1	State of Arkansas	As Engrossed: H3/22/01 H3/27/01		
2	83rd General Assen	ably		
3	Regular Session, 20	01	HJR	1008
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5	By: Representative Ormond			
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8		HOUSE JOINT RESOLUTION		
9		PROPOSING A CONSTITUTIONAL AMENDMENT TO CHANGE		
10		THE NUMBER OF SIGNATURES REQUIRED ON INITIATIVE		
11		AND REFERENDUM PETITIONS; TO CHANGE THE PROCESS		
12		FOR REVIEW OF INITIATIVE AND REFERENDUM PETITIONS		
13		BY THE ATTORNEY GENERAL, THE SUPREME COURT AND		
14		THE SECRETARY OF STATE; AND FOR OTHER PURPOSES.		
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16		Subtitle		
17		PROPOSING A CONSTITUTIONAL AMENDMENT TO		
18		CHANGE VARIOUS PROVISIONS OF AMENDMENT		
19		7.		
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21				
22	BE IT RESOLVED	BY THE HOUSE OF REPRESENTATIVES OF THE EIGHTY-THIRD G	SENERA	L
23	ASSEMBLY OF THE	E STATE OF ARKANSAS AND BY THE SENATE, A MAJORITY OF A	LL ME	MBERS
24	ELECTED TO EACH	HOUSE AGREEING THERETO:		
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26	That the	following is hereby proposed as an amendment to the		
27	Constitution of	f the State of Arkansas, and upon being submitted to t	he	
28	electors of the	e state for approval or rejection at the next general	el ecti	on
29	for Representat	ives and Senators, if a majority of the electors voti	ng the	ereon
30	at such electio	on, adopt such amendment, the same shall become a part	of tl	าย
31	Constitution of	f the State of Arkansas, to wit:		
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33	Amend. 7. Init	iative and Referendum		
34	SECTI ON 1	I. The legislative power of the people of this State	shal I	be
35	vested in a Ger	neral Assembly, which shall consist of the Senate and	House	of
36	Representatives	s, but the people reserve to themselves the power to ${\sf p}$	ropose	Э

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1 legislative measures, laws and amendments to the Constitution, and to enact or 2 eject the same at the polls independent of the General Assembly; and also 3 reserve the power, at their own option, to approve or reject at the polls any 4 entire act or any item of an appropriation bill.

6 State Wide Petitions 7 SECTION 2. Initiative - The first power reserved by the people is the 8 initiative. Eight per cent of the Twenty thousand (20,000) legal voters may 9 propose any law and ten per cent twenty thousand (20,000) may propose a 10 Constitutional Amendment by initiative petition, and every such petition shall 11 include the full text of the measure so proposed. Initiative petitions for 12 State-wide measures shall be filed with the Secretary of State not less than 13 four months before the election at which they are to be voted upon; provided, 14 that at least thirty days before the aforementioned filing, the proposed 15 measure shall have been published once, at the expense of the petitioners, in 16 some paper of general circulation. Initiative petitions for State-wide measures shall be filed with the Attorney General no more than two (2) years 17 18 and no less than one (1) year before the election at which they are to be 19 voted upon. Upon filing a state-wide petition, the petitioner shall pay to 20 the Attorney General a fee to be established by the General Assembly.

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22 SECTION 3. Referendum - The second power reserved by the people is the 23 referendum, and any number not less than six per cent of the Twenty thousand (20,000) legal voters may, by petition, order the referendum against any 24 25 general act, or any item of an appropriation bill, or measure passed by the 26 General Assembly, but the filing of a referendum petition against one or more 27 items, sections or parts of any such act or measure shall not delay the 28 remainder from becoming operative. Such petition shall be filed with the 29 Secretary of State not later than ninety days after the final adjournment of 30 the session at which such act was passed, except when a recess or adjournment 31 shall be taken temporarily for a longer period than ninety days, in which case 32 such petition shall be filed not later than ninety days after such recess or 33 temporary adjournment. Any measure referred to the people by referendum petition shall remain in abeyance until such vote is taken. The total number 34 35 of votes cast for the office of Governor in the last preceding general 36 election shall be the basis upon which the number of signatures of legal

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1 voters upon State-wide initiative and referendum petitions shall be computed.

