

1 State of Arkansas

Call Item No. 2

2 80th General Assembly

# A Bill

3 First Extraordinary Session, 1995

HOUSE BILL

1012

4 By: Representative Flanagin

5

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7

## For An Act To Be Entitled

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

15

16

## Subtitle

17

"TO CALL A CONSTITUTIONAL CONVENTION."

18

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

20

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

31

32 SECTION 2. CONVENTION CALLED. There is hereby called, subject to  
33 ratification by a statewide vote of the people as prescribed in this Act, a  
34 Constitutional Convention for the purpose of drafting a new Constitution of  
35 the State of Arkansas. The Convention shall be known as the "Arkansas

1 Constitutional Convention for the 21st Century.”

2

3 SECTION 3. DELEGATES. The Convention shall be composed of sixty-  
4 seven (67) delegates.

5 (a) Thirty-five (35) delegates, nominated as set forth in Section  
6 5 of this Act, shall be elected by popular vote, with one such delegate being  
7 elected from each existing district of the Arkansas Senate by plurality vote  
8 at a special election called for that purpose; and

9 (b) Thirty-two (32) delegates, nominated as set forth in this  
10 Section, who are members of the Arkansas General Assembly, shall be elected  
11 by popular vote as a part of the decision by the people to call a convention.  
12 Sixteen (16) delegates shall come from members of the Senate and sixteen  
13 (16) delegates shall come from members of the House of Representatives.

14 (c) The twelve (12) delegates from the Senate shall be jointly  
15 nominated by the Governor and the President Pro Tempore of the Arkansas  
16 Senate. Three (3) Senators shall be nominated from each Congressional  
17 District from a list of six (6) Senators submitted by the Senate members of  
18 the respective Congressional Districts.

19 (d) The twenty (20) delegates from the House of Representatives  
20 shall be jointly nominated by the Governor and Speaker of the House of  
21 Representatives. Five (5) Representatives shall be nominated from each House  
22 Caucus District from a list of ten (10) Representatives submitted by the  
23 members of the respective House Caucus Districts.

24 (e) The names of these thirty-two (32) nominees shall be  
25 certified by the respective nominating officials to the Secretary of State no  
26 later than five (5) days after the commencement of the district delegate  
27 filing period established by the Governor's Proclamation calling the special  
28 election provided in Section 4 of this Act.

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

1 Senator or Representative.

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

5 (h) In the event of a vacancy in any delegate position prior to  
 6 the 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 thirty-two (32) 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 32 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 in regular session for a period not  
17 to exceed thirty (30) calendar days, except that the Convention, by a vote of  
18 three-fourths ( $\frac{3}{4}$ ) of its full membership may extend the regular session by  
19 not more than ten (10) additional calendar days. The Convention shall not  
20 meet on any day on which the Arkansas General Assembly is in session, and no  
21 such day shall be charged against the days allowed to the 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.

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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.

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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.

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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 If the proposed Constitution fails at an earlier special election, the  
33 Governor may also submit the document to the people a second time at the  
34 General Election of November, 1996.

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

4  
 5 SECTION 14. CONSTRUCTION. This Act shall be construed liberally  
 6 to effectuate the legislative intent and the purposes of this Act as complete  
 7 and independent authority for the performance of each and every act and thing  
 8 authorized in this Act, and all powers granted in this Act shall be broadly  
 9 interpreted to effectuate that intent and those purposes and not as a  
 10 limitation of powers.

11  
 12 SECTION 15. CODE PROVISION. All provisions of this act of a  
 13 general and permanent nature are amendatory to the Arkansas Code of 1987  
 14 Annotated, and the Arkansas Code Revision Commission shall incorporate the  
 15 same in the Code.

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

22  
 23 SECTION 17. REPEALER. All laws and parts of laws in conflict with  
 24 this Act are hereby repealed.

25  
 26 SECTION 18. EMERGENCY. It is hereby found and determined by the  
 27 General Assembly that there is an immediate and urgent need for  
 28 constitutional revision in Arkansas. Since many parts of the Constitution of  
 29 Arkansas are archaic, obsolete, and unrelated to the needs and demands of the  
 30 citizens for good government in both the state and local governments; and  
 31 since the number and types of changes needed are not suitable for piecemeal  
 32 amendment of the present Constitution; an emergency is hereby declared to  
 33 exist, and this Act is declared to be necessary for the immediate  
 34 preservation of the public peace, health and safety and shall be in full  
 35 force and effect from and after its passage and approval.

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