

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

1 State of Arkansas
2 84th General Assembly
3 Regular Session, 2003

As Engrossed: H2/24/03

HJR 1010

4
5 By: Representative Ormond
6
7

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.

Subtitle

16
17 PROPOSING A CONSTITUTIONAL AMENDMENT TO
18 CHANGE VARIOUS PROVISIONS OF AMENDMENT.
19
20

21 SECTION 1. Amendment 7 of the Arkansas Constitution is amended to read
22 as follows:

23 Amend. 7. Initiative and Referendum

24 (a) The legislative power of the people of this State shall be vested
25 in a General Assembly, which shall consist of the Senate and House of
26 Representatives, but the people reserve to themselves the power to propose
27 legislative measures, laws and amendments to the Constitution, and to enact
28 or reject the same at the polls independent of the General Assembly; and also
29 reserve the power, at their own option, to approve or reject at the polls any
30 entire act or any item of an appropriation bill.
31

32 (b) State Wide Petitions

33 (1) Initiative - The first power reserved by the people is the
34 initiative. ~~Eight per cent of the~~ Twenty thousand (20,000) legal voters may
35 propose any law and ~~ten per cent~~ twenty thousand (20,000) may propose a
36 Constitutional Amendment by initiative petition, and every such petition



1 shall include the full text of the measure so proposed. Initiative petitions
 2 for State-wide measures shall be filed with the Secretary of State not less
 3 than four (4) months before the election at which they are to be voted upon;
 4 provided, that at least thirty (30) days before the aforementioned filing,
 5 the proposed measure shall have been published once, at the expense of the
 6 petitioners, in some paper of general circulation. Initiative petitions for
 7 State-wide measures shall be filed with the Attorney General no more than two
 8 (2) years and no less than one (1) year before the election at which they are
 9 to be voted upon. After filing a state-wide petition, the petitioner shall
 10 pay to the Attorney General a fee of one thousand dollars (\$1,000), or such
 11 other amount as established by the General Assembly.

12 (2) Referendum - The second power reserved by the people is the
 13 referendum, and any number not less than six per cent of the. Twenty
 14 thousand (20,000) legal voters may, by petition, order the referendum against
 15 any general act, or any item of an appropriation bill, or measure passed by
 16 the General Assembly, but the filing of a referendum petition against one or
 17 more items, sections or parts of any such act or measure shall not delay the
 18 remainder from becoming operative. Such petition shall be filed with the
 19 Secretary of State not later than ninety (90) days after the final
 20 adjournment of the session at which such act was passed, except when a recess
 21 or adjournment shall be taken temporarily for a longer period than ninety
 22 (90) days, in which case such petition shall be filed not later than ninety
 23 (90) days after such recess or temporary adjournment. Any measure referred
 24 to the people by referendum petition shall remain in abeyance until such vote
 25 is taken. The total number of votes cast for the office of Governor in the
 26 last preceding general election shall be the basis upon which the number of
 27 signatures of legal voters upon State wide initiative and referendum
 28 petitions shall be computed.

29 Upon all initiative or referendum petitions provided for in ~~any of the~~
 30 sections subsection (c) of this amendment, it shall be necessary to file,
 31 from at least fifteen of the counties of the State, petitions bearing the
 32 signature of not less than ~~one half of the designated percentage~~ one thousand
 33 (1,000) of the electors of such county. The remaining signatures required by
 34 subsection (b)(1) may come from any county or combination of counties.

35 (3) Emergency - If it shall be necessary for the preservation of
 36 the public peace, health and safety that a measure shall become effective

1 without delay, such necessity shall be stated in one section, and if upon a
2 yea and nay vote two-thirds (2/3) of all the members elected to each house,
3 or two-thirds (2/3) of all the members elected to city or town councils,
4 shall vote upon separate roll call in favor of the measure going into
5 immediate operation, such emergency measure shall become effective without
6 delay. It shall be necessary, however, to state the fact which constitutes
7 such emergency. Provided, however, that an emergency shall not be declared on
8 any franchise or special privilege or act creating any vested right or
9 interest or alienating any property of the State. If a referendum is filed
10 against any emergency measure such measure shall be a law until it is voted
11 upon by the people, and if it is then rejected by a majority of the electors
12 voting thereon, it shall be thereby repealed. The provisions of this
13 subsection shall apply to city or town councils.

