

Stricken language would be deleted from and underlined language would be added to the Arkansas Constitution.

1 State of Arkansas
2 85th General Assembly
3 Regular Session, 2005

HJR 1011

4
5 By: Representative Ormond
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HOUSE JOINT RESOLUTION

9 PROPOSING A CONSTITUTIONAL AMENDMENT TO CHANGE
10 THE NUMBER OF SIGNATURES REQUIRED ON INITIATIVE
11 AND REFERENDUM PETITIONS; TO CHANGE THE PROCESS
12 FOR REVIEW OF INITIATIVE AND REFERENDUM PETITIONS
13 BY THE ATTORNEY GENERAL, THE SUPREME COURT, AND
14 THE SECRETARY OF STATE; AND FOR OTHER PURPOSES.

Subtitle

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17 PROPOSING A CONSTITUTIONAL AMENDMENT TO
18 CHANGE VARIOUS PROVISIONS OF AMENDMENT.
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21 BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE EIGHTY-FIFTH GENERAL
22 ASSEMBLY OF THE STATE OF ARKANSAS AND BY THE SENATE, A MAJORITY OF ALL
23 MEMBERS ELECTED TO EACH HOUSE AGREEING THERETO:
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25 That the following is proposed as an amendment to the Constitution of
26 the State of Arkansas, and upon being submitted to the electors of the state
27 for approval or rejection at the next general election for Representatives
28 and Senators, if a majority of the electors voting thereon at the election,
29 adopt the amendment, the amendment shall become a part of the Constitution of
30 the State of Arkansas, to wit:
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32 SECTION 1. Section 1 of Article 5 of the Arkansas Constitution is
33 amended to read as follows:

34 §1. Initiative and Referendum.

35 (a) The legislative power of the people of this State shall be vested
36 in a General Assembly, which shall consist of the Senate and House of



1 Representatives, but the people reserve to themselves the power to propose
 2 legislative measures, laws and amendments to the Constitution, and to enact
 3 or reject the same at the polls independent of the General Assembly; and also
 4 reserve the power, at their own option to approve or reject at the polls any
 5 entire act or any item of an appropriation bill.

6 (b) State-wide Petitions.

7 (1) Initiative. The first power reserved by the people is the
 8 initiative. ~~Eight per cent of the~~ Sixty thousand (60,000) legal voters or
 9 such other number as determined by an act of the General Assembly but in no
 10 event more than eight percent (8%) of the number of legal voters may propose
 11 any law. ~~and ten per cent~~ Eighty thousand (80,000) legal voters or such other
 12 number as determined by an act of the General Assembly but in no event more
 13 than ten percent (10%) of the number of legal voters may propose a
 14 constitutional amendment by initiative petition. ~~and every~~ Every such
 15 petition shall include the full text of the measure so proposed. Initiative
 16 petitions for state-wide measures shall be filed with the Secretary of State
 17 not less than four (4) months before the election at which they are to be
 18 voted upon; provided, that at least thirty (30) days before the
 19 aforementioned filing, the proposed measure shall have been published once,
 20 at the expense of the petitioners, in some paper of general circulation.
 21 Initiative petitions for state-wide measures shall be filed with the Attorney
 22 General no more than two (2) years and no less than one (1) year before the
 23 election at which they are to be voted upon. After filing a state-wide
 24 petition, the petitioner shall pay to the Attorney General a fee of one
 25 thousand dollars (\$1,000), or such other amount as established by the General
 26 Assembly.

