



STATE OF ARKANSAS  
OFFICE OF THE ATTORNEY GENERAL  
JUSTICE BUILDING, LITTLE ROCK 72201

STEVE CLARK  
ATTORNEY GENERAL

January 21, 1986

(501) 371-2007

OPINION NO. 86-8

Mr. Cliff Jackson  
Attorney at Law  
10101 Rodney Parham Road  
Little Rock, AR 72207

Dear Mr. Jackson:

This opinion is issued in response to your request dated January 16, 1986, for certification of the proposed popular name and ballot title for the revised version of your proposed initiated act.

Pursuant to Ark. Stat. Ann. §2-208 (Supp. 1985), the Attorney General is required to approve and certify the popular name and ballot title of all proposed initiative or referendum acts or amendments before the petitions are circulated for signature. The law provides that I may substitute and certify a more suitable and correct ballot title and popular name, or, if the proposed ballot title and popular name are sufficiently misleading, I may reject the entire petition.

The purpose of my review and certification is to ensure that the ballot title and popular name honestly, intelligibly and fairly set forth the purpose of a proposed act or amendment. Arkansas Women's Political Caucus v. Riviere, 283 Ark. 463, 466, 677 S.W.2d 846 (1984); Becker v. Riviere, 277 Ark. 252, 254, 641 S.W.2d 2 (1982). Section 2-208 neither requires nor authorizes this office to make any legal determinations concerning the merits of the act or amendment or the likelihood that the act or amendment will accomplish its stated objectives. Consequently, this review has been limited to determining whether your proposed ballot title and popular name accurately and impartially summarize the provisions of your proposed initiated act.

The proposed popular name is of greater than average length; however, it does not appear to be so cumbersome as to be misleading. The proposed popular name does contain partisan coloring. For this reason, the following popular name is hereby substituted:

POPULAR NAME

An act to revoke Arkansas Power and Light's franchise and exclusive territory; to establish procedures, requirements and guidelines for award of revoked public utility franchises to new franchisees; to prohibit closed-door settlement conferences involving more than two parties to a ratemaking proceeding and attempts to influence the ratemaking process outside normal legal channels; to prohibit future franchisees from charging ratepayers for legal, lobbying and advertising (except public notices) expenses; and to provide for exclusive jurisdiction in Chancery Court of taxpayers' illegal exaction lawsuits challenging rate increases.

The proposed ballot title also contains partisan coloring and the following is hereby substituted.

BALLOT TITLE

An act to affirm the people's right to revoke and modify the franchises and exclusive territories of public utilities and cooperatives for just cause upon approval by a majority of votes in a regular election and to award the same to new franchisee(s); to make a finding that Arkansas Power and Light Company has violated its franchise by misuse and to revoke and rescind the franchise and exclusive territory of Arkansas Power and Light Company; to provide for interim service by Arkansas Power and Light Company until such time as a new franchise is awarded; to provide for a residual franchise to allow Arkansas Power and Light Company to make full use of its property which is not acquired or condemned; to authorize and direct the Arkansas Public Service Commission to award any revoked franchises and exclusive territories of public utilities to new franchisee(s) after obtaining competitive bids and conducting public hearings; to establish guidelines and procedures for submission of bids by prospective franchisee(s) and for the award of new public utility franchises by the Arkansas Public Service Commission; to prohibit all new public utility franchisee(s)

Cliff Jackson

Page 3

hereafter awarded revoked franchises from affiliating with a multi-state conglomerate or engaging in out-of-state construction of power plants without a prior three-fourths vote of the General Assembly; to prohibit utilities awarded future franchises from charging ratepayers for legal, lobbying and advertising (except public notices) expenses; to establish additional specific considerations for Commission evaluation in awarding new franchises; to confer upon the new franchisee(s) the power of eminent domain to condemn property of the revoked franchisee and others and to prescribe the use of such power; to prohibit closed-door settlement conferences involving more than two parties to a ratemaking proceeding and attempts to influence the ratemaking process outside normal legal channels for personal, political, financial or economic gain and to provide for a civil fine of not less than \$5,000.00 or more than \$10,000.00 and, if a public official, removal from office, as a penalty for the same; to provide for exclusive jurisdiction in chancery court for taxpayers' illegal exaction lawsuits challenging rate increases; and for other purposes."

Pursuant to Ark. Stat. Ann. §2-206 (Repl. 1976), instructions to canvassers and signers are enclosed herewith.

Sincerely,



STEVE CLARK

Attorney General

SC:MBS:jr

INSTRUCTIONS TO CANVASSERS AND SIGNERS

1. Amendment No. 7 gives to the people of the State of Arkansas the power to initiate legislation. The petition must be signed by eight percent (8%) of the legal voters. The proposed law must be submitted to the legal voters of the State at a regular election, and if a majority of the votes are cast in its favor, it is adopted.
2. Only legal voters may sign. Names, residences, post offices, and voting precincts must be given. This petition should contain only the signature of voters residing in a single county.
3. All signatures must be affixed by the signers in their own handwriting in the presence of the persons circulating the Petition.
4. The signatures should be made with ink or indelible pencil.
5. Do not paste additional sheets to this petition but place as many names as possible on the Petition.
6. To sign any name other than your own or knowingly to sign your name when you are not legally entitled to sign it, or knowingly and falsely to misrepresent the purpose and effect of this Petition for the purpose of causing anyone to sign it shall constitute a misdemeanor and subject the offender to a fine of not less than \$50 nor more than \$1,000 for each violation.

The Attorney General is by law required to certify the sufficiency of the popular name and ballot title of all initiative or referendum petitions. This certification does not necessarily indicate the approval or disapproval of the contents thereof.

  
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ATTORNEY GENERAL OF THE  
STATE OF ARKANSAS