

1 State of Arkansas
2 91st General Assembly
3 Regular Session, 2017
4

A Bill

HOUSE BILL 1094

5 By: Representative Johnson
6 By: Senator J. English
7

For An Act To Be Entitled

9 AN ACT TO AMEND THE LAW REGARDING LOCAL OPTION
10 ELECTIONS IN DEFUNCT VOTING DISTRICTS THAT RESULTED
11 FROM INITIATED MEASURE 1 OF 1942; TO AUTHORIZE
12 ELECTIONS REGARDING ON-PREMISES CONSUMPTION THROUGH
13 BOTH PETITION AND CITY ORDINANCE; TO AUTHORIZE
14 PETITIONS WITH SIGNATURE LEVELS OF THIRTY-EIGHT
15 PERCENT OF QUALIFIED VOTERS FOR A COMBINATION OF ON-
16 PREMISES AND OFF-PREMISES CONSUMPTION; AND FOR OTHER
17 PURPOSES.
18

Subtitle

21 TO AMEND THE LAW FOR LOCAL OPTION
22 ELECTIONS IN DEFUNCT VOTING DISTRICTS
23 THAT RESULTED FROM INITIATED MEASURE 1 OF
24 1942; AND TO ALLOW SEPARATE ELECTIONS FOR
25 ON-PREMISES CONSUMPTION AND OFF-PREMISES
26 CONSUMPTION OF ALCOHOL.
27

28
29 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
30

31 SECTION 1. Arkansas Code § 3-8-602 is amended to read as follows:

32 3-8-602. Local option election – Defunct voting district – On-premises
33 consumption only.

34 (a)(1) Under subsection (b) of this section, an area within the
35 boundaries of a defunct voting district may conduct an election to permit the
36 sale of alcoholic beverages identified in subdivision (a)(2) of this section.



1 (2) The sale of alcoholic beverages under this section shall be
2 limited to beer, malt beverages, vinous beverages, and spirituous liquor for
3 on-premises consumption within the corporate limits of a city of the first
4 class or a city of the second class.

5 (b) An election for an area within the boundaries of a defunct voting
6 district to permit the sale of the alcoholic beverages identified in
7 subdivision (a)(2) of this section shall be held as follows:

8 (1)(A) A registered voter who resides in a county that contains
9 a defunct voting district may request in writing or a city council of a city
10 of the first class that includes a defunct voting district may request by
11 ordinance that the county board of election commissioners issue a resolution
12 to identify the boundaries of a territorial subdivision located in a defunct
13 voting district in which qualified voters may reside.

14 (B) The county board of election commissioners shall issue
15 a resolution within thirty (30) days.

16 (C) The resolution shall identify the:

17 (i) Territorial subdivisions that are located wholly
18 or partially within borders of any defunct voting districts in the county;

19 (ii) Formal and informal name or designation of any
20 defunct voting districts in the county as of the last date the defunct voting
21 district held the election resulting in its dry status;

22 (iii) Date on which any defunct voting district held
23 the last local option election that resulted in the defunct voting district's
24 becoming dry; and

25 (iv)(a) Boundaries of any defunct voting district at
26 the time of the last local option election that resulted in the defunct
27 voting district's becoming dry.

28 (b) The boundaries of the defunct voting
29 district shall be based on state, county, or municipal records or other
30 records publicly identified in the resolution.

31 (D) The resolution shall include a map of the boundaries
32 of the defunct voting district from which qualified electors residing within
33 the defunct voting district can be identified and verified for purposes of
34 obtaining signatures and conducting the local option election.

35 (E) In preparing the resolution and the map, the county
36 board of election commissioners may consult with the county clerk, the state

1 board of election commissioners, the Secretary of State, or any other entity
 2 able to provide assistance in confirming the data and preparing the map
 3 required by subdivision (b)(1)(D) of this section and the precise boundaries
 4 of the defunct voting district.

5 (F) The resolution shall be filed with the county clerk
 6 and published one (1) time a week for two (2) weeks as soon as practicable in
 7 a newspaper of general circulation in the county;

8 (2)(A)(i) ~~The A~~ petition procedure for a local option election
 9 for a defunct voting district shall be conducted under § 3-8-201 et seq.

10 (ii) The city council of a city of the first class
 11 that includes a defunct voting district may adopt an ordinance to hold a
 12 local option election to be conducted under § 3-8-201 et seq.