14 (c) Local Petitions

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

22 Municipalities may provide for the exercise of the initiative and
23 referendum as to their local legislation.

24 General laws shall be enacted providing for the exercise of the
25 initiative and referendum as to counties. Fifteen per cent (15%) of the legal
26 voters of any municipality or county may order the referendum, or invoke the
27 initiative upon any local measures. In municipalities the number of
28 signatures required upon any petition shall be computed upon the total vote
29 cast for the office of mayor at the last preceding general election; in
30 counties, upon the office of Circuit Clerk. In municipalities and counties
31 the time for filing an initiative petition shall not be fixed at less than
32 sixty (60) days nor more than ninety (90) days before the election at which
33 it is to be voted upon; for a referendum petition at not less than thirty
34 (30) days nor more than ninety (90) days after the passage of such measure by
35 a municipal council; nor less than ninety (90) days when filed against a
36 local or special measure passed by the General Assembly.

1 Every extension, enlargement, grant, or conveyance of a franchise or
2 any rights, property, easement, lease, or occupation of or in any road,
3 street, alley or any part thereof in real property or interest in real
4 property owned by municipalities, exceeding in value three hundred dollars
5 (\$300.00), whether the same be by statute, ordinance, resolution, or
6 otherwise, shall be subject to referendum and shall not be subject to
7 emergency legislation.

8
9 (d) General Provisions

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

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

15 (3) Amendment and Repeal - No measure approved by a vote of the
16 people shall be amended or repealed by the General Assembly or by any City
17 Council, except upon a yea and nay vote on roll call of two-thirds (2/3) of
18 all the members elected to each house of the General Assembly, or of the City
19 Council, as the case may be.

20 (4) Election - All measures initiated by the people, whether for
21 the State, county, city or town, shall be submitted only at the regular
22 elections, either State, congressional or municipal, but referendum petitions
23 may be referred to the people at special elections ~~to be called by the proper~~
24 ~~official, and such special elections shall be called when fifteen per cent of~~
25 ~~the legal voters shall petition for such special election, and if the~~
26 ~~referendum is invoked as to any measure passed by a city or town council,~~
27 ~~such city or town council may order a special election~~ if the referendum
28 petition so states.

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

35 (6) This section shall not be construed to deprive any member of
36 the General Assembly of the right to introduce any measure, but no measure

1 shall be submitted to the people by the General Assembly, except a proposed
2 constitutional amendment or amendments as provided for in this Constitution.

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

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

12
13 (e) The Petition

14 (1) Title - At the time of filing state-wide petitions with the
15 Attorney General the exact title to be used on the ballot shall by the
16 petitioner be submitted with the petition, ~~and on State wide measures, shall~~
17 ~~be submitted to the State Board of Election Commissioners~~ Attorney General,
18 who shall certify such title to the Secretary of State, to be placed upon the
19 ballot.

20 At the time of filing petitions with the county clerk on county and
21 municipal measures such title shall be submitted to the County Election Board
22 and shall by said board be placed upon the ballot in such county or municipal
23 election.

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

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

1 (4) Sufficiency of Petitions -

2 (A)(i) Within fifteen (15) calendar days of receiving a
3 petition on a state-wide measure, the Attorney General shall approve the
4 ballot title and the popular name or disapprove the ballot title or popular
5 name.

6 (ii) If the Attorney General fails to act within
7 fifteen (15) calendar days, the ballot title and popular name shall be deemed
8 approved.

9 (iii) If the Attorney General disapproves of the
10 ballot title or popular name, the petitioner may redraft the ballot title or
11 popular name and resubmit the same to the Attorney General without the
12 payment of any additional fee.

