

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

1 State of Arkansas
2 88th General Assembly
3 Regular Session, 2011

As Engrossed: H3/10/11

HJR 1003

4
5 By: Representative D. Hutchinson

6
7 **HOUSE JOINT RESOLUTION**

8 PROPOSING AN AMENDMENT TO THE ARKANSAS CONSTITUTION
9 TO AMEND AMENDMENT 42, THE MACK-BLACKWELL AMENDMENT,
10 TO CLARIFY THAT EACH HIGHWAY COMMISSIONER REPRESENTS
11 HIS OR HER CONGRESSIONAL DISTRICT AND NO OTHER
12 DESIGNATED PORTION OF THE STATE; TO *HAVE* AT-LARGE
13 HIGHWAY COMMISSIONERS REPRESENT *MAINTENANCE* DISTRICTS
14 ON A ROTATION SCHEDULE FOR A TERM OF THREE (3) YEARS;
15 TO REQUIRE EACH HIGHWAY COMMISSIONER TO HAVE HIS OR
16 HER PRIMARY RESIDENCE IN THE DISTRICT FROM WHICH HE
17 OR SHE IS APPOINTED; TO ALLOW THE GENERAL ASSEMBLY TO
18 AMEND THE POWERS AND DUTIES OF THE STATE HIGHWAY
19 COMMISSION BY A VOTE OF TWO-THIRDS OF THE MEMBERS
20 ELECTED TO EACH HOUSE; TO REPEAL ARKANSAS CODE § 27-
21 65-104 AND ANY OTHER LAWS IN CONFLICT WITH THIS
22 AMENDMENT; AND FOR OTHER PURPOSES.

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25 **Subtitle**

26 *PROPOSING AN AMENDMENT TO CLARIFY THE*
27 *TERMS OF HIGHWAY COMMISSIONERS AND*
28 *ROTATING HIGHWAY COMMISSIONERS; TO ALLOW*
29 *THE GENERAL ASSEMBLY TO AMEND THE POWERS*
30 *AND DUTIES OF THE STATE HIGHWAY*
31 *COMMISSION.*

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33
34 BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE EIGHTY-EIGHTH GENERAL
35 ASSEMBLY OF THE STATE OF ARKANSAS AND BY THE SENATE, A MAJORITY OF ALL
36 MEMBERS ELECTED TO EACH HOUSE AGREEING THERETO:



1
2 That the following is proposed as an amendment to the Constitution of
3 the State of Arkansas, and upon being submitted to the electors of the state
4 for approval or rejection at the next general election for Representatives
5 and Senators, if a majority of the electors voting thereon at the election
6 adopt the amendment, the amendment shall become a part of the Constitution of
7 the State of Arkansas, to wit:

8
9 SECTION 1. Arkansas Constitution, Amendment 42, Section 2, regarding
10 the State Highway Commission, is amended to read as follows:

11 § 2. Qualifications and appointment of members – Terms of office of
12 first commission.

13 (a) Within ten days after the convening of the General Assembly of the
14 State of Arkansas in the year 1953, the Governor, by and with the advice and
15 consent of the Senate, shall appoint five persons who are qualified electors
16 of the State to constitute the State Highway Commission for terms of two,
17 four, six, eight, and ten years respectively. The terms of the persons so
18 appointed shall be determined by lot. ~~The Commissioners to be appointed from~~
19 ~~the State at large; provided, however, that no two Commissioners shall be~~
20 ~~appointed from any single Congressional District.~~

21 (b)(1)(A) There shall be only one (1) highway commissioner appointed
22 from each congressional district, except for the *commissioners that represent*
23 *maintenance districts* described in subdivision (b)(2) of this section.

24 (B) Each commissioner appointed that represents a
25 congressional district shall:

26 (i) Represent his or her congressional district and
27 no other designated portion of the state; and

28 (ii) Serve a term of ten (10) years.

29 (C) Each commissioner shall have his or her primary
30 residence in the congressional district from which he or she was appointed.

31 (D) To ensure that each congressional district has at
32 least one (1) representative on the commission if possible, no two (2)
33 commissioners who are appointed from and represent a congressional district
34 under this subdivision (b)(1) shall be from the same congressional district.

35 (E) If there are more than five (5) congressional
36 districts, appointments of commissioners under *this subdivision (b)(1)(E)*

1 shall be made on a rotation schedule so that each congressional district has
2 had a commissioner appointed from its district before another commissioner is
3 chosen from the same congressional district.

4 (2)(A) If there are fewer than five (5) congressional districts
5 in the state, the commissioners that exceed the number of congressional
6 districts shall be commissioners that represent maintenance districts.

7 (B) Each commissioner that represents a maintenance
8 district shall be appointed from and represent the maintenance district in
9 which he or she resides and no other designated portion of the state.

