



THE ARKANSAS ELECTED OFFICIALS ETHICS, TRANSPARENCY, AND FINANCIAL REFORM AMENDMENT OF 2014

ISSUE NUMBER 3

(Referred to the People by the Arkansas General Assembly – 2014)

POPULAR NAME: An amendment regulating contributions to candidates for state or local office, barring gifts from lobbyists to certain state officials, providing for setting salaries of certain state officials, and setting term limits for members of the General Assembly.

BALLOT TITLE: To amend the Arkansas Constitution concerning elected state officials; prohibiting members of the General Assembly and elected constitutional officers of the executive department from accepting gifts from lobbyists, and defining key terms relating to that prohibition; prohibiting members of the General Assembly from setting their own salaries and the salaries of elected constitutional officers of the executive department, justices, and judges; establishing a seven-member independent citizens commission to set salaries for members of the General Assembly, elected constitutional officers of the executive department, justices, and judges; establishing the appointment process for members of the independent citizens commission, and prohibiting members of the independent citizens commission from accepting gifts from lobbyists; prohibiting certain contributions, including contributions by corporations, to candidates for public office; prohibiting a member of the General Assembly from registering as a lobbyist until two (2) years after the expiration of his or her term; and establishing term limits for members of the General Assembly.

What is being proposed?

Issue 3 proposes several changes to the Arkansas Constitution. Briefly summarized, these include:

- **Gifts from Lobbyists:** The proposed amendment would prohibit Arkansas constitutional officers, members of the General Assembly and members of the independent citizens commission (established by this proposed amendment) from soliciting or accepting a gift from a lobbyist or person acting on behalf of a lobbyist.
- **Independent Citizens Commission:** The proposed amendment would create an independent commission to set salaries of state elected officials and provide recommendations regarding reimbursements and “per diem,” which is an additional payment legislators receive to help pay for meals or lodging when they are performing official duties. Salaries are currently set by the General Assembly within guidelines contained in the Arkansas Constitution.
- **Campaign Contributions:** The proposed amendment would establish constitutional law regarding contributions to candidates running for political office. The state’s Constitution does not currently address campaign contributions. Laws concerning campaign contributions currently exist only in Arkansas Code (laws that can be changed by the Arkansas General Assembly).
- **Lobbying by Former Legislators:** The proposed amendment would prohibit a former member of the Arkansas General Assembly from registering as a lobbyist until 2 years after his or her elected terms expires. Arkansas Code currently prohibits legislators from serving as lobbyists for at least one year after their term expires.

- **Term Limits:** The proposed amendment would allow legislators to serve 16 years total in the House or Senate instead of chamber-specific term limits for the House of Representatives and Senate. Current limits are six years in the House of Representatives and eight years in the Senate.

More details about each of these proposed changes are provided below.

Why is this issue on the ballot?

Issue 3 is a combination of issues that were initially proposed as separate amendments by different legislators. The issues were later combined as a compromise to gain support for putting changes regarding campaign contributions, lobbying and gifts before the voters.

Proposed changes regarding campaign contributions, lobbying by former legislators and gifts from lobbyists mirror proposed changes by Arkansas citizens who tried to put similar requirements on the 2012 ballot but did not collect enough signatures for their petition. The citizen sponsors said the changes were meant to restore voter confidence in state government and decrease the influence of special interest groups. Legislative sponsors of this proposal decided to include them in this proposed constitutional amendment.

The proposed changes regarding legislative, executive and judicial salaries is an attempt to address low salaries while turning over decision-making power of a controversial process to people who aren't elected.

The proposed changes to existing term limits removes the separate House and Senate office term limits in favor of a 16-year-term limit which could be served in either chamber or combination.

How did this issue make it to the ballot?

Arkansas legislators voted to put Issue 3 on the 2014 general election ballot. State legislators have the right to include up to three constitutional amendments on the general election ballot. Constitutional amendments require the approval of a majority of voters in a statewide election.

Section 1 – Gifts from Lobbyists

What is being proposed in this section?

The following individuals would be prohibited from soliciting or accepting a gift from a lobbyist or anyone acting on behalf of a lobbyist:

- Executive constitutional officers including the Governor, Lieutenant Governor, Secretary of State, Treasurer of State, Auditor of State, Attorney General, and Commissioner of State Lands.

- Members of the Arkansas House of Representatives and Arkansas Senate.
- Members of the independent citizens commission that would be created if this amendment is approved by voters.

How is a gift defined?

