

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

State of Arkansas
92nd General Assembly
Regular Session, 2019

A Bill

SENATE BILL 404

By: Senator B. Davis
By: Representative Cloud

For An Act To Be Entitled

AN ACT TO PROVIDE FOR AN ELECTION CONCERNING CASINO GAMING IN POPE COUNTY; TO AMEND ARKANSAS CONSTITUTION, AMENDMENT 100, PURSUANT TO THE AUTHORITY GRANTED BY ARKANSAS CONSTITUTION, ARTICLE 5, § 1; TO DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.

Subtitle

TO PROVIDE FOR AN ELECTION CONCERNING CASINO GAMING IN POPE COUNTY; AMENDING ARKANSAS CONSTITUTION, AMENDMENT 100; AND TO DECLARE AN EMERGENCY.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. DO NOT CODIFY. LEGISLATIVE INTENT. (a) The General Assembly finds:

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Arkansas Constitution, Article 5, § 1, provides that "[n]o measure approved by a vote of the people shall be amended or repealed by the General Assembly.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

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

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



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

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

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

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

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

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

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

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

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

SECTION 2. Arkansas Constitution, Amendment 100, § 4(n)-(r) are amended to read as follows:

(n)(1) The Arkansas Racing Commission shall require all casino applicants for a casino license in ~~Pope County~~ and Jefferson County to submit

either a letter of support from the county judge or a resolution from the quorum court in the county where the proposed casino is to be located and, if the proposed casino is to be located within a city or town, shall also require all casino applicants to include a letter of support from the mayor in the city or town where the applicant is proposing the casino to be located.

(2) Letters of support under subdivision (n)(1) of this section shall be from the county judge, quorum court, and mayor in office at the time of the submission of the application.

(o)(1) The Arkansas Racing Commission shall not issue a casino license in Pope County unless the voters of the county approve conducting casino gaming in Pope County.

(2)(A) An election shall be called on the issue of conducting casino gaming in Pope County upon the submission to the county clerk of signatures equaling at least ten percent (10%) of the qualified electors who cast a vote in the county for the Office of Governor in the last general election in which the office appeared on the ballot.

(B) A petition under this subdivision (o)(2) shall be submitted to the county clerk at least four (4) months prior to a general election.

(C) If a petition is found by the county clerk to be insufficient, the sponsor of the petition shall be permitted at least thirty (30) days from the date of notification for correction or amendment.

(3)(A) If a petition is found to be sufficient, the issue of conducting casino gaming in Pope County shall be considered by the qualified electors of the county at the next following general election.

(B) If the legal voters approve conducting casino gaming in Pope County, the Arkansas Racing Commission shall accept applications for a casino license in Pope County.

(C) If the legal voters reject conducting casino gaming in Pope County, the Arkansas Racing Commission shall not accept applications for a casino license in Pope County.

(4)(A) If conducting casino gaming is approved in Pope County, the Arkansas Racing Commission shall require all casino applicants for a casino license in Pope County to submit either a letter of support from the county judge or a resolution from the quorum court in the county where the

proposed casino is to be located and, if the proposed casino is to be located within a city or town, shall also require all casino applicants to include a letter of support from the mayor in the city or town where the applicant is proposing the casino to be located.

(B) Letters of support under subdivision (o)(4)(A) of this section shall be from the county judge, quorum court, and mayor in office at the time of the submission of the application.

(5) If an election is held under this subsection (o), a subsequent election to consider the issue of conducting casino gaming in Pope County shall not be held within ten (10) years of the date of the general election at which the issue was considered.

(6) The General Assembly may enact laws necessary to implement this subsection (o), including without limitations laws concerning the requirements and procedures for an election on the issue of conducting casino gaming in Pope County under this subsection (o).

~~(o)(p)~~ Franchise holders are not applicants and are not required to submit applications for casino licenses in order to be issued a casino license.

~~(p)(q)~~ No individual, corporation, partnership, association, trust, or other entity may hold more than one casino license in Arkansas.

~~(q)(r)~~ The Arkansas Racing Commission shall issue a renewal casino license within ten (10) days to any licensed casino that complies with the requirements contained in this Amendment, including without limitation the payment of the casino license renewal fee, which shall not exceed ten thousand dollars (\$10,000). Casino licenses shall be renewed every ten years.

~~(r)(1)(s)(1)~~ The Arkansas Racing Commission shall provide an annual amount of at least two hundred thousand dollars (\$200,000) for compulsive gambling disorder treatment and compulsive gambling disorder educational programs.

(2) The Arkansas Racing Commission shall work together with the Department of Human Services to implement the compulsive gambling disorder treatment programs and the compulsive gambling disorder educational programs under this section.

(3) The Arkansas Racing Commission may contract with the Department of Human Services for providing all services related to and administration of the compulsive gambling disorder treatment programs and the

compulsive gambling disorder educational programs.

(4) The Department of Human Services may promulgate rules to administer the compulsive gambling disorder treatment programs and the compulsive gambling disorder educational programs.

SECTION 3. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that the statewide adoption of Arkansas Constitution, Amendment 100, has authorized casino gaming in Pope County despite the voters in that county rejecting the measure; in weighing Pope County's rejection of Amendment 100 against the approval of Amendment 100 on a statewide basis, it is equitable to allow the residents of Pope County to vote on the issue before the Arkansas Racing Commission accepts applications for a casino license in Pope County; and this act should become effective at the earliest opportunity to prevent the submission of casino applications prior to the results of an election in Pope County. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on:

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

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

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