

RONALD CALDWELL

SENATOR  
23RD DISTRICT  
OFFICE: 870-238-5421  
ronald.caldwell@senate.ar.gov  
120 CR 393  
WYNNE, ARKANSAS 72396



THE SENATE  
STATE OF ARKANSAS

CHAIR:  
STATE AGENCIES AND GOVERNMENTAL AFFAIRS

MEMBER:  
LEGISLATIVE COUNCIL  
JOINT ENERGY  
JOINT BUDGET  
JOINT PERFORMANCE REVIEW  
PUBLIC HEALTH, WELFARE AND LABOR

February 11, 2019

The Honorable Herman Houston  
Johnson County Judge  
Johnson County Quorum Court  
215 West Main Street  
Clarksville, Arkansas 72830

***Re: Establishment of a Casino in Johnson County, Arkansas***

Dear Judge Houston and Justices of the Peace,

It is my understanding you have established a fact-finding committee to report to the Quorum Court on the possibilities associated with amending Arkansas Constitutional Amendment 100 to create or relocate a casino license in Johnson County. To the extent that you appear to be exploring a legislative path to modifying an amendment to the Constitution, I, the Chair of the Senate Committee on State Agencies and Governmental Affairs, thought I should offer comment on the process. My committee generally holds jurisdiction over any constitutional amendments. Notably, however, the measures the committee considers are proposed amendments to submit to the people to vote on; as we recognize that we do not have the power to amend the Constitution ourselves.

It is not my intent to offer any comment whatsoever on the merits of the establishment of casino licenses, their location, or to whom they are granted. I comment only on the legislative process as I understand it, and as I am sworn to execute it. It is currently settled law in Arkansas that only a vote of the people may amend the Constitution. The Supreme Court long ago made it clear that the Legislature cannot do so, even with a two-thirds vote. *Arkansas Game and Fish Commission v. Edgmon*, 218 Ark. 207, 210-11, 235 S.W.2d 554, 556 (1951). Every few years, various special interests have sought to persuade legislators that this case should be ignored or challenged. There has been no appetite to do so.

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It did not change during decades of litigation over school funding. It did change when controversial issues with the highway department, higher education, tort reform, the Arkansas scholarship lottery, term limits, or even casinos arose over the years. I wish to inform you that it is my position that the General Assembly does not have the power to amend the Constitution and should not seek to claw away that power from the voters by passing an amendment to Amendment 100 (or any other Amendments to the 1874 Constitution) with the intent of creating an issue for the Supreme Court.

I am deeply sympathetic to the needs of the people of Johnson County and your desire for economic development. I will work closely with your capable legislators to help with tax relief, education, infrastructure and anything that I can do within our constitutional authority to help. Of course, if you find a sponsor for a bill to amend Amendment 100, you will be welcomed by my committee with respect, and your bill will be given a fair hearing. However, in all candor, I do not see at this time that there is any appetite to open the door to creating the power for the legislature to amend the Constitution over the will of the people.

Respectfully,



Ronald Caldwell  
State Senator  
District 23