

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

1 State of Arkansas *As Engrossed: H2/27/19*

2 92nd General Assembly

3 Regular Session, 2019

HJR 1023

4

5 By: Representative Eubanks

6 By: Senator K. Ingram

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HOUSE JOINT RESOLUTION

9 *AN AMENDMENT TO THE ARKANSAS CONSTITUTION CONCERNING*
10 *THE REQUIREMENTS GOVERNING CIRCULATION, SUBMISSION,*
11 *AND CHALLENGES TO THE SUFFICIENCY OF INITIATED*
12 *MEASURES AND REFERENDA PROPOSED UNDER ARKANSAS*
13 *CONSTITUTION, ARTICLE 5, § 1, AND CONSTITUTIONAL*
14 *AMENDMENTS PROPOSED BY THE GENERAL ASSEMBLY.*

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Subtitle

18

TO AMEND THE ARKANSAS CONSTITUTION

19

CONCERNING THE REQUIREMENTS GOVERNING

20

CIRCULATION, SUBMISSION, AND CHALLENGES

21

TO THE SUFFICIENCY OF INITIATIVES AND

22

CONSTITUTIONAL AMENDMENTS PROPOSED BY THE

23

GENERAL ASSEMBLY.

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26 BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE NINETY-SECOND GENERAL

27 ASSEMBLY OF THE STATE OF ARKANSAS, AND BY THE SENATE, A MAJORITY OF ALL

28 MEMBERS ELECTED TO EACH HOUSE AGREEING THERETO:

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

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1 SECTION 1. The subsection of Arkansas Constitution, Article 5, § 1,
2 titled "Initiative", is amended to read as follows:

3 Initiative. (a) The first power reserved by the people is the
4 initiative. ~~Eight per-cent~~ percent (8%) of the legal voters may propose any
5 law and ~~ten per-cent~~ percent (10%) may propose a constitutional amendment by
6 initiative petition and every such petition shall include the full text of
7 the measure so proposed. Initiative petitions for ~~state-wide~~ statewide
8 measures shall be filed with the Secretary of State ~~not less~~ no later than
9 ~~four months~~ January 15 ~~before~~ of the year of the election at which they are
10 to be voted upon; provided, that at least thirty (30) days before the
11 aforementioned filing, the proposed statewide measure shall have been
12 published once, at the expense of the petitioners, in some paper of general
13 circulation.

14 (b) The General Assembly shall enact laws establishing a process for
15 the approval of the sufficiency of the title of a proposed initiated measure
16 prior to the circulation of initiative petitions.

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18 SECTION 2. The subsection of Arkansas Constitution, Article 5, § 1,
19 titled "Referendum", is amended to read as follows:

20 Referendum. (a) The second power reserved by the people is the
21 referendum, and any number not less than ~~six per-cent~~ percent (6%) of the
22 legal voters may, by petition, order the referendum against any general Act,
23 or any item of an appropriation bill, or measure passed by the General
24 Assembly, but the filing of a referendum petition against one (1) or more
25 items, sections or parts of any such act or measure shall not delay the
26 remainder from becoming operative. Such petition shall be filed with the
27 Secretary of State not later than ninety (90) days after the final
28 adjournment of the session at which such Act was passed, except when a recess
29 or adjournment shall be taken temporarily for a longer period than ninety
30 (90) days, in which case such petition shall be filed not later than ninety
31 (90) days after such recess or temporary adjournment. Any measure referred
32 to the people by referendum petition shall remain in abeyance until such vote
33 is taken. The total number of votes cast for the office of Governor in the
34 last preceding general election shall be the basis upon which the number of
35 signatures of legal voters upon ~~state-wide~~ statewide initiative and
36 referendum petitions shall be computed.

1 (b) The General Assembly shall enact laws establishing a process for
2 the approval of the sufficiency of the title of a statewide referendum before
3 the circulation of referendum petitions.

4 (c)(1) Upon all statewide initiative or referendum petitions provided
5 for in any of the sections of this article, it shall be necessary to file
6 from at least fifteen of the counties of the State, petitions bearing the
7 signature of not less than one-half (1/2) of the designated percentage of the
8 electors of such county at least one-fourth (1/4) of the counties in each
9 congressional district.

10 (2) In calculating the number of counties representing one-
11 fourth (1/4) of the counties within a congressional district, the number
12 shall be rounded up to the nearest whole number.