13 (B) Signatures shall be obtained from fifteen percent
 14 (15%) of the qualified electors residing within the boundaries of a defunct
 15 voting district, as identified by the resolution and corresponding map.

16 (C) When fifteen percent (15%) of the qualified voters
 17 have filed petitions with the county clerk under this subdivision (b)(2), the
 18 county clerk shall determine within ten (10) days the sufficiency of the
 19 petitions under § 3-8-205;

20 (3)(A)(i) The election process for a special local option
 21 election for a defunct voting district shall be conducted pursuant to § 3-8-
 22 201 et seq.

23 (ii) The county clerk shall issue a resolution
 24 calling for a special local option election for a defunct voting district for
 25 which the requisite number of signatures has been certified under subdivision
 26 (b)(2) of this section when:

27 (a) The requisite number of qualified electors
 28 sign petitions filed with the county clerk; and

29 (b) The county clerk certifies those
 30 signatures to the county board of election commissioners.

31 (iii) The resolution calling the special local
 32 option election shall be filed with the county clerk, and the county clerk
 33 shall immediately transmit the document to the county board of election
 34 commissioners.

35 (iv) The resolution calling the special local option
 36 election shall state:

- 1 (a) The date of the special election;
- 2 (b) The full text of the measure for which the
- 3 election is called; and
- 4 (c) The ballot title for the measure for which
- 5 the special local option election is called.

6 (v) The county board of election commissioners shall
 7 publish the resolution calling the special option election one (1) time a
 8 week for two (2) weeks as soon as practicable in a newspaper of general
 9 circulation in the county.

10 (B) The ballot title shall be in substantially the
 11 following form: "TO DETERMINE WHETHER OR NOT ALCOHOLIC BEVERAGES MAY BE SOLD
 12 AS AUTHORIZED BY ARKANSAS CODE § 3-8-602 WITHIN (popular name of the defunct
 13 voting district)".

14 (C) The ballot shall be in substantially the following
 15 form:

16 "[] FOR the Sale of Alcoholic Beverages, As Authorized by Arkansas Code § 3-
 17 8-602.

18 [] AGAINST the Sale of Alcoholic Beverages, As Authorized by Arkansas Code §
 19 3-8-602."

20 (D) The special local option election shall be called on a
 21 Tuesday and shall not be held less than sixty (60) days following the date
 22 the resolution calling the special election is filed with the county clerk.

23 (E) The map of the defunct voting district created by the
 24 county board of election commissioners shall be placed at each polling site.

25 (F) A majority vote of the qualified electors residing
 26 within the boundaries of the defunct voting district shall determine whether
 27 or not alcoholic beverages may be sold or manufactured under subdivision

28 (a)(2) of this section within the boundaries of the defunct voting district;
 29 and

30 (4) The precincts and polling sites to be utilized for
 31 conducting elections under this section shall be established by the county
 32 board of election commissioners.

33 (c) If a defunct voting district is located entirely within the
 34 boundaries of a larger defunct voting district, a vote shall be held only for
 35 the larger defunct voting district.

36 (d)(1) If two (2) defunct voting districts overlap, then the

1 overlapping area will only be included in the boundaries of the defunct
2 voting district that first held the local option election that resulted in
3 its dry status to determine whether or not alcoholic beverages may be sold or
4 manufactured under subdivision (a)(2) of this section.

5 (2)(A) The local option elections for more than one (1) defunct
6 voting district may be held simultaneously or on different dates.

7 (B) If local option elections for more than one (1)
8 defunct voting district are held on the same date, the majority vote of all
9 the voters residing within the boundaries of the defunct voting district
10 shall determine the local option status of only the geographic area located
11 within the boundaries of that particular defunct voting district.

12 (e) If the majority of the qualified voters in the special local
13 option election vote:

14 (1) For the sale of alcoholic beverages as described under
15 subdivision (a)(2) of this section, then it shall be lawful for the Director
16 of the Alcoholic Beverage Control Division to issue the relevant licenses or
17 permits within the defunct voting district immediately after the
18 certification of the results of an election permitting the sale or
19 manufacture of alcoholic beverages under this section, as required by § 3-8-
20 206; or

21 (2) Against the sale or manufacture of alcoholic beverages as
22 described under subdivision (a)(2) of this section, then it shall be unlawful
23 for the Alcoholic Beverage Control Division to issue licenses or permits for
24 ~~such sale~~ the sale of alcoholic beverages within the defunct voting district.

