

1 State of Arkansas

Call Item No. 2

2 80th General Assembly

A Bill

3 First Extraordinary Session, 1995

HOUSE BILL

1005

4 By:

5 Representatives Dietz, Harris, Hudson, Malone, Willems, Critcher, Thicksten,
6 Hill, Bisbee, Roberts, Davis, and Cash

7

8

9

For An Act To Be Entitled

10 "AN ACT TO CALL A CONSTITUTIONAL CONVENTION WITH THE
11 AUTHORITY AND RESPONSIBILITY TO REVISE THE CONSTITUTION OF
12 THE STATE OF ARKANSAS; TO PRESCRIBE THE METHOD OF
13 SELECTING DELEGATES TO THE CONVENTION; TO PRESCRIBE THE
14 METHODS FOR RATIFYING THE CALL AND FOR SUBMISSION OF
15 PROPOSED REVISIONS OF THE CONSTITUTION TO A VOTE OF THE
16 PEOPLE; DECLARING AN EMERGENCY; AND FOR OTHER PURPOSES."

17

18

Subtitle

19 "TO CALL A CONSTITUTIONAL CONVENTION."

20

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

22

23 SECTION 1. FINDINGS AND DETERMINATIONS. It is hereby found and
24 determined by the General Assembly that many of the provisions of the
25 Arkansas Constitution of 1874, as amended, are not reasonable or appropriate
26 at the present time and do not reflect the needs of a modern and vital state
27 government and should be revised; and that the amendment process is not
28 sufficient to effect the necessary revisions. When the processes of free
29 government are to be modified, the people have a right to act, and this
30 right can be constitutionally exercised by means of legislative action of the
31 General Assembly and a vote of the people in providing by law for the call of
32 a constitutional convention to reconstruct and reform government.

33

34 SECTION 2. CONVENTION CALLED. There is hereby called, subject to
35 ratification by a statewide vote of the people as prescribed in this Act, a

1 Constitutional Convention for the purpose of drafting a new Constitution of
2 the State of Arkansas. The Convention shall be known as the “Arkansas
3 Constitutional Convention for the 21st Century.”

4

5 *SECTION 3. DELEGATES. The Convention shall be composed of sixty-one*
6 *(61) delegates.*

7 *(a) Thirty-five (35) delegates, nominated as set forth in Section 5 of*
8 *this act, shall be elected by popular vote, with one such delegate being*
9 *elected from each existing district of the Arkansas Senate by plurality vote*
10 *at a special election called for that purpose; and*

11 *(b) Twenty-six (26) delegates, nominated as set forth in this section,*
12 *who are members of the Arkansas General Assembly, shall be elected by popular*
13 *vote as a part of the decision by the people to call a Convention. Ten (10)*
14 *delegates shall come from members of the Senate and sixteen (16) delegates*
15 *shall come from members of the House of Representatives.*

16 *(c) The ten (10) delegates from the Senate shall be nominated by the*
17 *President Pro Tempore of the Arkansas Senate.*

18 *(d) The sixteen (16) delegates from the House of Representatives shall*
19 *be nominated by the Speaker of the House of Representatives. Four (4)*
20 *Representatives shall be nominated from each House Caucus District from a*
21 *list of not more than ten (10) Representatives submitted by the members of*
22 *the respective House Caucus Districts.*

23 *(e) The names of these twenty-six (26) nominees shall be certified by*
24 *the respective nominating officials to the Secretary of State no later than*
25 *five (5) days after the commencement of the district delegate filing period*
26 *established by the Governor’s Proclamation calling the special election*
27 *provided in Section 4 of this act.*

28 *(f) The provisions of Ark. Code Sec. 7-7-305 and/or any other similar*
29 *law regarding the form or length of the candidate’s name or other candidate*
30 *ballot information shall not apply to any ballot containing names of*
31 *candidates nominated from the General Assembly for delegate to the Convention*
32 *at any election conducted under this act. The Secretary of State shall*
33 *certify for the ballot the name of any such delegate. The delegate’s primary*
34 *occupation or profession, the delegate’s hometown, and the designation of*
35 *Senator or Sen. or Representative or Rep. shall appear on the ballot if*

1 possible.

2 (g) Delegates nominated from the General Assembly shall be submitted
3 for approval or disapproval as a group at the special election provided in
4 Section 4 of this act.

