

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

1 State of Arkansas *As Engrossed: H2/24/03 H3/17/03 H3/21/03*

2 84th General Assembly

3 Regular Session, 2003

HJR 1010

4

5 By: Representative Ormond

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**HOUSE JOINT RESOLUTION**

9

PROPOSING A CONSTITUTIONAL AMENDMENT TO CHANGE

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THE NUMBER OF SIGNATURES REQUIRED ON INITIATIVE

11

AND REFERENDUM PETITIONS; TO CHANGE THE PROCESS

12

FOR REVIEW OF INITIATIVE AND REFERENDUM PETITIONS

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BY THE ATTORNEY GENERAL, THE SUPREME COURT AND

14

THE SECRETARY OF STATE; AND FOR OTHER PURPOSES.

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**Subtitle**

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PROPOSING A CONSTITUTIONAL AMENDMENT TO

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CHANGE VARIOUS PROVISIONS OF AMENDMENT.

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SECTION 1. Amendment 7 of the Arkansas Constitution is amended to read

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as follows:

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Amend. 7. Initiative and Referendum

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(a) The legislative power of the people of this State shall be vested

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in a General Assembly, which shall consist of the Senate and House of

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Representatives, but the people reserve to themselves the power to propose

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legislative measures, laws and amendments to the Constitution, and to enact

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or reject the same at the polls independent of the General Assembly; and also

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reserve the power, at their own option, to approve or reject at the polls any

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entire act or any item of an appropriation bill.

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(b) State Wide Petitions

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(1) Initiative - The first power reserved by the people is the

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initiative. ~~Eight per cent of the~~ Sixty thousand (60,000) legal voters or

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such other number as determined by act of the General Assembly but in no

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event more than eight percent (8%) may propose any law and ~~ten per cent~~



1 eighty thousand (80,000) legal voters or such other number as determined by  
2 act of the General Assembly but in no event more than ten percent (10%) may  
3 propose a Constitutional Amendment by initiative petition, and every such  
4 petition shall include the full text of the measure so proposed. Initiative  
5 petitions for State-wide measures shall be filed with the Secretary of State  
6 not less than four (4) months before the election at which they are to be  
7 voted upon; provided, that at least thirty (30) days before the  
8 aforementioned filing, the proposed measure shall have been published once,  
9 at the expense of the petitioners, in some paper of general circulation.  
10 Initiative petitions for State-wide measures shall be filed with the Attorney  
11 General no more than two (2) years and no less than one (1) year before the  
12 election at which they are to be voted upon. After filing a state-wide  
13 petition, the petitioner shall pay to the Attorney General a fee of one  
14 thousand dollars (\$1,000), or such other amount as established by the General  
15 Assembly.

16 (2) Referendum - The second power reserved by the people is the  
17 referendum, ~~and any number not less than six per cent of the.~~ Sixty thousand  
18 (60,000) legal voters or such other number as determined by act of the  
19 General Assembly but in no event more than six percent (6%) may, by petition,  
20 order the referendum against any general act, or any item of an appropriation  
21 bill, or measure passed by the General Assembly, but the filing of a  
22 referendum petition against one or more items, sections or parts of any such  
23 act or measure shall not delay the remainder from becoming operative. Such  
24 petition shall be filed with the Secretary of State not later than ninety  
25 (90) days after the final adjournment of the session at which such act was  
26 passed, except when a recess or adjournment shall be taken temporarily for a  
27 longer period than ninety (90) days, in which case such petition shall be  
28 filed not later than ninety (90) days after such recess or temporary  
29 adjournment. Any measure referred to the people by referendum petition shall  
30 remain in abeyance until such vote is taken. ~~The total number of votes cast~~  
31 ~~for the office of Governor in the last preceding general election shall be~~  
32 ~~the basis upon which the number of signatures of legal voters upon State wide~~  
33 ~~initiative and referendum petitions shall be computed.~~

34 Upon all initiative or referendum petitions provided for in ~~any of the~~  
35 sections subsection (c) of this amendment, it shall be necessary to file,  
36 from at least fifteen of the counties of the State, petitions bearing the

1 signature of not less than ~~one-half of the designated percentage~~ one thousand  
2 (1,000) of the electors of such county. The remaining signatures required by  
3 subsection (b)(1) may come from any county or combination of counties.

