

1 State of Arkansas

2 80th General Assembly

3 Regular Session, 1995

S.J.R.

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4 By: Senators Hardin, Beebe, Hopkins, Keet, Walters and Malone

5 By: Representatives Courtway, Willems, Cash, Wren, Bush, Critcher, Owens,

6 Hill, and Booker

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SENATE JOINT RESOLUTION

10 "PROPOSING AN AMENDMENT TO THE ARKANSAS CONSTITUTION
11 CONCERNING PROCEDURES IN THE REFERRAL, PUBLICATION, AND
12 LEGAL REVIEW OF CONSTITUTIONAL AMENDMENTS, STATEWIDE
13 INITIATIVES, AND STATEWIDE REFERENDUMS; BY MODIFYING
14 PROCEDURES FOR THE PUBLICATION AND LEGAL REVIEW OF
15 STATEWIDE INITIATIVES AND REFERENDUMS; AND BY AMENDING
16 ARTICLE 19, SECTION 22 TO MODIFY PROCEDURES FOR
17 PUBLICATION AND LEGAL REVIEW OF PROPOSED AMENDMENTS
18 SUBMITTED BY THE GENERAL ASSEMBLY AND PROVIDING THAT NO
19 MORE THAN FIVE AMENDMENTS MAY BE SUBMITTED BY THE GENERAL
20 ASSEMBLY."

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Subtitle

23 "PROPOSING AN AMENDMENT TO THE ARKANSAS CONSTITUTION
24 CONCERNING PROCEDURES IN THE REFERRAL, PUBLICATION, AND
25 LEGAL REVIEW OF CONSTITUTIONAL AMENDMENTS, STATEWIDE
26 INITIATIVES, AND STATEWIDE REFERENDUMS; BY MODIFYING
27 PROCEDURES FOR THE PUBLICATION AND LEGAL REVIEW OF
28 STATEWIDE INITIATIVES AND REFERENDUMS; AND BY AMENDING
29 ARTICLE 19, SECTION 22 TO MODIFYING PROCEDURES FOR
30 PUBLICATION AND LEGAL REVIEW OF PROPOSED AMENDMENTS
31 SUBMITTED BY THE GENERAL ASSEMBLY AND PROVIDING THAT NO
32 MORE THAT FIVE AMENDMENTS MAY BE SUBMITTED BY THE GENERAL
33 ASSEMBLY."

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1 BE IT RESOLVED BY THE SENATE OF THE EIGHTIETH GENERAL ASSEMBLY OF THE STATE
2 OF ARKANSAS AND BY THE HOUSE OF REPRESENTATIVES, A MAJORITY OF ALL MEMBERS
3 ELECTED TO EACH HOUSE AGREEING THERETO:

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5 That the following is hereby proposed as an amendment to the
6 Constitution of the State of Arkansas, and upon being submitted to the
7 electors of the state for approval or rejection at the next general election
8 for Senators and Representatives, if a majority of the electors voting
9 thereon at such election, adopt such amendment, the same shall become a part
10 of the Constitution of the State of Arkansas, to wit:

11

12 *SECTION 1. (a)(1) Before any statewide initiative or referendum*
13 *petition ordering a vote upon any amendment or act is circulated for*
14 *obtaining signatures of petitioners pursuant to Amendment 7 to the Arkansas*
15 *Constitution, the sponsors shall submit the original draft to the Attorney*
16 *General, with a proposed popular name and ballot title. The Attorney General*
17 *shall have the authority to require the sponsor to revise the proposed*
18 *popular name and ballot title and shall have the duty to approve and certify*
19 *a correct popular name and ballot title. Except as provided herein, the*
20 *procedure for such certification by the Attorney General shall be as is now*
21 *or hereafter provided by law.*

22 *(2) A popular name or ballot title certified by the Attorney General*
23 *for any statewide initiative or referendum shall be presumed to be sufficient*
24 *unless the Supreme Court determines that the popular name or ballot title is*
25 *clearly insufficient.*

