

BYLAWS COMMITTEE REPORT

The Bylaws Committee, appointed by the Executive Committee of the Libertarian Party of Arkansas for the 2018 State Convention, consists of Michael Kalagais, Cody Martin and John Bowers, Chair. The Bylaws Committee recommends to the State Executive Committee that the changes embodied in the items numbered 1 through 14 be recommended to the members at the 2018 State Convention.

1. Articles II.3.a. and IV.7.a.i. – Membership and Voting at State Conventions

Description and Rationale: This change would fix the discrepancy existing between these two provisions. Article II.3.a. provides that a member may vote on business presented at the State Convention, or a District or County Committee meeting, any sub-committee meeting or any other official meeting only if the member has been a member for 90 days prior to that event. Article IV.7.a.i. provides that all members at a State Convention may vote on all matters at the convention, except for district caucuses, without imposing the 90 day membership requirement. This change would replace the 90 day requirement with a 30 day requirement and apply it to both provisions. The 30 day requirement is for the purpose of making it difficult for non-Libertarians to take over and control such an event. Additionally, the Committee recommends changing the word “for” in the last line of Article IV.7.a.i. to “at” to better state the meaning of the exception for district caucuses.

Current Versions:

Article II.3.a. - “Each Member shall: a. have one (1) vote on any business presented to the membership at the State Convention (provided each member has been a Member for ninety (90) days prior to the State Convention), District meeting or County Committee meeting where he or she resides, any sub-committee meeting of a sub-committee that he or she has been appointed or elected to, or any other official meeting where business may be conducted; and”

Article IV.7.a.i. - “i. “All Members at any convention shall be eligible to vote on all matters before the floor of that State Convention, except for district caucuses.”

Proposed Versions:

Article II.3.a. - “Each Member shall: a. have one (1) vote on any business presented to the membership at the State Convention (provided the Member has been a Member for thirty (30) days prior to the State Convention, District meeting or County Committee meeting where he or she resides, any sub-committee meeting of a sub-committee that he or she has been appointed or elected to, or any other official meeting where business may be conducted; and”

Article IV.7.a.i. - All Members at any State Convention, who have been Members for thirty (30) days prior to the convention, shall be eligible to vote on all matters before the floor of that convention, except at district caucuses.”

2. Article II.1.d. – Membership Dues Changes, Pre-Convention 90-day restriction

Description and Rationale: This provision is one element of the criteria for membership. It currently specifies a 90 day period before a state convention during which dues and forms cannot be changed. This change would reduce that period to 30 days in order to be consistent with the changes being made to Articles II.3.a. and IV.7.a.i. (see proposed change #1 above). It also changes the format of the restriction to make it more consistent with the Bylaws format generally.

Current Version: “pays the membership dues required as set by the State Executive Committee (Dues and forms cannot be altered less than ninety (90) days prior to the State Convention.);”

Proposed Version: “pays the membership dues required as set by the State Executive Committee:

- i. The State Executive Committee cannot alter membership dues or forms less than thirty (30) days prior to the State Convention.”

3. Article III.1.g.ii. – Correcting a Typographical Error

Description and Rationale: This change is proposed for the purpose of correcting a typographical error by changing the word “an” in the first line to “a.”

Current Version: “Removal of an member of the State Executive Committee ...”

Proposed Version: “Removal of a Member of the State Executive Committee ...”

4. Article III.2.b.ii – Membership in an Adjoining County Affiliate

Description and Rationale: This change is proposed for the purpose of clarifying that a resident of a county which does not have a temporary or permanent county chair may join the county affiliate in an adjoining county.

Current Version: “A Member of the Party shall be deemed a Member of the County Committee of the county of his or her residence.”

Proposed Version: “A Member of the Party shall be deemed a Member of the County Committee of the county of his or her residence. However, if the county of the Member’s residence does not have a County Committee, the Member may join the County Committee in an adjoining county if the adjoining county’s bylaws do not prohibit it.”

