

1 State of Arkansas
2 92nd General Assembly
3 Regular Session, 2019
4

A Bill

HOUSE BILL 1563

5 By: Representatives Pilkington, McCollum, G. Hodges, Rushing, Eaves, Blake, D. Ferguson, Fortner, M.
6 Gray, Holcomb, Hollowell, D. Douglas, Scott, F. Allen, Perry
7 By: Senators G. Stubblefield, B. Ballinger, T. Garner, L. Chesterfield
8

For An Act To Be Entitled

9
10 AN ACT TO ALLOW FOR CASINO GAMING IN JOHNSON COUNTY;
11 TO AMEND ARKANSAS CONSTITUTION, AMENDMENT 100,
12 PURSUANT TO THE AUTHORITY GRANTED BY ARKANSAS
13 CONSTITUTION, ARTICLE 5, § 1; TO DECLARE AN
14 EMERGENCY; AND FOR OTHER PURPOSES.
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Subtitle

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18 TO ALLOW FOR CASINO GAMING IN JOHNSON
19 COUNTY; AMENDING ARKANSAS CONSTITUTION,
20 AMENDMENT 100; AND TO DECLARE AN
21 EMERGENCY.
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24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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26 SECTION 1. DO NOT CODIFY. LEGISLATIVE INTENT. (a) The General
27 Assembly finds:

28 (1) Arkansas Constitution, Article 5, § 1, provides that "[n]o
29 measure approved by a vote of the people shall be amended or repealed by the
30 General Assembly. . . except upon a yea and nay vote on roll call of two-
31 thirds of all the members elected to each house of the General Assembly. .
32 .";

33 (2) Arkansas Constitution, Article 5, § 1, defines a "measure"
34 to include any bill, law, resolution, ordinance, charter, constitutional
35 amendment or legislative proposal or enactment of any character;

36 (3) The plain language of the definition of "measure" in



1 Arkansas Constitution, Article 5, § 1 clearly includes amendments to the
2 Arkansas Constitution, meaning that the General Assembly may amend such
3 measures with a two-thirds vote of each house;

4 (4) Despite observing that the definition of "measure" in
5 Arkansas Constitution, Article 5, § 1 included "constitutional amendment(s)
6 'or legislative proposals of any character'", the Supreme Court in Arkansas
7 Game and Fish Commission v. Edgmon, 218 Ark. 207, 235 S.W.2d 554 (1951),
8 declined to construe the language literally and held that the General
9 Assembly lacked the power to amend or repeal amendments to the Arkansas
10 Constitution by a two-thirds vote of each house;

11 (5) In Board of Trustees of the University of Arkansas v.
12 Andrews, 2018 Ark. 12 (2018), the Supreme Court overturned years of precedent
13 by holding that the General Assembly cannot waive by law the state's
14 sovereign immunity granted by Arkansas Constitution, Article 5, § 20;

15 (6) In reaching its decision in Andrews, supra, the Supreme
16 Court held that the language of Arkansas Constitution, Article 5, § 20,
17 should be interpreted "precisely as it reads"; and

18 (7) An interpretation of Arkansas Constitution, Article 5, § 1,
19 "precisely as it reads" clearly leads to the conclusion that the General
20 Assembly may amend all measures, including constitutional amendments, by a
21 two-thirds vote of each house.

22 (b) By the passage of this act, the General Assembly expresses its
23 belief that, upon consideration of this act using the standard of review
24 established in Andrews, supra, the Supreme Court will:

25 (1) Interpret Arkansas Constitution, Article 5, § 1, precisely
26 as it reads;

27 (2) Overturn its decision in Edgmon, supra, as inconsistent with
28 its holding in Andrews, supra; and

29 (3) Uphold the constitutional authority of the General Assembly
30 under Arkansas Constitution, Article 5, § 1, to amend or repeal amendments to
31 the Arkansas Constitution by a two-thirds vote of each house.

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33 SECTION 2. Pursuant to the authority granted by Arkansas Constitution,
34 Article 5, § 1, Arkansas Constitution, Amendment 100, § 4(k), is amended to
35 read as follows:

36 (k) The Arkansas Racing Commission shall award a casino license to a

1 casino applicant for a casino to be located in ~~Pope~~ Johnson County within two
 2 miles of the city limits of the county seat. The Arkansas Racing Commission
 3 shall also award a casino license to a casino applicant for a casino to be
 4 located in Jefferson County within two miles of the city limits of the county
 5 seat.

6
 7 SECTION 3. Pursuant to the authority granted by Arkansas Constitution,
 8 Article 5, § 1, Arkansas Constitution, Amendment 100, § 4(m) and (n), are
 9 amended to read as follows:

10 (m) The Arkansas Racing Commission shall require all casino applicants
 11 for a casino license in ~~Pope~~ Johnson County and Jefferson County to
 12 demonstrate experience conducting casino gaming.

13 (n) The Arkansas Racing Commission shall require all casino applicants
 14 for a casino license in ~~Pope~~ Johnson County and Jefferson County to submit
 15 either a letter of support from the county judge or a resolution from the
 16 quorum court in the county where the proposed casino is to be located and, if
 17 the proposed casino is to be located within a city or town, shall also
 18 require all casino applicants to include a letter of support from the mayor
 19 in the city or town where the applicant is proposing the casino to be
 20 located.

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 22 SECTION 4. EMERGENCY CLAUSE. It is found and determined by the
 23 General Assembly of the State of Arkansas that the statewide adoption of
 24 Arkansas Constitution, Amendment 100, has authorized casino gaming in Pope
 25 County; that while the voters of Pope County rejected the adoption of the
 26 proposed amendment that became Arkansas Constitution, Amendment 100, at the
 27 2018 general election, Johnson County has expressed interest in and support
 28 for a casino in that county; and this act should become effective at the
 29 earliest opportunity to avoid confusion in the implementation of Arkansas
 30 Constitution, Amendment 100, and expedite the application process for casino
 31 licenses. Therefore, an emergency is declared to exist, and this act being
 32 immediately necessary for the preservation of the public peace, health, and
 33 safety shall become effective on:

34 (1) The date of its approval by the Governor;

35 (2) If the bill is neither approved nor vetoed by the Governor,
 36 the expiration of the period of time during which the Governor may veto the

1 bill; or

2 (3) If the bill is vetoed by the Governor and the veto is
3 overridden, the date the last house overrides the veto.

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