

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

State of Arkansas
93rd General Assembly
Regular Session, 2021

A Bill

HOUSE BILL 1473

By: Representative Cloud

For An Act To Be Entitled

AN ACT TO REMOVE THE AUTHORIZATION FOR 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 REMOVE THE AUTHORIZATION FOR CASINO GAMING IN POPE COUNTY; TO AMEND 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 that:

(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Arkansas Constitution, Article 5, § 1, provides that "[n]o measure approved by a vote of the people shall be amended or repealed by the General Assembly.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 (2/3) vote of each house;

(4) Despite observing that the definition of "measure" in Arkansas Constitution, Article 5, § 1, includes "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 (2/3) 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";

(7) In Buonaiuto v. Gibson, 2020 Ark. 352, the Arkansas Supreme Court noted that the phrase "four-lane highway" as used in Arkansas Constitution, Amendment 91, had been "given a specific meaning that is plain and unambiguous" and thus funds under Arkansas Constitution, Amendment 91, could not be used to improve six-lane portions of interstate highways; and

(8) 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 (2/3) vote of each house, as the term "measure" has been given a plain and unambiguous definition in Arkansas Constitution, Article 5, § 1.

(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 in consideration of its plain and unambiguous language;

(2) Overturn its decision in Edgmon, supra, as inconsistent with its holding in Andrews, supra, and Buonaiuto, 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 (2/3) vote of each house.

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

(i) The Arkansas Racing Commission shall issue ~~four~~ three casino licenses.

(j) The Arkansas Racing Commission shall issue a casino license, as provided in this Amendment, to a Franchise holder located in Crittenden County, there being only one, to conduct casino gaming at a casino to be located at or adjacent to the Franchise holder's greyhound racing track and gaming facility as of December 31, 2017 in Crittenden County. The Arkansas Racing Commission shall also issue a casino license, as provided in this Amendment, to a Franchise holder located in Garland County, there being only one, to conduct casino gaming at a casino to be located at or adjacent to the Franchise holder's horse racing track and gaming facility as of December 31, 2017 in Garland County. Casino licenses to be issued to Franchise holders shall be issued upon:

(1) Adoption by the Arkansas Racing Commission of rules necessary to carry out the purposes of this Amendment; and

(2) Initial laws and appropriations required by this Amendment being in full force and effect.

~~(k) The Arkansas Racing Commission shall award a casino license to a casino applicant for a casino to be located in Pope County within two miles of the city limits of the county seat.~~ The Arkansas Racing Commission shall ~~also~~ award a casino license to a casino applicant for a casino to be located in Jefferson County within two miles of the city limits of the county seat.

(l) Casino licensees are required to conduct casino gaming for as long as they have a license.

(m) The Arkansas Racing Commission shall require all casino applicants for a casino license in ~~Pope County~~ and Jefferson County to demonstrate experience conducting casino gaming.

(n) 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~~ Jefferson County 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.

SECTION 3. RETROACTIVITY. This act is retroactive to November 14, 2018.

SECTION 4. 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; that the conducting of casino gaming has a major impact on the public health and safety of the citizens of Pope County and should not be undertaken against the obvious public opinion on the issue; and that this act should become effective at the earliest opportunity to forestall any process to allow casino gaming in Pope County and preserve the public health and safety of the 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.