

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

1 State of Arkansas  
2 87th General Assembly  
3 Regular Session, 2009

HJR 1006

4  
5 By: Representative Shelby

**HOUSE JOINT RESOLUTION**

9 PROPOSING AN AMENDMENT TO THE ARKANSAS  
10 CONSTITUTION CONCERNING INCREASING THE LENGTH OF  
11 TERMS OF CIRCUIT CLERKS, COLLECTOR OF TAXES,  
12 COUNTY CLERKS, COUNTY JUDGES, COUNTY SHERIFFS,  
13 COUNTY ASSESSORS, COUNTY CORONERS, COUNTY  
14 TREASURERS, COUNTY SURVEYORS, AND CONSTABLES,  
15 FROM TWO YEARS TO FOUR YEARS; TO ESTABLISH A  
16 RECALL PROCEDURE FOR ELECTED COUNTY OFFICIALS;  
17 AND FOR OTHER PURPOSES.

**Subtitle**

19 PROPOSING AN AMENDMENT TO THE ARKANSAS  
20 CONSTITUTION TO INCREASE THE TERMS OF  
21 COUNTY OFFICIALS FROM TWO YEARS TO FOUR  
22 YEARS AND TO ESTABLISH A RECALL  
23 PROCEDURE FOR ELECTED COUNTY OFFICIALS.

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26  
27 BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE EIGHTY-SEVENTH GENERAL  
28 ASSEMBLY OF THE STATE OF ARKANSAS AND BY THE SENATE, A MAJORITY OF ALL  
29 MEMBERS ELECTED TO EACH HOUSE AGREEING THERETO:

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



1  
2 SECTION 1. Section 19 of Article 7 of the Arkansas Constitution is  
3 amended to read as follows:

4 § 19. Circuit clerks – Election – Term of office – ~~Ex-officio~~ Ex  
5 officio duties – County clerks elected in certain counties.

6 The clerks of the circuit courts shall be elected by the qualified  
7 electors of the several counties for the term of ~~two~~ four (4) years, and  
8 shall be ~~ex-officio~~ ex officio clerks of the county and probate courts and  
9 recorder; provided, that in any county having a population exceeding fifteen  
10 thousand (15,000) inhabitants, as shown by the last Federal census, there  
11 shall be elected a county clerk, in like manner as the clerk of the circuit  
12 court, for the term of four (4) years, and in such case the county clerk  
13 shall be ~~ex-officio~~ ex officio clerk of the probate court of such county  
14 until otherwise provided by the General Assembly.

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16 SECTION 2. Section 29 of Article 7 of the Arkansas Constitution is  
17 amended to read as follows:

18 § 29. County judge - Election - Term - Qualifications.

19 The Judge of the County Court shall be elected by the qualified  
20 electors of the county for the term of ~~two~~ four (4) years. He or she shall be  
21 at least twenty-five (25) years of age, a citizen of the United States, ~~a man~~  
22 an individual of upright character, of good business education, and a  
23 resident of the State for two (2) years before his or her election; and a  
24 resident of the county at the time of his or her election, and during his or  
25 her continuance in office.

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27 SECTION 3. Section 47 of Article 7 of the Arkansas Constitution is  
28 amended to read as follows:

29 § 47. Constables - Term of office - Certificate of election.

30 The qualified electors of each township shall elect the Constable for the  
31 term of ~~two~~ four (4) years, who shall be furnished, by the presiding Judge of  
32 the County Court, with a certificate of election, on which his official oath  
33 shall be indorsed.

