

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

1 State of Arkansas *As Engrossed: S3/5/19 S3/13/19*

2 92nd General Assembly

3 Regular Session, 2019

SJR 9

4

5 By: Senators M. Johnson, *K. Ingram*

6 *By: Representative Eubanks*

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SENATE JOINT RESOLUTION

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A CONSTITUTIONAL AMENDMENT CONCERNING THE

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REQUIREMENTS GOVERNING CIRCULATION, SUBMISSION, AND

11

CHALLENGES TO THE SUFFICIENCY OF INITIATED MEASURES

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AND REFERENDA PROPOSED UNDER ARKANSAS CONSTITUTION,

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ARTICLE 5, § 1, AND CONSTITUTIONAL AMENDMENTS

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PROPOSED BY THE GENERAL ASSEMBLY.

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Subtitle

18

A CONSTITUTIONAL AMENDMENT CONCERNING THE

19

REQUIREMENTS GOVERNING CIRCULATION,

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SUBMISSION, AND CHALLENGES TO THE

21

SUFFICIENCY OF INITIATIVES AND

22

CONSTITUTIONAL AMENDMENTS PROPOSED BY THE

23

GENERAL ASSEMBLY.

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BE IT RESOLVED BY THE SENATE OF THE NINETY-SECOND GENERAL ASSEMBLY OF THE

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STATE OF ARKANSAS, AND BY THE HOUSE OF REPRESENTATIVES, A MAJORITY OF ALL

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MEMBERS ELECTED TO EACH HOUSE AGREEING THERETO:

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THAT the following is proposed as an amendment to the Constitution of

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the State of Arkansas, and upon being submitted to the electors of the state

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for approval or rejection at the next general election for Representatives

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and Senators, if a majority of the electors voting thereon at the election

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adopt the amendment, the amendment shall become a part of the Constitution of

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the State of Arkansas, to wit:

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1 SECTION 1. GENERAL SUBJECT. Each provision of this proposed
2 constitutional amendment is germane to the general subject of the
3 requirements governing circulation, submission, and challenges to the
4 sufficiency of initiated measures and referenda proposed under Arkansas
5 Constitution, Article 5, § 1, and constitutional amendments proposed by the
6 General Assembly.

7
8 SECTION 2. The subsection of Arkansas Constitution, Article 5, § 1,
9 titled "Initiative", is amended to read as follows:

10 Initiative. (a) The first power reserved by the people is the
11 initiative. Eight ~~per cent~~ percent (8%) of the legal voters may propose any
12 law and ten ~~per cent~~ percent (10%) may propose a constitutional amendment by
13 initiative petition and every such petition shall include the full text of
14 the measure so proposed. Initiative petitions for ~~state-wide~~ statewide
15 measures shall be filed with the Secretary of State ~~not less~~ no later
16 four months before March 1 of the year of the election at which they are to
17 be voted upon; provided, that at least thirty (30) days before the
18 aforementioned filing, the proposed statewide measure shall have been
19 published once, at the expense of the petitioners, in some paper of general
20 circulation.

21 (b)(1) The General Assembly shall enact laws establishing a process
22 for the approval of the sufficiency of the title of a proposed statewide
23 initiated measure prior to the circulation of initiative petitions.

24 (2) The title of a proposed statewide initiated measure shall
25 not be submitted for approval more than two and one-half (2 1/2) years nor
26 less than one (1) year before the general election at which the initiated
27 measure would be voted upon.

28 (3) Signatures on an initiative petition circulated prior to the
29 approval of the title under this subdivision (b) are invalid.

30
31 SECTION 3. The subsection of Arkansas Constitution, Article 5, § 1,
32 titled "Referendum", is amended to read as follows:

33 Referendum. (a) The second power reserved by the people is the
34 referendum, and any number not less than six ~~per cent~~ percent (6%) of the
35 legal voters may, by petition, order the referendum against any general Act,
36 or any item of an appropriation bill, or measure passed by the General

1 Assembly, but the filing of a referendum petition against one (1) or more
2 items, sections or parts of any such act or measure shall not delay the
3 remainder from becoming operative. Such petition shall be filed with the
4 Secretary of State not later than ninety (90) days after the final
5 adjournment of the session at which such Act was passed, except when a recess
6 or adjournment shall be taken temporarily for a longer period than ninety
7 (90) days, in which case such petition shall be filed not later than ninety
8 (90) days after such recess or temporary adjournment. Any measure referred
9 to the people by referendum petition shall remain in abeyance until such vote
10 is taken. The total number of votes cast for the office of Governor in the
11 last preceding general election shall be the basis upon which the number of
12 signatures of legal voters upon ~~state-wide~~ statewide initiative and
13 referendum petitions shall be computed.