5 (h) In the event of a vacancy in any delegate position prior to the
6 convening of the Convention, the Governor shall fill such vacancy by
7 appointment with a replacement delegate who has the class qualifications of
8 the delegate being replaced. A delegate vacancy occurring after the
9 Convention is convened shall not be filled.

10

11 SECTION 4. SPECIAL ELECTION TO RATIFY CALL OF CONVENTION AND TO
12 ELECT OTHER DELEGATES.

13 (a) The question of whether or not to call a Constitutional
14 Convention and approve the *twenty-six (26)* delegates nominated to the
15 Convention from the General Assembly shall be submitted to the registered
16 voters of the state for adoption or rejection at a special election to be
17 called by the Governor. The question shall be in substantially the following
18 form:

19 (1) For calling a Constitutional Convention to
20 propose a new Constitution for the State of Arkansas, as provided in Act
21 ___ of the Acts of the First Extraordinary Session of the Eightieth (80th)
22 General Assembly of 1995, and subject to the terms of that Act, and electing
23 the nominated Convention delegates listed below:"

24 (Names of 26 nominated delegates from the General Assembly)

25 (2) Against calling a Constitutional Convention."

26 If a majority of the registered voters voting in the special
27 election vote for calling the Convention, the Convention shall proceed as set
28 forth in this Act. If a majority of the registered voters voting in the
29 special election vote against calling the Convention, the Convention shall
30 not be held.

31 (b) The thirty-five (35) district delegates described in Section
32 3(a) of this Act shall be elected at the same special election.

33

34 SECTION 5. PROCEDURE FOR ELECTION OF DISTRICT DELEGATES.

35 (a) On the date of the special election, candidates seeking

1 election as district delegates shall be at least twenty-one (21) years of
2 age, registered voters, and residents of the Senate District from which
3 election is sought for at least one (1) year.

4 (b) The election of delegates to the Convention shall be on a
5 nonpartisan basis, and no candidate shall designate political party
6 affiliation at the time of filing as a candidate for election.

7 (c)(1)(A) Each person desiring to be elected a district delegate
8 shall file with the Secretary of State nominating petitions with at least two
9 hundred (200) signatures thereon of persons who are registered voters within
10 the Senate district. No sheet of any nominating petition shall contain the
11 signatures of registered voters in more than one county within the Senate
12 district. To be considered legally sufficient, each voter signature shall be
13 accompanied by the voter's printed name, street address and date of birth.

14 (B) When filing nominating petitions, each candidate for
15 district delegate shall pay a filing fee of twenty-five dollars (\$25.00) to
16 the Secretary of State, said funds to be deposited as Special Revenues into
17 the State Central Services Fund to help defray costs associated with the
18 Convention.

19 (C) A statement signed by the candidate stating the
20 candidate's willingness to accept the nomination and serve as a delegate
21 shall be filed with the nominating petition.

22 (2) Persons who circulate nominating petitions shall
23 execute and file with each petition an affidavit concerning the genuineness
24 of the signatures in like manner and as now required for the circulators of
25 petitions for initiated acts and constitutional amendments.

26 (3) All candidates for delegate position shall file with
27 their nominating petitions a political practices pledge on a form provided by
28 the Secretary of State which substantially complies with Ark. Code Sec. 7-6-
29 102.

30 (4) The original and one photocopy of all nominating
31 petitions shall be filed with the Secretary of State not later than a date
32 and time set in the Governor's proclamation but in any event not less than
33 forty (40) days before the special election. The Secretary of State shall
34 distribute the petitions to the appropriate county clerks, who shall verify
35 the petition signatures and certify the number of verified signatures for

1 each delegate candidate to the Secretary of State within the time specified
2 in the Governor's proclamation of special election, but not later than
3 thirty-two (32) days prior to the date of the special election.

4 (d) The County Board of Election Commissioners shall include on
5 special election ballots the names of all candidates for delegate to the
6 Constitutional Convention as certified by the Secretary of State. The
7 provisions of Arkansas Code Section 7-5-407 shall not apply to the special
8 election provided for in Section 4 of this Act. The county board of election
9 commissioners shall prepare official absentee ballots and deliver them to the
10 county clerk for mailing to all qualified applicants as soon as practicable
11 before the last day on which the ballot will be counted but in any event not
12 less than twenty (20) days before the special election.