10 (C) Two (2) commissioners that represent maintenance
11 districts shall not reside in the same maintenance district at the same time.

12 (D) If a commissioner that represents a maintenance
13 district is appointed, he or she will be appointed from a congressional
14 district that is the same as one (1) of the commissioners appointed under
15 subdivision (a) of this section.

16 (E) Appointments of commissioners that represent
17 maintenance districts shall be made on a rotation schedule so that each
18 maintenance district has had a commissioner appointed from its district
19 before another commissioner that represents that maintenance district is
20 chosen from the same maintenance district.

21 (F) Each appointed commissioner that represents a
22 maintenance district shall:

23 (i) Represent his or her maintenance district and no
24 other designated portion of the state; and

25 (ii) Serve a term of three (3) years.

26 (G)(i) To transition the at-large commissioners that have
27 been appointed before the effective date of this act to the rotation schedule
28 required under this amendment, any at-large commissioners that exist on
29 January 1, 2013, shall serve the lesser of the years remaining on their term
30 or three (3) years.

31 (ii) Upon the expiration of the term of the at-large
32 commissioner as provided under this subdivision (b)(2)(G), commissioners that
33 represent maintenance districts shall be appointed if the conditions under
34 subdivision (b)(2)(A) of this section apply.

35 (H) A commissioner that represents a maintenance district
36 appointed after January 1, 2013, is required to have his or her primary

1 residence in the maintenance district that he or she is appointed to
2 represent.

3 (c) In the event of rejection by the Senate of a person whose name has
4 been so submitted, the Governor shall within five days after receipt of
5 written notice from the Secretary of the Senate of ~~such~~ the rejection submit
6 the name of another appointee to fill ~~such~~ the vacancy. In the event the
7 Governor should within five days thereafter fail to appoint or fail to submit
8 to the Senate for confirmation the name of any person to be appointed, the
9 Senate shall proceed to make the appointment of its own choice.

10
11 SECTION 2. Arkansas Constitution, Amendment 42, Section 3, regarding
12 the State Highway Commission, is repealed.

13 ~~§ 3. Terms of office of members.~~

14 ~~Upon the expiration of the foregoing terms of said Commissioners, a~~
15 ~~successor shall be appointed by the Governor in the manner provided for in~~
16 ~~Section 2 for a term of ten years, which term shall thereafter be for each~~
17 ~~member of the Commission.~~

18
19 SECTION 3. Arkansas Constitution, Amendment 42, Section 4, regarding
20 the State Highway Commission, is amended to read as follows:

21 § 4. Removal of members – Hearing – Review and appeal.

22 (a)(1) A Commissioner may be removed by the Governor only for the same
23 causes as apply to other constitutional officers after a hearing which may be
24 reviewed by the ~~Chancery~~ Circuit Court for the First District with right of
25 appeal therefrom to the Supreme Court, such review and appeal to be without
26 presumption in favor of any finding by the Governor or the trial court, and
27 provided further, in addition to the right of confirmation hereinabove
28 reserved to the Senate, the Senate may upon the written request of at least
29 ~~Five~~ five (5) of its members that a member or members of the Commission
30 should be removed therefrom, proceed, when in session, to hear any and all
31 evidence pertinent to the reasons for removal.

32 (2)(A) A commissioner that represents a congressional district
33 may be removed for failing to maintain his or her primary residence in that
34 congressional district.

35 (B) A commissioner that represents a maintenance district
36 may be removed for failing to maintain his or her primary residence in that

1 maintenance district.

2 (b) The member or members whose removal is so requested shall be
3 entitled to be heard in the matter and to be represented before the Senate by
4 legal Counsel. These proceedings conducted by the Senate shall be public and
5 a transcript of the testimony so heard shall be prepared and preserved in the
6 journal of the Senate. The taking of evidence either orally or by deposition
7 shall not be bound by the formal rules of evidence. Upon the conclusion of
8 the hearing, the Senate, sitting as a body in executive session, may remove
9 said member or members of the Commission by a majority vote conducted by
10 secret ballot.

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12 SECTION 4. Arkansas Constitution, Amendment 42, regarding the State
13 Highway Commission, is amended to add additional sections to read as follows:

14 § 7. Authority to amend powers and duties – Limitation.

15 (a) Except as provided in subsection (b) of this section, the General
16 Assembly may amend the powers and duties of the State Highway Commission by
17 an affirmative vote of two-thirds of the members elected to each house of the
18 General Assembly.

19 (b) The General Assembly shall not change by law the membership of the
20 State Highway Commission, repeal the State Highway Commission, or amend § 2
21 of this amendment.

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23 § 8. Repeal of any law in conflict with this amendment.

24 This amendment repeals Arkansas Code § 27-65-104, repeals any other law
25 in conflict with this amendment, and overturns any case law contrary to this
26 amendment.

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28 /s/D. Hutchinson

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