



TIM GRIFFIN
ATTORNEY GENERAL

Opinion No. 2025-098

October 3, 2025

Jennifer Waymack Standerfer
Via email only: jwaystand@gmail.com

Dear 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.

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 Amendment to Keep Arkansas Natural

Ballot Title

This measure amends the Arkansas Constitution. It protects “The Natural State” for Arkansans today and in the future. It preserves the outdoors and natural resources for Arkansans’ recreation, economy, and public health. It gives Arkansans the fundamental right to a clean and healthy environment. The state will maintain and improve a clean and healthy environment. The legislature will make laws to implement and enforce the measure. The legislature will make laws that protect wildlife and natural resources from unreasonable misuse. Arkansans may sue the government for misuse of taxpayer funds in violation of the measure. This measure repeals all inconsistent state laws. This amendment is severable. If part of it is held invalid, the rest is still valid if it can stand on its own.

BOB R. BROOKS JR. JUSTICE BUILDING
101 WEST CAPITOL AVENUE
LITTLE ROCK, ARKANSAS 72201

2. Rules governing my review. Arkansas law requires sponsors of statewide initiated measures to “submit the original draft” of the measure to the Attorney General.¹ An “original draft” includes the full text of the proposed measure along with its ballot title and popular name.² Within ten business days of receiving the sponsor’s original draft, the Attorney General must respond in one of three ways:

- First, the Attorney General may approve and certify the ballot title and popular name in the form they were submitted.³
- Second, the Attorney General may “substitute and certify a more suitable and correct ballot title and popular name.”⁴
- Third, the Attorney General may reject both the popular name and ballot title “and state his or her reasons therefor and instruct” the sponsors to “redesign the proposed measure and the ballot title and popular name.”⁵ This response is permitted when, after reviewing the proposed measure, the Attorney General determines that (1) “the ballot title or the nature of the issue” is “presented in such manner that the ballot title would be misleading”; (2) “the ballot title or nature of the issue” is “designed in such manner” that a vote for or against the issue would actually be a vote for the outcome opposite of what the voter intends; or (3) the text of the proposal conflicts with the United States Constitution or a federal statute.⁶ This response is also permitted when a proposed ballot title fails to comply with Act 602 of 2025, which prohibits the Attorney General from certifying “a proposed ballot title with a reading level above eighth grade as determined by the Flesch-Kincaid Grade Level Formula as it existed on January 1, 2025.”⁷ If a proposed ballot title is written above an eighth-grade reading level, I am authorized to substitute a “more suitable”⁸ ballot title or to reject the proposed ballot title, state the reasons for the rejection, and “instruct

¹ A.C.A. § 7-9-107(a)(1).

² *Id.* § 7-9-107(b).

³ *Id.* § 7-9-107(d)(1).

⁴ *Id.*

⁵ *Id.* § 7-9-107(f). This subsection was previously codified at A.C.A. § 7-9-107(e) but was renumbered as A.C.A. § 7-9-107(f) by Act 272 of 2025.

⁶ *Id.* Act 154 of 2025 created this third basis for rejection. It also prohibits a sponsor from submitting multiple initiative petitions or referendum petitions that are “conflicting measures,” and it requires the Attorney General to reject all such petitions.

⁷ Act 602 of 2025, § 2 (amending A.C.A. § 7-9-107).

⁸ A.C.A. § 7-9-107(d)(1).

the petitioners to redesign the proposed ballot title or proposed measure in a manner that does not violate [Act 602].”⁹

3. Rules governing the popular name. The popular name is primarily a useful legislative device,¹⁰ and its purpose is to identify the proposal for discussion.¹¹ While it need not contain detailed information or include exceptions that might be required of a ballot title, the popular name must not be misleading or partisan.¹² And it must be considered together with the ballot title in determining the ballot title’s sufficiency.¹³ Thus, a popular name can be misleading if it references only a subset of the topics covered in the measure’s text.¹⁴

4. Rules governing the ballot title. The ballot title must summarize the proposed amendment. The Court has developed general rules for what must be included in the summary and how that information must be presented. Sponsors must ensure their ballot titles impartially summarize the amendment’s text and give voters a fair understanding of the issues presented.¹⁵ The Court has also disapproved the use of terms that are “technical and not readily understood by voters.”¹⁶ Ballot titles that do not define such terms may be deemed insufficient.¹⁷ And, as mentioned above, the General Assembly has prohibited ballot titles “with a reading level above eighth grade.”¹⁸

Additionally, sponsors cannot omit material from the ballot title that qualifies as an “essential fact which would give the voter serious ground for reflection.”¹⁹ Yet the ballot title must also be brief and concise lest voters exceed the statutory time allowed to mark a ballot.²⁰ The ballot title is not

⁹ Act 602 of 2025, § 2.

