

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

1 State of Arkansas  
2 89th General Assembly  
3 Regular Session, 2013  
4  
5 By: Representative Lea  
6 By: Senator J. Hutchinson  
7

HJR 1003

8 **HOUSE JOINT RESOLUTION**

9 PROPOSING AN AMENDMENT TO AMENDMENT NO. 42 TO THE  
10 CONSTITUTION OF THE STATE OF ARKANSAS TO PROVIDE FOR  
11 THE NONPARTISAN ELECTION OF MEMBERS OF THE STATE  
12 HIGHWAY COMMISSION BY POPULAR VOTE; TO REQUIRE THE  
13 BOARD OF APPORTIONMENT TO ESTABLISH FOUR (4) HIGHWAY  
14 COMMISSION ZONES FROM WHICH COMMISSIONERS SHALL BE  
15 ELECTED BY PLURALITY VOTE AND PROVIDING FOR ONE (1)  
16 ADDITIONAL COMMISSIONER TO BE ELECTED FROM THE STATE  
17 AT LARGE; TO PROVIDE FOR THE APPOINTMENT OF THE  
18 DIRECTOR OF THE ARKANSAS STATE HIGHWAY AND  
19 TRANSPORTATION DEPARTMENT BY THE GOVERNOR; TO PROVIDE  
20 FOR TRANSITION TO THE NEW FORM OF THE ARKANSAS STATE  
21 HIGHWAY COMMISSION; AND FOR OTHER PURPOSES.  
22  
23

24 **Subtitle**

25 PROPOSING AN AMENDMENT TO AMENDMENT NO.  
26 42 TO THE CONSTITUTION OF THE STATE OF  
27 ARKANSAS TO PROVIDE FOR ELECTION OF  
28 MEMBERS OF THE STATE HIGHWAY COMMISSION  
29 BY POPULAR VOTE.  
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32 BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE EIGHTY-NINTH GENERAL  
33 ASSEMBLY OF THE STATE OF ARKANSAS AND BY THE SENATE, A MAJORITY OF ALL  
34 MEMBERS ELECTED TO EACH HOUSE AGREEING THERETO:  
35  
36



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. Section 1 of Amendment 42 to the Constitution of the State  
 9 of Arkansas is amended to read as follows:

10            1. Commission created - Members - Powers.

11            There is hereby created a State Highway Commission ~~which shall be~~  
 12 ~~vested with all the powers and duties now or hereafter imposed by law for the~~  
 13 ~~administration of the State Highway Department, together with all powers~~  
 14 ~~necessary or proper to enable the Commission or any of its officers or~~  
 15 ~~employees to carry out fully and effectively the regulations and laws~~  
 16 ~~relating to the State Highway Department~~ which shall have the powers and  
 17 duties as are now or may hereafter be prescribed by the General Assembly.

18  
 19            SECTION 2. Section 2 of Amendment 42 to the Constitution of the State  
 20 of Arkansas is amended to read as follows:

21            § 2. Qualifications and appointment of members - Terms of office ~~of~~  
 22 ~~first commission.~~

23            ~~Within ten days after the convening of the General Assembly of the~~  
 24 ~~State of Arkansas in the year 1953, the Governor, by and with the advice and~~  
 25 ~~consent of the Senate, shall appoint five persons who are qualified electors~~  
 26 ~~of the State to constitute the State Highway Commission for terms of two,~~  
 27 ~~four, six, eight and ten years respectively. The terms of the persons so~~  
 28 ~~appointed shall be determined by lot. The Commissioners to be appointed from~~  
 29 ~~the State at large; provided, however, that no two Commissioners shall be~~  
 30 ~~appointed from any single Congressional District.~~

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

1 ~~proceed to make the appointment of its own choice.~~

2 (a) The State Highway Commission shall be composed of five (5) members  
3 who shall be elected by popular vote.

4 (b)(1)(A)(i) The Board of Apportionment shall divide the state into  
5 four (4) highway commission zones which shall be identical to the four (4)  
6 congressional districts of the state.

7 (ii) The board may change the zones only if  
8 necessary due to an enactment of the General Assembly revising the  
9 congressional districts of the state.

10 (B) One (1) member of the commission shall be elected from  
11 each of the highway commission zones.

12 (C) Only qualified electors who are residents of their  
13 respective zones shall be eligible to be elected to the commission and to  
14 serve as commissioners for that zone.

15 (2)(A) In addition to the four (4) members elected under  
16 subdivision (b)(1) of this section, one (1) member of the commission shall be  
17 elected from the state at large.

18 (B) Only a qualified elector who is a resident of the  
19 State of Arkansas shall be eligible to be elected to the commission from the  
20 state at large.

21 (C) The member elected from the state at large shall serve  
22 as chair of the commission.

23 (d) The members of the State Highway Commission shall be elected by  
24 plurality vote and on a nonpartisan basis at the general election next  
25 following the adoption of this amendment.

26 (e) The General Assembly shall enact laws establishing procedures for  
27 the nonpartisan election of commissioners.