26 *(b)(1) If a sponsor of any proposed statewide initiative elects to*
27 *submit its popular name and ballot title to the Attorney General for*
28 *certification prior to September 30 of the year preceding the year in which*
29 *the initiative would be voted on, then within ten (10) days of certification*
30 *by the Attorney General, who shall deliver such certification to the*
31 *Secretary of State on the day of certification, the Secretary of State shall*
32 *approve and certify the sufficiency of such popular name and ballot title as*
33 *was certified by the Attorney General, making no changes to such*
34 *certification, and shall cause to be published, as may be prescribed by law,*
35 *at the expense of the sponsor of the initiative, the entire proposal with its*

1 certified popular name and ballot title and a notice informing the public of
2 such certification and the procedure herein identified to govern any party
3 who may contest such certification before the Supreme Court. The procedure
4 to contest the certification shall be as follows:

5 (A) Any legal action against such certification shall be filed
6 with the Supreme Court within forty-five (45) days of the Secretary of
7 State's publication. No such action filed later than forty-five (45) days
8 following publication shall be heard by the Supreme Court;

9 (B) Upon a finding by the Supreme Court that the popular name
10 and ballot title are sufficient, the matter shall not be subject to further
11 challenge or judicial review. Upon a finding that the popular name or ballot
12 title is insufficient, the Supreme Court shall substitute and certify a
13 sufficient popular name or ballot title, which certification shall not be
14 subject to further challenge or judicial review;

15 (C) An action timely filed shall be advanced by the Supreme
16 Court as a matter of public interest over all other civil cases except
17 contested election cases and shall be heard and decided expeditiously.

18 (c) If the Attorney General or the Secretary of State refuses to act
19 as herein required or if the sponsors feel aggrieved at his acts under this
20 section, they may, by petition, apply to the Supreme Court for proper relief.

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22 SECTION 2. Article 19, Section 22 of the Arkansas Constitution is
23 amended to read as follows:

24 "§ 22. Constitutional amendments.

25 (a) Either branch of the General Assembly at a regular session thereof
26 may propose amendments to this Constitution, and shall designate a popular
27 name and ballot title for each, and if the same be agreed to by a majority of
28 all members elected to each house, such proposed amendments and their popular
29 names and ballot titles shall be entered on the journals with the yeas and
30 nays, and shall be published once by the Secretary of State, as may be
31 prescribed by law, within sixty (60) days of the final adjournment of the
32 regular session together with a notice informing the public of the procedure
33 herein identified to govern any party who may contest such popular name or
34 ballot title before the Supreme Court. The procedure to contest the popular
35 name and ballot title shall be as set forth in subsection (b)(2) hereof.

1 Additionally, such proposed amendments shall be published by the Secretary of
2 State once, as may be prescribed by law, not more than six (6) months nor
3 less than four (4) months immediately preceding the next general election for
4 Senators and Representatives, at which time the proposed amendment shall be
5 submitted to the electors of the State for approval or rejection. Any such
6 amendment shall become a part of this Constitution when approved by a
7 majority of the votes cast upon the amendment. No more than five amendments
8 shall be proposed or submitted at the same time. They shall be so submitted
9 as to enable the electors to vote on each amendment separately.

10 (b)(1) The Supreme Court shall have exclusive original jurisdiction
11 over any legal action challenging the sufficiency of the popular name and
12 ballot title or otherwise seeking to have a proposed amendment removed from
13 the ballot or to enjoin the counting or certification of votes on the
14 amendment. Such legal action shall be advanced by the Supreme Court as a
15 matter of public interest over all other civil cases except contested
16 election cases and shall be heard and decided expeditiously.

17 (2) Any legal action challenging the sufficiency of the popular name or
18 ballot title shall be filed with the Supreme Court within forty-five (45)
19 days of the publication by the Secretary of State in a newspaper with
20 statewide circulation. No such action filed more than forty-five (45) days
21 following such publication shall be heard by the Supreme Court.

22 (A) A popular name or ballot title designated by the General Assembly
23 shall be presumed to be sufficient unless the Supreme Court determines that
24 the popular name or ballot title is clearly insufficient.

25 (B) Upon a finding by the Supreme Court that the popular name and
26 ballot title are sufficient, the matter shall not be subject to further
27 challenge or judicial review. Upon a finding that the popular name or ballot
28 title is insufficient, the Supreme Court shall substitute and certify a
29 sufficient popular name or ballot title, which certification shall not be
30 subject to further challenge or judicial review."

