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Feb. 16, 2018

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## Proposal Stumbles Over Legal Jargon Time is Running Out for Ballot Groups

At just under 20 words long, a proposed ballot title meant to provide a path to suing the state of Arkansas was rejected because of the undefined legal jargon included in the proposal.

"Sovereign immunity" was not defined in the ballot title of a proposed constitutional amendment submitted to the Attorney General's Office by Alex Gray, legal counsel for a [Committee to Restore Arkansans' Rights](#).

Gray submitted the one-sentence proposal last month after an Arkansas Supreme Court opinion that left unanswered whether state agencies could be sued for anything. The proposed amendment sought to resolve the issue by authorizing legislators to pass laws that included circumstances where the public could sue the state.

"I believe most voters will be unfamiliar with the term "sovereign immunity" as it appears in the ballot title, because it is a legal term of art. Most voters will not know that the doctrine of sovereign immunity means that a state cannot be sued in its own courts," Attorney General Leslie Rutledge wrote in an [opinion](#) rejecting the proposal's wording. "Likewise, most voters will not appreciate that authorizing the General Assembly to waive sovereign immunity means giving the legislature the ability to enact statutes that allow people and entities to sue the State in state court for money damages and other forms of relief."

Rutledge said the group's ballot title should briefly explain the matter to voters so they can make a "reasoned decision" in the voting booth. Gray expects to submit a revised version for review.

Groups seeking a spot on the November ballot for their constitutional amendments are running out of time to get their petition's wording approved by the Attorney General, who has the responsibility of signing off on the wording of ballot issues before the first voter signature can be collected. June 6 is the deadline for a ballot issue group to advertise the full wording of their ballot issue in a newspaper before the November election.

Currently, only one group has been approved to collect voter signatures. More than 84,000 signatures are needed to qualify a constitutional amendment for a spot on the ballot. Signatures are due to the Secretary of State's Office by July 6 with the final ballot to be declared August 23.

Voters in November will decide the fate of two constitutional amendments proposed by the legislature, [SJR8](#) and [HJR1016](#).

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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?**

The Arkansas Highway Commission decided it wouldn't ask voters in 2018 for additional funding. The commission announced this month it would instead try working with the legislature in 2019 on securing additional money for road construction.

Source: [Arkansas Democrat-Gazette](#)

## 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**

**Feb. 6, 2018 - An Amendment to Authorize the General Assembly to Waive The State's Sovereign Immunity** - A proposal seeking to allow legislators to waive the state's immunity to lawsuits was rejected because the popular title did not sufficiently describe the proposal, according to [Opinion No. 2018-006](#). Alex Gray of Little Rock, legal counsel for Committee to Restore Arkansans' Rights, submitted the measure.

**Jan. 31, 2018 - The Arkansas Recreational Marijuana Amendment of 2018** - A proposal seeking to legalize the cultivation, production, distribution, sale, possession and use of marijuana and products for recreational purposes was rejected because the text does not address "fundamental shortcomings" mentioned in previous rejections, according to [Opinion No. 2018-005](#).

"Especially given this history of submissions, responses, and re-submissions, it is impossible to fairly summarize in a ballot title the recreational-marijuana amendment that you have proposed," the Attorney General wrote in the latest opinion.

This is the ninth time this proposal has been rejected. See [Opinion No. 2017-135](#) (Jan. 2, 2018), [Opinion No. 2017-127](#) (Dec. 14, 2017), [Opinion No. 2017-117](#) (Nov. 8, 2017), [Opinion No. 2017-103](#) (Oct. 6, 2017), [Opinion No. 2017-097](#) (Sept. 22, 2017), [Opinion No. 2017-093](#) (Sept. 6, 2017), [Opinion No. 2017-084](#) (Aug. 4, 2017) and [Opinion No. 2017-091](#) (Aug. 21, 2017). Mary L. Berry of Summit submitted the measure.

### **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>



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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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