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<u>SECTION 4.</u> Upon all initiative or referendum petitions provided for in any of the sections <u>six through nine of this amendment</u>, it shall be necessary to file, from at least fifteen of the counties of the State, *petitions bearing the signature of not less than one-half of the designated percentage one thousand (1,000) of the electors of such county.* <u>The remaining signatures</u> <u>required by Section 2 may come from any county or combination of counties.</u>

10 SECTION 5. Emergency - If it shall be necessary for the preservation of 11 the public peace, health and safety that a measure shall become effective 12 without delay, such necessity shall be stated in one section, and if upon a 13 yea and nay vote two-thirds of all the members elected to each house, or two-14 thirds of all the members elected to city or town councils, shall vote upon 15 separate roll call in favor of the measure going into immediate operation, 16 such emergency measure shall become effective without delay. It shall be 17 necessary, however, to state the fact which constitutes such emergency. 18 Provided, however, that an emergency shall not be declared on any franchise or 19 special privilege or act creating any vested right or interest or alienating 20 any property of the State. If a referendum is filed against any emergency 21 measure such measure shall be a law until it is voted upon by the people, and 22 if it is then rejected by a majority of the electors voting thereon, it shall 23 be thereby repealed. The provisions of this subsection shall apply to city or town councils. 24

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Local Petitions

27 <u>SECTION 6.</u> Municipalities and Counties - The initiative and referendum 28 powers of the people are hereby further reserved to the local voters of each 29 municipality and county as to all local, special and municipal legislation of 30 every character in and for their respective municipalities and counties, but 31 no local legislation shall be enacted contrary to the Constitution or any 32 general law of the State, and any general law shall have the effect of 33 repealing any local legislation which is in conflict therewith.

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35 <u>SECTION 7.</u> Municipalities may provide for the exercise of the 36 initiative and referendum as to their legal legislation.

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2 SECTION 8. General laws shall be enacted providing for the exercise of 3 the initiative and referendum as to counties. Fifteen per cent of the legal 4 voters of any municipality or county may order the referendum, or invoke the initiative upon any local measures. In municipalities the number of signatures 5 6 required upon any petition shall be computed upon the total vote cast for the 7 office of mayor at the last preceding general election; in counties, upon the office of Circuit Clerk. In municipalities and counties the time for filing 8 9 an initiative petition shall not be fixed at less than sixty days nor more 10 than ninety days before the election at which it is to be voted upon; for a 11 referendum petition at not less than thirty days nor more than ninety days 12 after the passage of such measure by a municipal council; nor less than ninety 13 days when filed against a local or special measure passed by the General 14 Assembly.

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16 SECTION 9. Every extension, enlargement, grant, or conveyance of a 17 franchise or any rights, property, easement, lease, or occupation of or in any 18 road, street, alley or any part thereof in real property or interest in real 19 property owned by municipalities, exceeding in value three hundred dollars, 20 whether the same be by statute, ordinance, resolution, or otherwise, shall be 21 subject to referendum and shall not be subject to emergency legislation. 22

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General Provisions

SECTION 10. Definition - The word "measure" as used herein includes any 24 25 bill, law, resolution, ordinance, charter, constitutional amendment or 26 legislative proposal or enactment of any character.

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28 SECTION 11. No Veto - The veto power of the Governor or Mayor shall not 29 extend to measures initiated by or referred to the people.

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31 SECTION 12. Amendment and Repeal - No measure approved by a vote of the 32 people shall be amended or repealed by the General Assembly or by any City 33 Council, except upon a yea and nay vote on roll call of two-thirds of all the members elected to each house of the General Assembly, or of the City Council, 34 35 as the case may be.