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14 SECTION 3. The subsection of Arkansas Constitution, Article 5, § 1,
15 titled "Definition", is amended to read as follows:

16 Definition. (a) The Except as provided in subdivision (b) of this
17 subsection, the word "measure" as used herein includes any bill, law,
18 resolution, ordinance, charter, constitutional amendment or legislative
19 proposal or enactment of any character.

20 (b) The word "measure" does not include the following, which shall not
21 be proposed and submitted to the people under this section:

22 (1) A constitutional amendment whose enforcement or purview is
23 restricted to one (1) or more counties or municipalities, either explicitly
24 or by implication; or

25 (2) A constitutional amendment which, either explicitly or by
26 implication:

27 (A) Specifically bestows power, privileges, or authority
28 to:

29 (i) A specific individual; or

30 (ii) A private business entity, including without
31 limitation a private corporation; or

32 (B) Creates a business or nonprofit monopoly for a county,
33 municipality, business entity, or private corporation.

34 (c) Subdivision (b) of this subsection shall supersede a subsequent
35 amendment to the Arkansas Constitution that violates the provisions of
36 subdivision (b) of this section.

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SECTION 4. The subsection of Arkansas Constitution, Article 5, § 1, titled "Majority", is amended to read as follows:

Majority Approval of measures. (a) Any Except as provided in subdivision (b) of this this subsection, a measure submitted to the people as herein provided shall take effect and become a law when approved by a majority of the votes cast upon ~~such~~ the measure, and not otherwise, and shall not be required to receive a majority of the electors voting at such election. Such ~~measures~~ a measure shall be operative on and after the thirtieth day after the election at which ~~it~~ the measure is approved, unless otherwise specified in the Act.

(b) A proposed constitutional amendment submitted to the people as herein provided shall take effect and become a law when approved by at least sixty percent (60%) of the votes cast statewide upon the proposed constitutional amendment, and not otherwise, and shall not be required to receive a majority of the votes cast at such election. Such a proposed constitutional amendment shall be operative on and after the thirtieth day after the election at which the proposed constitutional amendment is approved, unless otherwise specified in the proposed constitutional amendment.

(c) This section shall not be construed to deprive any member of the General Assembly of the right to introduce any measure, but no measure shall be submitted to the people by the General Assembly, except a proposed constitutional amendment or amendments as provided for in this Constitution.

SECTION 5. The subsection of Arkansas Constitution, Article 5, § 1, titled "Conflicting Measures", is amended to read as follows:

Conflicting Measures. (a) If Except as provided in subdivisions (b) and (c) of this this subsection, if conflicting measures initiated or referred to the people ~~shall be~~ are approved by a majority of the votes severally cast for and against the same at the same election, the one receiving the highest number of affirmative votes shall become law.

(b) If conflicting proposed constitutional amendments initiated or referred to the people are approved by at least sixty percent (60%) of the votes severally cast statewide for and against the same at the same election, the proposed constitutional amendment receiving the highest number of

1 affirmative votes shall become law.

2 (c) If proposed constitutional amendments are initiated or referred to
3 the people, one (1) or more proposed constitutional amendments are approved
4 by at least sixty percent (60%) of the votes severally cast statewide for and
5 against the same, and one (1) or more proposed constitutional amendments are
6 approved by a majority of the votes cast upon the proposed constitutional
7 amendment statewide but by less than sixty percent (60%) of the votes, the
8 proposed constitutional amendment receiving the highest number of affirmative
9 votes shall become law.

10
11 SECTION 6. The subsection of Arkansas Constitution, Article 5, § 1,
12 titled "Title", is amended to read as follows:

13 Title. (a) At the time of filing petitions the exact title to be used
14 on the ballot shall by the petitioners be submitted with the petition, and on
15 ~~state-wide~~ statewide measures, shall be submitted to the State Board of
16 Election Commissioners, who shall certify such title to the Secretary of
17 State, to be placed upon the ballot; on county and municipal measures such
18 title shall be submitted to the county election board and shall by said board
19 be placed upon the ballot in such county or municipal election.

20 (b)(1) The title shall be intelligible, brief, honest, and impartial.

21 (2) The title shall not be misleading or confusing.

22 (3) The title shall summarize the text of the measure.

