

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 H3/16/11

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; AND FOR OTHER PURPOSES.

18
19
20 **Subtitle**

21 *PROPOSING AN AMENDMENT TO CLARIFY THE*
22 *TERMS OF HIGHWAY COMMISSIONERS THAT*
23 *REPRESENT CONGRESSIONAL DISTRICTS AND*
24 *HIGHWAY COMMISSIONERS THAT REPRESENT*
25 *MAINTENANCE DISTRICTS.*

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

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



1 the State of Arkansas, to wit:

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

5 § 2. Qualifications and appointment of members – Terms of office of
6 first commission.

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

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

18 (B) Each commissioner appointed that represents a
19 congressional district shall:

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

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

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

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

29 (E) If there are more than five (5) congressional
30 districts, appointments of commissioners under *this subdivision (b)(1)(E)*
31 shall be made on a rotation schedule so that each congressional district has
32 had a *commissioner appointed from its district before another commissioner is*
33 *chosen from the same congressional district.*

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

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

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

6 (D) Appointments of commissioners that represent
7 maintenance districts shall be made on a rotation schedule so that each
8 maintenance district has had a commissioner appointed from its district
9 before another commissioner that represents that maintenance district is
10 chosen from the same maintenance district.

11 (E) Each appointed commissioner that represents a
12 maintenance district shall:

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

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

16 (F)(i) To transition the at-large commissioners that have
17 been appointed before the effective date of this act to the rotation schedule
18 required under this amendment, any at-large commissioners that exist on
19 January 1, 2013, shall serve the lesser of the years remaining on their term
20 or three (3) years.

21 (ii) Upon the expiration of the term of the at-large
22 commissioner as provided under this subdivision (b)(2)(F), commissioners that
23 represent maintenance districts shall be appointed if the conditions under
24 subdivision (b)(2)(A) of this section apply.

25 (G) A commissioner that represents a maintenance district
26 appointed after January 1, 2013, is required to have his or her primary
27 residence in the maintenance district that he or she is appointed to
28 represent.

29 (c) In the event of rejection by the Senate of a person whose name has
30 been so submitted, the Governor shall within five days after receipt of
31 written notice from the Secretary of the Senate of ~~such~~ the rejection submit
32 the name of another appointee to fill ~~such~~ the vacancy. In the event the
33 Governor should within five days thereafter fail to appoint or fail to submit
34 to the Senate for confirmation the name of any person to be appointed, the
35 Senate shall proceed to make the appointment of its own choice.

36

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

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

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

8
9 SECTION 3. Arkansas Constitution, Amendment 42, Section 4, regarding
10 the State Highway Commission, is amended to read as follows:

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

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

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

25 (B) A commissioner that represents a maintenance district
26 may be removed for failing to maintain his or her primary residence in that
27 maintenance district.

28 (b) The member or members whose removal is so requested shall be
29 entitled to be heard in the matter and to be represented before the Senate by
30 legal Counsel. These proceedings conducted by the Senate shall be public and
31 a transcript of the testimony so heard shall be prepared and preserved in the
32 journal of the Senate. The taking of evidence either orally or by deposition
33 shall not be bound by the formal rules of evidence. Upon the conclusion of
34 the hearing, the Senate, sitting as a body in executive session, may remove
35 said member or members of the Commission by a majority vote conducted by
36 secret ballot.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36

/s/D. Hutchinson