

AN AMENDMENT TO THE ARKANSAS CONSTITUTION TO CREATE THE “ARKANSAS GOVERNMENT TRANSPARENCY AMENDMENT”.

Section 1. Title.

This amendment shall be known as the “Arkansas Government Transparency Amendment”.

Section 2. Policy, duties, rights, and interpretation.

(a) It is vital in a democratic society that public business be performed in an open and public manner so that the electors shall be advised of the performance of public officials and of the decisions that are reached in public activity and in making public policy.

(b) Government transparency is a right of the citizens of Arkansas.

(c) It is the duty of public officers to conduct government business in a manner that is open to Arkansans in access to public records, conduct of public meetings, and issuance of public notice.

(d) To promote the transparency and openness of public business and government operations:

(1) The provisions of law requiring the disclosure of a public record or the openness of a public meeting shall be liberally construed; and

(2) Any exemption from or exception to disclosure of a public record or the openness of a public meeting shall be narrowly construed.

Section 3. Process for enactment of amendments to existing law - Majority, supermajority, and approval of the people.

(a) The General Assembly may, by bill and by majority vote of the House of Representatives and the Senate, amend an Arkansas statute concerning government transparency, in a manner that makes a government or public process, public meeting, public notice, or public record more transparent to the people.

(b)(1) The General Assembly may amend an Arkansas statute concerning government transparency only by referring the legislation to the electors at the next general election for approval or rejection, if any provision of the legislation:

(A) Makes a government or public process, public meeting, public notice, or public record less transparent to the people;

(B) Modifies the legal standard for recovery of penalties, fees, expenses, or costs; or

(C) Limits or restricts the recovery of penalties, fees, expenses, or costs.

(2) The General Assembly may refer the bill under this subsection (b) by a two thirds (2/3) majority vote of both the House of Representatives and the Senate.

(3)(A) In the case of an emergency, the General Assembly may declare the emergency by nine tenths (9/10) majority vote of both the House of Representatives and the Senate.

(B) If the emergency declaration is adopted:

(i) The bill shall become immediately effective; and

(ii) If the electors reject the referred bill at the next general election, the referred bill will no longer be in effect.

(4) The referred bill shall be published in the manner proscribed under Arkansas Constitution, Article 19, § 22.

(5) A referred bill under this subsection (b) is not a constitutional amendment under Arkansas Constitution, Article 19, § 22.

(6) As used in this section:

(A) A public process or public meeting is:

(i) "Less transparent to the people" if the public's access to view, hear, attend, obtain knowledge of, or engage in the public process or public meeting is reduced; and

(ii) "More transparent to the people" if the public's access to view, hear, attend, obtain knowledge of, or engage in the public process or public meeting is increased;

(B)(i) Public notice is "less transparent to the people" if any time, place, manner, term, or medium of public notice required under law is repealed, removed, or reduced;

(ii) Public notice is "more transparent to the people" if any time, place, manner, or medium of public notice required under law is added or increased.

(C) A public record is:

(i) "Less transparent to the people" if the amendment:

(a) Exempts any portion of the public record from disclosure;

(b) Designates any portion of the public record to be confidential; or

(c) Makes the process for requesting, obtaining, receiving, or viewing any portion of the public record more difficult, complicated, or expensive for the requester; and

(ii) "More transparent to the people" if the amendment:

(a) Repeals, in whole or in part, an exemption from the disclosure requirement concerning the public record; or

(b) Makes the process for requesting, obtaining, receiving, or viewing the public record easier, less complicated, or less expensive for the requester.

(c) If a bill contains one (1) or more provisions that make the law less transparent to the people and one (1) or more provisions that make the law more transparent to the people, the entire bill shall be referred to the people under the process under subsection (b) of this section.

(d) The General Assembly shall not propose an amendment to this Arkansas Government Transparency Amendment to be submitted to the people for approval or rejection under Arkansas Constitution, Article 19, § 22.

(e) The people may amend this Arkansas Government Transparency Amendment or an Arkansas statute concerning government transparency as provided under Arkansas Constitution, Article 5, § 1.

Section 4. Immunity.

Arkansas Constitution Article 5, § 20 is amended to read as follows:

(a) Except as provided in subsection (b) of this section, the State of Arkansas shall never be made defendant in any of her Courts.

(b) The State of Arkansas may be made a defendant for failure to comply with the requirements of Arkansas law concerning government transparency including without limitation access to public records, openness of public meetings, and time, place, manner, term, or medium of public notice.

Section 5. Inconsistent provisions inapplicable.

All provisions of the Constitution, statutes, and common law of this State to the extent inconsistent or in conflict with any provision of this Amendment are expressly declared null and void.

Section 6. Severability.

If any provision or section of this amendment or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect any other provision or application of the amendment that can be given effect without the invalid provision or application, and to this end the provisions of this amendment are declared to be severable.

Section 7. Effective date.

This "Arkansas Government Transparency Amendment" is effective on and after November 6, 2024.