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2 89th General Assembly
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4

As Engrossed: S3/8/13

A Bill

SENATE BILL 374

5 By: Senators J. English, L. Chesterfield, J. Hutchinson, D. Johnson, Elliott
6 By: Representatives Williams, Perry, Julian, E. Armstrong, Sabin, Davis
7

For An Act To Be Entitled

9 AN ACT TO AMEND THE ALCOHOLIC BEVERAGE LAW CONCERNING
10 LOCAL OPTION ELECTIONS FOR A TERRITORIAL SUBDIVISION
11 THAT IS LOCATED IN A WET COUNTY AND WAS VOTED DRY BY
12 A DEFUNCT VOTING DISTRICT THAT RESULTED FROM
13 INITIATED ACT 1 OF 1942; AND FOR OTHER PURPOSES.
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Subtitle

16 TO AMEND THE ALCOHOLIC BEVERAGE LAW
17 CONCERNING LOCAL OPTION ELECTIONS FOR A
18 TERRITORIAL SUBDIVISION THAT IS LOCATED
19 IN A WET COUNTY AND WAS VOTED DRY BY A
20 DEFUNCT VOTING DISTRICT FROM INITIATED
21 ACT 1 OF 1942.
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25 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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27 SECTION 1. Arkansas Code Title 3, Chapter 8, is amended to add an
28 additional subchapter to read as follows:

29 3-8-601. Definitions.

30 As used in this subchapter:

31 (1) "Beer" means a fermented liquor made from malt or a malt
32 substitute and containing not more than five percent (5%) alcohol by weight;

33 (2) "Defunct voting district" means a voting district that:

34 (A) Existed at the time its qualified voters voted to be
35 dry;

36 (B) Is no longer recognized by the state or the county in



1 which it was located; and

2 (C) Is currently located in a wet county;

3 (2) "Dry" means a county or territorial subdivision that voted
4 to prohibit the manufacture or sale of intoxicating liquor under Initiated
5 Act No. 1 of 1942, as amended, §§ 3-8-201 – 3-8-203 and 3-8-205 – 3-8-209, or
6 §§ 3-8-302 – 3-8-306;

7 (4) "Malt beverage" means a liquor brewed from the fermented
8 juices of grain and having an alcoholic content of not less than five percent
9 (5%) and not more than twenty-one percent (21%) of alcohol by weight;

10 (5) "Spirituous liquor" means a liquor distilled from the
11 fermented juices of grain, fruits, or vegetables and containing more than
12 twenty-one percent (21%) alcohol by weight or any other liquids containing
13 more than twenty-one percent (21%) alcohol by weight;

14 (6) "Territorial subdivision" means a township, municipality,
15 ward, or precinct of a county of the state;

16 (7) "Vinous beverage" means the fermented juices of fruits or a
17 mixture containing the fermented juices of fruits containing more than five
18 percent (5%) and not more than twenty-one percent (21%) alcohol by weight;

19 (8) "Voting district" means a geographical area of qualified
20 voters of a county in this state; and

21 (9) "Wet" means a county or territorial subdivision that voted
22 to permit the manufacture or sale of intoxicating liquor under Initiated Act
23 No. 1 of 1942, as amended, §§ 3-8-201 – 3-8-203 and 3-8-205 – 3-8-209, or §§
24 3-8-302 – 3-8-306.

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26 3-8-602. Local option election – Defunct voting district.

27 (a)(1) Under subsection (b) of this section, an area within the
28 boundaries of a defunct voting district may conduct an election to permit the
29 manufacture and sale of alcoholic beverages identified in subdivision (a)(2)
30 of this section.

31 (2) The manufacture and sale of alcoholic beverages under this
32 section shall be limited to:

33 (A) Beer and vinous beverages for off-premises
34 consumption; and

35 (B) Beer, malt beverages, vinous beverages, and spirituous
36 liquor for on-premises consumption.

1 (b) An election for an area within the boundaries of a defunct voting
2 district to permit the manufacture and sale of the alcoholic beverages
3 identified in subdivision (a)(2) of this section shall be held as follows:

4 (1)(A) The quorum court in which the defunct voting district is
5 located shall issue a resolution ordering the special local option election
6 to be held in accordance with § 7-11-201 et seq.

7 (B) The resolution shall identify the:

8 (i) Territorial subdivisions that are affected by
9 the election;

10 (ii) Name of the defunct voting district;

11 (iii) Date on which the defunct voting district held
12 the local option election that resulted in the defunct voting district
13 becoming dry; and

14 (iv)(a) Boundaries of the defunct voting district at
15 the time of the local option election that resulted in the defunct voting
16 district becoming dry.