28 (f)(1) The initially elected members shall draw lots for terms so that  
29 three (3) members shall serve a four-year term and two (2) members shall  
30 serve a two-year term.

31 (2) Successors shall serve four-year terms.

32 (g) The elected members of the commission shall take office on the  
33 first Monday of January in the year immediately following the date of their  
34 election.

35 (h)(1) Except as provided in subdivision (h)(2) of this section, no  
36 person shall serve as a member of the commission for more than two (2) four-

1 year terms.

2 (2) Commissioners initially elected to serve a two-year term or  
 3 appointed to fill a vacancy are eligible to serve two (2) four-year terms.

4 (i) Vacancies in office shall be filled by appointment by the  
 5 Governor.

6 (j) If the number of congressional districts of the state increases or  
 7 decreases from four (4) districts, the General Assembly shall enact laws:

8 (1) Revising the membership of the commission to be consistent  
 9 with the number of congressional districts in the state; and

10 (2) Providing procedures for the addition or subtraction of  
 11 commissioners.

12  
 13 SECTION 3. Section 3 of Amendment 42 to the Constitution of the State  
 14 of Arkansas is amended to read as follows:

15 ~~§ 3. Terms of office of members~~ Compensation and expenses of members.

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

20 (a) The General Assembly shall by law determine the amount and method  
 21 of payment of compensation, if any, and expenses of the members of the State  
 22 Highway Commission.

23 (b) The compensation and expenses of commissioners may be increased  
 24 but not diminished during the term for which they are elected.

25 (c) The compensation of all commissioners shall be equal.

26  
 27 SECTION 4. Section 4 of Amendment 42 to the Constitution of the State  
 28 of Arkansas is amended to read as follows:

29 ~~§ 4. Removal of members —Hearing— Review and appeal.~~

30 ~~A Commissioner may be removed by the Governor only for the same causes~~  
 31 ~~as apply to other constitutional officers after a hearing which may be~~  
 32 ~~reviewed by the Chancery Court for the First District with right of appeal~~  
 33 ~~therefrom to the Supreme Court, such review and appeal to be without~~  
 34 ~~presumption in favor of any finding by the Governor or the trial court, and~~  
 35 ~~provided further, in addition to the right of confirmation hereinabove~~  
 36 ~~reserved to the Senate, the Senate may upon the written request of at least~~

1 ~~Five (5) of its members that a member or members of the Commission should be~~  
2 ~~removed therefrom, proceed, when in session, to hear any and all evidence~~  
3 ~~pertinent to the reasons for removal. The member or members whose removal is~~  
4 ~~so requested shall be entitled to be heard in the matter and to be~~  
5 ~~represented before the Senate by legal Counsel. These proceedings conducted~~  
6 ~~by the Senate shall be public and a transcript of the testimony so heard~~  
7 ~~shall be prepared and preserved in the journal of the Senate. The taking of~~  
8 ~~evidence either orally or by deposition shall not be bound by the formal~~  
9 ~~rules of evidence. Upon the conclusion of the hearing, the Senate, sitting as~~  
10 ~~a body in executive session, may remove said member or members of the~~  
11 ~~Commission by a majority vote conducted by secret ballot.~~

12 (a) No commissioner shall be removed from office during the term for  
13 which elected unless:

14 (1) One (1) or more of the same causes for the removal of a  
15 constitutional officer of this state apply to the commissioner; or

16 (2) The commissioner no longer meets the qualifications provided  
17 in this amendment.

18 (b) Any action for removal shall be brought by the Attorney General at  
19 the request of the Governor and shall be heard in the circuit court for the  
20 county in which that commissioner resides.

21  
22 SECTION 5. Section 6 of Amendment 42 to the Constitution of the State  
23 of Arkansas is amended to read as follows:

24 § 6. Director of Highways Arkansas State Highway and Transportation  
25 Department.

26 ~~The Commission shall appoint a Director of Highways who shall have such~~  
27 ~~duties as may be prescribed by the Commission or by statute.~~

28 (a) There is created the position of Director of the Arkansas State  
29 Highway and Transportation Department.

30 (b) The director shall be appointed by the Governor for a term of four  
31 (4) years and may be removed by the Governor during his or her term only with  
32 the approval by a majority vote of the total number of commissioners.

33 (c) The director may be reappointed at the pleasure of the Governor.  
34

35 SECTION 6. Amendment 42 to the Constitution of the State of Arkansas  
36 is amended to add a new Section 7 to read as follows:

1           § 7. Officers and Duties.

2           The General Assembly may by law authorize the State Highway Commission  
3 to elect a vice chair and such other officers from the membership of the  
4 commission as it deems necessary for the governance of the commission and  
5 prescribe its respective duties.

6  
7           SECTION 7. Effective Date – Transition.

8           (a) The provisions of this amendment shall be effective immediately  
9 upon its adoption by the qualified electors of the state.

10          (b) The members of the State Highway Commission serving on the  
11 effective date of this amendment shall continue to serve in their respective  
12 positions and shall have the powers, duties, and obligations prescribed under  
13 Amendment 42 of the Arkansas Constitution until the newly elected members of  
14 the commission take office under the provisions of this amendment.