

1 State of Arkansas
2 80th General Assembly
3 First Extraordinary Session, 1995

Call Item No. 2

A Bill

SENATE BILL 2

4 By: Senators Bell, Bookout, Cassady, Hopkins, Fitch, Bearden, Canada, Wilson,
5 Todd, Hoofman, Mahony, Russ, Walker, and Edwards

6
7
8

For An Act To Be Entitled

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

16
17
18
19

Subtitle

"TO CALL A CONSTITUTIONAL CONVENTION."

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

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

32

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

1 the State of Arkansas. The Convention shall be known as the “Arkansas
2 Constitutional Convention for the 21st Century.”

3

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

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

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

15 (c) The sixteen (16) delegates from the Senate shall be jointly
16 nominated by the Governor and the President Pro Tempore of the Arkansas
17 Senate. Four (4) Senators shall be nominated from each Congressional
18 District from a list of six (6) Senators submitted by the Senate members of
19 the respective Congressional Districts.

20 (d) The sixteen (16) delegates from the House of
21 Representatives shall be jointly nominated by the Governor and Speaker of the
22 House of Representatives. Four (4) Representatives shall be nominated from
23 each House Caucus District from a list of ten (10) Representatives submitted
24 by the members of the respective House Caucus Districts.

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

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

1 occupation or profession, the delegate’s hometown, and the designation of
2 Senator or Representative.

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

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

11

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

14 (a) The question of whether or not to call a Constitutional
15 Convention and approve the thirty-two (32) delegates nominated to the
16 Convention from the General Assembly shall be submitted to the registered
17 voters of the state for adoption or rejection at a special election to be
18 called by the Governor. The question shall be in substantially the following
19 form:

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

25 (Names of 32 nominated delegates from the General Assembly)

26 (2) “ Against calling a Constitutional Convention.”

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

32 (b) The thirty-five (35) district delegates described in Section
33 3(a) of this Act shall be elected at the same special election.

34

35 SECTION 5. PROCEDURE FOR ELECTION OF DISTRICT DELEGATES.

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

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

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

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

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

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

27 (3) All candidates for delegate position shall file with
28 their nominating petitions a political practices pledge on a form provided by
29 the Secretary of State which substantially complies with Ark. Code Sec. 7-6-
30 102.

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

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

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

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

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

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

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

26

27 SECTION 6. OFFICIALS OF THE CONVENTION.

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

1 (b) There shall be an Executive Committee of the Convention,
2 composed of the two presiding officers and four (4) delegate vice-presidents
3 elected by the delegates from the respective Congressional Districts.

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

10

11 SECTION 7. ASSISTANCE TO CONVENTION.

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

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

21

22 SECTION 8. PROCEEDINGS.

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

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

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

1 except "Senator" or "Representative."

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

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

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

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

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

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

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

30

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

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

7

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

13

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

27

28 SECTION 12. POPULAR VOTE. Any new Constitution proposed by the
29 Convention shall be submitted to the registered voters of the state for
30 adoption or rejection at either a special election to be held at the call of
31 the Governor given at least ninety (90) days prior to the special election,
32 or at the General Election in November, 1996, at the option of the Governor.
33 If the proposed Constitution fails at an earlier special election, the
34 Governor may also submit the document to the people a second time at the
35 General Election of November, 1996.

1

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

5

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

12

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

17

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

23

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

26

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

1 force and effect from and after its passage and approval.

2

3

4

5

6

7

8

9