

1 State of Arkansas
2 90th General Assembly
3 Regular Session, 2015

As Engrossed: H3/9/15

HJR 1005

4
5 By: Representative Shepherd

6
7 **HOUSE JOINT RESOLUTION**

8 AN AMENDMENT TO THE ARKANSAS CONSTITUTION CONCERNING
9 THE PROCESS FOR SELECTING A JUSTICE OF THE SUPREME
10 COURT; AND AMENDING PROVISIONS CONCERNING SERVICE ON
11 THE SUPREME COURT.

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14 **Subtitle**

15 AN AMENDMENT TO THE ARKANSAS CONSTITUTION
16 CONCERNING THE PROCESS FOR SELECTING A
17 JUSTICE OF THE SUPREME COURT; AND
18 AMENDING PROVISIONS CONCERNING SERVICE ON
19 THE SUPREME COURT.

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21
22 BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE NINETIETH GENERAL
23 ASSEMBLY OF THE STATE OF ARKANSAS AND BY THE SENATE, A MAJORITY OF ALL
24 MEMBERS ELECTED TO EACH HOUSE AGREEING THERETO:

25
26 THAT the following is proposed as an amendment to the Constitution of
27 the State of Arkansas, and upon being submitted to the electors of the state
28 for approval or rejection at the next general election for Representatives
29 and Senators, if a majority of the electors voting thereon at the election
30 adopt the amendment, the amendment shall become a part of the Constitution of
31 the State of Arkansas, to wit:

32
33 SECTION 1. Subsection (A) of Section 2 of Amendment 80 to the Arkansas
34 Constitution is amended to read as follows:

35 (A) The Supreme Court shall be composed of seven Justices, one of whom
36 shall serve as Chief Justice. The Justices of the Supreme Court shall be



1 selected ~~from the State at large~~ as provided in this amendment.

2
3 SECTION 2. Section 18 of Amendment 80 to the Arkansas Constitution is
4 amended to read as follows:

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

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

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

17
18 SECTION 3. Section 21 of Amendment 80 to the Arkansas Constitution is
19 amended to read as follows:

20 § 21. Effective date.

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

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

25
26 SECTION 4. Amendment 80 to the Arkansas Constitution is amended to add
27 additional sections to read as follows:

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

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

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

1
2 “Shall (Insert name of Justice of the Supreme Court) be retained in office?

3 YES NO”

4
5 (c) The question shall be decided by a majority of those voting in the
6 general election.

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

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

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

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

17
18 § 24. Judicial Nominating Commission.

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

21 (1)(A) Six (6) members appointed by the Governor, among whom
22 shall include at least one (1) member from each congressional district of the
23 state.

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

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

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

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

33 (3) Three (3) members at large to be selected as follows:

34 (A) One (1) member selected by the Speaker of the House of
35 Representatives;

36 (B) One (1) member selected by the President Pro Tempore

1 of the Senate; and

2 (C)(i) One (1) member selected by not less than eight (8)
3 members of the commission.

4 (ii) The member selected by the members of the
5 commission under subdivision (a)(3)(C)(i) of this section:

6 (a) Shall be a resident of the state;
7 and

8 (b) Shall not have been admitted to the
9 practice of law in the State of Arkansas or any other state or have an
10 immediate family member who has been admitted to the practice of law in the
11 State of Arkansas or any other state.

12 (iii) In the event eight (8) members of the
13 commission cannot agree upon the member at large within thirty (30) days of
14 the initial organization of the commission or within thirty (30) days of a
15 vacancy in the member-at-large position, the Governor shall appoint the
16 member at large.

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

19 (c)(1)(A) The six (6) members of the commission appointed by the
20 Governor shall be appointed within ninety (90) days of the effective date of
21 this amendment.

22 (B)(i) Two (2) members shall be appointed for a term of
23 two (2) years.

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

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

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

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

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

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

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

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

5 (3) The three (3) members at large shall serve for a term of two
6 (2) years.

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

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

12 (3) A vacancy in a member-at-large position shall be filled in
13 the same manner as the original selection for the remainder of the term.

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

15 (f) The commission shall determine:

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

18 (2) The existence of vacancies on the commission.

19 (g)(1) While a member of the commission, a commissioner shall not
20 hold:

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

22 (B) An official position in a political party.

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

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

29 (i) A commissioner shall not succeed himself or herself on the
30 commission.

31 (j) As used in this section, "Arkansas Bar Association" includes any
32 successor of the Arkansas Bar Association and any future form of the
33 organized bar of this state.

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

36

1 § 25. Vacancy in Supreme Court position.

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

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

10 (2) If the Governor fails to appoint a nominee within sixty (60)
11 days of receiving the nominees from the commission, the Chief Justice of the
12 Supreme Court shall appoint one (1) of the nominees.

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

15
16 § 26. Transition provisions for Justice of the Supreme Court – Terms
17 due to vacancy.

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

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

24 (3) If retained in office, the term of the Justice of the
25 Supreme Court shall be eight (8) years, beginning the second Monday in
26 January following the election.

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

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

34 (2) If an appointed Justice of the Supreme Court has not served
35 or will not have served twelve (12) months on or before the next general
36 election following appointment, the Justice shall continue in office until

1 the second general election following appointment and may file for election
2 for an eight-year term as provided under this amendment.

3
4 § 27. Political activity prohibited.

5 A Justice of the Supreme Court appointed or retained in office under
6 this amendment shall not:

7 (1) Make, directly or indirectly, a contribution to a political
8 party or political organization; or

9 (2) Hold office in a political party or political organization.

10
11 SECTION 5. BALLOT TITLE AND POPULAR NAME. When this proposed
12 amendment is submitted to the electors of this state on the general election
13 ballot:

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

16 (2) The popular name shall be "An Amendment to the Arkansas
17 Constitution Concerning the Process for Selecting a Justice of the Supreme
18 Court and Amending Provisions Concerning Service on the Supreme Court".

19
20 */s/Shepherd*