

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

State of Arkansas
89th General Assembly
Regular Session, 2013

HJR 1003

By: Representative Lea
By: Senator J. Hutchinson

HOUSE JOINT RESOLUTION

PROPOSING AN AMENDMENT TO AMENDMENT NO. 42 TO THE CONSTITUTION OF THE STATE OF ARKANSAS TO PROVIDE FOR THE NONPARTISAN ELECTION OF MEMBERS OF THE STATE HIGHWAY COMMISSION BY POPULAR VOTE; TO REQUIRE THE BOARD OF APPORTIONMENT TO ESTABLISH FOUR (4) HIGHWAY COMMISSION ZONES FROM WHICH COMMISSIONERS SHALL BE ELECTED BY PLURALITY VOTE AND PROVIDING FOR ONE (1) ADDITIONAL COMMISSIONER TO BE ELECTED FROM THE STATE AT LARGE; TO PROVIDE FOR THE APPOINTMENT OF THE DIRECTOR OF THE ARKANSAS STATE HIGHWAY AND TRANSPORTATION DEPARTMENT BY THE GOVERNOR; TO PROVIDE FOR TRANSITION TO THE NEW FORM OF THE ARKANSAS STATE HIGHWAY COMMISSION; AND FOR OTHER PURPOSES.

Subtitle

PROPOSING AN AMENDMENT TO AMENDMENT NO. 42 TO THE CONSTITUTION OF THE STATE OF ARKANSAS TO PROVIDE FOR ELECTION OF MEMBERS OF THE STATE HIGHWAY COMMISSION BY POPULAR VOTE.

BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE EIGHTY-NINTH GENERAL ASSEMBLY OF THE STATE OF ARKANSAS AND BY THE SENATE, A MAJORITY OF ALL MEMBERS ELECTED TO EACH HOUSE AGREEING THERETO:



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

SECTION 1. Section 1 of Amendment 42 to the Constitution of the State of Arkansas is amended to read as follows:

1. Commission created - Members - Powers.

There is hereby created a State Highway Commission ~~which shall be vested with all the powers and duties now or hereafter imposed by law for the administration of the State Highway Department, together with all powers necessary or proper to enable the Commission or any of its officers or employees to carry out fully and effectively the regulations and laws relating to the State Highway Department~~ which shall have the powers and duties as are now or may hereafter be prescribed by the General Assembly.

SECTION 2. Section 2 of Amendment 42 to the Constitution of the State of Arkansas is amended to read as follows:

§ 2. Qualifications and appointment of members - Terms of office ~~of first commission.~~

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

~~In the event of rejection by the Senate of a person whose name has been so submitted, the Governor shall within five days after receipt of written notice from the Secretary of the Senate of such rejection submit the name of another appointee to fill such vacancy. In the event the Governor should within five days thereafter fail to appoint or fail to submit to the Senate for confirmation the name of any person to be appointed, the Senate shall~~

~~proceed to make the appointment of its own choice.~~

(a) The State Highway Commission shall be composed of five (5) members who shall be elected by popular vote.

(b)(1)(A)(i) The Board of Apportionment shall divide the state into four (4) highway commission zones which shall be identical to the four (4) congressional districts of the state.

(ii) The board may change the zones only if necessary due to an enactment of the General Assembly revising the congressional districts of the state.

(B) One (1) member of the commission shall be elected from each of the highway commission zones.

(C) Only qualified electors who are residents of their respective zones shall be eligible to be elected to the commission and to serve as commissioners for that zone.

(2)(A) In addition to the four (4) members elected under subdivision (b)(1) of this section, one (1) member of the commission shall be elected from the state at large.

(B) Only a qualified elector who is a resident of the State of Arkansas shall be eligible to be elected to the commission from the state at large.

(C) The member elected from the state at large shall serve as chair of the commission.

(d) The members of the State Highway Commission shall be elected by plurality vote and on a nonpartisan basis at the general election next following the adoption of this amendment.

(e) The General Assembly shall enact laws establishing procedures for the nonpartisan election of commissioners.

(f)(1) The initially elected members shall draw lots for terms so that three (3) members shall serve a four-year term and two (2) members shall serve a two-year term.