27 (2) Referendum. The second power reserved by the people is the
 28 referendum, ~~and any number not less than six per cent of the.~~ Sixty thousand
 29 (60,000) legal voters or such other number as determined by an act of the
 30 General Assembly but in no event more than six percent (6%) of the number of
 31 legal voters may, by petition, order the referendum against any general Act,
 32 or any item of an appropriation bill, or measure passed by the General
 33 Assembly, but the filing of a referendum petition against one or more items,
 34 sections or parts of any such act or measure shall not delay the remainder
 35 from becoming operative. Such petition shall be filed with the Secretary of
 36 State not later than ninety (90) days after the final adjournment of the

1 session at which such Act was passed, except when a recess or adjournment
2 shall be taken temporarily for a longer period than ninety (90) days, in
3 which case such petition shall be filed not later than ninety (90) days after
4 such recess or temporary adjournment. Any measure referred to the people by
5 referendum petition shall remain in abeyance until such vote is taken. ~~The~~
6 ~~total number of votes cast for the office of Governor in the last preceding~~
7 ~~general election shall be the basis upon which the number of signatures of~~
8 ~~legal voters upon state wide initiative and referendum petitions shall be~~
9 ~~computed.~~

10 Upon all initiative or referendum petitions provided for in ~~any of the~~
11 ~~sections of this article~~ subsection (b) of this amendment, it shall be
12 necessary to file from at least fifteen (15) of the counties of the ~~State~~
13 state, petitions bearing the signature of not less than ~~one half of the~~
14 ~~designated percentage~~ one thousand (1,000) of the electors of such county.
15 The remaining signatures required by subsection (b) of this section may come
16 from any county or combination of counties.

17 (c) Emergency. If it shall be necessary for the preservation of the
18 public peace, health and safety that a measure shall become effective without
19 delay, such necessity shall be stated in one section, and if upon a yea and
20 nay vote two-thirds (2/3) of all the members elected to each house, or two-
21 thirds (2/3) of all the members elected to city or town councils, shall vote
22 upon separate roll call in favor of the measure going into immediate
23 operation, such emergency measure shall become effective without delay. It
24 shall be necessary, however, to state the fact which constitutes such
25 emergency. Provided, however, that an emergency shall not be declared on any
26 franchise or special privilege or act creating any vested right or interest
27 or alienating any property of the State. If a referendum is filed against any
28 emergency measure such measure shall be a law until it is voted upon by the
29 people, and if it is then rejected by a majority of the electors voting
30 thereon, it shall be thereby repealed. The provision of this sub-section
31 shall apply to city or town councils.

32 (d) Local for Municipalities and Counties. The initiative and
33 referendum powers of the people are hereby further reserved to the legal
34 voters of each municipality and county as to all local, special and municipal
35 legislation of every character in and for their respective municipalities and
36 counties, but no local legislation shall be enacted contrary to the

1 Constitution or any general law of the State, and any general law shall have
2 the effect of repealing any local legislation which is in conflict therewith.

3 Municipalities may provide for the exercise of the initiative and
4 referendum as to their local legislation. General laws shall be enacted
5 providing for the exercise of the initiative and referendum as to counties.
6 Fifteen per cent (15%) of the legal voters of any municipality or county may
7 order the referendum, or invoke the initiative upon any local measure. In
8 municipalities the number of signatures required upon any petition shall be
9 computed upon the total vote cast for the office of mayor at the last
10 preceding general election; in counties upon the office of circuit clerk. In
11 municipalities and counties the time for filing an initiative petition shall
12 not be fixed at less than sixty (60) days nor more than ninety (90) days
13 before the election at which it is to be voted upon; for a referendum
14 petition at not less than thirty (30) days nor more than ninety (90) days
15 after the passage of such measure by a municipal council; nor less than
16 ninety (90) days when filed against a local or special measure passed by the
17 General Assembly.

18 Every extension, enlargement, grant, or conveyance of a franchise or
19 any rights, property, easement, lease, or occupation of or in any road,
20 street, alley or any part thereof in real property or interest in real
21 property owned by municipalities, exceeding in value three hundred dollars
22 (\$300), whether the same be by statute, ordinance, resolution, or otherwise,
23 shall be subject to referendum and shall not be subject to emergency
24 legislation.

25 (e) General Provisions.

26 (1) Definition. The word "measure" as used herein includes any
27 bill, law, resolution, ordinance, charter, constitutional amendment or
28 legislative proposal or enactment of any character.

29 (2) No Veto. The veto power of the Governor or mayor shall not
30 extend to measures initiated by or referred to the people.