The proposed amendment defines a “gift” as a payment, entertainment, advance, service, or other item of value that is given without something of equal value in return. The following are not considered gifts:

- Books, reports, pamphlets, calendars, or other items informing a person about something related to his or her official duties.
- Payments for travel or reimbursement for expenses.
- Gifts not used which are returned to the donor within 30 days after receipt.
- Gifts from a spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin or the spouse of any of these persons. This exception does not apply if the individual is acting on behalf of someone else not on this list.
- Anything of value that is readily available to the general public at no cost.
- Food or drink available at a planned activity to which a governmental body is invited.
- Payments by regional or national organizations for travel to regional or national conferences where the person has been invited to attend on behalf of the State of Arkansas.
- Campaign contributions.
- An inheritance.

What is the penalty if a gift is accepted?

Violation of this law would be a Class B misdemeanor, which is punishable by up to 90 days in jail and a fine of up to \$1,000. The Arkansas Ethics Commission would be authorized to make rules for implementation and administration of the law, issue advisory opinions and guidelines, investigate alleged violations, determine whether violations have occurred, and take disciplinary action.

Does this change current law regarding gifts?

The Arkansas Constitution does not currently address gifts from lobbyists. Arkansas Code allows executive constitutional officers to accept gifts, grants, and donations of money or property on behalf of the

state but not for personal benefit. These become property of the government, not the individual, and must be reported to the Arkansas Ethics Commission.

Section 2 – Independent Citizens Commission

What is being proposed in this section?

The Arkansas General Assembly would be prohibited from setting salaries for the following elected offices:

- Executive constitutional officers including the Governor, Lieutenant Governor, Secretary of State, Treasurer of State, Auditor of State, Attorney General, and Commissioner of State Lands.
- Members of the Arkansas House of Representatives and Arkansas Senate.
- Justices including Chief Justice of the Arkansas Supreme Court and Justices of the Arkansas Supreme Court.
- Judges including Chief Judge of the Arkansas Court of Appeals, Judges of the Arkansas Court of Appeals, circuit court judges, and district court judges.

Instead, an independent citizens commission would be created to review and adjust salaries of state elected officials and make recommendations to leaders of the Arkansas House of Representative and Senate regarding per diem and reimbursements.

Are there limitations regarding the salary adjustments the commission can make?

An initial review of salaries must occur no later than 90 days after Nov. 5, 2014, which is the effective date of this amendment if it passes. The proposed amendment specifies:

- The commission must consider the overall economic condition of the state in making decisions.
- Salaries of circuit judges must remain uniform throughout the state.
- Salaries for Governor, Lieutenant Governor, Attorney General, Secretary of State, Treasurer of State, Auditor of State, Commissioner of State Lands, and members of the General Assembly can be increased or decreased by the independent citizens commission.
- Salaries for Chief Justice of the Arkansas Supreme Court, Justices of the Supreme Court, Chief Judge of the Arkansas Court of Appeals, Judges of the Arkansas Court of Appeals, circuit court judges, and district court judges cannot be decreased.

- After adjustments are made as part of the initial review, no single adjustment at one time can exceed 15 percent of the salary level at that time.
- Salaries must be paid in monthly installments.

What happens when the committee decides a salary adjustment should be made?

If the independent citizens commission proposes to adjust a salary, it must:

- Provide notice to the public.
- Make available to the public any data commission members reviewed in determining the salary adjustment.
- Provide the public a reasonable opportunity to comment on the proposal.

Once those steps have been taken and the commission approves a salary adjustment, the salary information is filed with the Auditor of State. Salary adjustments would become effective 10 days after this filing occurs.

Are there guidelines regarding the per diem and reimbursement recommendations made by the commission?

The proposed amendment provides the following detail concerning per diem and reimbursements:

- Recommendations are made to the President Pro Tempore of the Senate and the Speaker of the House of Representatives.
- Initial recommendations should be made no later than 90 days after Nov. 5, 2014.
- Subsequent recommendations must be provided no later than 90 days before the beginning of a regular legislative session. Regular sessions are held in odd-number years.

Who would serve on the independent citizens commission?

The commission would consist of seven members. Two would be appointed by the governor. Two would be appointed by the President Pro Tempore of the Senate. Two would be appointed by the Speaker of the House of Representatives. One would be appointed by the Chief Justice of the Supreme Court. The proposed amendment states that consideration should be given to racial, gender, and geographical diversity. A member must be a U.S. citizen who has lived in Arkansas for at least two years prior to being appointed, is at least 25 years old, and is registered to vote. An individual who holds a civil office, is an employee of the State of Arkansas, is required by law to register as a lobbyist, or immediate family members of those individuals may not serve on the commission.

How long can a commission member serve?

Members would be appointed for a four-year term. An individual may not serve more than two terms, or eight years.

When would the commission meet?

The President Pro Tempore of the Senate must call the first meeting of commission. The meeting must occur within 45 days of Nov. 5, 2014. The commission can meet as often as it desires but must meet at least once per year. At least four members of the commission must be present at a meeting to take official action. A majority vote (four members) is required for any action to be approved.