13 (e)(1) The candidate receiving the greatest number of the votes
14 cast in the special election shall be declared elected as the district
15 delegate to the Convention from each Senate district.

16 (2) A tie vote for a district delegate position shall be
17 determined by drawing lots in the presence of a judge of a court of record in
18 the Senate District within five (5) days from the date of the special
19 election.

20 (f) The results of the elections on calling the Convention and
21 electing delegates shall be certified to the Secretary of State in the manner
22 provided by law not later than seven (7) days after election day.

23 (g) The general election laws of the state shall apply to any
24 circumstance or situation not provided for in this Act.

25

26 **SECTION 6. OFFICIALS OF THE CONVENTION.**

27 (a) The President Pro Tempore of the Arkansas Senate and the
28 Speaker of the Arkansas House of Representatives, or their jointly designated
29 substitute if both are absent, shall alternate days presiding at meetings of
30 the Convention and shall perform other duties assigned to them by the
31 Convention. Neither presiding official, or their substitute if both are
32 absent, shall be entitled to vote on any matter before the Convention,
33 except in the event of a tie vote on any issue, when the presiding officer of
34 the day may cast a vote as a delegate.

35 (b) There shall be an Executive Committee of the Convention,

1 composed of the two presiding officers and four (4) delegate vice-presidents
2 elected by the delegates from the respective Congressional Districts.

3 (c) The Convention shall have a Secretary, and such other
4 officers of the Convention as the Convention shall designate. The Executive
5 Committee of the Convention shall select the Secretary of the Convention.
6 All officers of the Convention except the presiding officers and Secretary
7 shall be delegates. The Secretary shall perform such duties as the Executive
8 Committee or the Convention shall direct.

9

10 SECTION 7. ASSISTANCE TO CONVENTION.

11 (a) The Governor, Speaker of the House of Representatives, and
12 President Pro Tempore of the Senate may designate and are authorized to call
13 upon employees of the Office of the Governor, the Arkansas Legislative
14 Council, the House of Representatives, the Senate, and any other state agency
15 to provide information, support, and staff assistance to the Convention.

16 (b) The Governor, the Secretary of State, the Speaker of the
17 House of Representatives and the President Pro Tempore of the Senate are
18 authorized to make any public facilities under their control available for
19 use by the Convention.

20

21 SECTION 8. PROCEEDINGS.

22 (a) The delegates to the Convention shall assemble upon the call
23 of the Governor for an organizational session of no longer than two (2) days
24 duration, for the purposes of electing the Executive Committee, employment of
25 personnel to staff the Convention, and for such other organizational purposes
26 as the Convention may deem necessary. At that time each delegate to the
27 Convention shall take an oath to support the Constitution of the United
28 States and to discharge faithfully all duties as a delegate to the
29 Convention.

30 (b) A majority of the delegates serving shall constitute a
31 quorum, and thirty-four (34) votes shall be necessary for final adoption of
32 any measure by the Convention.

33 (c) At all sessions of the Convention, delegates shall be
34 addressed as "Mr.," "Mrs.," "Miss" or "Delegate," or other appropriate title,
35 except "Senator" or "Representative."

1 (d) The Executive Committee is empowered to act with respect to
2 organization and personnel matters between sessions of the Convention.

3 (e) Within seven (7) days following the organizational session,
4 the delegates to the Convention shall assemble for the regular session of the
5 Convention in the Chambers of the House of Representatives at the State
6 Capitol Building, or at another place designated by the Executive Committee.

7 (f) The first orders of business shall be the election of any
8 other officers desired by the Convention (other than the presiding officers,
9 Secretary, and the Executive Committee); the adoption of rules or procedures
10 to be followed by the Convention, including the time and place of recess; the
11 number and responsibilities of committees of the Convention; and the
12 employment of additional personnel to staff the Convention, within the
13 limitations of appropriations made therefor. The rules may specifically
14 provide that meetings of the Convention need not be conducted on days that
15 committee meetings are conducted.