17 (b) The boundaries of the defunct voting
18 district shall be based on county records.

19 (2)(A) The election shall be submitted to the voters residing
20 within the boundaries of the defunct voting districts identified in the
21 quorum court's resolution.

22 (B) A majority vote of the qualified electors residing
23 within the boundaries of the defunct voting districts identified in the
24 quorum court's resolution shall determine whether or not alcoholic beverages
25 may be sold or manufactured under subdivision (a)(2) of this section within
26 the boundaries of the defunct voting district;

27 (3)(A) The question shall be placed upon the ballot and
28 submitted to the voters within the boundaries of the defunct voting district
29 identified in the quorum court's resolution and be conducted in the manner
30 provided by § 3-8-206.

31 (B) The ballot shall be in the following form:

32 "[] FOR the Sale of Alcoholic Beverages, As Authorized by Ark. Code §
33 3-8-602.

34 [] AGAINST the Sale of Alcoholic Beverages, As Authorized by Ark. Code
35 § 3-8-602."

36 (4) The precincts and polling sites to be utilized for

1 conducting elections under this section shall be established by the county
2 board of election commissioners based upon the boundaries set forth in the
3 quorum court resolution. The county board of election commissioners shall
4 issue an order no later than thirty (30) days prior to the election,
5 containing a written description and a map of the boundaries of the precinct
6 established for purposes of the election to be held under this section.

7 (c) If a defunct voting district is located entirely within the
8 boundaries of a larger defunct voting district, a vote will be held only for
9 the larger defunct voting district.

10 (1)(A) If two (2) defunct voting districts overlap, whether or
11 not alcoholic beverages may be sold or manufactured under subdivision (a)(2)
12 of this section within that geographical area located in both defunct
13 districts will be determined by the majority vote of the voters within the
14 boundaries of the defunct voting district that first held the local option
15 election resulting in its dry status.

16 (B) The local option elections may be held simultaneously
17 or on different dates.

18 (C) The voters in the local option elections shall be
19 provided separate ballots for each defunct voting district;

20 (2) The quorum court may call a local option election for one
21 (1) or more defunct voting districts qualified under subdivision (a)(1) of
22 this section in one (1) resolution or in different resolutions at different
23 times under subsection (b) of this section; and

24 (3) The majority vote of all the voters residing within the
25 boundaries of the defunct voting district identified in the quorum court's
26 resolution shall determine the local option status of only the geographic
27 area located within the boundaries of that particular defunct voting
28 district.

29 (d) Immediately after the certification of the results of an election
30 permitting the sale or manufacture of alcoholic beverages under this section,
31 the Director of the Alcoholic Beverage Control Division may issue permits for
32 the sale or manufacture of alcoholic beverages as described under subdivision
33 (a)(1) of this section.

34 (e)(1) The quorum court in a county with a defunct voting district
35 qualified under subdivision (a)(1) of this section shall order a local option
36 election under subsection (b) of this section within ninety (90) days of the

1 effective date of this act.

2 (2) If the quorum court in a county with a defunct voting
3 district qualified under subdivision (a)(1) of this section fails to call a
4 local option election under subsection (b) of this section within ninety (90)
5 days of the effective date of this act:

6 (A) A local option election for a defunct voting district
7 may be held pursuant to the petition procedures set forth in § 3-8-201 et
8 seq.; and

9 (B)(i) The signatures required under §§ 3-8-204 - 3-8-205
10 for the defunct voting district shall be obtained from qualified electors
11 residing within the boundaries of the defunct voting district.

12 (ii) Upon the request of a registered voter of the county,
13 the quorum court shall issue a resolution containing the information required
14 under subdivision (b)(1)(B) of this section so that signatures may be
15 obtained from qualified electors residing within the boundaries of the
16 defunct voting district."

17 (f)(1) If a local option election is conducted under subsection (b) of
18 this section and the majority vote of the qualified electors is against the
19 manufacture or sale of intoxicating liquors identified in subdivision (a)(2)
20 of this section in the defunct voting district, then a subsequent special
21 local option election for that defunct voting district may be held pursuant
22 to the process set forth in subsection (e) of this section.

23 (2) An election under this subdivision (f)(1) of this section
24 shall not be held in the same defunct voting district until a period of two
25 (2) years has elapsed since the special local option election conducted under
26 subsection (b) of this section.

27 (g) The cost of a local option election under this section shall be
28 paid by the county in the same manner as it pays costs of a general election.

29 (h) The boundaries of a defunct voting district as identified by the
30 quorum court in the resolution required by subdivision (b)(1)(B) of this
31 section will be deemed final and valid unless clearly erroneous or arbitrary.

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33 /s/J. English
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