(2) Successors shall serve four-year terms.

(g) The elected members of the commission shall take office on the first Monday of January in the year immediately following the date of their election.

(h)(1) Except as provided in subdivision (h)(2) of this section, no person shall serve as a member of the commission for more than two (2) four-

year terms.

(2) Commissioners initially elected to serve a two-year term or appointed to fill a vacancy are eligible to serve two (2) four-year terms.

(i) Vacancies in office shall be filled by appointment by the Governor.

(j) If the number of congressional districts of the state increases or decreases from four (4) districts, the General Assembly shall enact laws:

(1) Revising the membership of the commission to be consistent with the number of congressional districts in the state; and

(2) Providing procedures for the addition or subtraction of commissioners.

SECTION 3. Section 3 of Amendment 42 to the Constitution of the State of Arkansas is amended to read as follows:

~~§ 3. Terms of office of members~~ Compensation and expenses of members.

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

(a) The General Assembly shall by law determine the amount and method of payment of compensation, if any, and expenses of the members of the State Highway Commission.

(b) The compensation and expenses of commissioners may be increased but not diminished during the term for which they are elected.

(c) The compensation of all commissioners shall be equal.

SECTION 4. Section 4 of Amendment 42 to the Constitution of the State of Arkansas is amended to read as follows:

~~§ 4. Removal of members —Hearing— Review and appeal.~~

~~A Commissioner may be removed by the Governor only for the same causes as apply to other constitutional officers after a hearing which may be reviewed by the Chancery Court for the First District with right of appeal therefrom to the Supreme Court, such review and appeal to be without presumption in favor of any finding by the Governor or the trial court, and provided further, in addition to the right of confirmation hereinabove reserved to the Senate, the Senate may upon the written request of at least~~

~~Five (5) of its members that a member or members of the Commission should be removed therefrom, proceed, when in session, to hear any and all evidence pertinent to the reasons for removal. The member or members whose removal is so requested shall be entitled to be heard in the matter and to be represented before the Senate by legal Counsel. These proceedings conducted by the Senate shall be public and a transcript of the testimony so heard shall be prepared and preserved in the journal of the Senate. The taking of evidence either orally or by deposition shall not be bound by the formal rules of evidence. Upon the conclusion of the hearing, the Senate, sitting as a body in executive session, may remove said member or members of the Commission by a majority vote conducted by secret ballot.~~

(a) No commissioner shall be removed from office during the term for which elected unless:

(1) One (1) or more of the same causes for the removal of a constitutional officer of this state apply to the commissioner; or

(2) The commissioner no longer meets the qualifications provided in this amendment.

(b) Any action for removal shall be brought by the Attorney General at the request of the Governor and shall be heard in the circuit court for the county in which that commissioner resides.

SECTION 5. Section 6 of Amendment 42 to the Constitution of the State of Arkansas is amended to read as follows:

§ 6. Director of ~~Highways~~ Arkansas State Highway and Transportation Department.

~~The Commission shall appoint a Director of Highways who shall have such duties as may be prescribed by the Commission or by statute.~~

(a) There is created the position of Director of the Arkansas State Highway and Transportation Department.

(b) The director shall be appointed by the Governor for a term of four (4) years and may be removed by the Governor during his or her term only with the approval by a majority vote of the total number of commissioners.

(c) The director may be reappointed at the pleasure of the Governor.

SECTION 6. Amendment 42 to the Constitution of the State of Arkansas is amended to add a new Section 7 to read as follows:

§ 7. Officers and Duties.

The General Assembly may by law authorize the State Highway Commission to elect a vice chair and such other officers from the membership of the commission as it deems necessary for the governance of the commission and prescribe its respective duties.

SECTION 7. Effective Date – Transition.

(a) The provisions of this amendment shall be effective immediately upon its adoption by the qualified electors of the state.

(b) The members of the State Highway Commission serving on the effective date of this amendment shall continue to serve in their respective positions and shall have the powers, duties, and obligations prescribed under Amendment 42 of the Arkansas Constitution until the newly elected members of the commission take office under the provisions of this amendment.