

1 State of Arkansas  
2 90th General Assembly  
3 Regular Session, 2015  
4

# A Bill

SENATE BILL 177

5 By: Senator J. Woods  
6 By: Representative Sabin  
7

## For An Act To Be Entitled

9 AN ACT TO PLACE PROSECUTING ATTORNEYS UNDER THE  
10 JURISDICTION OF THE INDEPENDENT CITIZENS COMMISSION  
11 CREATED UNDER ARKANSAS CONSTITUTION, ARTICLE 19,  
12 SECTION 31; TO AMEND ARKANSAS CONSTITUTION, ARTICLE  
13 19, SECTION 31, UNDER THE AUTHORITY GRANTED IN  
14 ARKANSAS CONSTITUTION, ARTICLE 19, SECTION 31,  
15 SUBSECTION (L); TO DECLARE AN EMERGENCY; AND FOR  
16 OTHER PURPOSES.  
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## Subtitle

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20 PLACING THE SALARIES OF PROSECUTING  
21 ATTORNEYS UNDER THE JURISDICTION OF THE  
22 INDEPENDENT CITIZENS COMMISSION; AMENDING  
23 ARKANSAS CONSTITUTION, ARTICLE 19,  
24 SECTION 31; AND DECLARING AN EMERGENCY.  
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27 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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29 SECTION 1. DO NOT CODIFY. Findings.

30 The General Assembly finds:

31 (1) Arkansas Constitution, Article 19, § 31(1), provides that  
32 Arkansas Constitution, Article 19, § 31, may be amended by the General  
33 Assembly in the same manner as required for amendment of laws initiated by  
34 the people so long as such amendments are germane to Arkansas Constitution,  
35 Article 19, § 31(1), and consistent with its policy and purposes;

36 (2) Prosecuting attorneys are constitutional officers originally



1 established under Arkansas Constitution, Article 7, § 24 and now authorized  
2 under Arkansas Constitution, Amendment 80, § 20;

3 (3) The jurisdiction of the independent citizens commission  
4 established in Arkansas Constitution, Article 19, § 31, currently includes  
5 all constitutional officers other than prosecuting attorneys;

6 (4) Constitutional officers, including prosecuting attorneys,  
7 are paid from the Constitutional Officers Fund; and

8 (5) Placing prosecuting attorneys under the jurisdiction of the  
9 independent citizens commission to provide for continuity in the  
10 establishment of salaries payable from the Constitutional Officers Fund is  
11 germane to Arkansas Constitution, Article 19, § 31 and consistent with its  
12 policy and purposes.

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14 SECTION 2. Pursuant to Arkansas Constitution, Article 19, § 31(1),  
15 Arkansas Constitution, Article 19, § 31, is amended to read as follows:

16 § 31. Independent citizens commission.

17 (a) As provided in this section, members of the General Assembly shall  
18 have no authority to set salaries for:

- 19 (1) Their positions as members of the General Assembly;
- 20 (2) Elected constitutional officers of the executive department;
- 21 (3) Justices; ~~and~~
- 22 (4) Judges; and
- 23 (5) Prosecuting attorneys.

24 (b)(1) There is created an independent citizens commission for the  
25 purpose of setting salaries of elected constitutional officers of the  
26 executive department, members of the General Assembly, justices, ~~and~~ judges,  
27 and prosecuting attorneys as provided in this section.

28 (2)(A) Each member of the independent citizens commission shall  
29 serve a term of four (4) years.

30 (B) A person shall not serve more than two (2) terms on  
31 the independent citizens commission.

32 (3) The independent citizens commission shall consist of seven  
33 (7) members as follows:

34 (A) Two (2) members appointed by the Governor;

35 (B) Two (2) members appointed by the President Pro Tempore  
36 of the Senate;

1 (C) Two (2) members appointed by the Speaker of the House  
 2 of Representatives; and

3 (D) One (1) member appointed by the Chief Justice of the  
 4 Supreme Court.

5 (4) Vacancies on the independent citizens commission shall be  
 6 filled in the manner of the original appointment.

7 (5) The independent citizens commission shall elect from its  
 8 membership:

9 (A) A chair; and

10 (B) Other officers deemed necessary by the independent  
 11 citizens commission.

12 (6) Four (4) members of the independent citizens commission  
 13 shall constitute a quorum for the purpose of transacting business.

14 (7) A majority vote of the total membership of the independent  
 15 citizens commission is required for any action of the independent citizens  
 16 commission.

17 (8) The office of the Auditor of State shall provide staff  
 18 assistance as may be requested by the independent citizens commission.

19 (c)(1) In making appointments to the independent citizens commission,  
 20 the Governor, the President Pro Tempore of the Senate, the Speaker of the  
 21 House of Representatives, and the Chief Justice of the Supreme Court shall  
 22 consider racial, gender, and geographical diversity.