5. Article IV.6.d. – Allowing for National Convention Delegates to Fill Vacancies

Description and Rationale: This change is proposed for the purpose of allowing the Arkansas delegation to a national convention, by majority vote of the Arkansas delegates attending a delegation meeting, called by the delegation chair during the convention, to add alternate delegates duly elected by other states to fill vacancies in the Arkansas delegation during the period such a vacancy exists. This would conform our Bylaws to the actual practice followed at national conventions and allow the Arkansas delegation to better argue to have its alternates accorded the same privilege by other state delegations.

Current Version: “Neither the delegation nor the delegate chair shall have the authority to add or remove delegates or alternates.”

Proposed Version: “Neither the delegation nor the delegate chair shall have the authority to add or remove delegates or alternates; except, that the delegation, by majority vote of the delegates attending a delegation meeting, at which a majority of the delegates in attendance at the convention are present, called by the delegate chair during the convention, and after all Arkansas’ alternate delegates attending the convention have filled vacant Arkansas delegate seats, may add alternate delegates duly elected by other states to fill vacancies in the Arkansas delegation during the period such a vacancy exists, if not prohibited by the national convention rules.”

6. Article IV.6.f. – Removal of National Convention Delegates

Description and Rationale: Currently the State Executive Committee may remove a delegate to the national convention as it deems “necessary.” This change would replace “necessary” with the same standard that appears in Article II.2.a. for terminating a person’s party membership - “good cause.”¹ Additionally, a delegate could be removed if the delegate ceases to be eligible for membership under the criteria stated in Article II.1.²

Current Version: “The State Executive Committee shall have the authority to remove and replace a delegate as it deems necessary.”

Proposed Version: “The State Executive Committee shall have the authority to remove and replace a delegate for good cause as defined in Article II.2.b.ii. or if the delegate is no longer eligible for membership in the Party as set forth in Article II.1.

¹ “Good cause” is defined in Article II.2.b.ii. to include:

- “a. intentional violation of these Bylaws;
- b. intentional and unauthorized hindering or interruption of the operations of the State Executive Committee, any officer, or the party at large;
- c. intentional violation of any applicable state and federal election law or other laws related to elections;
- d. any criminal act against the State Executive Committee, any officer, any Member, or the party at large;
- e. the commission of any crime of moral turpitude or dishonesty which the State Executive Committee deems to bring a negative light to the party; or
- f. the cooperation with other political parties, without the authorization of the State Executive Committee in endeavors of a political nature.”

² Article II.1. defines membership eligibility as follows

- “a. is a resident of the state of Arkansas;
- b. is eighteen (18) years of age or older;
- c. fills out the membership form either online or through hardcopy;
- d. pays the membership dues required as set by the State Executive Committee (Dues and forms cannot be altered less than ninety (90) days prior to the State Convention.)”

7. Article VIII.3.d. – “Good Cause” Includes Attainment of Major Party Status

Description and Rationale: This change would add language clarifying that attainment of major party status constitutes “good cause,” as that term is used in Article VIII.3.d., for the purpose of authorizing the State Executive Committee to adopt temporary amendments to the Bylaws in accordance with the procedure in Article VIII.3.

Current Version: “As used in this section, the term “good cause” shall mean the discovery or passage of a state or federal law, including case law, statutes, administrative regulation, and any other rule, law or regulation governing political parties, and only upon the advice, counsel and recommendation of the party’s attorney or the Attorney General of the State of Arkansas.”

Proposed Version: “As used in this section, the term “good cause” shall mean the discovery or passage of a state or federal law, including case law, statutes, administrative regulation, and any other rule, law or regulation governing political parties, and attainment of major party status as the result of an election in accordance with Arkansas law, and only upon the advice, counsel and recommendation of the party’s attorney or the Attorney General of the State of Arkansas.”

