

Stricken language would be deleted from and underlined language would be added to the Arkansas Constitution.

State of Arkansas *As Engrossed: S3/14/01 S3/19/01 S4/9/01*

83rd General Assembly

Regular Session, 2001

SJR 10

By: Senator Gwatney

SENATE JOINT RESOLUTION

*PROPOSING AN AMENDMENT TO AMENDMENT NO. 42 TO THE
CONSTITUTION OF THE STATE OF ARKANSAS TO PROVIDE
FOR THE NONPARTISAN ELECTION OF MEMBERS OF THE
ARKANSAS STATE HIGHWAY COMMISSION BY POPULAR
VOTE; TO REQUIRE THE BOARD OF APPORTIONMENT TO
ESTABLISH EIGHT (8) HIGHWAY COMMISSION ZONES FROM
WHICH COMMISSIONERS SHALL BE ELECTED BY PLURALITY
VOTE; TO PROVIDE FOR THE APPOINTMENT OF THE
DIRECTOR OF THE ARKANSAS STATE HIGHWAY AND
TRANSPORTATION DEPARTMENT BY THE GOVERNOR; TO
PROVIDE FOR TRANSITION TO THE NEW FORM OF THE
ARKANSAS STATE HIGHWAY COMMISSION; AND FOR OTHER
PURPOSES.*

Subtitle

PROPOSING AN AMENDMENT TO AMENDMENT NO.
42 TO THE CONSTITUTION OF THE STATE OF
ARKANSAS TO PROVIDE FOR ELECTION OF
MEMBERS OF THE ARKANSAS STATE HIGHWAY
COMMISSION BY POPULAR VOTE.

BE IT RESOLVED BY THE SENATE OF THE EIGHTY-THIRD GENERAL ASSEMBLY OF THE STATE
OF ARKANSAS AND BY THE HOUSE OF REPRESENTATIVES, A MAJORITY OF ALL MEMBERS
ELECTED TO EACH HOUSE AGREEING THERETO:

That the following is hereby proposed as an amendment to the
Constitution of the State of Arkansas, and upon being submitted to the

electors of the state for approval or rejection at the next general election for Senators and Representatives, if a majority of the electors voting thereon at such election, adopt such amendment, the same shall become a part of the Constitution of the State of Arkansas, to wit:

SECTION 1. Section 1 of Amendment 42 to the Constitution of Arkansas is amended to read as follows:

1. Commission created - Members - Powers.

There is hereby created a State Highway Commission ~~which shall be vested with all the powers and duties now or hereafter imposed by law for the administration of the State Highway Department, together with all powers necessary or proper to enable the Commission or any of its officers or employees to carry out fully and effectively the regulations and laws relating to the State Highway Department~~ which shall have the powers and duties as are now or may hereafter be prescribed by the General Assembly.

SECTION 2. Section 2 of Amendment 42 to the Constitution of the State of Arkansas is amended to read in its entirety as follows:

§ 2. Qualifications and appointment of members - Terms of office ~~of first commission.~~

~~Within ten days after the convening of the General Assembly of the State of Arkansas in the year 1953, the Governor, by and with the advice and consent of the Senate, shall appoint five persons who are qualified electors of the State to constitute the State Highway Commission for terms of two, four, six, eight and ten years respectively. The terms of the persons so appointed shall be determined by lot. The Commissioners to be appointed from the State at large; provided, however, that no two Commissioners shall be appointed from any single Congressional District.~~

~~In the event of rejection by the Senate of a person whose name has been so submitted, the Governor shall within five days after receipt of written notice from the Secretary of the Senate of such rejection submit the name of another appointee to fill such vacancy. In the event the Governor should within five days thereafter fail to appoint or fail to submit to the Senate for confirmation the name of any person to be appointed, the Senate shall proceed to make the appointment of its own choice.~~

(a) The State Highway Commission shall be comprised of eight (8)

1 members who shall be elected by popular vote.

2 (b) The Board of Apportionment shall divide the state into eight (8)
3 Highway Commission Zones which shall be substantially equal in geographical
4 area. The zones shall be established no later than the adjournment of the
5 2003 Regular Session of the General Assembly and the Board may thereafter
6 change the zones only if authorized by an enactment of the General Assembly.

7 (c) One (1) member of the State Highway Commission shall be elected
8 from each of the Highway Commission Zones. No two (2) members of the State
9 Highway Commission shall be a resident of the same zone. Only qualified
10 electors who are residents of the zone shall be eligible to be elected to the
11 State Highway Commission and to serve as commissioners for that zone.

12 (d) The members of the State Highway Commission shall be elected by
13 plurality vote and on a nonpartisan basis at the general election next
14 following the adoption of this amendment. The General Assembly shall enact
15 laws establishing procedures for the nonpartisan elections.

