

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

1 State of Arkansas

2 83rd General Assembly

3 Regular Session, 2001

SJR 9

5 By: Senator Gwatney

6 By: Representatives Shoffner, Jacobs

9 **SENATE JOINT RESOLUTION**

10 A PROPOSED AMENDMENT TO THE ARKANSAS CONSTITUTION
11 PROVIDING THAT MUNICIPALITIES SHALL HAVE LIMITED HOME
12 RULE; TO PROVIDE THAT THIRTY PERCENT OF THE LEGAL
13 VOTERS OF ANY MUNICIPALITY, REGARDLESS OF ITS
14 GOVERNMENTAL FORM, MAY PETITION TO HOLD AN ELECTION TO
15 RECALL ANY ELECTED MUNICIPAL OFFICIAL OF THAT CITY OR
16 TOWN, AND DEFINING "LEGAL VOTERS" AS THE TOTAL NUMBER
17 OF REGISTERED VOTERS WITHIN THE AFFECTED CITY OR TOWN;
18 DEFINING "LEGAL VOTERS" AS THE TOTAL NUMBER OF PERSONS
19 WHO ARE REGISTERED TO VOTE IN THE STATE OF ARKANSAS;
20 AND DEFINING "LEGAL VOTERS" AS THE TOTAL NUMBER OF
21 REGISTERED VOTERS WITHIN THE AFFECTED MUNICIPALITY OR
22 COUNTY.

24 **Subtitle**

25 LOCAL GOVERNMENT AND CITIZENS' RIGHTS
26 AMENDMENT.

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

32 That the following is hereby proposed as an amendment to the
33 Constitution of the State of Arkansas, and upon being submitted to the
34 electors of the state for approval or rejection at the next general election
35 for Senators and Representatives, if a majority of the electors voting thereon
36 at such election, adopt such amendment, the same shall become a part of the

Constitution of the State of Arkansas, to wit:

SECTION 1. Definition

For purposes of sections 2 and 3 of this amendment, "municipality" means each city and incorporated town in this state.

SECTION 2. Limited Home Rule

Except with respect to the authority to levy taxes, which is unchanged by this amendment, a municipality acting through its legislative body may exercise local legislative authority not denied by this constitution or by law. However, no municipality may declare an act a felony or exercise any authority not relating to its municipal affairs.

SECTION 3. Removal of Elected Municipal Officials

(a) The holder of any municipal elected office is subject to removal by the electors qualified to vote for a successor of the incumbent.

(b) The procedure to effect the removal of the incumbent of this elective office shall include the requirement of filing a petition with the city clerk. This petition shall be signed by electors entitled to vote for a successor to the incumbent sought to be removed, equal in number to at least thirty percent (30%) of the registered voters within the affected city or town, demanding the election of a successor of the person sought to be removed.

(c) The General Assembly shall provide for the implementation of this section by law, including the repeal or amendment of any conflicting law.

SECTION 4. Amendment 7 of the Arkansas Constitution is amended to read as follows:

INITIATIVE AND REFERENDUM

Section 1. Legislative Power

The legislative power of the people of this State shall be vested in a General Assembly, which shall consist of the Senate and House of Representatives, but the people reserve to themselves the power to propose legislative measures, laws and amendments to the Constitution, and to enact or reject the same at the polls independent of the General Assembly; and also reserve the power, at their own option, to approve or reject at the polls any

entire act or any item of an appropriation bill.

Section 2. State Wide Petitions

(a) Initiative - The first power reserved by the people is the initiative. Eight per cent of the legal voters may propose any law and ten per cent may propose a Constitutional Amendment by initiative petition, and every such petition shall include the full text of the measure so proposed.

Initiative petitions for State-wide measures shall be filed with the Secretary of State not less than four months before the election at which they are to be voted upon; provided, that at least thirty days before the aforementioned filing, the proposed measure shall have been published once, at the expense of the petitioners, in some paper of general circulation.

(b)(1) Referendum - The second power reserved by the people is the referendum, and any number not less than six per cent of the legal voters may, by petition, order the referendum against any general act, or any item of an appropriation bill, or measure passed by the General Assembly, but the filing of a referendum petition against one or more items, sections or parts of any such act or measure shall not delay the remainder from becoming operative. Such petition shall be filed with the Secretary of State not later than ninety days after the final adjournment of the session at which such act was passed, except when a recess or adjournment shall be taken temporarily for a longer period than ninety days, in which case such petition shall be filed not later than ninety days after such recess or temporary adjournment. Any measure referred to the people by referendum petition shall remain in abeyance until such vote is taken. The total number of ~~votes cast for the office of Governor in the last preceding general election~~ persons registered to vote in the State of Arkansas shall be the basis upon which the number of signatures of legal voters upon State-wide initiative and referendum petitions shall be computed.

(2) Upon all initiative or referendum petitions provided for in any of the sections of this article, 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 of the electors of such county.

(c) Emergency - If it shall be necessary for the preservation of the public peace, health and safety that a measure shall become effective without delay, such necessity shall be stated in one section, and if upon a ye and

may vote two-thirds of all the members elected to each house, or two-thirds of all the members elected to city or town councils, shall vote upon separate roll call in favor of the measure going into immediate operation, such emergency measure shall become effective without delay. It shall be necessary, however, to state the fact which constitutes such emergency. Provided, however, that an emergency shall not be declared on any franchise or special privilege or act creating any vested right or interest or alienating any property of the State. If a referendum is filed against any emergency measure such measure shall be a law until it is voted upon by the people, and if it is then rejected by a majority of the electors voting thereon, it shall be thereby repealed. The provisions of this subsection shall apply to city or town councils.