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1 SECTION 13. Election - All measures initiated by the people, whether 2 for the State, county, city or town, shall be submitted only at the regular 3 elections, either State, congressional or municipal, but referendum petitions 4 may be referred to the people at special elections to be called by the proper official, and such special elections shall be called when fifteen per cent of 5 6 the legal voters shall petition for such special election, and if the 7 referendum is invoked as to any measure passed by a city or town council, such city or town council may order a special election if the referendum petition 8 9 so states.

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11 <u>SECTION 14.</u> Majority - Any measure submitted to the people as herein 12 provided shall take effect and become a law when approved by a majority of the 13 votes cast upon such measure, and not otherwise, and shall not be required to 14 receive a majority of the electors voting at such elections. Such measures 15 shall be operative on and after the 30th day after the election at which it is 16 approved, unless otherwise specified in the act.

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18 <u>SECTION 15.</u> This section shall not be construed to deprive any member 19 of the General Assembly of the right to introduce any measure, but no measure 20 shall be submitted to the people by the General Assembly, except a proposed 21 constitutional amendment or amendments as provided for in this Constitution. 22

23 <u>SECTION 16.</u> Canvass and Declaration of Results - The result of the vote 24 upon any State measure shall be canvassed and declared by the State Board of 25 Election Commissioners (or legal substitute therefor); upon a municipal or 26 county measure, by the County Election Commissioners (or legal substitute 27 therefor).

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29 <u>SECTION 17.</u> Conflicting Measures - If conflicting measures initiated or 30 referred to the people shall be approved by a majority of the votes severally 31 cast for and against the same at the same election, the one receiving the 32 highest number of affirmative votes shall become law.

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The Petition <u>SECTION 18.</u> Title – <u>(a)</u> At the time of filing <u>state-wide</u> petitions <u>with</u> the *Attorney General* the exact title to be used on the ballot shall by the 1 petitioner be submitted with the petition, and on State-wide measures, shall

2 be submitted to the State Board of Election Commissioners Attorney General,

3 who shall certify such title to the Secretary of State, to be placed upon the
4 ballot÷.

5 (b) At the time of filing petitions with the *County Clerk* on county and 6 municipal measures such title shall be submitted to the County Election Board 7 and shall by said board be placed upon the ballot in such county or municipal 8 election.

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10 <u>SECTION 19.</u> Limitation - No limitation shall be placed upon the number 11 of constitutional amendments, laws, or other measures which may be proposed 12 and submitted to the people by either initiative or referendum petition as 13 provided in this section. No petition shall be held invalid if it shall 14 contain a greater number of signatures than required herein.

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16 SECTION 20. Verification - Only legal votes shall be counted upon 17 petitions. Petitions may be circulated and presented in parts, but each part 18 of any petition shall have attached thereto, the affidavit of the persons 19 circulating the same, that all signatures thereon were made in the presence of 20 the affiant, and that to the best of the affiant's knowledge and belief each 21 signature is genuine, and that the person signing is a legal voter, and no 22 other affidavit or verification shall be required to establish the genuineness 23 of such signatures.

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25 SECTION 21. Sufficiency of Petitions - (a)(1) Within thirty (30) 26 calendar days of receiving a petition on a State-wide measure, the Attorney 27 General shall approve or disapprove the ballot title, popular name and text. (2) If the Attorney General fails to act within thirty (30) 28 29 calendar days, the ballot title, popular name and text shall be deemed 30 approved. 31 (3) If the Attorney General disapproves of the ballot title, popular name or text, the Attorney General shall correct the ballot title, 32 33 popular name or text. (b) Within fourteen (14) calendar days after the Attorney General 34 35 approves a petition, the petitioners shall cause the full text of the petition 36 to be published at least once, at the expense of the petitioners, in some

