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July 18, 2017

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## AG Rejects Opposing Tort Measure

A proposed ballot measure that would compete with one submitted to voters by the Legislature was rejected this month after its popular name was deemed partisan.

The proposed constitutional amendment is similar to one members of the Arkansas Bar Association declined to support last month after a close vote. Scott Trotter, a Little Rock attorney who wrote the measure considered by the association, revised the proposal and submitted the new version on his own.

Among other things, the multi-pronged proposal seeks to:

- Create new campaign spending rules
- Remove legislative authority over rules created by the Arkansas Ethics Commission
- Prevent individual legislators from directing where appropriated funds are spent
- Increase the legislative threshold for overriding a governor's veto
- Limit how the legislature can affect court rules
- Prohibit legislators from setting limits on how much money can be awarded in lawsuits
- Prohibit legislators from setting limits on how much attorneys are paid

Attorney General Leslie Rutledge rejected Trotter's proposal Friday, July 14, saying the proposed ballot issue's popular name was misleading and partisan.

"Your proposed popular name refers to the measure as an amendment 'preserving the right of juries to set damages.' Although the amount of a damages award rests largely within the Jury's discretion, Arkansas courts have inherent power to reduce jury awards," the attorney general wrote in [Opinion 2017-078](#). "It is therefore misleading, and potentially partisan, to suggest that juries have an absolute 'right ... to set damages' and that your amendment, if adopted, will preserve such a right."

Rutledge cited several other phrases in the proposal's popular name as being misleading and partisan or vague. She also said sections of the ballot title were ambiguous.

Trotter has revised the measure based on the attorney general's comments and plans to resubmit it soon.

"I do disagree with the substance of the attorney general's opinion," Trotter said. However, he revised his proposal based on her critiques.

"You have to step back and think about it and reword things and see if you can get it approved" while addressing what supporters originally wanted to ask voters to consider, he said.

A portion of Trotter's proposal would compete with an issue already on the November 2018 ballot. [SJR8](#) seeks to establish limits on how much money can be awarded in some types of lawsuits and would give legislators with the authority to set court rules.

Legislators referred the constitutional amendment to voters in the last legislative session. Ballot titles from the legislature are not reviewed by the Attorney General as ones from the public are.

Only after the title and name are approved can supporters collect signatures from voters to put the issue on the ballot. Constitutional amendments require more than 84,000 voter signatures and initiated acts require more than 67,000 signatures.

As of July, only one group has approval from the [Attorney General](#) to collect signatures for a potential 2018 ballot measure. It involves term limits. The deadline for citizen-led proposals is not until next summer.

### ***Get Engaged. Get Informed.***

The [Public Policy Center](#) has published nonpartisan fact sheets on Arkansas' statewide ballot issues since 2004. We welcome your questions at [publicpolicycenter@uaex.edu](mailto:publicpolicycenter@uaex.edu). Follow us on [Facebook](#) and [Twitter](#).

### **Did you know?**

Voters in Woodruff and Franklin County go to the polls Aug. 8, 2017. They are voting on sales tax proposals and associated bond issues to finance construction of a new county jail and law enforcement offices. Woodruff County voters are also voting on a sales tax earmarked for economic development. You can find Public Policy Center fact sheets about these two elections at <https://uaex.edu/business-communities/voter-education/local-ballot-issues.aspx>.

## **Legislative Ballot Issues**



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*Legislators are able to refer up to three constitutional amendments to the voters every general election. These two proposals will be on the Nov. 6, 2018 ballot.*

**SJR8 - An Amendment Concerning Civil Lawsuits and the Powers of the General Assembly and Supreme Court to Adopt Court Rules.**

Read [SJR8](#)

Sponsor: [Sen. Missy Irvin](#)

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**HJR1016 - A Constitutional Amendment Adding as a Qualification to Vote that a Voter Present Certain Valid Photographic Identification When Casting a Ballot In Person or Casting an Absentee Ballot.**

Read [HJR1016](#)

Sponsor: [Rep. Robin Lundstrum](#)

## Looking Forward - Potential 2018 Ballot Issues from Citizens

### Attorney General Opinions

*The Attorney General is responsible for reviewing the language and titles of potential ballot issues submitted to voters by the public. Ballot issue groups can circulate petitions only after the Attorney General verifies that the ballot title and popular name honestly, intelligibly and fairly describe the purpose of a proposed constitutional amendment or act. The following are recent Attorney General opinions regarding potential ballot issues:*

### **Ballot proposals rejected**

**July 14, 2017 - An Amendment Preserving the Right of Juries to Set Damages, Requiring Disclosures in Elections, Addressing Separate Powers of the Three Branches of Government, and Imposing Limits on the Legislature** - A multi-prong proposal involving campaign spending disclosures, legislative ethics, bans on limits of jury awards and how much attorneys are paid, and the governor's veto powers was rejected. According to [Opinion No. 2017-078](#) said the proposal's popular name was misleading and partisan. Scott Trotter of Little Rock submitted the measure.

**July 7, 2017 - The Arkansas Adult Recreation of Marijuana Amendment** - A proposal seeking to legalize the cultivation, production, distribution, sale, possession and use of marijuana, and which would release from incarceration people who were convicted of violating laws related to marijuana was rejected because of ambiguities in the text, according to [Opinion No. 2017-076](#).

This is the fourth time this proposal has been rejected. See [Opinion No. 2017-073](#) (June 22, 2017), [Opinion No. 2017-068](#) (June 7, 2017) and [Opinion No. 2017-060](#) (May 23, 2017). Mary L. Berry of Summit submitted the proposal.

### **Ballot proposals approved for signature gathering**

**Oct. 28, 2016 - Arkansas Term Limits Amendment** - A proposal to reduce the number of years a state senator or representative can serve in office was certified for signature gathering, according to [Opinion No. 2016-105](#). The proposal would institute six-year terms for representatives and eight-year terms for senators, with a maximum of 10 years total. The proposal would return Arkansas' term limits to what they were before a voter-approved change in 2014 that extended terms. Thomas Steele of Little Rock submitted the measure.

Know of a potential ballot issue?

E-mail the information to [publicpolicycenter@uaex.edu](mailto:publicpolicycenter@uaex.edu) or call Kristin Higgins at 501-671-2160.

You can find past newsletters and ballot issue fact sheets at

<http://www.uaex.edu/ballot>



#ARballot

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- increase citizen knowledge, awareness and understanding of public issues;
- enhance public participation in decisions regarding public issues and
- help citizens craft, evaluate and implement alternative solutions to public issues.

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