16 (g) *The Convention shall meet for not more than thirty-two (32)*
17 *days between January 2, 1996, and March 15, 1996. The Convention shall*
18 *adjourn sine die not later than midnight March 15, 1996. The Convention*
19 *shall not meet on any day on which the Arkansas General Assembly is in*
20 *session, and no such day shall be charged against the days allowed to the*
21 *Convention.*

22 (h) The Convention shall draft a proposed new Constitution for
23 the State of Arkansas for submission to the registered voters of the state.

24 (I) Upon adjournment sine die, the presiding officers of the
25 Convention shall certify an official draft of the proposed new Constitution,
26 as approved by the Convention, to the Governor and the Secretary of State.

27 (j) All meetings of the Convention and each of its committees
28 shall be conducted in public.

29

30 SECTION 9. COMPENSATION. Each delegate to the Convention shall
31 be entitled to receive eighty-two dollars (\$82.00) per day for each day
32 actually engaged in the performance of duties as a Convention delegate. Such
33 per diem compensation shall be in addition to the legislative salary of a
34 delegate, but no delegate from the General Assembly shall receive legislative
35 per diem and per diem under this section for the same day. In addition, each

1 delegate shall be entitled to receive travel reimbursement at the rate of
2 thirty cents (30¢) per mile for one round trip from home to Little Rock and
3 return each week solely for the purpose of attending sessions of the
4 Convention, and for other travel on Convention business which is authorized
5 by the Executive Committee.

6
7 SECTION 10. TRANSCRIPT. A record of the Convention proceedings
8 shall be taken, kept, compiled and maintained as a public record. The
9 Executive Committee shall be responsible for the selection of the person or
10 persons who shall perform this work and the manner in which the record is
11 taken, kept, compiled and maintained.

12
13 SECTION 11. PUBLICATION OF DOCUMENT. At least thirty (30) days and
14 not more than sixty (60) days prior to the election at which the proposed
15 document shall be submitted to a vote of the people, the full text of the
16 proposed constitutional document certified to the Governor and the Secretary
17 of State shall be published one (1) time by the Secretary of State in each of
18 the seventy-five (75) counties in Arkansas, either by (1) insertion of
19 preprinted copies of the proposed new Constitution or (2) as a legal notice
20 in legal newspapers (as defined in Ark. Code Ann. § 16-3-105) having general
21 circulation in one or more counties. If preprinted copies are used, they
22 shall be furnished by the Secretary of State to each such newspaper and to
23 public libraries without charge, shall be in tabloid format and shall be
24 printed in not less than eight-point type. Funding for such publication may
25 be from appropriated public funds, or private funds, or both.

26
27 SECTION 12. POPULAR VOTE. Any new Constitution proposed by the
28 Convention shall be submitted to the registered voters of the state for
29 adoption or rejection at either a special election to be held at the call of
30 the Governor given at least ninety (90) days prior to the special election,
31 or *at the general election in November 1996, at the option of the Governor.*

32
33 SECTION 13. ADDITIONAL AUTHORITY. This Act provides an additional
34 method of calling a Constitutional Convention and does not limit, modify, or
35 repeal the method provided in Ark. Code Ann. § 7-9-301-312.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35

SECTION 14. CONSTRUCTION. This Act shall be construed liberally to effectuate the legislative intent and the purposes of this Act as complete and independent authority for the performance of each and every act and thing authorized in this Act, and all powers granted in this Act shall be broadly interpreted to effectuate that intent and those purposes and not as a limitation of powers.

SECTION 15. CODE PROVISION. All provisions of this act of a general and permanent nature are amendatory to the Arkansas Code of 1987 Annotated, and the Arkansas Code Revision Commission shall incorporate the same in the Code.

SECTION 16. SEVERABILITY CLAUSE. If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

SECTION 17. REPEALER. All laws and parts of laws in conflict with this Act are hereby repealed.

SECTION 18. EMERGENCY. It is hereby found and determined by the General Assembly that there is an immediate and urgent need for constitutional revision in Arkansas. Since many parts of the Constitution of Arkansas are archaic, obsolete, and unrelated to the needs and demands of the citizens for good government in both the state and local governments; and since the number and types of changes needed are not suitable for piecemeal amendment of the present Constitution; an emergency is hereby declared to exist, and this Act is declared to be necessary for the immediate preservation of the public peace, health and safety and shall be in full force and effect from and after its passage and approval.

/s/James Dietz

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10