

**STATE OF ARKANSAS**  
**THE ATTORNEY GENERAL**  
**LESLIE RUTLEDGE**

Opinion No. 2021-029

May 20, 2021

The Honorable John Thurston  
Secretary of State  
Arkansas State Capitol, Room 256  
Little Rock, AR 72201

Dear Secretary Thurston:

This is in response to your request for my opinion on the effective date of legislation passed during Arkansas's Ninety-Third General Assembly. Your request specifically asks about acts that do not contain an emergency clause or a specified effective date.

In this regard, you have asked the following questions:

1. Provided the 93rd General Assembly recesses for longer than ninety (90) days, what is the effective date of those Acts of the 93rd General Assembly [that] were passed prior to the April 28, 2021, recess and [that] did not contain an emergency clause or a specified effective date?
2. What is the earliest date the 93rd General Assembly may reconvene while satisfying the requirement that it "remain in extended recess for longer than ninety (90) days" in order for acts passed prior to the April 28, 2021, recess to become effective on the 91st day following the recess?

**RESPONSE:**

***Question 1: Provided the 93d General Assembly recesses for longer than ninety (90) days, what is the effective date of those Acts of the 93d General Assembly***

***[that] were passed prior to the April 28, 2021, recess and [that] did not contain an emergency clause or a specified effective date?***

This opinion is predicated on the occurrence of future actions by third parties (as presumed in your question) over whom I have no control. Should the scenario you posit in your question change, this opinion will not apply.<sup>1</sup>

Amendment 7 to the Arkansas Constitution<sup>2</sup>—which establishes the people’s right to challenge legislative acts via the referendum vote—governs the effective date of Acts of the General Assembly with no emergency clause or specified effective date.<sup>3</sup> Amendment 7 provides that petitions calling for a referendum vote “shall be filed with the Secretary of State not later than ninety days after the final adjournment of the session at which such Act was passed, except when a recess or adjournment shall be taken temporarily for a longer period than ninety days, in which case such petition shall be filed not later than ninety days after such recess or temporary adjournment.”<sup>4</sup>

Applying that provision to the scenario described in your question, acts of the 93d General Assembly will become effective on the 91st day after the legislature temporarily recessed.<sup>5</sup> The day of recess is not counted, as it is not a full day during which referendum petitions may be filed.

Your question states that the 93d General Assembly recessed on April 28, 2021. Beginning with April 29 (the first full day after recess), the 90th day is July 27, 2021. Therefore, unless the General Assembly reconvenes on or before July 27, 2021, acts with no emergency clause or specified effective date become effective on July 28, 2021.<sup>6</sup>

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<sup>1</sup> See *infra* n.6.

<sup>2</sup> Codified at Ark. Const. art. 5, § 1.

<sup>3</sup> See *Fulkerson v. Refunding Board*, 201 Ark. 957, 147 S.W.2d 980 (1941).

<sup>4</sup> Ark. Const. art. 5, § 1 (“Referendum”).

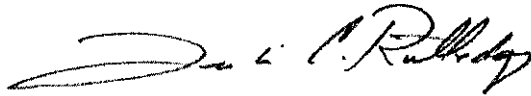
<sup>5</sup> See Ops. Att’y Gen. 2004-192, 2004-174, 79-88.

<sup>6</sup> If the General Assembly reconvenes on or before July 27, 2021, the effective date would not be until the 91st day after either *sine die* adjournment or another extended recess.

***Question 2: What is the earliest date the 93rd General Assembly may reconvene while satisfying the requirement that it “remain in extended recess for longer than ninety (90) days” in order for acts passed prior to the April 28, 2021, recess to become effective on the 91st day following the recess?***

The earliest date the legislature may reconvene is July 28, 2021. Please see my response to your first question.

Sincerely,

A handwritten signature in black ink, appearing to read "Leslie Rutledge", written in a cursive style.

LESLIE RUTLEDGE  
Attorney General