

**Stricken language would be deleted from and underlined language would be added to the Arkansas
Constitution.**

1 State of Arkansas
2 88th General Assembly
3 Regular Session, 2011

HJR 1003

4
5 By: Representative D. Hutchinson

HOUSE JOINT RESOLUTION

8 PROPOSING AN AMENDMENT TO THE ARKANSAS CONSTITUTION
9 TO AMEND AMENDMENT 42, THE MACK-BLACKWELL AMENDMENT,
10 TO CLARIFY THAT EACH HIGHWAY COMMISSIONER REPRESENTS
11 HIS OR HER CONGRESSIONAL DISTRICT AND NO OTHER
12 DESIGNATED PORTION OF THE STATE; TO CLARIFY THAT AT-
13 LARGE HIGHWAY COMMISSIONERS REPRESENT ENGINEERING
14 DISTRICTS ON A ROTATION SCHEDULE FOR A TERM OF THREE
15 (3) YEARS; TO REQUIRE EACH HIGHWAY COMMISSIONER TO
16 HAVE HIS OR HER PRIMARY RESIDENCE IN THE DISTRICT
17 FROM WHICH HE OR SHE IS APPOINTED; TO ALLOW THE
18 GENERAL ASSEMBLY TO AMEND THE POWERS AND DUTIES OF
19 THE STATE HIGHWAY COMMISSION BY A VOTE OF TWO-THIRDS
20 OF THE MEMBERS ELECTED TO EACH HOUSE; TO REPEAL
21 ARKANSAS CODE § 27-65-104 AND ANY OTHER LAWS IN
22 CONFLICT WITH THIS AMENDMENT; AND FOR OTHER PURPOSES.

Subtitle

26 PROPOSING AN AMENDMENT TO CLARIFY THE
27 TERMS OF HIGHWAY COMMISSIONERS AND AT-
28 LARGE HIGHWAY COMMISSIONERS; TO ALLOW THE
29 GENERAL ASSEMBLY TO AMEND THE POWERS AND
30 DUTIES OF THE STATE HIGHWAY COMMISSION.

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33 BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE EIGHTY-EIGHTH GENERAL
34 ASSEMBLY OF THE STATE OF ARKANSAS AND BY THE SENATE, A MAJORITY OF ALL
35 MEMBERS ELECTED TO EACH HOUSE AGREEING THERETO:



1 That the following is proposed as an amendment to the Constitution of
2 the State of Arkansas, and upon being submitted to the electors of the state
3 for approval or rejection at the next general election for Representatives
4 and Senators, if a majority of the electors voting thereon at the election
5 adopt the amendment, the amendment shall become a part of the Constitution of
6 the State of Arkansas, to wit:

7
8 SECTION 1. Arkansas Constitution, Amendment 42, Section 2, regarding
9 the State Highway Commission, is amended to read as follows:

10 § 2. Qualifications and appointment of members – Terms of office of
11 first commission.

12 (a) Within ten days after the convening of the General Assembly of the
13 State of Arkansas in the year 1953, the Governor, by and with the advice and
14 consent of the Senate, shall appoint five persons who are qualified electors
15 of the State to constitute the State Highway Commission for terms of two,
16 four, six, eight, and ten years respectively. The terms of the persons so
17 appointed shall be determined by lot. ~~The Commissioners to be appointed from~~
18 ~~the State at large; provided, however, that no two Commissioners shall be~~
19 ~~appointed from any single Congressional District.~~

20 (b)(1)(A) There shall be only one (1) highway commissioner appointed
21 from each congressional district, except for the at-large commissioners
22 described in subdivision (b)(2) of this section.

23 (B) Each commissioner appointed that represents a
24 congressional district shall:

25 (i) Represent his or her congressional district and
26 no other designated portion of the state; and

27 (ii) Serve a term of ten (10) years.

28 (C) Each commissioner shall have his or her primary
29 residence in the congressional district from which he or she was appointed.

30 (D) To ensure that each congressional district has at
31 least one (1) representative on the commission if possible, no two (2)
32 commissioners who are appointed from and represent a congressional district
33 under this subdivision (b)(1) shall be from the same congressional district.

34 (E) If there are more than five (5) congressional
35 districts, appointments of commissioners under this subdivision shall be made
36 on a rotation schedule so that each congressional district has had

1 commissioner appointed from its district before another one is chosen from
2 the same congressional district.

3 (3)(A) If there are fewer than five (5) congressional districts
4 in the state, the commissioners that exceed the number of congressional
5 districts shall be at-large commissioners.