23
24 SECTION 7. The subsection of Arkansas Constitution, Article 5, § 1,
25 titled "Verification", is amended to read as follows:

26 Verification. (a) Only legal ~~votes~~ signatures shall be counted upon
27 petitions. Petitions may be circulated and presented in parts, but each part
28 of any petition shall have attached thereto the affidavit of the person
29 circulating the same, that all signatures thereon were made in the presence
30 of the affiant, and that to the best of the affiant's knowledge and belief
31 each signature is genuine, and that the person signing is a legal voter and
32 no other affidavit or verification shall be required to establish the
33 genuineness of such signatures.

34 (b)(1) An initiative petition shall not be circulated before the date
35 of the general election preceding the general election at which the proposed
36 measure is to be voted upon.

1 (2) Any signatures obtained on an initiative petition in
 2 violation of subdivision (b)(1) of this section are invalid.

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 4 SECTION 8. The subsection of Arkansas Constitution, Article 5, § 1,
 5 titled "Court Decisions", is amended to read as follows:

6 Court Decisions. If the sufficiency of any petition is challenged such
 7 cause shall be a preference cause and shall be tried at once. A challenge
 8 to the sufficiency of the title of a proposed measure or the text of a
 9 proposed measure shall be filed not later than thirty (30) days following the
 10 approval of the title of a proposed measure in the manner required by the
 11 General Assembly. A challenge to the sufficiency of the signatures submitted
 12 on a statewide petition or the form of the statewide petition on which the
 13 signatures were submitted shall be filed no later than thirty (30) days
 14 following the petition being declared sufficient. ~~but the~~ The failure of the
 15 courts to decide prior to the election as to the sufficiency of any such
 16 petition, shall not prevent the question from being placed upon the ballot at
 17 the election named in such petition, nor militate against the validity of
 18 such measure, if it shall have been approved by a vote of the people.

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 20 SECTION 9. The subsection of Arkansas Constitution, Article 5, § 1,
 21 titled "Amendment of Petition", is amended to read as follows:

22 Amendment of Petition.

23 (a)(1) If the Secretary of State, county clerk or city clerk, as the
 24 case may be, shall decide any petition to be insufficient, he or she shall
 25 without delay notify the sponsors of such petition, and permit at least
 26 thirty (30) days from the date of such notification, in the instance of a
 27 ~~state-wide~~ statewide petition, or ten (10) days in the instance of a
 28 municipal or county petition, for correction or amendment.

29 (2) For a ~~state-wide~~ statewide petition, correction or amendment
 30 of an insufficient petition shall be permitted only if the petition contains
 31 valid signatures of legal voters equal to:

32 (A) At least seventy-five percent (75%) of the number of
 33 ~~state-wide~~ statewide signatures of legal voters required; and

34 (B) At least seventy-five percent (75%) of the required
 35 number of signatures of legal voters from each of at least ~~fifteen (15)~~
 36 ~~counties of the state~~ one-fourth (1/4) of the counties in each congressional

1 district as required under this section.

2 (b)(1) Signatures for the correction or amendment of an insufficient
3 petition shall not be collected while the Secretary of State, county clerk,
4 or city clerk, as the case may be, is determining the sufficiency of the
5 petition.

6 (2) A signature collected for the purpose of correction or
7 amendment before a petition has been deemed insufficient and eligible for
8 correction or amendment is not valid for the purposes of correction or
9 amendment of an insufficient petition.

10 ~~(b)(c)~~ In the event of legal proceedings to prevent giving legal
11 effect to any petition upon any grounds, the burden of proof shall be upon
12 the person or persons attacking the validity of the petition.

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14 SECTION 10. The subsection of Arkansas Constitution, Article 5, § 1,
15 titled "Unwarranted Restrictions Prohibited", is amended to read as follows:

16 Unwarranted Restrictions Prohibited. (a) No law shall be passed to
17 prohibit any person or persons from giving or receiving compensation for
18 circulating petitions, nor to prohibit the circulation of petitions, nor in
19 any manner interfering with the freedom of the people in procuring petitions;
20 but laws shall be enacted prohibiting and penalizing perjury, forgery, and
21 all other felonies or other fraudulent practices, in the securing of
22 signatures or filing of petitions.

23 (b) The General Assembly may enact laws necessary for the
24 implementation of this section, including without limitation laws concerning
25 the regulation of:

26 (1) Individuals involved in the process of the submission and
27 circulation of petitions under this section, including without limitation
28 persons who:

29 (A) Submit the title of a measure for approval prior to
30 the circulation of petitions;

31 (B) Sponsor a measure for approval and compensate persons
32 to canvas for petition signatures;

33 (C) Canvas for petition signatures; and

34 (D) Receive any type of compensation to canvass for
35 petition signatures; and

36 (2) Organizations that compensate canvassers for petition

1 signatures or otherwise provide services to the sponsor of a petition.