25 (f) A subsequent election under this section shall not be held in the
26 same defunct voting district until a period of two (2) years has elapsed
27 since the last special local option election conducted under this section.

28 (g) The cost of a local option election under this section shall be
29 paid by the county in the same manner as the cost of a general election, or
30 in any other manner as properly determined by the quorum court.

31 (h)(1) The boundaries of a defunct voting district as identified by
32 the county board of election commissioners under subdivision (b)(1) of this
33 section shall be deemed final and valid unless clearly erroneous or
34 arbitrary.

35 (2) Any challenge to or appeal of the boundaries established by
36 the resolution of the county board of election commissioners shall be made to

1 the county court within eleven (11) days of the first publication of the
2 resolution described in subdivision (b)(1)(F) of this section.

3 (i) To the extent any of the provisions of this section conflict with
4 § 3-8-201 et seq., the provisions of this section control.

5
6 SECTION 2. Arkansas Code Title 3, Chapter 8, Subchapter 6, is amended
7 to add an additional section to read as follows:

8 3-8-603. Local option election – Defunct voting district – On-premises
9 and off-premises consumption.

10 (a)(1) Under subsection (b) of this section, an area within the
11 boundaries of a defunct voting district may conduct an election to permit the
12 sale of alcoholic beverages identified in subdivision (a)(2) of this section.

13 (2) Within the corporate limits of a city of the first class,
14 the sale of alcoholic beverages under this section shall be limited to:

15 (A) Beer and vinous beverages for off-premises
16 consumption; and

17 (B) Beer, malt beverages, vinous beverages, and spirituous
18 liquor for on-premises consumption.

19 (b) An election for an area within the boundaries of a defunct voting
20 district to permit the sale of the alcoholic beverages identified in
21 subdivision (a)(2) of this section shall be held as follows:

22 (1)(A) A registered voter who resides in a county that contains
23 a defunct voting district may request in writing or a city council of a city
24 of the first class that includes a defunct voting district may request by
25 ordinance that the county board of election commissioners issue a resolution
26 to identify the boundaries of a territorial subdivision located in a defunct
27 voting district in which qualified voters may reside.

28 (B) The county board of election commissioners shall issue
29 a resolution within thirty (30) days.

30 (C) The resolution shall identify the:

31 (i) Territorial subdivisions that are located wholly
32 or partially within borders of any defunct voting districts in the county;

33 (ii) Formal and informal name or designation of any
34 defunct voting districts in the county as of the last date the defunct voting
35 district held the election resulting in its dry status;

36 (iii) Date on which any defunct voting district held

1 the last local option election that resulted in the defunct voting district's
2 becoming dry; and

3 (iv)(a) Boundaries of any defunct voting district at
4 the time of the last local option election that resulted in the defunct
5 voting district's becoming dry.

6 (b) The boundaries of the defunct voting
7 district shall be based on state, county, or municipal records or other
8 records publicly identified in the resolution.

9 (D) The resolution shall include a map of the boundaries
10 of the defunct voting district from which qualified electors residing within
11 the defunct voting district can be identified and verified for purposes of
12 obtaining signatures and conducting the local option election.

13 (E) In preparing the resolution and the map, the county
14 board of election commissioners may consult with the county clerk, the state
15 board of election commissioners, the Secretary of State, or any other entity
16 able to provide assistance in confirming the data and preparing the map
17 required by subdivision (b)(1)(D) of this section and the precise boundaries
18 of the defunct voting district.

19 (F) The resolution shall be filed with the county clerk
20 and published one (1) time a week for two (2) weeks as soon as practicable in
21 a newspaper of general circulation in the county;

22 (2)(A) A petition procedure for a local option election for a
23 defunct voting district shall be conducted under § 3-8-201 et seq.

24 (B) Signatures shall be obtained from thirty-eight percent
25 (38%) of the qualified voters residing within the boundaries of a defunct
26 voting district, as identified by the resolution and corresponding map.

27 (C) When thirty-eight percent (38%) of the qualified
28 voters have filed petitions with the county clerk under this subdivision
29 (b)(2), the county clerk shall determine within ten (10) days the sufficiency
30 of the petitions under § 3-8-205;

31 (3)(A)(i) The election process for a special local option
32 election for a defunct voting district shall be conducted pursuant to § 3-8-
33 201 et seq.