6 (B) Each at-large commissioner shall be appointed from and
7 represent the engineering district in which he or she resides and no other
8 designated portion of the state.

9 (C) Two (2) at-large commissioners shall not reside in the
10 same engineering district at the same time.

11 (D) If an at-large commissioner is appointed, he or she
12 will be appointed from a congressional district that is the same as one (1)
13 of the commissioners appointed under subdivision (a)(1) of this section.

14 (E) Appointments of at-large commissioners from
15 engineering districts shall be made on a rotation schedule so that each
16 engineering district has had an at-large commissioner appointed from its
17 district before another one is chosen from the same engineering district.

18 (F) Each at-large commissioner appointed that represents
19 an engineering district shall:

20 (i) Represent his or her engineering district and no
21 other designated portion of the state; and

22 (ii) Serve a term of three (3) years.

23 (G) The at-large commissioner that exists on January 1,
24 2013, shall serve for three (3) more years, and his or her term shall expire
25 at that time.

26 (H) An at-large commissioner appointed after January 1,
27 2013, is required to have his or her primary residence in the engineering
28 district that he or she is appointed to represent.

29 (c) In the event of rejection by the Senate of a person whose name has
30 been so submitted, the Governor shall within five days after receipt of
31 written notice from the Secretary of the Senate of ~~such~~ the rejection submit
32 the name of another appointee to fill ~~such~~ the vacancy. In the event the
33 Governor should within five days thereafter fail to appoint or fail to submit
34 to the Senate for confirmation the name of any person to be appointed, the
35 Senate shall proceed to make the appointment of its own choice.

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1 SECTION 2. Arkansas Constitution, Amendment 42, Section 3, regarding
2 the State Highway Commission, is repealed.

3 ~~§ 3. Terms of office of members.~~

4 ~~Upon the expiration of the foregoing terms of said Commissioners, a~~
5 ~~successor shall be appointed by the Governor in the manner provided for in~~
6 ~~Section 2 for a term of ten years, which term shall thereafter be for each~~
7 ~~member of the Commission.~~

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9 SECTION 3. Arkansas Constitution, Amendment 42, Section 4, regarding
10 the State Highway Commission, is amended to read as follows:

11 § 4. Removal of members – Hearing – Review and appeal.

12 (a)(1) A Commissioner may be removed by the Governor only for the same
13 causes as apply to other constitutional officers after a hearing which may be
14 reviewed by the ~~Chancery~~ Circuit Court for the First District with right of
15 appeal therefrom to the Supreme Court, such review and appeal to be without
16 presumption in favor of any finding by the Governor or the trial court, and
17 provided further, in addition to the right of confirmation hereinabove
18 reserved to the Senate, the Senate may upon the written request of at least
19 ~~Five~~ five (5) of its members that a member or members of the Commission
20 should be removed therefrom, proceed, when in session, to hear any and all
21 evidence pertinent to the reasons for removal.

22 (2)(A) A commissioner that represents a congressional district
23 may be removed for failing to maintain his or her primary residence in that
24 congressional district.

25 (B) An at-large commissioner that represents an
26 engineering district may be removed for failing to maintain his or her
27 primary residence in that engineering district.

28 (b) The member or members whose removal is so requested shall be
29 entitled to be heard in the matter and to be represented before the Senate by
30 legal Counsel. These proceedings conducted by the Senate shall be public and
31 a transcript of the testimony so heard shall be prepared and preserved in the
32 journal of the Senate. The taking of evidence either orally or by deposition
33 shall not be bound by the formal rules of evidence. Upon the conclusion of
34 the hearing, the Senate, sitting as a body in executive session, may remove
35 said member or members of the Commission by a majority vote conducted by
36 secret ballot.

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2 SECTION 4. Arkansas Constitution, Amendment 42, regarding the State
3 Highway Commission, is amended to add additional sections to read as follows:

4 § 7. Authority to amend powers and duties – Limitation.

5 (a) Except as provided in subsection (b) of this section, the General
6 Assembly may amend the powers and duties of the State Highway Commission by
7 an affirmative vote of two-thirds of the members elected to each house of the
8 General Assembly.

9 (b) The General Assembly shall not change by law the membership of the
10 State Highway Commission, repeal the State Highway Commission, or amend § 2
11 of this amendment.

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13 § 8. Repeal of any law in conflict with this amendment.

14 This amendment repeals Arkansas Code § 27-65-104, repeals any other law
15 in conflict with this amendment, and overturns any case law contrary to this
16 amendment.

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