31 (3) Amendment and Repeal. No measure approved by a vote of the
32 people shall be amended or repealed by the General Assembly or by any city
33 council, except upon a yea and nay vote on roll call of two-thirds (2/3) of
34 all the members elected to each house of the General Assembly, or of the city
35 council, as the case may be.

36 (4) Election. All measures initiated by the people whether for

1 the State, county, city or town, shall be submitted only at the regular
 2 elections, either State, congressional or municipal, but referendum petitions
 3 may be referred to the people at special elections ~~to be called by the proper~~
 4 ~~official, and such special elections shall be called when fifteen per cent of~~
 5 ~~the legal voters shall petition for such special election, and if the~~
 6 ~~referendum is invoked as to any measure passed by a city or town council,~~
 7 ~~such city or town council may order a special election~~ if the referendum
 8 petition so states.

9 (5) Majority. Any measure submitted to the people as herein
 10 provided shall take effect and become a law when approved by a majority of
 11 the votes cast upon such measure, and not otherwise, and shall not be
 12 required to receive a majority of the electors voting at such election. Such
 13 measures shall be operative on and after the thirtieth day after the election
 14 at which it is approved, unless otherwise specified in the Act. This section
 15 shall not be construed to deprive any member of the General Assembly of the
 16 right to introduce any measure, but no measure shall be submitted to the
 17 people by the General Assembly, except a proposed constitutional amendment or
 18 amendments as provided for in this Constitution.

19 (6) Canvass and Declaration of Results. The result of the vote
 20 upon any State measure shall be canvassed and declared by the State Board of
 21 Election Commissioners (or legal substitute therefor); upon a municipal or
 22 county measure, by the county election commissioners (or legal substitute
 23 therefor).

24 (7) Conflicting Measures. If conflicting measures initiated or
 25 referred to the people shall be approved by a majority of the votes severally
 26 cast for and against the same at the same election, the one receiving the
 27 highest number of affirmative votes shall become law.

28 (f) The Petition.

29 (1) Title.

30 (A) At the time of filing state-wide petitions with the
 31 Attorney General, the exact title and popular name to be used on the ballot
 32 shall by the petitioners be submitted with the petition, and on state wide
 33 measures, shall be submitted to the State Board of Election Commissioners be
 34 submitted by the petitioner with the petition to the Attorney General, who
 35 shall certify such title to the Secretary of State, to be placed upon the
 36 ballot.

1 (B) At the time of filing petitions with the county clerk
2 on county and municipal measures such title shall be submitted to the county
3 election board and shall by said board be placed upon the ballot in such
4 county or municipal election.

5 (2) Limitation. No limitation shall be placed upon the number
6 of constitutional amendments, laws, or other measures which may be proposed
7 and submitted to the people by either initiative or referendum petition as
8 provided in this section. No petition shall be held invalid if it shall
9 contain a greater number of signatures than required herein.

10 (3) Verification. Only legal votes shall be counted upon
11 petitions. Petitions may be circulated and presented in parts, but each part
12 of any petition shall have attached thereto the affidavit of the person
13 circulating the same, that all signatures thereon were made in the presence
14 of the affiant, and that to the best of the affiant's knowledge and belief
15 each signature is genuine, and that the person signing is a legal voter and
16 no other affidavit or verification shall be required to establish the
17 genuineness of such signatures.

18 (4) Sufficiency of Popular Name or Ballot Title.

19 (A)(i) Within fifteen (15) calendar days of receiving a
20 petition on a state-wide measure, the Attorney General shall approve the
21 ballot title and the popular name or disapprove the ballot title or popular
22 name.

23 (ii) If the Attorney General fails to act within
24 fifteen (15) calendar days, the ballot title and popular name shall be deemed
25 approved.

26 (iii) If the Attorney General disapproves of the
27 ballot title or popular name, the petitioner may redraft the ballot title or
28 popular name and resubmit it to the Attorney General without the payment of
29 any additional fee.

30 (iv) No measure initiated by the people shall be
31 placed on the ballot unless the ballot title and popular name have been
32 approved by the Attorney General.