Will commission members be paid?

Commission members may be compensated for their time. Each member can receive up to \$85 per day for each meeting attended or for any day in which they are conducting commission business. This amount is determined at the commission's first regularly scheduled meeting of each calendar year. The payment amount must be approved by a majority vote of total commission membership. Payments are made by the Auditor of State from funds available for that purpose. Commission members may receive no other compensation, reimbursement, or other payments.

Section 3 – Campaign Contributions

What is being proposed in this section?

Any candidate running for office, regardless if opposed or unopposed, would be prohibited from accepting a contribution from anyone except the following:

- An individual
- A political party
- A county political party committee
- A legislative caucus committee
- An approved political action committee

The proposed amendment would also prohibit candidates from accepting gifts from those listed that exceed maximum contribution amounts allowed by law. Arkansas Code currently limits contributions from individuals to a maximum of \$2,000 per election. Arkansas Code also limits contributions from a political party to a maximum of \$2,500 per election. The Arkansas General Assembly would retain the authority to set maximum contribution limits. If multiple contributions are given, the total cannot exceed the legal maximum.

How is a contribution defined?

A contribution is anything of value provided for the purpose of influencing the nomination or election of a candidate. Common examples include monetary payments, gifts, subscriptions, event tickets, and media discounts or rebates not provided to all candidates. It includes promises or pledges of money or things of value in the future. Contributions exclude non-compensated, non-reimbursed, volunteer personal services or travel.

What is the penalty if a candidate breaks this proposed law?

Violation of this law would be a Class A misdemeanor, which is punishable by up to 1 year in jail and a fine of up to \$2,500. The Arkansas Ethics Commission would have the same authority as previously described.

Section 4 – Lobbying by Former Legislators

What is being proposed in this section?

A former member of the Arkansas General Assembly would be prohibited from registering as a lobbyist until 2 years after his or her elected term expires. This would apply to everyone elected on or after Nov. 4, 2014.

How is a lobbyist defined?

According to Arkansas Code, a lobbyist is a person who receives income or reimbursement of more than \$400 or spends more than \$400 in a calendar quarter to communicate, either directly or indirectly, with a public official, public employee, or public appointee to influence his or her actions. The \$400 spending maximum does not include costs of personal travel, lodging, meals, or dues. This definition would continue to apply under the proposed amendment.

What is the penalty if a candidate breaks this proposed law?

Violation of this law would be a Class D felony, which is punishable by up to six years in prison and a fine of up to \$10,000. The Arkansas Ethics Commission would have the same authority as previously described.

Section 5 – Term Limits

What is being proposed in this section?

This section of the proposed amendment would eliminate chamber-specific term limits for members of Arkansas General Assembly. Instead, members of the Arkansas Senate and House of Representatives would

be limited to a maximum of 16 years total in office, regardless of chamber. This includes consecutive or nonconsecutive years of service with three exceptions:

- A member who completes his or her 16th year of service during a term in which he or she has already been elected may serve until the completion of that term.
- Years for which a member who is serving a partial legislative term as the result of a special election called by the Governor to fill a vacancy are not included in the calculation of total years.
- A two-year term served as a result of apportionment of the Senate is not included in the calculation of total years. Apportionment is the process of redrawing the boundaries of an area that is represented by a state representative and senator to ensure that each legislator represents roughly the same number of people. This process occurs after a federal Census.

What are current term limits?

Members of the House of Representatives are currently limited to serving three 2-year terms, for a total of six years in the chamber. Senators are limited to serving a maximum of two 4-year terms, for a total of eight years in that chamber. These limits were approved by Arkansas voters in 1992 as part of Amendment 73. They apply to any legislator elected after Jan. 1, 1993.

Other Information About Issue 3

The proposed amendment states that if any part of the law is declared invalid or unconstitutional, the remaining portions of the amendment would not be affected. In other words, all other sections would remain in effect.

The following statements are what supporters and opponents have made public either in media statements, campaign literature, on websites or in interviews with Public Policy Center staff. The University of Arkansas System Division of Agriculture does not endorse or validate these statements.

What do supporters say?

- The change in term limits would counter the influence of lobbyists and bureaucrats, and generally make government work better.
- They're the strongest ethics reforms that have been proposed in at least 20 years. Just the ban on lobbyist gifts alone will radically change the culture of the Legislature and how business is done there.

- An independent citizen's committee would remove salaries from the political process.
- The legislature is a full-time position that pays part time. You get what you pay for.

What do opponents say?

- The amendment's title regarding term limits is deceptive because it makes people think there aren't term limits for Arkansas legislators.
- The amendment would lengthen political terms and Arkansans are somewhat satisfied with the existing limits.
- An independent citizens committee should not set salaries. There should be a straight-up legislative vote on salary so people know how legislators voted.
- It is a deceptive amendment that uses the subject of ethics to get substantial benefits for legislators.