16 (e) The initial elected members shall draw lots for terms so that four
17 (4) will serve a four-year term and four (4) will serve a two-year term.
18 Successors shall serve four-year terms.

19 (f) The elected members of the State Highway Commission shall take
20 office on the first Monday of January in the year immediately following the
21 date of their election. No person shall serve as a member of the State
22 Highway Commission for more than two (2) four-year terms. Commissioners
23 initially elected to serve a two-year term or appointed to fill a vacancy are
24 eligible to serve two (2) four-year terms.

25 (g) Vacancies in office shall be filled by appointment by the Governor.

26
27 SECTION 3. Section 3 of Amendment 42 to the Constitution of the State
28 of Arkansas is amended to read in its entirety as follows:

29 ~~§ 3. Terms of office of members~~ Compensation and expenses of members.

30 ~~Upon the expiration of the foregoing terms of said Commissioners, a~~
31 ~~successor shall be appointed by the Governor in the manner provided for in~~
32 ~~Section 2 for a term of ten years, which term shall thereafter be for each~~
33 ~~member of the Commission.~~

34 The General Assembly shall by law determine the amount and method of
35 payment of compensation, if any, and expenses of the members of the State
36 Highway Commission, provided such compensation and expenses may be increased

1 but not diminished during the term for which such members are elected;
2 provided further that the compensation of all State Highway Commissioners
3 shall be the same.
4

5 *SECTION 4.* Section 4 of Amendment 42 to the Constitution of the State
6 of Arkansas is amended to read in its entirety as follows:

7 § 4. Removal of members ~~—Hearing—Review and appeal.~~

8 ~~A Commissioner may be removed by the Governor only for the same causes~~
9 ~~as apply to other constitutional officers after a hearing which may be~~
10 ~~reviewed by the Chancery Court for the First District with right of appeal~~
11 ~~therefrom to the Supreme Court, such review and appeal to be without~~
12 ~~presumption in favor of any finding by the Governor or the trial court, and~~
13 ~~provided further, in addition to the right of confirmation hereinabove~~
14 ~~reserved to the Senate, the Senate may upon the written request of at least~~
15 ~~Five (5) of its members that a member or members of the Commission should be~~
16 ~~removed therefrom, proceed, when in session, to hear any and all evidence~~
17 ~~pertinent to the reasons for removal. The member or members whose removal is~~
18 ~~so requested shall be entitled to be heard in the matter and to be represented~~
19 ~~before the Senate by legal Counsel. These proceedings conducted by the Senate~~
20 ~~shall be public and a transcript of the testimony so heard shall be prepared~~
21 ~~and preserved in the journal of the Senate. The taking of evidence either~~
22 ~~orally or by deposition shall not be bound by the formal rules of evidence.~~
23 ~~Upon the conclusion of the hearing, the Senate, sitting as a body in executive~~
24 ~~session, may remove said member or members of the Commission by a majority~~
25 ~~vote conducted by secret ballot.~~

26 No commissioner may be removed from office during the term for which
27 elected except for the same causes as apply to the constitutional officers of
28 this state or because they no longer meet the qualifications provided in this
29 amendment. Any action for removal shall be brought by the Attorney General at
30 the request of the Governor and shall be heard in the circuit court for the
31 county in which that commissioner resides.
32

33 *SECTION 5.* Section 6 of Amendment 42 to the Constitution of the State
34 of Arkansas is amended to read in its entirety as follows:

35 § 6. Director of Highways Arkansas State Highway and Transportation
36 Department.

~~The Commission shall appoint a Director of Highways who shall have such duties as may be prescribed by the Commission or by statute.~~

There shall be a Director of the Arkansas State Highway and Transportation Department. The director shall be appointed by the Governor for a term of four (4) years, and may be removed by the Governor during his term only with the approval by a majority vote of the total number of commissioners. The director may be reappointed at the pleasure of the Governor.

SECTION 6. Amendment 42 to the Constitution of the State of Arkansas is amended to add a new Section 7 which will read in its entirety:

§ 7. Officers and Duties.

The General Assembly may by law authorize the State Highway Commission to elect a chairman, vice chairman and such other officers from the membership of the State Highway Commission as it deems necessary for the governance of the State Highway Commission and prescribe their respective duties.

SECTION 7. Effective Date – Transition.

The provisions of this amendment shall be effective immediately upon its adoption by the qualified electors of the state. However, the State Highway Commissioners serving on the effective date of this amendment shall continue to serve in their respective positions and shall have the powers, duties and obligations prescribed under Amendment 42 until the newly elected members of the State Highway Commission take office pursuant to these provisions contained herein.

/s/ Gwatney