserve the public health and safety of the
 15 county. Therefore, an emergency is declared to exist, and this act being
 16 immediately necessary for the preservation of the public peace, health, and
 17 safety shall become effective on:

18 (1) The date of its approval by the Governor;

19 (2) If the bill is neither approved nor vetoed by the Governor,
 20 the expiration of the period of time during which the Governor may veto the
 21 bill; or

22 (3) If the bill is vetoed by the Governor and the veto is
 23 overridden, the date the last house overrides the veto.