34  
35 SECTION 4. Section 46 of Article 7 of the Arkansas Constitution is  
36 amended to read as follows:

1           § 46. County executive officers - Compensation of county assessor.  
 2 The qualified electors of each county shall elect one (1) Sheriff, who shall  
 3 be ~~ex-officio~~ ex officio collector of taxes, unless otherwise provided by  
 4 law; one (1) Assessor, one (1) Coroner, one (1) Treasurer, who shall be ~~ex-~~  
 5 ~~officio~~ ex officio treasurer of the common school fund of the county, and one  
 6 (1) County Surveyor; for the term of ~~two~~ four (4) years, with such duties as  
 7 are now or may be prescribed by law: Provided, that no per centum shall ever  
 8 be paid to assessors upon the valuation or assessment of property by them.  
 9 If a separate collector of taxes has been created by law for a county, the  
 10 qualified electors of that county shall elect one (1) collector of taxes for  
 11 a term of four (4) years, with duties as provided by law.

12

13           SECTION 5. Amendment 41 of the Arkansas Constitution is amended to  
 14 read as follows:

15           Election of county clerk.

16           The provisions for the election of a County Clerk upon a population  
 17 basis are hereby abolished and there may be elected a County Clerk in like  
 18 manner as a Circuit Clerk, for the term of four (4) years, and in such cases,  
 19 the County Clerk may be ex officio Clerk of the Probate Court of such county  
 20 until otherwise provided by the General Assembly.

21

22           SECTION 6. Recall of elected county officials.

23           (a) As used in this section:

24                   (1) "Elected official" means any person elected to a county  
 25 office;

26                   (2) "Recall" means the voting by the electors of a county or a  
 27 district to ascertain whether or not it is the desire of the majority of the  
 28 electors to allow an elected official to remain in that capacity for the  
 29 duration of his or her elected term; and

30                   (3) "Recall petition" means a petition proposing the recall of  
 31 an elected official.

32                   (b)(1) The qualified electors of the county may petition for the  
 33 recall of an elected official by filing a recall petition proposing the  
 34 recall of the elected official.

35                   (2) The recall petition for the recall of an elected official  
 36 shall be signed by at least fifteen percent (15%) of the qualified electors

1 of the county.

2 (c)(1)(A) The recall of an elected official shall be initiated by  
3 filing a notice of intent to circulate a recall petition.

4 (B) No recall petition shall be circulated before the  
5 notice of intent is filed.

6 (C) The notice of intent to circulate a recall petition  
7 shall state the reason the elected official should be recalled.

8 (D) The notice of intent to circulate a recall petition  
9 shall be filed with the county clerk of the county of residence of the  
10 elected official.

11 (E) Within five (5) calendar days after filing the notice  
12 of intent to circulate a petition, the person filing the notice of intent  
13 shall notify the elected official who will be the subject of a recall  
14 petition by certified mail with return receipt requested.

15 (2) The recall petition shall be filed with the county clerk of  
16 the county of residence of the elected official not less than sixty (60)  
17 calendar days nor more than eighty (80) calendar days after the filing of the  
18 notice of intent to circulate a recall petition.

19 (3) Within thirty (30) calendar days after the petition is  
20 filed, the county clerk shall determine whether the petition is sufficient  
21 and if sufficient, shall state the sufficiency in a certificate attached to  
22 the petition.

23 (4)(A) If the petition is found to be insufficient, the  
24 certificate shall state the reasons creating the insufficiency.

25 (B) The recall petition may be amended to correct any  
26 insufficiency within thirty (30) calendar days following the filing of the  
27 original certificate.

28 (C) Within fifteen (15) calendar days after filing the  
29 amended petition, it shall again be examined to determine sufficiency and a  
30 certificate stating the findings shall be attached.

31 (5)(A) Immediately upon finding an original or amended recall  
32 petition sufficient, the county clerk of the county in which the elected  
33 official resides shall notify the county board of election commissioners of  
34 the county in which the elected official resides and the board shall  
35 immediately call a special election for the purpose of submitting the recall  
36 proposal to the electors.

1 (B) The special election shall be held within sixty (60)  
2 calendar days after the call for a special election.

3 (C) However, if the general election is to be held within  
4 ninety (90) calendar days, the recall proposal shall be held and submitted at  
5 the general election.

