Sen. Breanne Davis of Russellville has proposed legislation to make it clear that local approval for a casino in Jefferson or Pope counties must come from the quorum court members, county judge or mayor in office at the time an application is made for a casino license.

This legislation would put the kibosh on lame-duck letters of support written on behalf of a Mississippi casino owner by the outgoing Pope County judge and Russellville mayor. Their successors have said generally that they'd abide by wishes of voters. So far, Pope County voters have voted against the amendment that expanded casino gambling and also approved an ordinance requiring a referendum on a casino before a local official could sign off on one.

No casino application has been made. The state Racing Commission is currently circulating proposed casino regulations for public comment. Those rules, as drafted, also require the approval of local officials at the time of a permit application.

There's much yet to be settled as a legal matter, particularly whether the local referendum ordinance is allowable by the constitutional amendment and how much leeway the legislature has to alter terms of the amendment. For example, is it possible to expand the additional casino to Johnson County, if Pope County doesn't want it? Some interest has been expressed.

As written, I don't think any county but Pope and Jefferson could qualify for new casinos. But what about altering a constitutional amendment?

Nate Steel, a lawyer and former legislator who worked on the gambling proposal, offered his thoughts:

That’s a good question and it’s not really clear. Article 5, section 1 of the Constitution gives the General Assembly the authority to modify initiated “measures” (which is defined to include initiated amendments) by 2/3 vote but there are two issues with that. First, Amendment 100 says the General Assembly can only pass laws that “fulfill the purposes” of the amendment, and that inconsistent provisions (Including Article 5) are inapplicable. So I suppose if moving counties helps fulfill the purpose and isn’t inconsistent, then it’s possible under Amendment 100.

The second issue is that at least one case (Game and Fish Commission v. Edgemon) says Article 5 is not to be interpreted literally, so the court only applied it to initiated acts in that case.

But more recent cases (the Andrews case on sovereign immunity, for example) say Article 5 is to be interpreted literally.

It’s a gray area but I believe that pretty much summarizes the theory.

David Couch, another lawyer active in ballot initiative campaigns, volunteers:
No way should the General Assembly be allowed to modify a constitutional amendment as they can an act. If so, there would be no need for the distinction between the two types of initiatives. In other words, who knows. It'll likely take a court case, or cases, before it's resolved.

Read more https://www.arktimes.com/ArkansasBlog/archives/2019/01/28/the-casino-battle-continues-with-clarifying-legislation