

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas *As Engrossed: H3/5/15 H3/9/15 H3/11/15 H3/12/15*
90th General Assembly
Regular Session, 2015

HJR 1016

By: Representative *Dotson*

HOUSE JOINT RESOLUTION

AN AMENDMENT TO THE ARKANSAS CONSTITUTION CONCERNING THE JUDICIAL BRANCH OF STATE GOVERNMENT; TO PROVIDE THAT THE GENERAL ASSEMBLY MAY DETERMINE BY LAW WHETHER COURT OF APPEALS JUDGES, CIRCUIT COURT JUDGES, DISTRICT COURT JUDGES, AND PROSECUTING ATTORNEYS ARE SELECTED ON A PARTISAN OR NONPARTISAN BASIS; AND AMENDING THE PROCESS FOR SELECTING A JUSTICE OF THE SUPREME COURT.

Subtitle

AN AMENDMENT TO THE ARKANSAS CONSTITUTION
CONCERNING THE JUDICIAL BRANCH OF STATE
GOVERNMENT.

BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE NINETIETH 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 10 of Article 5 of the Arkansas Constitution is amended to read as follows:



§ 10. Members ineligible to civil office.

No Except as provided in this Constitution, no Senator or Representative shall, during the term for which he shall have been elected, be appointed or elected to any civil office under this State.

SECTION 2. Subsection (A) of Section 2 of Amendment 80 to the Arkansas Constitution is amended to read as follows:

(A) The Supreme Court shall be composed of seven Justices, one of whom shall serve as Chief Justice. The Justices of the Supreme Court shall be selected ~~from the State at large~~ as provided in this amendment.

SECTION 3. Section 17 of Amendment 80 to the Arkansas Constitution is amended to read as follows:

§ 17. Election of circuit and district judges.

(A) Circuit Judges and District Judges shall be elected ~~on a nonpartisan basis~~ by a majority of qualified electors voting for such office within the circuit or district which they serve.

(B) Vacancies in these offices shall be filled as provided by this Constitution.

SECTION 4. Section 18 of Amendment 80 to the Arkansas Constitution is amended to read as follows:

§ 18. Election of ~~Supreme Court Justices and~~ Court of Appeals Judges.

(A) ~~Supreme Court Justices and~~ Court of Appeals Judges shall be elected ~~on a nonpartisan basis~~ by a majority of qualified electors voting for such office. ~~Provided, however~~ However, the General Assembly may refer the issue of merit selection of members of the ~~Supreme Court and the~~ Court of Appeals to a vote of the people at any general election. If the voters approve a merit selection system, the General Assembly shall enact laws to create a judicial nominating commission for the purpose of nominating candidates for merit selection to the ~~Supreme Court and~~ Court of Appeals.

(B) Vacancies ~~in these offices~~ on the Court of Appeals shall be filled by appointment of the Governor, unless the voters provide otherwise in a system of merit selection.

SECTION 5. Section 21 of Amendment 80 to the Arkansas Constitution is

amended to read as follows:

§ 21. Effective date.

(a) ~~This~~ Except as provided in subsection (b) of this section, this Amendment amendment shall become effective on July 1, 2001.

(b) Sections 23 through 27 of this amendment shall become effective on January 1, 2017.

SECTION 6. Amendment 80 to the Arkansas Constitution is amended to add additional sections to read as follows:

§ 23. Retention in office of a Justice of the Supreme Court.

(a) At the general election next before his or her term expires, a Justice of the Supreme Court may seek retention in office by filing with the Secretary of State not less than one hundred twenty (120) days before the date of the general election a declaration of candidacy to succeed himself or herself as a Justice of the Supreme Court.

(b) If a Justice of the Supreme Court files a declaration of candidacy, there shall be submitted to the qualified electors of the state at the general election this question:

“Shall (Insert name of Justice of the Supreme Court) be retained in office?

 YES NO”

(c) The question shall be decided by a majority of those voting in the general election.

(d) If the decision is “yes”, the Justice of the Supreme Court shall be retained in office for an eight-year term.

(e)(1) If the decision is “no” or if no declaration of candidacy is filed, the office shall be vacant upon expiration of the term then being served.

(2) The former Justice of the Supreme Court shall not be eligible for appointment to succeed himself or herself.

(f) Retention in office may be sought for successive terms without limit as to number, except for retirement as may be provided by the General Assembly for a maximum retirement age.

§ 24. Judicial Nominating Commission.

(a) There is established the Judicial Nominating Commission of fifteen (15) members, to consist of:

(1)(A) Five (5) members appointed by the Governor, among whom shall include at least one (1) member from each congressional district of the state.

(B) A member appointed by the Governor shall not:

(i) Be admitted to practice law in the State of Arkansas; or

(ii) Have an immediate family member who has been admitted to the practice of law in the State of Arkansas or any other state;

(2) Six (6) members, including at least one (1) member from each congressional district of the state, who are members of the Arkansas Bar Association and have been elected by the other active members of the association under procedures adopted by the Board of Governors of the Arkansas Bar Association;

(3) The Chair of the House Committee on Judiciary;

(4) The Chair of the Senate Committee on Judiciary;

(5) The Speaker of the House of Representatives or a member of the House of Representatives designated by the Speaker of the House of Representatives; and

(6) The President Pro Tempore of the Senate or a member of the Senate designated by the President Pro Tempore of the Senate.

(b) The commission shall elect one (1) of its members to serve as chair for a term of one (1) year.