1	paper of general circulation in this state.
2	(c)(1) Any court challenge to the petition shall be filed directly with
3	<u>the Supreme Court within forty-five (45) calendar days after the first</u>
4	publication of the full text of the petition.
5	(2) The Attorney General shall defend all petitions filed with
6	the Attorney General.
7	(d)(1) The Supreme Court shall issue its decision within sixty (60)
8	calendar days after the court challenge is filed.
9	(2) If the court does not strike the petition within sixty (60)
10	calendar days, the petition is deemed valid and not subject to attack.
11	(3) If within sixty (60) calendar days, the Supreme Court either
12	approves or fails to strike the petition, the petitioner shall file the
13	petition with the Secretary of State and begin soliciting signatures, but in
14	no event may the petition be filed with the Secretary of State less than four
15	(4) months before the election at which they are to be voted upon.
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17	<u>SECTION 22. Sufficiency of Signatures.</u> The sufficiency of <u>signatures</u>
18	on all State-wide initiative petitions shall be decided in the first instance
19	by the Secretary of State $_{ au}$. Within thirty (30) calendar days after receiving
20	signed State-wide initiative petitions, the Secretary of State shall determine
21	the sufficiency of the signatures. If the Secretary of State determines the
22	signatures to be insufficient, the petitioner shall be afforded an additional
23	thirty (30) calendar days in which to collect signatures. Determinations
24	<u>concerning the sufficiency of signatures shall be</u> subject to review by the
25	Supreme Court of the State, which shall have original and exclusive
26	jurisdiction over all such causes. The sufficiency of all local petitions
27	shall be decided in the first instance by the county clerk or the city clerk,
28	as the case may be, subject to review by the Chancery Court.
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30	<u>SECTION 23.</u> Court Decisions - If the sufficiency of any petition is
31	challenged such cause shall be a preference cause and shall be tried at once,
22	but the failure of the counter to decide price to the cleation of the

but the failure of the courts to decide prior to the election as to the sufficiency of any such <u>municipal or county</u> petition shall not prevent the question from being placed upon the ballot at the election named in such petition, nor militate against the validity of such measure, if it shall have been approved by a vote of the people.

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2 SECTION 24. Amendment of Petition - If the Secretary of State, county 3 clerk or city clerk, as the case may be, shall decide any petition to be 4 insufficient, he shall without delay notify the sponsors of such petition, and 5 permit at least thirty days from the date of such notification, in the 6 instance of a State-wide petition, or ten days in the instance of a municipal 7 or county petition, for correction or amendment. In the event of legal 8 proceedings to prevent giving legal effect to any petition upon any grounds, 9 the burden of proof shall be upon the person or persons attacking the validity 10 of the petition.

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<u>SECTION 25.</u> Unwarranted Restrictions Prohibited - No law shall be passed to prohibit any person or persons from giving or receiving compensation for circulating petitions, nor to prohibit the circulation of petitions, nor in any manner interfering with the freedom of the people in procuring petitions; but laws shall be enacted prohibiting and penalizing perjury, forgery and all other felonies or other fraudulent practices in the securing of signatures or filing of petitions.

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20 <u>SECTION 26.</u> Publication - All measures submitted to a vote of the 21 people by petition under the provisions of this section shall be published as 22 is now, or hereafter may be provided by law.

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<u>SECTION 27.</u> Enacting Clause - The style of all the bills initiated and submitted under the provisions of this section shall be, "Be It Enacted by the People of the State of Arkansas" (municipality, or county as the case may be). In submitting measures to the people, the Secretary of State and all other officials shall be guided by the general election laws or municipal laws, as the case may be, until additional legislation is provided therefor.

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31 <u>SECTION 28.</u> Self-Executing - This section shall be self-executing, and 32 all its provisions shall be treated as mandatory, but laws may be enacted to 33 facilitate its operation. No legislation shall be enacted to restrict, hamper 34 or impair the exercise of the rights herein reserved to the people. 35

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SECTION 29. That this amendment to the Constitution of the State be,

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1	and the same shall be in substitution of the Initiative and Referendum
2	Amendment, approved February 19, 1909, as the same appears in the Acts of
3	Arkansas for 1909, on pages 1239 and 1240 of the volume containing the same;
4	and that the said amendment (and the Act of the General Assembly to carry out
5	the same, approved June 30, 1911, so far as the same is in conflict
6	therewith), be and the same are hereby repealed.
7	/s/ Ormond
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