23 (2) A member of the independent citizens commission shall be:

24 (A) A citizen of the United States;

25 (B) A resident of the State of Arkansas for at least two  
 26 (2) years preceding his or her appointment;

27 (C) A qualified elector; and

28 (D) At least twenty-five (25) years of age.

29 (3) The following persons shall not serve on the independent  
 30 citizens commission:

31 (A) A person holding civil office;

32 (B) An employee of the State of Arkansas;

33 (C) A person required by law to register as a lobbyist; or

34 (D)(i) An immediate family member of:

35 (a) A person holding civil office;

36 (b) An employee of the State of Arkansas; or

1 (c) A person required by law to register as a  
2 lobbyist.

3 (ii) As used in subdivision (c)(3)(D)(i) of this  
4 section, "immediate family member" means a person's spouse, a child of the  
5 person or spouse, a child's spouse, a parent of the person or the spouse, a  
6 brother or sister of the person or the spouse, anyone living or residing in  
7 the same residence or household with the person or the spouse, or anyone  
8 acting or serving as an agent of the person.

9 (d) The independent citizens commission shall have the duty to review  
10 and adjust as it deems necessary the salaries for the following positions:

- 11 (1) Governor;
- 12 (2) Lieutenant Governor;
- 13 (3) Attorney General;
- 14 (4) Secretary of State;
- 15 (5) Treasurer of State;
- 16 (6) Auditor of State;
- 17 (7) Commissioner of State Lands;
- 18 (8) Member of the General Assembly;
- 19 (9) Chief Justice of the Supreme Court;
- 20 (10) Justice of the Supreme Court;
- 21 (11) Chief Judge of the Court of Appeals;
- 22 (12) Judge of the Court of Appeals;
- 23 (13) Circuit court judge; ~~and~~
- 24 (14) District court judge; and
- 25 (15) Prosecuting attorney.

26 (e)(1) The salaries of the positions under subsection (d) of this  
27 section:

28 (A) Shall not be subject to appropriation by the General  
29 Assembly; and

30 (B) Shall be paid from the Constitutional Officers Fund or  
31 its successor fund or fund accounts in the amount determined by the  
32 independent citizens commission.

33 (2)(A) If the independent citizens commission proposes to adjust  
34 a salary for a position under subsection (d) of this section, the independent  
35 citizens commission shall:

36 (i) Provide notice to the public of the proposed

1 salary adjustment;

2 (ii) Make available to the public any data reviewed  
3 by the independent citizens commission in determining the proposed salary  
4 adjustment; and

5 (iii)(a) Afford the public a reasonable opportunity  
6 to provide public comment on the proposed salary adjustment.

7 (b) The opportunity for public comment under  
8 subdivision (e)(2)(A)(iii)(a) of this section shall not exceed forty-five  
9 (45) days.

10 (B) A proposed salary adjustment of the independent  
11 citizens commission shall not be considered a rule under the Arkansas  
12 Administrative Procedure Act, Arkansas Code § 25-15-201 et seq.

13 (3) Upon satisfying (e)(2)(A)(i)-(iii) of this section, the  
14 independent citizens commission may file the adjusted salary with the Auditor  
15 of State.

16 (4) An adjustment to a salary shall be effective ten (10) days  
17 after it is filed with the Auditor of State.

18 (5) When considering whether or not to adjust a salary for a  
19 position under subsection (d) of this section, the independent citizens  
20 commission shall include in its considerations the overall economic condition  
21 of the state at that time.

22 (f)(1)(A) The independent citizens commission, by a majority vote of  
23 the total membership of the independent citizens commission cast during its  
24 first regularly scheduled meeting of each calendar year, may authorize  
25 payment to its members of a stipend not to exceed eighty-five dollars  
26 (\$85.00) per day for each meeting attended or for any day while performing  
27 any proper business of the independent citizens commission.

28 (B) Stipends shall be paid by the Auditor of State from  
29 funds available for that purpose.

30 (2) Members of the independent citizens commission shall receive  
31 no other compensation, expense reimbursement, or in-lieu-of payments.

32 (g)(1) The independent citizens commission shall provide that the  
33 salaries of circuit judges be uniform throughout the state.

34 (2)(A) Except as provided in this subdivision (g)(2), the  
35 independent citizens commission may increase or diminish the salaries for the  
36 positions under subsection (d) of this section.

1 (B) The independent citizens commission may increase but  
2 not diminish the salaries for the positions under subdivisions (d)(9)-(14) of  
3 this section.

4 (3)(A) Except as provided in subdivision (g)(3)(B) and  
5 subdivision (m)(4)(B) of this section, no single adjustment at any one (1)  
6 time to a salary by the independent citizens commission shall exceed fifteen  
7 percent (15%) of the salary to be increased or diminished.