(c)(1)(A) The five (5) members of the commission appointed by the Governor shall be appointed within ninety (90) days of the effective date of this amendment.

(B)(i) One (1) member shall be appointed for a term of two (2) years.

(ii) Two (2) members shall be appointed for a term of four (4) years.

(iii) Two (2) members shall be appointed for a term of six (6) years.

(2)(A) The Arkansas Bar Association shall hold its election and certify to the Secretary of State the members elected to the commission within ninety (90) days from the effective date of this amendment.

(B) The initial members of the commission elected by the Arkansas Bar Association shall draw lots for terms as follows:

(i) Two (2) members shall serve a term of two (2) years;

(ii) Two (2) members shall serve a term of four (4) years; and

(iii) Two (2) members shall serve a term of six (6) years.

(C) Subsequent members of the commission elected by the members of the Arkansas Bar Association shall serve a term of six (6) years.

(d)(1) A vacancy in a position appointed by the Governor shall be filled by appointment of the Governor for the remainder of the term.

(2) A vacancy in a position elected by the Arkansas Bar Association shall be filled by the Board of Governors of the Arkansas Bar Association for the remainder of the term.

(e) A majority of the members of the commission constitutes a quorum.

(f) The commission shall determine:

(1) That qualifications of nominees to hold judicial office have been met; and

(2) The existence of vacancies on the commission.

(g)(1)(A) Except as provided in subdivision (g)(1)(B) of this section, while a member of the commission, a commissioner shall not hold:

(i) A public office by election or appointment; or

(ii) An official position in a political party.

(B) Subdivision (g)(1)(A) of this section does not apply to a member of the General Assembly serving on the commission.

(2) A member of the commission shall not be eligible for nomination as a Justice of the Supreme Court while a member of the commission and for five (5) years thereafter.

(h) A commissioner shall serve without compensation but may receive reimbursement for necessary travel and lodging expenses while performing his or her duties as commissioner.

(i) A commissioner appointed under subdivision (a)(1) or subdivision (a)(2) of this section shall not succeed himself or herself on the commission.

(j) As used in this section, "Arkansas Bar Association" includes any

successor of the Arkansas Bar Association and any future form of the organized bar of this state.

(k) The Governor shall call the initial meeting of the commission within one hundred twenty (120) days of the effective date of this amendment.

§ 25. Vacancy in Supreme Court position.

(a) When a vacancy in the position of Justice of the Supreme Court occurs or is certain to occur, the Judicial Nominating Commission shall choose and submit to the Governor and the Chief Justice of the Supreme Court three (3) nominees, each of whom has previously notified the commission in writing that he or she will serve as a Justice of the Supreme Court if appointed.

(b)(1) The Governor shall appoint one (1) of the nominees to fill the vacancy.

(2) If the Governor fails to appoint a nominee within sixty (60) days of receiving the nominees from the commission, the President Pro Tempore of the Senate shall appoint one (1) of the nominees.

(3)(A) An appointment under this subsection shall be subject to the confirmation of the Senate at the next regular or fiscal session of the General Assembly.

(B) A nominee appointed under this section may serve in the position until the appointment is confirmed or rejected by the Senate at its next regular or fiscal session.

(c) The Secretary of State shall certify an appointment under this section.

§ 26. Transition provisions for Justice of the Supreme Court – Terms due to vacancy.

(a)(1) A Justice of the Supreme Court elected before the adoption of this amendment shall serve the term for which he or she was elected unless removed for cause.

(2) A Justice of the Supreme Court serving at the date of the adoption of this amendment may file a declaration of candidacy to succeed himself or herself as provided in this amendment.

(3) If retained in office, the term of the Justice of the Supreme Court shall be eight (8) years, beginning the second Monday in

January following the election.

(b) The term and election of each Justice of the Supreme Court appointed to fill a vacancy after the adoption of this amendment shall be as follows:

(1) If an appointed Justice of the Supreme Court has served or will have served twelve (12) months on or before the next general election following appointment, the Justice may file for election for an eight-year term as provided under this amendment; or

(2) If an appointed Justice of the Supreme Court has not served or will not have served twelve (12) months on or before the next general election following appointment, the Justice shall continue in office until the second general election following appointment and may file for election for an eight-year term as provided under this amendment.

SECTION 7. (a) Except as provided in subsection (b) of this section, the General Assembly may provide by law whether judges of the Court of Appeals, circuit court judges, district court judges, and prosecuting attorneys are selected on a partisan or nonpartisan basis.

(b) As of the effective date of this amendment, judges of the Court of Appeals, circuit court judges, district court judges, and prosecuting attorneys shall be selected on a partisan basis unless the General Assembly provides by law that the offices shall be selected on a nonpartisan basis.

SECTION 8. Judges of the Court of Appeals, circuit court judges, district court judges, and prosecuting attorneys in office at the time this amendment takes effect shall continue in office until the end of the terms for which they were elected or appointed.

SECTION 9. EFFECTIVE DATE. This amendment is effective on and after January 1, 2017.

SECTION 10. BALLOT TITLE AND POPULAR NAME. When this proposed amendment is submitted to the electors of this state on the general election ballot:

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

(2) The popular name shall be "An Amendment to the Arkansas Constitution Concerning the Judicial Branch of State Government, Providing that the General Assembly may Determine by Law Whether Court of Appeals Judges, Circuit Court Judges, District Court Judges, and Prosecuting Attorneys are Selected on a Partisan or Nonpartisan Basis, and Amending the Process for Selecting a Justice of the Supreme Court".

/s/Dotson