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

17 (2) Signatures on a referendum petition circulated prior to the
18 approval of the title under subdivision (b)(1) of this subsection are
19 invalid.

20 (c)(1) ~~Upon~~ Except as provided in subdivision (c)(2) of this
21 subsection, upon all statewide initiative or referendum petitions provided
22 for in any of the ~~sections~~ subsections of this ~~article~~ section, it shall be
23 necessary to file from at least fifteen (15) of the counties of the State,
24 petitions bearing the signature of not less than one-half (1/2) of the
25 designated percentage of the electors of such county.

26 (2)(A) For a constitutional amendment proposed under this
27 section, it shall be necessary to file petitions bearing the signature of not
28 less than one-half (1/2) of the designated percentage of the electors of at
29 least one-fourth (1/4) of the counties in each congressional district.

30 (B) In calculating the number of counties representing
31 one-fourth (1/4) of the counties within a congressional district, the number
32 shall be rounded up to the nearest whole number.

33
34 SECTION 4. The subsection of Arkansas Constitution, Article 5, § 1,
35 titled "Definition", is amended to read as follows:

36 Definition. (a) ~~The~~ Except as provided in subdivision (b) of this

1 subsection, the word "measure" as used herein includes any bill, law,
 2 resolution, ordinance, charter, constitutional amendment or legislative
 3 proposal or enactment of any character.

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

6 (1) A constitutional amendment whose enforcement or purview is
 7 restricted to one (1) or more counties or municipalities, either explicitly
 8 or by implication; or

9 (2) A constitutional amendment which, either explicitly or by
 10 implication:

11 (A) Specifically bestows power, privileges, or authority
 12 upon:

13 (i) A specific individual; or

14 (ii) A private business entity, including without
 15 limitation a private corporation; or

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

18 (c) Subdivision (b) of this subsection:

19 (1) Shall supersede a subsequent amendment to this Constitution
 20 that violates the provisions of subdivision (b) of this subsection; and

21 (2) Does not prohibit the proposal or submission of an amendment
 22 to a provision of this Constitution existing prior to January 1, 2019.

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

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

34 (b) A proposed constitutional amendment submitted to the people as
 35 herein provided shall take effect and become a law when approved by at least
 36 sixty percent (60%) of the votes cast statewide upon the proposed

1 constitutional amendment, and not otherwise, and shall not be required to
2 receive a majority of the votes cast at such election. Such a proposed
3 constitutional amendment shall be operative on and after the thirtieth day
4 after the election at which the proposed constitutional amendment is
5 approved, unless otherwise specified in the proposed constitutional
6 amendment.

7 (c) This section shall not be construed to deprive any member of the
8 General Assembly of the right to introduce any measure, but no measure shall
9 be submitted to the people by the General Assembly, except a proposed
10 constitutional amendment or amendments as provided for in this Constitution.
11

12 SECTION 6. The subsection of Arkansas Constitution, Article 5, § 1,
13 titled "Conflicting Measures", is amended to read as follows:

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

19 (b) If conflicting proposed constitutional amendments initiated or
20 referred to the people are approved by at least sixty percent (60%) of the
21 votes severally cast statewide for and against the same at the same election,
22 the proposed constitutional amendment receiving the highest number of
23 affirmative votes shall become law.

24 (c) If proposed constitutional amendments are initiated or referred to
25 the people, one (1) or more proposed constitutional amendments are approved
26 by at least sixty percent (60%) of the votes severally cast statewide for and
27 against the same, and one (1) or more proposed constitutional amendments are
28 approved by a majority of the votes cast upon the proposed constitutional
29 amendment statewide but by less than sixty percent (60%) of the votes, the
30 proposed constitutional amendment receiving the highest number of affirmative
31 votes shall become law.