6 (6) If the recall petition is filed against the county clerk of  
7 the county, the Secretary of State shall be responsible for:

8 (A) Accepting the notice of intent to circulate a recall  
9 petition;

10 (B) Accepting the recall petition;

11 (C) Determining the sufficiency of the petition and if:

12 (i) Sufficient, stating the sufficiency in a  
13 certificate attached to the petition; and

14 (ii) Insufficient, stating the reasons for  
15 insufficiency in the certificate; and

16 (D) Upon finding a recall petition sufficient, notifying  
17 the county board of election commissioners of the county in which the elected  
18 official resides.

19 (d)(1) The petition proposing the recall of an elected official shall  
20 be in substantially the following form:

21 "PETITION FOR RECALL

22 To the County Clerk of \_\_\_\_\_ County:

23 We, the undersigned legal voters of \_\_\_\_\_

24 (County)

25 respectfully order that \_\_\_\_\_

26 (Name of Elected Official)

27 be referred to the people of \_\_\_\_\_

28 (County)

29 to the end that the continued service of the elected official may be approved  
30 or rejected by the vote of the legal voters at an election to be held for  
31 this purpose; and each of us for himself or herself says: I have personally  
32 signed this petition; I am a legal voter of the county, and my printed name,  
33 date of birth, residence, city or town of residence, and date of signing this  
34 petition are correctly written after my signature."

35 (2) Each sheet of each recall petition containing the signatures  
36 shall be verified in substantially the following form by the person who

1 circulated the sheet of the recall petition by his or her affidavit attached  
2 to the petition. The affidavit shall be in substantially the following form:

3 "STATE OF ARKANSAS )  
4 COUNTY )

5 I, \_\_\_\_\_ under oath, state that the above-listed persons  
6 signed this sheet, and each of them signed his or her name on this sheet in  
7 my presence. I believe that each has correctly stated his or her name, date  
8 of birth, residence, city or town of residence, and date of signing the  
9 petition.

10 Signature \_\_\_\_\_

11 Address \_\_\_\_\_

12 Subscribed and sworn to before me this the \_\_\_\_\_ day of \_\_\_\_\_,

13 Signature \_\_\_\_\_

14 Notary Public

15 My Commission Expires: \_\_\_\_\_"

16 (3) The forms provided in this section are not mandatory, and if  
17 substantially followed in any recall petition it shall be sufficient,  
18 disregarding clerical and technical errors.

19 (e)(1) At the election the recall proposal shall be printed on the  
20 ballot in substantially the following form:

21 "For Permitting \_\_\_\_\_ to

22 \_\_\_\_\_ Name \_\_\_\_\_ Office

23 continue to serve the term of office for which elected ..... / /

24 Against Permitting \_\_\_\_\_ to

25 \_\_\_\_\_ Name \_\_\_\_\_ Office

26 continue to serve the term of office for which elected ..... / /"

27 (2) If at the election a majority of the qualified electors  
28 voting on the recall proposal vote against permitting the elected official to  
29 serve the term of office to which elected, an immediate vacancy shall exist  
30 in the office, and the vacancy shall be filled in the manner prescribed by  
31 law.

32 (3) If at the election a majority of the qualified electors  
33 voting on the recall proposal vote for permitting the elected official to  
34 continue to serve the term of office for which elected, the elected official  
35 shall serve the full term for which elected.

36 (f) After one (1) recall petition and election, no further recall

1 petition shall be filed against the same elected official during the same  
2 term of office.

3 (g) All expenses of an election for the recall of an elected official  
4 shall be paid for in the same manner and from the same source as provided by  
5 applicable law for election expenses.

6 (h)(1) Any recall petition or recall election shall be considered a  
7 ballot question for purposes of applicable laws on measures referred to  
8 voters.

9 (2) An elected official, any person or entity acting on behalf  
10 of the elected official, or any other person or entity who receives  
11 contributions or makes expenditures for the purpose of attempting to  
12 influence the qualification, passage, or defeat of a recall petition or  
13 recall election shall be considered a ballot question committee and shall  
14 comply with applicable laws on measures referred to voters.

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