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32 SECTION 3. The popular name of this amendment shall be as follows:

33 "An Amendment Concerning Statewide Initiative and Referendum Petitions,
34 Amendments Referred to Voters by the General Assembly, and Legal Challenges
35 to Ballot Titles."

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2 *SECTION 4. The ballot title of this amendment shall be as follows:*

3 *"An amendment to the Constitution of Arkansas concerning procedures in*
4 *the referral, publication, and legal review of proposed constitutional*
5 *amendments, statewide initiatives, and statewide referendums;*

6 *Requiring that the popular petitions be certified by the Attorney*
7 *General prior to circulating the petitions for signatures; defining the*
8 *authority and duty of the Attorney General in such certification and*
9 *permitting further definition by law; creating a presumption that such*
10 *certification is sufficient unless the Supreme Court determines the popular*
11 *name or ballot title to be clearly insufficient;*

12 *Providing that if a sponsor of a statewide initiative submits its*
13 *popular name and ballot title to the Attorney General for certification prior*
14 *to September 30 of the year preceding the year in which the initiative would*
15 *be voted on, then at the expense of the sponsor the Secretary of State shall*
16 *publish the Attorney General's certification, as may be prescribed by law;*
17 *requiring the publication to include the entire proposal with its certified*
18 *popular name and ballot title and a notice informing the public that any*
19 *legal action against the certification shall be filed with the Supreme Court*
20 *within forty-five (45) days of the publication and no action filed later*
21 *shall be heard, that if the Supreme Court finds the popular name and ballot*
22 *title sufficient, the matter shall not be subject to further challenge or*
23 *judicial review, that upon a finding of insufficiency, the Supreme Court*
24 *shall substitute and certify a sufficient popular name and ballot title,*
25 *which shall not be subject to further challenge or judicial review, and that*
26 *a timely filed legal action shall be advanced by the Supreme Court over all*
27 *but contested election cases and decided expeditiously; allowing sponsors to*
28 *petition the Supreme Court if aggrieved by the action or inaction of the*
29 *Attorney General or Secretary of State;*

30 *Amending Article 19, Section 22 of the Arkansas Constitution allowing*
31 *either branch of the General Assembly at a regular session to propose no more*
32 *than five amendments to the Arkansas Constitution at the same time,*
33 *designating a popular name and ballot title for each; requiring that a*
34 *majority of the members of each branch approve the amendments and their*
35 *popular names and ballot titles prior to their specified publication by the*

1 Secretary of State within sixty (60) days of final adjournment of the regular
2 session; requiring that the publication additionally include a notice
3 informing the public that any legal action challenging the sufficiency of the
4 popular name or ballot title shall be filed with the Supreme Court within
5 forty-five (45) days of the publication and no action filed later shall be
6 heard, that the popular name and ballot title shall be presumed to be
7 sufficient unless the Supreme Court determines the popular name or ballot
8 title to be clearly insufficient, that if the Supreme Court finds the popular
9 name and ballot title sufficient, the matter shall not be subject to further
10 challenge or judicial review, and that upon a finding of insufficiency, the
11 Supreme Court shall substitute and certify a sufficient popular name and
12 ballot title, which shall not be subject to further challenge or judicial
13 review;

14 *Providing that the Supreme Court shall have exclusive original*
15 *jurisdiction over any legal action challenging the sufficiency of the popular*
16 *name and ballot title or otherwise seeking to have a proposed amendment*
17 *removed from the ballot or to enjoin the counting or certification of votes*
18 *on the amendment; providing that such legal action shall be advanced by the*
19 *Supreme Court over all but contested election cases and decided*
20 *expeditiously; requiring that proposed amendments be published by the*
21 *Secretary of State once, as may be prescribed by law, not more than six (6)*
22 *months nor less than four (4) months immediately preceding the next general*
23 *election, at which time the amendments shall be submitted to the electors of*
24 *the State for approval or rejection and in a manner to enable the electors to*
25 *vote on each amendment separately; providing that any such amendment shall*
26 *become a part of the Arkansas Constitution when approved by a majority of the*
27 *votes cast upon the amendment; and for other purposes."*

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/s/Hardin

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