Section 3. Local Petitions

~~Municipalities and Counties~~ — (a) The initiative and referendum powers of the people are hereby further reserved to the local voters of each municipality and county as to all local, special and municipal legislation of every character in and for their respective municipalities and counties, but no local legislation shall be enacted contrary to the Constitution or any general law of the State, and any general law shall have the effect of repealing any local legislation which is in conflict therewith.

(b) Municipalities may provide for the exercise of the initiative and referendum as to their local legislation.

(c) General laws shall be enacted providing for the exercise of the initiative and referendum as to counties. Fifteen per cent of the legal voters of any municipality or county may order the referendum, or invoke the initiative upon any local measures. ~~In municipalities the~~ The number of signatures required upon any petition shall be computed upon the total vote cast for the office of mayor at the last preceding general election; in counties, upon the office of Circuit Clerk number of persons registered to vote in the affected municipality or county. In municipalities and counties the time for filing an initiative petition shall not be fixed at less than sixty days nor more than ninety days before the election at which it is to be voted upon; for a referendum petition at not less than thirty days nor more than ninety days after the passage of such measure by a municipal council; nor less than ninety days when filed against a local or special measure passed by

the General Assembly.

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

Section 4. General Provisions

(a) Definition - The word "measure" as used herein includes any bill, law, resolution, ordinance, charter, constitutional amendment or legislative proposal or enactment of any character.

(b) No Veto - The veto power of the Governor or Mayor shall not extend to measures initiated by or referred to the people.

(c) Amendment and Repeal - No measure approved by a vote of the people shall be amended or repealed by the General Assembly or by any City 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, as the case may be.

(d) Election - All measures initiated by the people, whether for the State, county, city or town, shall be submitted only at the regular elections, either State, congressional or municipal, but referendum petitions 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 the legal voters defined as the total number of registered voters in the State, county, city or town, as the case may be, shall petition for such special election, and if the referendum is invoked as to any measure passed by a city or town council, such city or town council may order a special election.

(e)(1) Majority - Any measure submitted to the people as herein provided shall take effect and become a law when approved by a majority of the votes cast upon such measure, and not otherwise, and shall not be required to receive a majority of the electors voting at such elections. Such measures shall be operative on and after the 30th day after the election at which it is approved, unless otherwise specified in the act.

(2) This section shall not be construed to deprive any member of

the General Assembly of the right to introduce any measure, but no measure shall be submitted to the people by the General Assembly, except a proposed constitutional amendment or amendments as provided for in this Constitution.

(f) Canvass and Declaration of Results - The result of the vote upon any State measure shall be canvassed and declared by the State Board of Election Commissioners (or legal substitute therefor); upon a municipal or county measure, by the County Election Commissioners (or legal substitute therefor).

(g) Conflicting Measures - If conflicting measures initiated or referred to the people shall be approved by a majority of the votes severally cast for and against the same at the same election, the one receiving the highest number of affirmative votes shall become law.

Section 5. The Petition

(a) Title - At the time of filing petitions the exact title to be used on the ballot shall by the petitioner be submitted with the petition, and on State-wide measures, shall be submitted to the State Board of Election Commissioners, who shall certify such title to the Secretary of State, to be placed upon the ballot; on county and municipal measures such title shall be submitted to the County Election Board and shall by said board be placed upon the ballot in such county or municipal election.

(b) Limitation - No limitation shall be placed upon the number of constitutional amendments, laws, or other measures which may be proposed and submitted to the people by either initiative or referendum petition as provided in this section. No petition shall be held invalid if it shall contain a greater number of signatures than required herein.

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

(d) Sufficiency - The sufficiency of all State-wide petitions shall be decided in the first instance by the Secretary of State, subject to review by

the Supreme Court of the State, which shall have original and exclusive jurisdiction over all such causes. The sufficiency of all local petitions shall be decided in the first instance by the county clerk or the city clerk, as the case may be, subject to review by the Chancery Court.

(e) Court Decisions - If the sufficiency of any petition is challenged such cause shall be a preference cause and shall be tried at once, but the failure of the courts to decide prior to the election as to the sufficiency of any such 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.

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

(g) 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 filling of petitions.

(h) Publication - All measures submitted to a vote of the people by petition under the provisions of this section shall be published as is now, or hereafter may be provided by law.

(i) 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.

(j) Self-Executing - This section shall be self-executing, and all its provisions shall be treated as mandatory, but laws may be enacted to facilitate its operation. No legislation shall be enacted to restrict, hamper or impair the exercise of the rights herein reserved to the people.

(k) That this amendment to the Constitution of the State be, and the same shall be in substitution of the Initiative and Referendum Amendment, approved February 19, 1909, as the same appears in the Acts of Arkansas for 1909, on pages 1239 and 1240 of the volume containing the same; and that the said amendment (and the Act of the General Assembly to carry out the same, approved June 30, 1911, so far as the same is in conflict therewith), be and the same are hereby repealed.