8. Article VII.3. – Temporary Bylaws Changes in the Event of Attaining Major Party Status

Description and Rationale: This change would add a new subsection c to Article VII.3. containing language that, in the event of attaining major party status as the result of an election, would require compliance with Arkansas laws, regulations and rules applicable to major parties and authorize the State Executive Committee to adopt such temporary bylaws, in accordance with the existing procedure set forth in Article VIII.3., and take such actions, as are reasonably necessary to comply with those laws.³

Current Version: None.

Proposed Version: “c. In the event that the Party attains major party status as the result of an election, the Party shall comply with the laws, regulations and rules applicable to such status and the State Executive Committee is authorized to adopt such temporary bylaws as it deems reasonably necessary to comply in accordance with the procedure for adopting temporary amendments set forth in Article VIII.3.”

³ Article VIII.3. is titled “Temporary Amendments” and states:

- a. Between State Conventions these rules may be temporarily amended for good cause by vote of four-fifths (4/5) of the entire membership of the State Executive Committee, provided:
 - i. Each member of the State Executive Committee shall receive written notice including the full text of any proposed amendment at least two weeks prior to any meeting held to consider temporary amendments to the Bylaws; or
 - ii. if the vote on the proposal is by mail, then the ballot shall contain the full text of any proposed amendment.
- b. All such temporary amendments shall remain in effect only until the final adjournment of the next State Convention after their adoption, and they must be presented to that convention for approval in the form of proposed amendments to these Bylaws in order to become permanent.
- c. If any temporary amendment is rejected by a State Convention following its temporary adoption, neither that amendment nor any other amendments having substantially the same effect may be considered until the next State Convention thereafter.
- d. As used in this section, the term “good cause” shall mean the discovery or passage of state or federal law, including case law, statutes, administrative regulation, or any other rule, law, or regulation governing political parties, and only upon the advice, counsel and recommendation of the party’s attorney or the Attorney General of the State of Arkansas.”

9. Article VIII.6.b. – Making Bylaws Available to “Members”, not “Persons”

Description and Rationale: This change would replace the word “person” in the second line, and the word “persons” in the third line, with “Member” and “Members,” respectively, which would limit the obligation to provide copies of the Bylaws to instances in which the request is from a Party member rather than the public at large.

Current Version: “b. The State Executive Committee shall have copies of these Bylaws made and shall furnish such copies to any person on request, provided, however, that persons to whom copies of the Bylaws are furnished may be required to pay the expenses incurred in making and mailing their copies.”

Proposed Version: “b. The State Executive Committee shall have copies of these Bylaws made and shall furnish such copies to any Member on request, provided, however, that Members to whom copies of the Bylaws are furnished may be required to pay the expenses incurred in making and mailing their copies.”

10. All Articles: Consistent Use of the Term “Members”

Description and Rationale: In some provisions of the Bylaws the terms “Member” and “Members” when referring to members of the Party are capitalized (for example in Article II.1.), while in others (for example Article VIII.2. b.) they are not capitalized. The Committee recommends that those terms be capitalized when referring to members of the Party wherever they appear in the Bylaws.

11. New Article VIII.7. - “Severability”

Description and Rationale: The Committee recommends adding a new provision, numbered as Article VIII.7. and titled “Severability,” for the purpose of preserving all other provisions of the Bylaws in the event that any particular provision is found to be unlawful under any applicable law, regulation or rule. For example, when the Party attains major party status and is required to hold county conventions, it may not be lawful to require that attendees entitled to vote be party members for at least 30 days prior to the conventions. If that requirement is found to be unlawful we do not want the Bylaws in their entirety to be found unlawful.

Current Version: None.

Proposed Version: “In the event that any provision of these Bylaws is determined to be unlawful under an applicable law, regulation or rule, it shall be null and void and of no effect, but such a finding shall not invalidate any other provision of these Bylaws.”

