

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

1 State of Arkansas  
2 86th General Assembly  
3 Regular Session, 2007  
4  
5 By: Representative Pace  
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7

HJR 1010

**HOUSE JOINT RESOLUTION**

9 PROPOSING AN AMENDMENT TO SECTION 1 OF ARTICLE 5  
10 OF THE ARKANSAS CONSTITUTION TO REVISE THE  
11 PROVISIONS CONCERNING INITIATIVE AND REFERENDUM.  
12

**Subtitle**

13 PROPOSING AN AMENDMENT TO SECTION 1 OF  
14 ARTICLE 5 OF THE ARKANSAS CONSTITUTION  
15 TO REVISE THE PROVISIONS CONCERNING  
16 INITIATIVE AND REFERENDUM.  
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20 BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE EIGHTY-SIXTH GENERAL  
21 ASSEMBLY OF THE STATE OF ARKANSAS AND BY THE SENATE, A MAJORITY OF ALL  
22 MEMBERS ELECTED TO EACH HOUSE AGREEING THERETO:  
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24 That the following is proposed as an amendment to the Constitution of  
25 the State of Arkansas, and upon being submitted to the electors of the state  
26 for approval or rejection at the next general election for Representatives  
27 and Senators, if a majority of the electors voting thereon at the election  
28 adopt the amendment, the amendment shall become a part of the Constitution of  
29 the State of Arkansas, to wit:  
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31 SECTION 1. Section 1 of Article 5 of the Arkansas Constitution is  
32 amended to read as follows:

33 § 1. Initiative and Referendum.  
34

35 The legislative power of the people of this State shall be vested in a  
36 General Assembly, which shall consist of the Senate and House of



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

6 Initiative. The first power reserved by the people is the initiative.  
7 Eight per cent of the legal voters may propose any law and ten per cent may  
8 propose a constitutional amendment by initiative petition and every such  
9 petition shall include the full text of the measure so proposed. Initiative  
10 petitions for state-wide measures shall be filed with the Secretary of State  
11 not less than four months before the election at which they are to be voted  
12 upon; provided, that at least thirty days before the aforementioned filing,  
13 the proposed measure shall have been published once, at the expense of the  
14 petitioners, in some paper of general circulation.

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

31 Upon all initiative or referendum petitions provided for in any of the  
32 sections of this article, it shall be necessary to file from at least fifteen  
33 of the counties of the State, petitions bearing the signature of not less  
34 than one-half of the designated percentage of the electors of such county.

35 Emergency. If it shall be necessary for the preservation of the public  
36 peace, health and safety that a measure shall become effective without delay,

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

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

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

35 Every extension, enlargement, grant, or conveyance of a franchise or  
36 any rights, property, easement, lease, or occupation of or in any road,

1 street, alley or any part thereof in real property or interest in real  
2 property owned by municipalities, exceeding in value three hundred dollars,  
3 whether the same be by statute, ordinance, resolution, or otherwise, shall be  
4 subject to referendum and shall not be subject to emergency legislation.

5  
6 General Provisions

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8 Definition. The word "measure" as used herein includes any bill, law,  
9 resolution, ordinance, charter, constitutional amendment or legislative  
10 proposal or enactment of any character.

11 No Veto. The veto power of the Governor or mayor shall not extend to  
12 measures initiated by or referred to the people.

13 Amendment and Repeal. No measure approved by a vote of the people shall  
14 be amended or repealed by the General Assembly or by any city council, except  
15 upon a yea and nay vote on roll call of two-thirds of all the members elected  
16 to each house of the General Assembly, or of the city council, as the case  
17 may be.

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

26 Majority. Any measure submitted to the people as herein provided shall  
27 take effect and become a law when approved by a majority of the votes cast  
28 upon such measure, and not otherwise, and shall not be required to receive a  
29 majority of the electors voting at such election. Such measures shall be  
30 operative on and after the thirtieth day after the election at which it is  
31 approved, unless otherwise specified in the Act.

32 This section shall not be construed to deprive any member of the  
33 General Assembly of the right to introduce any measure, but no measure shall  
34 be submitted to the people by the General Assembly, except a proposed  
35 constitutional amendment or amendments as provided for in this Constitution.

36 Canvass and Declaration of Results. The result of the vote upon any

1 State measure shall be canvassed and declared by the State Board of Election  
2 Commissioners (or legal substitute therefor); upon a municipal or county  
3 measure, by the county election commissioners (or legal substitute therefor).

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

#### 8 9 The Petition

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11 Title. At the time of filing petitions the exact title to be used on  
12 the ballot shall by the petitioners be submitted with the petition, and on  
13 state-wide measures, shall be submitted to the State Board of Election  
14 Commissioners, who shall certify such title to the Secretary of State, to be  
15 placed upon the ballot; on county and municipal measures such title shall be  
16 submitted to the county election board and shall by said board be placed upon  
17 the ballot in such county or municipal election.

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

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

31 Sufficiency. The sufficiency of all state-wide petitions shall be  
32 decided in the first instance by the Secretary of State, subject to review by  
33 the Supreme Court of the State, which shall have original and exclusive  
34 jurisdiction over all such causes. The sufficiency of all local petitions  
35 shall be decided in the first instance by the county clerk or the city clerk  
36 as the case may be, subject to review by the chancery court.

1 Court Decisions. If the sufficiency of any petition is challenged such  
2 cause shall be a preference cause and shall be tried at once, but the failure  
3 of the courts to decide prior to the election as to the sufficiency of any  
4 such petition, shall not prevent the question from being placed upon the  
5 ballot at the election named in such petition, nor militate against the  
6 validity of such measure, if it shall have been approved by a vote of the  
7 people.

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

16 Unwarranted Restrictions Prohibited. No law shall be passed to prohibit  
17 any person or persons from giving or receiving compensation for circulating  
18 petitions, nor to prohibit the circulation of petitions, nor in any manner  
19 interfering with the freedom of the people in procuring petitions; but laws  
20 shall be enacted prohibiting and penalizing perjury, forgery, and all other  
21 felonies or other fraudulent practices, in the securing of signatures or  
22 filing of petitions.

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

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

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

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SECTION 2. This amendment shall become effective on January 1, 2009.

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