13 (B) Within fourteen (14) calendar days after the Attorney
14 General approves a petition, the petitioners shall cause the full text of the
15 petition to be published at least once, at the expense of the petitioners, in
16 some paper of general circulation in this state.

17 (C)(i) Any court challenge to the petition shall be filed
18 directly with the Supreme Court within forty-five (45) calendar days after
19 the first publication of the full text of the petition.

20 (ii) The Attorney General shall defend all petitions
21 filed with the Attorney General.

22 (D)(i) The Supreme Court shall issue its decision within
23 sixty (60) calendar days after the court challenge is filed.

24 (ii) If the court does not strike the petition
25 within sixty (60) calendar days, the petition is deemed valid and not subject
26 to attack.

27 (iii)(a) If within sixty (60) calendar days, the
28 Supreme Court either approves or fails to strike the petition, the petitioner
29 shall file the petition with the Secretary of State and begin soliciting
30 signatures.

31 (b) The petition may not be filed with the
32 Secretary of State less than four (4) months before the election at which it
33 is to be voted upon.

34 (5) Sufficiency of Signatures. The sufficiency of signatures on all
35 State-wide initiative petitions shall be decided in the first instance by the
36 Secretary of State. Within thirty (30) calendar days after receiving signed

1 State-wide initiative petitions, the Secretary of State shall determine the
2 sufficiency of the signatures. If the Secretary of State determines the
3 signatures to be insufficient, the petitioner shall be afforded an additional
4 thirty (30) calendar days in which to collect signatures. Determinations
5 concerning the sufficiency of signatures shall be subject to review by the
6 Supreme Court of the State, which shall have original and exclusive
7 jurisdiction over all such causes. The sufficiency of all local petitions
8 shall be decided in the first instance by the county clerk or the city clerk,
9 as the case may be, subject to review by the ~~Chancery~~ Circuit Court.

10 (6) Court Decisions - If the sufficiency of any petition is
11 challenged such cause shall be a preference cause and shall be tried at once,
12 but the failure of the courts to decide prior to the election as to the
13 sufficiency of any ~~such~~ municipal or county petition shall not prevent the
14 question from being placed upon the ballot at the election named in such
15 petition, nor militate against the validity of such measure, if it shall have
16 been approved by a vote of the people.

17 (7) Amendment of Petition - If the Secretary of State, county
18 clerk or city clerk, as the case may be, shall decide any petition to be
19 insufficient, he shall without delay notify the sponsors of such petition,
20 and permit at least thirty (30) days from the date of such notification, in
21 the instance of a State-wide petition, or ten (10) days in the instance of a
22 municipal or county petition, for correction or amendment. In the event of
23 legal proceedings to prevent giving legal effect to any petition upon any
24 grounds, the burden of proof shall be upon the person or persons attacking
25 the validity of the petition.

26 (8) Unwarranted Restrictions Prohibited - No law shall be passed
27 to prohibit any person or persons from giving or receiving compensation for
28 circulating petitions, nor to prohibit the circulation of petitions, nor in
29 any manner interfering with the freedom of the people in procuring petitions;
30 but laws shall be enacted prohibiting and penalizing perjury, forgery and all
31 other felonies or other fraudulent practices in the securing of signatures or
32 filing of petitions.

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

36 (10) Enacting Clause - The style of all the bills initiated and

1 submitted under the provisions of this section shall be, "Be It Enacted by
2 the People of the State of Arkansas" (municipality, or county as the case may
3 be). In submitting measures to the people, the Secretary of State and all
4 other officials shall be guided by the general election laws or municipal
5 laws, as the case may be, until additional legislation is provided therefor.

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

10 (f) That this amendment to the Constitution of the State be, and the
11 same shall be in substitution of the Initiative and Referendum Amendment,
12 approved February 19, 1909, as the same appears in the Acts of Arkansas for
13 1909, on pages 1239 and 1240 of the volume containing the same; and that the
14 said amendment (and the Act of the General Assembly to carry out the same,
15 approved June 30, 1911, so far as the same is in conflict therewith), be and
16 the same are hereby repealed.

17
18 */s/ Ormond*
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36