8 (B) Salary adjustments resulting from the initial review  
9 of the independent citizens commission under subdivision (i)(3) of this  
10 section shall not be subject to subdivision (g)(3)(A) of this section.

11 (4) The independent citizens commission shall provide for  
12 salaries to be paid in monthly installments.

13 (h) Salaries for the positions under subsection (d) of this section  
14 shall continue as existing on November 4, 2014, until adjusted by the  
15 independent citizens commission.

16 (i)(1) Initial members of the independent citizens commission shall be  
17 appointed within thirty (30) days of the effective date of this section.

18 (2) The President Pro Tempore of the Senate shall call the first  
19 meeting of the independent citizens commission, which shall occur within  
20 forty-five (45) days of the effective date of this section.

21 (3)(A) The independent citizens commission:

22 (i) Shall complete an initial review of the salaries  
23 for the positions under subsection (d) of this section no later than ninety  
24 (90) days after the effective date of this section; and

25 (ii) May file any adjustments in salary resulting  
26 from the initial review with the Auditor of State upon satisfying  
27 (e)(2)(A)(i)-(iii) of this section.

28 (B) No later than ninety (90) days after the effective  
29 date of this section, the independent citizens commission shall also provide  
30 recommendations to the President Pro Tempore of the Senate and the Speaker of  
31 the House of Representatives concerning the amounts to be paid to members of  
32 the General Assembly for:

- 33 (i) Per diem;
- 34 (ii) Reimbursement for expenses; and
- 35 (iii) Reimbursement for mileage.

36 (4)(A) After completing the initial review under subdivision

1 (i)(3) of this section, the independent citizens commission shall meet as  
2 necessary to review the salaries of the positions under subsection (d) of  
3 this section but shall not meet less than one (1) time per year.

4 (B) The independent citizens commission may adjust the  
5 salaries of the positions under subsection (d) of this section as provided in  
6 this section as it deems necessary.

7 (j) No later than ninety (90) days before the commencement of a  
8 regular session, the independent citizens commission shall provide  
9 recommendations to the President Pro Tempore of the Senate and the Speaker of  
10 the House of Representatives concerning the amounts to be paid to members of  
11 the General Assembly for:

- 12 (1) Per diem;
- 13 (2) Reimbursement for expenses; and
- 14 (3) Reimbursement for mileage.

15 (k) The independent citizens commission shall be subject to the  
16 Freedom of Information Act of 1967, Arkansas Code § 25-19-101 et seq.

17 (l) The General Assembly, in the same manner as required for amendment  
18 of laws initiated by the people, may amend this section, so long as such  
19 amendments are germane to this section and consistent with its policy and  
20 purposes.

21 (m)(1) Salaries for the positions under subdivision (d)(15) of this  
22 section shall continue as existing on November 4, 2014, until adjusted by the  
23 independent citizens commission.

24 (2) No later than thirty (30) days after the effective date of  
25 this subsection, the independent citizens commission shall begin a study of  
26 salaries for the positions under subdivision (d)(15) of this section.

27 (3) The independent citizens commission shall complete its  
28 review of the salaries for the positions under subdivision (d)(15) of this  
29 section no later than thirty (30) days after the date it begins its study  
30 under subdivision (m)(2) of this section.

31 (4)(A) If at the conclusion of its study under subdivision  
32 (m)(2) of this section the independent citizens commission determines that a  
33 salary revision for the positions under subdivision (d)(15) is appropriate,  
34 the independent citizens commission shall propose an adjustment under  
35 subsection (e) of this section.

36 (B) Initial salary revisions for the positions under

1 subdivision (d)(15) resulting from the study under subdivision (m)(2) of this  
2 section are not subject to subdivision (g)(3)(A) of this section.

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4 SECTION 2. EMERGENCY CLAUSE. It is found and determined by the  
5 General Assembly of the State of Arkansas that this act places prosecuting  
6 attorneys under the jurisdiction of the independent citizens commission  
7 established under Arkansas Constitution, Article 19, Section 31; that the  
8 salaries of prosecuting attorneys are payable from the Constitutional  
9 Officers Fund in the same manner as the other officials under the  
10 jurisdiction of the independent citizens commission, but only the salaries of  
11 prosecuting attorneys are subject to appropriation; and that this act should  
12 become effective immediately to provide clarity in the appropriation process  
13 for prosecuting attorney salaries. Therefore, an emergency is declared to  
14 exist, and this act being immediately necessary for the preservation of the  
15 public peace, health, and safety shall become effective on:

16 (1) The date of its approval by the Governor;

17 (2) If the bill is neither approved nor vetoed by the Governor,  
18 the expiration of the period of time during which the Governor may veto the  
19 bill; or

20 (3) If the bill is vetoed by the Governor and the veto is  
21 overridden, the date the last house overrides the veto.

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