12. Article III.e.iii.2. – Providing Minutes of Executive Committee Meetings

Description and Rationale: In response to a suggestion that the Executive Committee should be required to provide complete minutes of their meetings, including how each member votes, the Bylaws Committee generally agrees but believes that as a practical matter the Executive Committee should only be required to make the minutes available to members by posting them on the state party's website. Since it may not be prudent to provide details of the state party's business to our political adversaries we further recommend that a members-only section be set up on the website and that access to it be restricted to members of the state party. To that end, we recommend that the following changes be made to the language stating the Secretary's duties, specifically to the language in Article III.1.e.iii.2. as follows. It should be noted that this provision applies to minutes of the State Convention, State Executive Committee meetings and other meetings as set forth in the preceding provision, Article III.e.iii.1.⁴

Current Version: "report such minutes by request or by rule to the members of the Party;"

Proposed Version: "report such minutes, which shall include how each member of the State Executive Committee votes on every question brought before it at a State Executive Committee meeting, to the Members of the Party by posting the minutes of State Executive Committee meetings on the Party's website within fourteen (14) days after the meeting, and with respect to minutes of the State Convention or other meetings, report such minutes by request or by rule to the Members of the Party."

13. Article III.1.g.iii.4. – Executive Committee, Meeting Openness

Description and Rationale: Regarding a suggestion that Executive Committee meetings should be open to membership with all members welcomed and encouraged to attend, the Bylaws Committee generally agrees in regard to in-person meetings. To that end, we recommend that the language in Article III.1.g.iii.4. be changed as follows

Current Version: "The State Executive Committee shall be required to hold a public meeting upon the written request of one-third (1/3) or more of its members."

Proposed Version: "The date, time and place of meetings of the State Executive Committee held in person shall be announced to the Members by posting such information on the Party's website, accompanied by language inviting Members to attend, at least fourteen (14) days before the meeting, and shall be held in a public place reasonably accessible to Members."

⁴ Article III.1.e.iii.1. states: "keep the minutes of the State Convention, meetings of the State Executive Committee and other meetings as necessary;"

14. Article VIII.2.b. and c. – Proposed Amendments to Bylaws, Time Restriction

Description and Rationale: This change would reduce the time prior to a state convention required for members to submit proposed amendments to the Secretary, and for the State Executive Committee to approve and refer proposed amendments to the members. Ninety days is the current requirement and the Committee proposes to reduce that to 30 days. Additionally, the language “in (VIII.2.b.) above” in Article VIII.2.c. is restated to a more conventional form.

Current Versions:

Article VIII.2.b. - “Amendments to these Bylaws may be proposed for consideration during a State Convention in writing, signed and verified by no less than ten percent (10%) or five (5) members, whichever is less, delivered to the State Secretary no less than ninety (90) days prior to the State Convention at which such amendment is to be considered.”

Article VIII.2.c. - “Within the same time frame set for members in (VIII.2.b.) above, the State Executive Committee, by majority vote of the members present and voting, may refer amendments to the members for consideration and approval during the next State Convention.”

Proposed Versions:

Article VIII.2.b. - “Amendments to these Bylaws may be proposed for consideration during a State Convention in writing, signed and verified by no less than ten percent (10%) or five (5) Members, whichever is less, delivered to the State Secretary no less than thirty (30) days prior to the State Convention at which such amendment is to be considered.”

Article VIII.2.c. - “Within the same time frame set for Members in Article VIII.2.b. of these Bylaws, the State Executive Committee, by majority vote of the members present and voting, may refer amendments to the Members for consideration and approval during the next State Convention.”

SUMMARY. The Bylaws Committee recommends to the State Executive Committee that the changes embodied in the items numbered 1 through 14 above be recommended to the members at the 2018 State Convention.

Michael Kalagais

Cody Martin

John Bowers, Chair

Submitted to the Chair of the Libertarian Party of Arkansas for transmission to its Executive Committee on October 13, 2017.

Adopted by the Executive Committee to be referred to Party Members (with revision) on November 11, 2017.