33 (B) Within fourteen (14) calendar days after the Attorney
34 General approves a petition, the petitioners shall cause the full text of the
35 petition to be published at least once, at the expense of the petitioners, in
36 some paper of general circulation in this state.

1 (C)(i) Any court challenge to the petition shall be filed
 2 directly with the Supreme court within forty-five (45) calendar days after
 3 the first publication of the full text of the petition.

4 (ii) The Attorney General shall defend all petitions
 5 filed with the Attorney General.

6 (D)(i) The Supreme Court shall issue its decision within
 7 sixty (60) calendar days after the court challenge is filed.

8 (ii) If the court does not strike the petition
 9 within sixty (60) calendar days, the petition is deemed valid and not subject
 10 to attack.

11 (iii)(a) If within sixty (60) calendar days, the
 12 Supreme Court either approves or fails to strike the petition, the petitioner
 13 shall file the petition with the Secretary of State and begin soliciting
 14 signatures.

15 (b) The petition may not be filed with the
 16 Secretary of State less than four (4) months before the election at which it
 17 is to be voted upon.

18 (5) Sufficiency of Signatures.

19 (A) The sufficiency of signatures on all State-wide state-
 20 wide initiative petitions shall be decided in the first instance by the
 21 Secretary of State. If within thirty (30) calendar days after receiving
 22 signed state-wide initiative petitions the Secretary of State determines the
 23 signatures to be insufficient, the petitioner shall be afforded an additional
 24 thirty (30) calendar days in which to collect signatures. Determinations
 25 concerning the sufficiency of signatures shall be subject to review by the
 26 Supreme Court of the State, which shall have original and exclusive
 27 jurisdiction over all such causes.

28 (B) The sufficiency of all local petitions shall be
 29 decided in the first instance by the county clerk or the city clerk as the
 30 case may be, subject to review by the ~~chancery~~ circuit court.

31 (6) Court Decisions. If the sufficiency of any petition is
 32 challenged such cause shall be a preference cause and shall be tried at
 33 once, but the The failure of the courts to decide prior to the election as
 34 to the sufficiency of any such municipal or county petition, shall not
 35 prevent the question from being placed upon the ballot at the election named
 36 in such petition, nor militate against the validity of such measure, if it

1 shall have been approved by a vote of the people.

2 (7) Amendment of Petition. If the Secretary of State, county
3 clerk or city clerk, as the case may be, shall decide any petition to be
4 insufficient, he or she shall without delay notify the ~~sponsors~~ sponsors of
5 such petition, and permit at least thirty (30) days from the date of such
6 notification, in the instance of a state-wide petition, or ten (10) days in
7 the instance of a municipal or county petition, for correction or amendment.
8 In the event of legal proceedings to prevent giving legal effect to any
9 petition upon any grounds, the burden of proof shall be upon the person or
10 persons attacking the validity of the petition.

11 (8) Unwarranted Restrictions Prohibited. No law shall be passed
12 to prohibit any person or persons from giving or receiving compensation for
13 circulating petitions, nor to prohibit the circulation of petitions, nor in
14 any manner interfering with the freedom of the people in procuring petitions;
15 but laws shall be enacted prohibiting and penalizing perjury, forgery, and
16 all other felonies or other fraudulent practices, in the securing of
17 signatures or filing of petitions.

18 (9) Publication. All measures submitted to a vote of the people
19 by petition under the provisions of this section shall be published as is
20 now, or hereafter may be provided by law.

21 (10) Enacting Clause. The style of all bills initiated and
22 submitted under the provisions of this section shall be, "Be It Enacted by
23 the People of the State of Arkansas, (municipality or county, as the case may
24 be)." In submitting measures to the people, the Secretary of State and all
25 other officials shall be guided by the general election laws or municipal
26 laws as the case may be until additional legislation is provided therefor.

27 (11) Self-Executing. This section shall be self-executing, and
28 all its provisions shall be treated as mandatory, but laws may be enacted to
29 facilitate its operation. No legislation shall be enacted to restrict, hamper
30 or impair the exercise of the rights herein reserved to the people.

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