

State of Arkansas

82nd General Assembly

Regular Session, 1999

# A Bill

HOUSE BILL 1806

By: Representative Napper

## For An Act To Be Entitled

"AN ACT TO AMEND THE ARKANSAS CODE PERTAINING TO THE  
PROCEDURE FOR DECIDING CASES IN THE COURT OF APPEALS;  
AND FOR OTHER PURPOSES. "

## Subtitle

"AN ACT TO ELIMINATE TIE VOTES IN  
DECISIONS BY THE COURT OF APPEALS. "

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

SECTION 1. Arkansas Code 16-12-113 is amended to read as follows:

"16-12-113. Decisions of court.

The decision of a division must be unanimous. If the decision is not unanimous, the case shall be resubmitted under rules prescribed by the Court of Appeals to the original division to which the case was submitted and to another of the divisions authorized by § 16-12-109. The two (2) divisions shall then decide the case by majority vote; however, if there is a tie vote, ~~the decision appealed from shall be affirmed~~ the case shall be resubmitted under rules prescribed by the Court of Appeals to the two (2) divisions that voted to decide the case with a tie vote and another of the divisions authorized by Arkansas Code 16-12-109. The three (3) divisions shall then decide the case by majority vote."

SECTION 2. Arkansas Code 16-12-114 is amended to read as follows:

"16-12-114. Rehearings.

(a) A party aggrieved by the decision of a division of the Court of Appeals shall have the right to petition for a rehearing which shall be

1 decided under rules prescribed by the Court of Appeals by the original  
2 division which decided the case and by another of the divisions authorized by  
3 § 16-12-109. If the petition is granted, the rehearing shall be decided by the  
4 majority vote of the two (2) divisions which granted the rehearing, and, if  
5 there is a tie vote on rehearing, ~~the decision of the original division shall~~  
6 stand the rehearing shall be decided by the majority vote of the two (2)  
7 divisions that rendered the tie vote on rehearing and another of the divisions  
8 authorized by Arkansas Code 16-12-109.

9 (b) Petitions for rehearing in cases decided by the vote of two (2)  
10 divisions sitting together shall be decided in the same manner provided in  
11 subsection (a) of this section by the same divisions which made the original  
12 decision, subject to an additional division joining in the event of a tie  
13 vote. Petitions for rehearing in cases decided by the vote of three (3)  
14 divisions sitting together shall be decided in the same manner provided in  
15 subsection (a) of this section by the same divisions that made the original  
16 decision.

17 (c) Motions filed in the Court of Appeals shall be submitted to and  
18 decided by at least two (2) divisions sitting together, under rules prescribed  
19 by the Court of Appeals."

20  
21 SECTION 3. All provisions of this act of a general and permanent nature  
22 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code  
23 Revision Commission shall incorporate the same in the Code.

24  
25 SECTION 4. If any provision of this act or the application thereof to  
26 any person or circumstance is held invalid, such invalidity shall not affect  
27 other provisions or applications of the act which can be given effect without  
28 the invalid provision or application, and to this end the provisions of this  
29 act are declared to be severable.

30  
31 SECTION 5. All laws and parts of laws in conflict with this act are  
32 hereby repealed.