32
33 SECTION 7. The subsection of Arkansas Constitution, Article 5, § 1,
34 titled "Title", is amended to read as follows:

35 Title. (a) At the time of filing petitions the exact title to be used
36 on the ballot shall by the petitioners be submitted with the petition, and on

1 ~~state-wide~~ statewide measures, shall be submitted to the State Board of
 2 Election Commissioners, ~~who~~ which shall certify such title to the Secretary
 3 of State, to be placed upon the ballot; on county and municipal measures such
 4 title shall be submitted to the county election board and shall by said board
 5 be placed upon the ballot in such county or municipal election.

6 (b) The title shall:

7 (1) Be intelligible, brief, honest, and impartial;

8 (2) Not be misleading or confusing; and

9 (3) Summarize the text of the measure.

10
 11 SECTION 8. The subsection of Arkansas Constitution, Article 5, § 1,
 12 titled "Verification", is amended to read as follows:

13 Verification. (a) Only legal votes shall be counted upon petitions.
 14 Petitions may be circulated and presented in parts, but each part of any
 15 petition shall have attached thereto the affidavit of the person circulating
 16 the same, that all signatures thereon were made on paper and in the presence
 17 of the affiant, and that to the best of the affiant's knowledge and belief
 18 each signature is genuine, and that the person signing is a legal voter and
 19 no other affidavit or verification shall be required to establish the
 20 genuineness of such signatures.

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

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

26 (c) Signatures may only be collected on paper copies of petitions.

27
 28 SECTION 9. The subsection of Arkansas Constitution, Article 5, § 1,
 29 titled "Sufficiency", is amended to read as follows:

30 Sufficiency. (a) The sufficiency of all ~~state-wide~~ statewide petitions
 31 shall be decided in the first instance by the Secretary of State, subject to
 32 review by the Supreme Court of the State, which shall have original and
 33 exclusive jurisdiction over all such causes. The sufficiency of all local
 34 petitions shall be decided in the first instance by the county clerk or the
 35 city clerk as the case may be, subject to review by the ~~chancery~~ circuit
 36 court.

1 (b)(1) Except as provided in subdivision (b)(2) of this subsection, a
 2 challenge to a proposed statewide initiated measure or statewide referendum,
 3 including without limitation a challenge to the sufficiency of the text of a
 4 proposed statewide initiated measure or the title of a proposed statewide
 5 initiated measure or statewide referendum to be used on the ballot, shall be
 6 filed no later than thirty (30) days after the approval of the title of the
 7 proposed statewide initiated measure or statewide referendum prior to the
 8 circulation of petitions in the manner prescribed by law.

9 (2) A challenge to the sufficiency of signatures on a statewide
 10 petition or the forms on which signatures were gathered for a statewide
 11 petition shall be filed no later than thirty (30) days after the
 12 determination of the sufficiency of the petition for inclusion of the
 13 proposed statewide initiated measure or statewide referendum on the ballot.

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

17 Amendment of Petition.

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

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

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

29 (B) ~~At~~ Except as provided in subdivision (a)(2)(C) of this
 30 subsection, at least seventy-five percent (75%) of the required number of
 31 signatures of legal voters from each of at least fifteen (15) counties of the
 32 state; ~~and~~

33 (C) For a constitutional amendment proposed under this
 34 section, at least seventy-five percent (75%) of the required number of
 35 signatures of legal voters from each of at least one-fourth (1/4) of the
 36 counties in each congressional district as required under this section.

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

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

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

13 SECTION 11. The subsection of Arkansas Constitution, Article 5, § 1,
 14 titled "Unwarranted Restrictions Prohibited", is amended to read as follows:

15 Unwarranted Restrictions Prohibited. (a) No law shall be passed to
 16 ~~prohibit any person or persons from giving or receiving compensation for~~
 17 ~~circulating petitions, nor to prohibit the circulation of petitions, nor in~~
 18 ~~any manner interfering or to interfere in any manner~~ with the freedom of the
 19 people in procuring petitions~~;~~.

20 ~~(b) but laws~~ Laws shall be enacted prohibiting and penalizing perjury,
 21 forgery, and all other felonies or other fraudulent practices, in the
 22 securing of signatures or filing of petitions.