¹⁰ *Pafford v. Hall*, 217 Ark. 734, 739, 233 S.W.2d 72, 75 (1950).

¹¹ *Paschall v. Thurston*, 2024 Ark. 155, at 10, 699 S.W.3d 352, 359 (citing *Kurrus v. Priest*, 342 Ark. 434, 29 S.W.3d 699 (2000)).

¹² *E.g., Chaney v. Bryant*, 259 Ark. 294, 297, 532 S.W.2d 741, 743 (1976); *Moore v. Hall*, 229 Ark. 411, 414–15, 316 S.W.2d 207, 208–09 (1958).

¹³ *May v. Daniels*, 359 Ark. 100, 105, 194 S.W.3d 771, 776 (2004).

¹⁴ *Paschall*, 2024 Ark. 155, at 13–16, 699 S.W.3d at 361–63.

¹⁵ *Becker v. Riviere*, 270 Ark. 219, 226, 604 S.W.2d 555, 558 (1980).

¹⁶ *Wilson v. Martin*, 2016 Ark. 334, *9, 500 S.W.3d 160, 167 (citing *Cox v. Daniels*, 374 Ark. 437, 288 S.W.3d 591 (2008)).

¹⁷ *Id.*

¹⁸ Act 602 of 2025, § 2. Because Act 602 included an emergency clause, it became effective on April 14, 2025, when the Governor approved it. *See* Ark. Att’y Gen. Op. 2025-026.

¹⁹ *Bailey v. McCuen*, 318 Ark. 277, 285, 884 S.W.2d 938, 942 (1994).

²⁰ A.C.A. §§ 7-9-107(d)(2) (requiring the ballot title “submitted” to the Attorney General or “supplied by the Attorney General” to “briefly and concisely state the purpose the proposed measure”); 7-5-309(b)(1)(B) (allowing no more than

required to be perfect, nor is it reasonable to expect the title to address every possible legal argument the proposed measure might evoke.²¹ The title, however, must be free from any misleading tendency—whether by amplification, omission, or fallacy—and it must not be tinged with partisan coloring.²² The ballot title must be honest and impartial,²³ and it must convey an intelligible idea of the scope and significance of a proposed change in the law.²⁴ The ballot title need not summarize existing law though.²⁵ The court has held that a statement that a measure “will repeal inconsistent laws” is sufficient to inform the voters “that all laws which are in conflict will be repealed.”²⁶ But if a ballot title describes some of a measure’s changes with specificity while describing other changes more generally, this can render the ballot title misleading.²⁷

Finally, the Court has held that a ballot title cannot be approved if the text of the proposed amendment itself contributes to confusion and disconnect between the language in the popular name and the ballot title and the language in the proposed amendment.²⁸ Yet a ballot title need not account for all possible legal effects and consequences of a proposed amendment.²⁹

5. Application. Having reviewed the text of your proposed initiated amendment, as well as your proposed popular name and ballot title, I have concluded that I must reject your proposed popular name and ballot title and instruct you to redesign them. The following problems in the *text of your proposed amendment* prevent me from (1) ensuring your ballot title is not misleading or (2) substituting a more appropriate ballot title:³⁰

ten minutes); *see Bailey*, 318 Ark. at 288, 884 S.W.2d at 944 (noting the connection between the measure’s length and the time limit in the voting booth).

²¹ *Plugge v. McCuen*, 310 Ark. 654, 658, 841 S.W.2d 139, 141 (1992).

²² *Bailey*, 318 Ark. at 284, 884 S.W.2d at 942 (internal citations omitted); *see also Shepard v. McDonald*, 189 Ark. 29, 70 S.W.2d 566 (1934).

²³ *Becker v. McCuen*, 303 Ark. 482, 489, 798 S.W.2d 71, 74 (1990).