If passed, when would the legislation take effect?

If approved, this legislation would go into effect Nov. 5, 2014.

What does a "FOR" vote mean?

A **FOR** vote means you are in favor of changing the Arkansas Constitution regarding all five components proposed, including gifts from lobbyists, independent citizens commission, campaign contributions, lobbying by former legislators, and term limits.

What does an "AGAINST" vote mean?

An **AGAINST** vote means you are not in favor of changing the Arkansas Constitution regarding one or more of the components proposed, including gifts from lobbyists, independent citizens commission, campaign contributions, lobbying by former legislators, and term limits.

Where can I find more information?

A complete version of the legislative bill can be found at www.sos.arkansas.gov/elections/Documents/Initiatives%20and%20Referenda/HJR1009.pdf.

Arkansas' Constitution and laws can be read and searched online at www.lexisnexis.com/hottopics/larcodel/.

For additional information please visit the University of Arkansas System Division of Agriculture's Public Policy Center website at www.uaex.edu/ppc or contact your county Cooperative Extension Service office.

Voter registration information and election information can be obtained through the Arkansas Secretary of State's office by calling 501-682-1010 or visiting www.sos.arkansas.gov.

Exercise your voting privilege.

We live in a democratic society where voting is a privilege of citizenship. Democracy works best when informed citizens exercise their voting privilege. Please vote.

The deadline to register to vote in the General Election is Oct. 6, 2014.

Early voting begins Oct. 20, 2014. Election Day is Nov. 4, 2014.

Absentee ballots can be requested from county clerk offices beginning Sept. 19, 2014.

The following is the proposed constitutional amendment as it will appear on the state's November General Election ballot.

CONSTITUTIONAL AMENDMENT REFERRED TO THE PEOPLE BY THE GENERAL ASSEMBLY

Issue No. 3

(Popular Name)

AN AMENDMENT REGULATING CONTRIBUTIONS TO CANDIDATES FOR STATE OR LOCAL OFFICE, BARRING GIFTS FROM LOBBYISTS TO CERTAIN STATE OFFICIALS, PROVIDING FOR SETTING SALARIES OF CERTAIN STATE OFFICIALS, AND SETTING TERM LIMITS FOR MEMBERS OF THE GENERAL ASSEMBLY

Ballot Title

TO AMEND THE ARKANSAS CONSTITUTION CONCERNING ELECTED STATE OFFICIALS; PROHIBITING MEMBERS OF THE GENERAL ASSEMBLY AND ELECTED CONSTITUTIONAL OFFICERS OF THE EXECUTIVE DEPARTMENT FROM ACCEPTING GIFTS FROM LOBBYISTS, AND DEFINING KEY TERMS RELATING TO THAT PROHIBITION; PROHIBITING MEMBERS OF THE GENERAL ASSEMBLY FROM SETTING THEIR OWN SALARIES AND THE SALARIES OF ELECTED CONSTITUTIONAL OFFICERS OF THE EXECUTIVE DEPARTMENT, JUSTICES, AND JUDGES; ESTABLISHING A SEVEN-MEMBER INDEPENDENT CITIZENS COMMISSION TO SET SALARIES FOR MEMBERS OF THE GENERAL ASSEMBLY, ELECTED CONSTITUTIONAL OFFICERS OF THE EXECUTIVE DEPARTMENT, JUSTICES, AND JUDGES; ESTABLISHING THE APPOINTMENT PROCESS FOR MEMBERS OF THE INDEPENDENT CITIZENS COMMISSION, AND PROHIBITING MEMBERS OF THE INDEPENDENT CITIZENS COMMISSION FROM ACCEPTING GIFTS FROM LOBBYISTS; PROHIBITING CERTAIN CONTRIBUTIONS, INCLUDING CONTRIBUTIONS BY CORPORATIONS, TO CANDIDATES FOR PUBLIC OFFICE; PROHIBITING A MEMBER OF THE GENERAL ASSEMBLY FROM REGISTERING AS A LOBBYIST UNTIL TWO (2) YEARS AFTER THE EXPIRATION OF HIS OR HER TERM; AND ESTABLISHING TERM LIMITS FOR MEMBERS OF THE GENERAL ASSEMBLY.

FOR

AGAINST

The Public Policy Center is evaluating its ballot education program and invites you to participate in the evaluation by completing a survey available at https://uaex.co1.qualtrics.com/SE/?SID=SV_3vAqtmkFseCCLPL. Your participation is voluntary and anonymous. You will not be asked how you intend to vote. If you have any questions about this survey, please contact Kristin Higgins at 501-671-2160.

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FSPPC314-9-2014N