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

19 (c) Local Petitions

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

27 Municipalities may provide for the exercise of the initiative and  
28 referendum as to their legal legislation.

29 General laws shall be enacted providing for the exercise of the  
30 initiative and referendum as to counties. Fifteen per cent (15%) of the legal  
31 voters of any municipality or county may order the referendum, or invoke the  
32 initiative upon any local measures. In municipalities the number of  
33 signatures required upon any petition shall be computed upon the total vote  
34 cast for the office of mayor at the last preceding general election; in  
35 counties, upon the office of Circuit Clerk. In municipalities and counties  
36 the time for filing an initiative petition shall not be fixed at less than

1 sixty (60) days nor more than ninety (90) days before the election at which  
2 it is to be voted upon; for a referendum petition at not less than thirty  
3 (30) days nor more than ninety (90) days after the passage of such measure by  
4 a municipal council; nor less than ninety (90) days when filed against a  
5 local or special measure passed by the General Assembly.

6 Every extension, enlargement, grant, or conveyance of a franchise or  
7 any rights, property, easement, lease, or occupation of or in any road,  
8 street, alley or any part thereof in real property or interest in real  
9 property owned by municipalities, exceeding in value three hundred dollars  
10 (\$300.00), whether the same be by statute, ordinance, resolution, or  
11 otherwise, shall be subject to referendum and shall not be subject to  
12 emergency legislation.

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14 (d) General Provisions

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

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

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

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

34 (5) Majority - Any measure submitted to the people as herein  
35 provided shall take effect and become a law when approved by a majority of  
36 the votes cast upon such measure, and not otherwise, and shall not be

1 required to receive a majority of the electors voting at such elections.  
2 Such measures shall be operative on and after the 30th day after the election  
3 at which it is approved, unless otherwise specified in the act.

4 (6) This section shall not be construed to deprive any member of  
5 the General Assembly of the right to introduce any measure, but no measure  
6 shall be submitted to the people by the General Assembly, except a proposed  
7 constitutional amendment or amendments as provided for in this Constitution.

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

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

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18 (e) The Petition

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

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

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

34 (3) Verification - Only legal votes shall be counted upon  
35 petitions. Petitions may be circulated and presented in parts, but each part  
36 of any petition shall have attached thereto, the affidavit of the persons

1 circulating the same, that all signatures thereon were made in the presence  
2 of the affiant, and that to the best of the affiant's knowledge and belief  
3 each signature is genuine, and that the person signing is a legal voter, and  
4 no other affidavit or verification shall be required to establish the  
5 genuineness of such signatures.

6 (4) Sufficiency of Petitions -

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

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

14 (iii) If the Attorney General disapproves of the  
15 ballot title or popular name, the petitioner may redraft the ballot title or  
16 popular name and resubmit the same to the Attorney General without the  
17 payment of any additional fee.

18 (iv) No measure initiated by the people shall be  
19 placed on the ballot unless the ballot title and popular name have been  
20 approved by the Attorney General.

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

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

28 (ii) The Attorney General shall defend all petitions  
29 filed with the Attorney General.

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

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

35 (iii)(a) If within sixty (60) calendar days, the  
36 Supreme Court either approves or fails to strike the petition, the petitioner

1 shall file the petition with the Secretary of State and begin soliciting  
2 signatures.

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

6 (5) Sufficiency of Signatures. The sufficiency of signatures on all  
7 State-wide initiative petitions shall be decided in the first instance by the  
8 Secretary of State. Within thirty (30) calendar days after receiving signed  
9 State-wide initiative petitions, the Secretary of State shall determine the  
10 sufficiency of the signatures. If the Secretary of State determines the  
11 signatures to be insufficient, the petitioner shall be afforded an additional  
12 thirty (30) calendar days in which to collect signatures. Determinations  
13 concerning the sufficiency of signatures shall be subject to review by the  
14 Supreme Court of the State, which shall have original and exclusive  
15 jurisdiction over all such causes. The sufficiency of all local petitions  
16 shall be decided in the first instance by the county clerk or the city clerk,  
17 as the case may be, subject to review by the ~~Chancery~~ Circuit Court.

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

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

34 (8) Unwarranted Restrictions Prohibited - No law shall be passed  
35 to prohibit any person or persons from giving or receiving compensation for  
36 circulating petitions, nor to prohibit the circulation of petitions, nor in

1 any manner interfering with the freedom of the people in procuring petitions;  
2 but laws shall be enacted prohibiting and penalizing perjury, forgery and all  
3 other felonies or other fraudulent practices in the securing of signatures or  
4 filing of petitions.

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

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

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

18 (f) That this amendment to the Constitution of the State be, and the  
19 same shall be in substitution of the Initiative and Referendum Amendment,  
20 approved February 19, 1909, as the same appears in the Acts of Arkansas for  
21 1909, on pages 1239 and 1240 of the volume containing the same; and that the  
22 said amendment (and the Act of the General Assembly to carry out the same,  
23 approved June 30, 1911, so far as the same is in conflict therewith), be and  
24 the same are hereby repealed.

25  
26 /s/ Ormond  
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