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3 SECTION 11. Arkansas Constitution, Article 5, § 1, is amended to add
4 additional subsections to read as follows:

5 Extension of Time. If a deadline under this section occurs on a
6 Saturday, Sunday, or legal holiday, the deadline shall be the next day which
7 is not a Saturday, Sunday, or legal holiday.

8 Amendments to this Section by the General Assembly. The General
9 Assembly, in the same manner as required for amendment or repeal of measures
10 approved by a vote of the people, may amend this section so long as such
11 amendments are germane to this section and consistent with its policy and
12 purposes.

13
14 SECTION 12. Arkansas Constitution, Article 19, § 22, is amended to
15 read as follows:

16 § 22. Constitutional amendments.

17 Either branch of the General Assembly, at a regular session thereof,
18 may propose amendments to this Constitution; and if the same be agreed to by
19 a majority of all members elected to each house, such proposed amendments
20 shall be entered on the journals with the yeas and nays, and published in at
21 least one (1) newspaper in each county, where a newspaper is published, for
22 six (6) months immediately preceding the next general election for Senators
23 and Representatives, at which time the same shall be submitted to the
24 electors of the State, for approval or rejection; and if a majority of the
25 electors voting at such election adopt such amendments, the same shall become
26 a part of this Constitution. But no more than three (3) amendments shall be
27 proposed or submitted at the same time. They shall be so submitted as to
28 enable the electors to vote on each amendment separately. The sufficiency of
29 a proposed amendment under this section shall be decided by the Supreme
30 Court, which shall have original and exclusive jurisdiction over all such
31 causes. If the sufficiency of a proposed amendment is challenged, the
32 challenge shall be a preference cause and shall be tried at once. The
33 failure of the Supreme Court to decide prior to the election as to the
34 sufficiency of any proposed amendment, shall not prevent the question from
35 being placed upon the ballot at the election named in such proposed
36 amendment, nor militate against the validity of such proposed amendment, if

1 it shall have been approved by a vote of the people.

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3 SECTION 13. Arkansas Constitution, Amendment 70, § 2, is amended to
4 read as follows:

5 § 2. Additional Constitutional amendments authorized.

6 (a) In addition to the three (3) amendments to ~~the~~ this Constitution
7 allowed pursuant to Article 19, § 22, either branch of the General Assembly
8 at a regular session thereof may propose an amendment to ~~the~~ this
9 Constitution to change the salaries for the offices of Governor, Lieutenant
10 Governor, Attorney General, Secretary of State, Treasurer of State,
11 Commissioner of State Lands, and Auditor of State and for members of the
12 General Assembly. ~~If the same be agreed to by a majority of all members~~
13 ~~elected to each house, such proposed amendment shall be entered on the~~
14 ~~journals with the yeas and nays, and published in at least one newspaper in~~
15 ~~each county, where a newspaper is published, for six months immediately~~
16 ~~preceding the next general election for Senators and Representatives, at~~
17 ~~which time the same shall be submitted to the electors of the State for~~
18 ~~approval or rejection. If a majority of the electors voting at such election~~
19 ~~adopt the amendment the same shall become a part of this Constitution.~~

20 (b) Only one (1) amendment to ~~the~~ this Constitution may be referred
21 pursuant to this section.

22 (c) An amendment proposed under the authority of this section shall
23 comply with the requirements of Article 19, § 22, of this Constitution.

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25 SECTION 14. EFFECTIVE DATE. This amendment shall be effective on and
26 after January 1, 2021.

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28 SECTION 15. BALLOT TITLE AND POPULAR NAME. When this proposed
29 amendment is submitted to the electors of this state on the general election
30 ballot:

31 (1) The title of this joint resolution shall be the ballot
32 title; and

33 (2) The popular name shall be "An Amendment to the Arkansas
34 Constitution Concerning the Requirements Governing Circulation, Submission,
35 and Challenges to the Sufficiency of Initiated Measures and Referenda
36 Proposed Under Arkansas Constitution, Article 5, § 1, and Constitutional

1 Amendments Proposed by the General Assembly".

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/s/Eubanks