²⁴ *Christian Civic Action Committee v. McCuen*, 318 Ark. 241, 250, 884 S.W.2d 605, 610 (1994).

²⁵ *Armstrong v. Thurston*, 2022 Ark. 167, *10, 652 S.W.3d 167, 175.

²⁶ *Richardson v. Martin*, 2014 Ark. 429, *9, 444 S.W.3d 855, 861.

²⁷ *See Paschall*, 2024 Ark. 155, at *16, 699 S.W.3d at 363.

²⁸ *Roberts v. Priest*, 341 Ark. 813, 825, 20 S.W.3d 376, 382 (2000).

²⁹ *McGill v. Thurston*, 2024 Ark. 149, at *14–15, 699 S.W.3d 45, 55.

³⁰ Although A.C.A. § 7-9-107 does not authorize the Attorney General to modify the text of the proposed measure itself, the Attorney General still reviews the text of the proposed measure because the ballot title and popular name cannot be certified when the “text of the proposed amendment itself” is ambiguous or misleading. *Roberts*, 341 Ark. at 825, 20 S.W.3d at 382. And in line with the caselaw, my predecessors have consistently rejected ballot titles “due to ambiguities in the text” of the proposed measure. *E.g.*, Ark. Att’y Gen. Ops. 2016-015, 2015-132, 2014-105, 2014-

- ***“Environment.”*** The ballot title, popular name, and proposed amendment all use the word “environment.” But the text of the proposed amendment does not define “environment.” While other portions of the proposed amendment’s text use the phrases “outdoor spaces,” “natural resources,” and “environmental life support system,” the word “environment” itself (undefined) is ambiguous. Does that “environment” include manmade environments or the atmosphere? The answer to this question would surely give voters “serious ground for reflection.” And since the meaning of “environment” is unclear, I cannot ensure that the ballot title is not misleading.
- ***“Environmental life support system.”*** It is also unclear what the undefined phrase “environmental life support system” means in this context. That is, does it include the atmosphere, the earth itself, ecosystems, or even manmade systems? Such ambiguity would give voters “serious ground for reflection.” And since the meaning of “environmental life support system” is unclear, I cannot ensure that the ballot title is not misleading.
- ***“Remedies.”*** The ballot title—but not your popular name—contains the word “remedies.” It is unclear what “remedies” means in this context. Does the proposed amendment require the General Assembly to only create legal remedies, such as monetary or equitable relief, or does it broadly require the General Assembly to pass laws (generally) that further the proposed amendment? The answer to these questions would surely give voters “serious ground for reflection.” And since the meaning of “remedies” is unclear, I cannot ensure that the ballot title is not misleading.
- ***“And each person.”*** The text of the proposed amendment places a duty to “maintain and improve a clean and healthy environment” upon “each person.” Does this include infants, children, or visitors to the State? The answer to this question would surely give voters “serious ground for reflection.” Additionally, it is unclear what obligations—“to maintain and improve a clean and healthy environment”—are placed upon the “state and each person.” Because the meaning of the language contained in Section 1(c) of the proposed amendment is unclear, I cannot ensure that the ballot title is not misleading.

Because of the issues identified above, my statutory duty under A.C.A. § 7-9-107(f) is to reject your proposed popular name and ballot title, stating my “reasons therefor,” and to “instruct ... [you] to redesign your proposed measure and the ballot title ... in a manner that would not be misleading.”

6. Additional issues. The foregoing defects are sufficient grounds for me to reject your submission. But please note that your proposed measure contains several other issues that, while not bases for my decision to reject your proposed measure, you may wish to correct or clarify:

- ***Partisan coloring language in the popular name.*** It is my opinion that your proposed popular name contains impermissible “partisan coloring” language when it uses the phrase “Keep Arkansas Natural.” The Arkansas Supreme Court has held that “partisan coloring” language is “a form of salesmanship”³¹ that “gives the voter only the impression that the proponents of the proposed amendment wish to convey of the activity represented by the words.”³² “Keep Arkansas Natural” is an “inviting” catchphrase, and few would vote against keeping Arkansas natural (versus keeping it unnatural)—it gives voters only the impression that the proponents of the proposed amendment wish to convey.³³ To paraphrase the Arkansas Supreme Court, the “[voter] is entitled to form” his or her “own conclusions” on whether the proposed measure keeps Arkansas natural.³⁴ I am identifying this issue here because if your proposal were at the stage where it could be certified, I would need to change the popular name to ensure it is not partisan. You may wish to provide an alternative name in a future submission.
- ***Ballot title summaries.*** The Arkansas Supreme Court has interpreted the Arkansas Constitution to require that sponsors include all material in the ballot title that qualifies as an “essential fact which would give the voter serious ground for reflection.”³⁵ But your proposed constitutional amendment contains material provisions that do not appear in your ballot title, which would likely give voters “serious ground for reflection” and would render the ballot title misleading by omission:
 - The ballot title fails to mention that, in addition to applying to the State, the proposed amendment would also require “each person” to “maintain and improve a clean and healthy environment.”
 - The ballot title fails to mention that an illegal exaction, specifically, is the cause of action that someone may bring against the government for misuse of taxpayer funds in violation of the proposed amendment.
 - The ballot title fails to mention that the General Assembly will “provide adequate remedies for the protection of the environmental life support system from degradation” and “provide adequate remedies to prevent unreasonable depletion and degradation of natural resources.” Instead, the ballot title says that the “legislature will make laws that protect wildlife and natural resources from unreasonable misuse.” The word “wildlife” does not appear in the text.

³¹ *Bradley v. Hall*, 220 Ark. 925, 929, 251 S.W.2d 470, 472 (1952).

³² *Christian Civic Action Comm.*, 318 Ark. at 249, 884 S.W.2d at 610.

³³ *Arkansas Women’s Pol. Caucus v. Riviere*, 283 Ark. 463, 468, 677 S.W.2d 846, 849 (1984).

³⁴ *Johnson v. Hall*, 229 Ark. 400, 403, 316 S.W.2d 194, 196 (1958).

³⁵ *Bailey*, 318 Ark. at 285, 884 S.W.2d at 942.

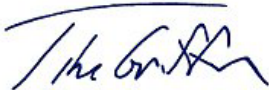
- The ballot title fails to mention that the General Assembly must “provide for the administration and enforcement of [the] duty” to “maintain and improve a clean and healthy environment.” Instead, the ballot title provides that the “legislature will make laws to implement and enforce the measure.”
- **Full text.** Under Section 1(f) of your proposed amendment’s text, a “citizen ... in [sic] behalf of himself and all others interested” may file a lawsuit “in the same manner as enforcement of illegal exactions under Article 16, Section 13 of this Constitution.” It appears you are attempting to incorporate-by-reference another part of the State Constitution into this amendment by referencing the other provision’s citation. A voter reviewing your ballot title may not be sufficiently advised about the content of the constitutional provision you are attempting to incorporate.

Amendment 7 (Ark. Const., art. 5, § 1) to our state constitution requires that the “full text” of the initiated measure accompany each petition. Consequently, under A.C.A. § 7-1-107, all sponsors must give the Attorney General “[t]he full text of the proposed measure.” And while the Arkansas Supreme Court has yet to interpret the meaning of the phrase “full text of the proposed measure,” the North Dakota Supreme Court recently reviewed a substantially identical phrase in law.³⁶ In *Haugen v. Jaeger*, the North Dakota Supreme Court reviewed the legal validity of an initiated constitutional amendment that, by explicit citation, incorporated certain statutes into the state constitution.³⁷ The *Haugen* court held that such an incorporation by reference violates the full-text requirement.³⁸ But because what the *Haugen* court reviewed—incorporating statutes into the state constitution—differs from what your measure proposes, it is unclear how an Arkansas Court would rule. I note that a court could find that the language is misleading by omission.

- **Grammatical issues.** In the proposed amendment, the word “in” is used instead of “on” in the following clause: “A citizen of any county city, or town may institute suit in behalf of himself” You may wish to correct this issue.

Assistant Attorney General William R. Olson prepared this opinion, which I hereby approve.

Sincerely,



TIM GRIFFIN
Attorney General

³⁶ I have also recently reviewed in detail the holding of this particular North Dakota Supreme Court decision in Ark. Att’y Gen. Ops. 2023-133 and 2023-113, and I incorporate that analysis by reference here.

³⁷ 2020 N.D. 177, 948 N.W.2d 1.

³⁸ 2020 N.D. at 4, 948 N.W.2d at 4 (internal quotations omitted).