



November 13, 2023

Today, Arkansas Citizens for Transparency releases a second draft of our work to protect government transparency in Arkansas. Changes from the first draft are based primarily on overwhelming public feedback committee members have received since the release of the first draft. In that time, public meetings have been held in Conway, Fayetteville, Fort Smith, Little Rock, and West Memphis. Further, committee members have had countless conversations with members of the public from every corner of the state. All these conversations have been rich and have informed the draft released today. While there are several changes, the two primary changes from the first draft are as follows:

### **Two Measures—An Amendment and an Act**

As we got deeper into the work, it became apparent that the updates to Arkansas's government transparency laws needed to be split into two measures, both a constitutional amendment and an initiated act, rather than have all changes be in a constitutional amendment. Two reasons exist for this change. First, some changes to the law belong in state code rather than in the state constitution. Second, referring to code sections in a proposed constitutional amendment threatened to place the entire measure into legal jeopardy, including the possibility of having it removed from the ballot. Wanting to protect the viability of this work, the committee split the language into a proposed constitutional amendment and initiated act, and the constitutional amendment is now limited to the following: (1) the creation of an Arkansas citizen's right to government transparency, (2) that a law making government business less transparent may only pass through approval by the people of Arkansas, and (3) the state of Arkansas may be sued in state court for failure to comply with Arkansas government transparency laws. Remaining policy changes are included in the act. Regardless, the amendment and the act are structured in such a way that the policy changes in the act will be protected by the new measures included in the amendment.

### **Arkansas Government Transparency Commission**

Recognizing the seminal opportunity before us, the committee is proposing to create the Arkansas Government Transparency Commission. The purpose of this Commission will be to assist Arkansas citizens in accessing public records and public meetings and to enforce government compliance with the law concerning Arkansas citizens' right to government transparency. The Commission may also work to facilitate resolutions between citizens and records custodians for the production of records in a case of extensive requests, and the Commission may fine governing

bodies or records custodians for non-compliance with transparency laws. Ultimately, the chief goal of creating the Commission is to provide a government transparency resource for citizens without having to resort to hiring a lawyer and filing a lawsuit. No aspect of this Commission, however, would prevent a citizen from seeking relief in court, and all decisions of the Commission would be appealable to a court.

As we stated before, our guiding principle throughout the drafting process has been to preserve government transparency in Arkansas and to put its future in the hands of the people of Arkansas. Though this draft contains differences with the first draft, the guiding principle remains the same, and this is borne out by the fact that the bulk of the changes were brought about by feedback from the people of Arkansas. We look forward to quick feedback on this draft and to submitting final language to the Arkansas Attorney General's office for ballot title approval soon. Even more, we look forward to putting the right to government transparency in its rightful place, as part of the Arkansas state constitution.



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