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

26 (1) Submission of measures to the electors of this state;

27 (2) Regulation of individuals involved in the process of the
 28 submission and circulation of petitions under this section, including without
 29 limitation individuals who:

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

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

34 (C) Canvass for petition signatures; or

35 (D) Receive any type of compensation to canvass for
 36 petition signatures, including without limitation laws prohibiting

1 compensating canvassers for petition signatures; and
2 (3) Regulation of organizations that compensate canvassers for
3 petition signatures or otherwise provide services to the sponsor of a
4 petition.

5
6 SECTION 12. Arkansas Constitution, Article 5, § 1, is amended to add
7 additional subsections to read as follows:

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

11 Amendments to this Section 1 of Article 5 of this Constitution by the
12 General Assembly. The General Assembly, in the same manner as required for
13 amendment or repeal of measures approved by a vote of the people, may amend
14 this section.

15 Organization of Section 1 of Article 5 of this Constitution. Each
16 titled portion of this Section 1 of Article 5 of this Constitution is a
17 subsection of Section 1 of Article 5 of this Constitution.

18
19 SECTION 13. Arkansas Constitution, Article 19, § 22, is amended to
20 read as follows:

21 § 22. Constitutional amendments.

22 (a) Either branch of the General Assembly, at a regular session
23 thereof, may propose amendments to this Constitution; and if the same be
24 agreed to by a majority of all members elected to each house, such proposed
25 amendments shall be entered on the journals with the yeas and nays, and
26 published in at least one (1) newspaper in each county, where a newspaper is
27 published, for six (6) months immediately preceding the next general election
28 for Senators and Representatives, at which time the same shall be submitted
29 to the electors of the State, for approval or rejection; and if a majority of
30 the electors voting at such election adopt such amendments, the same shall
31 become a part of this Constitution. But no more than three (3) amendments
32 shall be proposed or submitted at the same time. They shall be so submitted
33 as to enable the electors to vote on each amendment separately.

34 (b)(1) The sufficiency of a proposed amendment under this section
35 shall be decided by the Supreme Court, which shall have original and
36 exclusive jurisdiction over all such causes.

1 (2) A challenge to a proposed amendment, including without
2 limitation a challenge to the sufficiency of the text of a proposed amendment
3 or the title of the proposed amendment to be used on the ballot, shall be
4 filed not later than ninety (90) days after the final adjournment of the
5 regular session at which the proposed amendment is adopted by the General
6 Assembly for submission to the electors of the state for approval or
7 rejection, except when a recess or adjournment of a regular session shall be
8 taken temporarily for a longer period than ninety (90) days, in which case
9 the challenge shall be filed not later than ninety (90) days after the recess
10 or temporary adjournment.

11 (3)(A) If a proposed amendment is challenged, the challenge
12 shall be a preference cause and shall be tried at once.

13 (B) The failure of the Supreme Court to decide prior to
14 the election as to the sufficiency of any proposed amendment shall not
15 prevent the question from being placed upon the ballot at the election named
16 in such proposed amendment, nor militate against the validity of such
17 proposed amendment, if it shall have been approved by a vote of the people.

18 (c)(1) The General Assembly shall not propose under this section:

19 (A) A constitutional amendment whose enforcement or
20 purview is restricted to one (1) or more counties or municipalities, either
21 explicitly or by implication; or

22 (B) A constitutional amendment which, either explicitly or
23 by implication:

24 (i) Specifically bestows power, privileges, or
25 authority upon:

26 (a) A specific individual; or

27 (b) A private business entity, including
28 without limitation a private corporation; or

29 (ii) Creates a business or nonprofit monopoly for a
30 county, municipality, business entity, or private corporation.

31 (2) Subdivision (c)(1) of this section:

32 (A) Shall supersede a subsequent amendment to this
33 Constitution that violates the provisions of subdivision (c)(1) of this
34 section; and

35 (B) Does not prohibit the proposal or submission of an
36 amendment to a provision of this Constitution existing prior to January 1,

1 2019.

2
3 SECTION 14. 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.

24
25 SECTION 15. EFFECTIVE DATE. This amendment shall be effective on and
26 after January 1, 2021.

27
28 SECTION 16. 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 "A Constitutional Amendment
34 Concerning the Requirements Governing Circulation, Submission, and Challenges
35 to the Sufficiency of Initiated Measures and Referenda Proposed Under
36 Arkansas Constitution, Article 5, § 1, and Constitutional Amendments Proposed

1 by the General Assembly".

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/s/M. Johnson

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