34 (ii) The county clerk shall issue a resolution
35 calling for a special local option election for a defunct voting district for
36 which the requisite number of signatures has been certified under subdivision

1 (b)(2) of this section when:

2 (a) The requisite number of qualified electors
 3 sign petitions filed with the county clerk; and

4 (b) The county clerk certifies those
 5 signatures to the county board of election commissioners.

6 (iii) The resolution calling the special local
 7 option election shall be filed with the county clerk, and the county clerk
 8 shall immediately transmit the document to the county board of election
 9 commissioners.

10 (iv) The resolution calling the special local option
 11 election shall state:

12 (a) The date of the special election;

13 (b) The full text of the measure for which the
 14 election is called; and

15 (c) The ballot title for the measure for which
 16 the special local option election is called.

17 (v) The county board of election commissioners shall
 18 publish the resolution calling the special option election one (1) time a
 19 week for two (2) weeks as soon as practicable in a newspaper of general
 20 circulation in the county.

21 (B) The ballot title shall be in substantially the
 22 following form: "TO DETERMINE WHETHER OR NOT ALCOHOLIC BEVERAGES MAY BE SOLD
 23 AS AUTHORIZED BY ARKANSAS CODE § 3-8-603 WITHIN (popular name of the defunct
 24 voting district)".

25 (C) The ballot shall be in substantially the following
 26 form:

27 "[] FOR the Sale of Alcoholic Beverages, As Authorized by Arkansas Code § 3-
 28 8-603.

29 [] AGAINST the Sale of Alcoholic Beverages, As Authorized by Arkansas Code §
 30 3-8-603."

31 (D) The special local option election shall be called on a
 32 Tuesday and shall not be held less than sixty (60) days following the date
 33 the resolution calling the special election is filed with the county clerk.

34 (E) The map of the defunct voting district created by the
 35 county board of election commissioners shall be placed at each polling site.

36 (F) A majority vote of the qualified electors residing

1 within the boundaries of the defunct voting district shall determine whether
2 or not alcoholic beverages may be sold under subdivision (a)(2) of this
3 section within the boundaries of the defunct voting district; and

4 (4) The precincts and polling sites to be utilized for
5 conducting elections under this section shall be established by the county
6 board of election commissioners.

7 (c) If a defunct voting district is located entirely within the
8 boundaries of a larger defunct voting district, a vote shall be held only for
9 the larger defunct voting district.

10 (d)(1) If two (2) defunct voting districts overlap, then the
11 overlapping area will only be included in the boundaries of the defunct
12 voting district that first held the local option election that resulted in
13 its dry status to determine whether or not alcoholic beverages may be sold
14 under subdivision (a)(2) of this section.

15 (2)(A) The local option elections for more than one (1) defunct
16 voting district may be held simultaneously or on different dates.

17 (B) If local option elections for more than one (1)
18 defunct voting district are held on the same date, the majority vote of all
19 the voters residing within the boundaries of the defunct voting district
20 shall determine the local option status of only the geographic area located
21 within the boundaries of that particular defunct voting district.

22 (e) If the majority of the qualified voters in the special local
23 option election vote:

24 (1) For the sale of alcoholic beverages as described under
25 subdivision (a)(2) of this section, then it shall be lawful for the Director
26 of the Alcoholic Beverage Control Division to issue the relevant licenses or
27 permits within the defunct voting district immediately after the
28 certification of the results of an election permitting the sale of alcoholic
29 beverages under this section, as required by § 3-8-206; or

30 (2) Against the sale of alcoholic beverages as described under
31 subdivision (a)(2) of this section, then it shall be unlawful for the
32 Alcoholic Beverage Control Division to issue licenses or permits for the sale
33 of alcoholic beverages within the defunct voting district.

34 (f) A subsequent election under this section shall not be held in the
35 same defunct voting district until a period of two (2) years has elapsed
36 since the last special local option election conducted under this section.

1 (g) The cost of a local option election under this section shall be
2 paid by the county in the same manner as the cost of a general election, or
3 in any other manner as properly determined by the quorum court.

4 (h)(1) The boundaries of a defunct voting district as identified by
5 the county board of election commissioners under subdivision (b)(1) of this
6 section shall be deemed final and valid unless clearly erroneous or
7 arbitrary.

8 (2) A challenge to or appeal of the boundaries established by
9 the resolution of the county board of election commissioners shall be made to
10 the county court within eleven (11) days of the first publication of the
11 resolution described in subdivision (b)(1)(F) of this section.

12 (i) To the extent any of the provisions of this section conflict with
13 § 3-8-201 et seq., the provisions of this section control.

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