



TIM GRIFFIN
ATTORNEY GENERAL

Opinion No. 2024-005

January 24, 2024

David A. Couch
1501 North University Avenue, Suite 219
Little Rock, Arkansas 72207

Jen Standerfer
2302 Southwest Nottingham Avenue
Bentonville, Arkansas 72713

Dear Mr. Couch and Ms. Standerfer:

I am writing in response to your request, made under A.C.A. § 7-9-107, that I certify the popular name and ballot title for a proposed constitutional amendment. In Opinion Nos. 2023-113 and 2023-123, I addressed prior versions of your proposed constitutional amendment. You have now revised the text of your proposal and submitted it with four different popular names and four different ballot titles. You ask that I certify all four submissions.

My decision to certify or reject a popular name and ballot title is unrelated to my view of the proposed measure's merits. I am not authorized to consider the measure's merits when considering certification.

1. Request. Under A.C.A. § 7-9-107, you have asked me to certify the following popular name and ballot title for a proposed initiated amendment to the Arkansas Constitution:

Popular Name:

THE ARKANSAS GOVERNMENT TRANSPARENCY AMENDMENT

Ballot Title:

AN AMENDMENT TO THE ARKANSAS CONSTITUTION TO CREATE THE
"ARKANSAS GOVERNMENT TRANSPARENCY AMENDMENT";

ESTABLISHING GOVERNMENT'S OBLIGATION TO SHARE
INFORMATION WITH AND DELIVER INFORMATION TO CITIZENS AS A
RIGHT;

PROHIBITING THE GENERAL ASSEMBLY FROM MAKING A LAW
CONCERNING GOVERNMENT TRANSPARENCY WITHOUT APPROVAL
OF THE PEOPLE, BUT ALLOWING A TWO THIRDS MAJORITY OF THE

323 CENTER STREET, SUITE 200
LITTLE ROCK, ARKANSAS 72201

GENERAL ASSEMBLY TO REFER THAT LAW TO THE PEOPLE TO BE APPROVED OR REJECTED AT THE NEXT GENERAL ELECTION;

PERMITTING THE GENERAL ASSEMBLY, BY A NINE TENTHS VOTE AND IN THE CASE OF AN EMERGENCY, TO MAKE A REFERRED LAW TAKE IMMEDIATE EFFECT UNTIL APPROVED OR REJECTED AT THE NEXT GENERAL ELECTION;

CLARIFYING THAT ANY ACT REFERRED UNDER THIS AMENDMENT IS NOT A REFERRED CONSTITUTIONAL AMENDMENT UNDER ARTICLE 12, SECTION 22 OF THE ARKANSAS CONSTITUTION;

PROHIBITING THE GENERAL ASSEMBLY FROM REFERRING FUTURE AMENDMENTS TO THE ARKANSAS GOVERNMENT TRANSPARENCY AMENDMENT TO THE PEOPLE UNDER ARTICLE 12, SECTION 22;

PRESERVING THE PEOPLE'S POWER TO AMEND THE ARKANSAS GOVERNMENT TRANSPARENCY AMENDMENT UNDER ARTICLE 5, SECTION 1 OF THE ARKANSAS CONSTITUTION;

EMPOWERING ARKANSAS CITIZENS TO SUE THE STATE OF ARKANSAS IN COURT AND RECOVER DAMAGES AND ATTORNEY'S FEES FOR GOVERNMENT'S FAILURE TO COMPLY WITH THE REQUIREMENTS OF ARKANSAS LAW CONCERNING GOVERNMENT TRANSPARENCY;

CLARIFYING THAT THIS AMENDMENT DOES NOT ALTER THE CONSTITUTIONAL POWERS OF THE STATE SUPREME COURT;

CLARIFYING THAT THIS AMENDMENT DOES NOT ALTER THE CONSTITUTIONAL POWERS OF THE GENERAL ASSEMBLY TO DETERMINE THE RULES THAT AFFECT THE OPENNESS OF STATE LEGISLATIVE MEETINGS;

DECLARING THAT 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;

PROVIDING THAT THE PROVISIONS OF THIS AMENDMENT ARE SEVERABLE; AND

STATING THAT THE AMENDMENT IS EFFECTIVE NOVEMBER 6, 2024.

2. Rules governing my review. In Opinion No. 2023-123, which I issued in response to a prior version of your proposed measure, I explained the relevant law governing my review of popular

names and ballot titles. Rather than repeat that explanation, I simply incorporate it here by reference.

3. Application. Having reviewed the text of your proposed measure, as well as your proposed popular name, ballot title, and text, I substitute and certify the following popular name and ballot title for your proposed measure:

Popular name:

The Arkansas Government Disclosure Amendment of 2024

Ballot title:

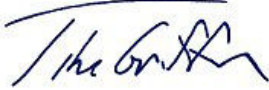
An amendment to the Arkansas constitution providing that government transparency is a right of Arkansas citizens; defining “government transparency” as the government’s obligation to share information with citizens or to deliver information to citizens; prohibiting the General Assembly from making a law concerning government transparency without approval by a vote of the people, but allowing a two thirds majority of the General Assembly to refer such a law to the people to be approved or rejected at the next general election; permitting the General Assembly, by a nine-tenths vote and in the case of an emergency, to make a law concerning government transparency take immediate effect until approved or rejected by a vote of the people at the next general election; clarifying that any act the General Assembly refers to the people under this Amendment is not a referred constitutional amendment under article 19, section 22 of the Arkansas Constitution; prohibiting the General Assembly from amending this Amendment by referring an amendment to the people under article 19, section 22 of the Arkansas Constitution; clarifying that the people of Arkansas may exercise their authority under article 5, section 1 to amend this Amendment or an Arkansas statute concerning government transparency; abrogating the sovereign immunity of the State of Arkansas in lawsuits concerning government transparency and allowing plaintiffs to recover attorney’s fees in such suits; clarifying that this Amendment does not alter the constitutional powers of the State Supreme Court; clarifying that this Amendment does not alter the constitutional powers of the General Assembly to determine the rules that affect the openness of state legislative meetings; declaring that all provisions of the constitution, statutes, and common law of this state are declared null and void to the extent they are inconsistent or in conflict with any provision of this Amendment; declaring that this Amendment’s provisions are severable; and stating that this Amendment is effective November 6, 2024.

Under A.C.A. § 7-9-108, instructions to canvassers and signers must precede every petition, informing them of the privileges granted by the Arkansas Constitution and the associated penalties for violations. I have included a copy of the instructions that should be incorporated into your petition before circulation.

Mr. David A. Couch
Ms. Jen Standerfer
Opinion No. 2024-005
Page 4

Deputy Attorney General Ryan Owsley prepared this opinion, which I hereby approve.

Sincerely,

A handwritten signature in blue ink, appearing to read "Tim Griffin", with a horizontal line above it.

TIM GRIFFIN
Attorney General