

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 83rd General Assembly
3 Regular Session, 2001
4

As Engrossed: S3/12/01 S3/26/01

A Bill

Act 1475 of 2001
HOUSE BILL 1685

5 By: Representative King
6
7

For An Act To Be Entitled

9 AN ACT TO AMEND ARKANSAS CODE 7-5-701 PERTAINING
10 TO THE DECLARATION OF RESULTS; AND FOR OTHER
11 PURPOSES.
12

Subtitle

13 TO AMEND ARKANSAS CODE 7-5-701
14 PERTAINING TO THE DECLARATION OF
15 RESULTS.
16
17
18

19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
20

21 SECTION 1. Arkansas Code 7-5-701 is amended to read as follows:

22 7-5-701. Declaration of results - Certification, delivery, and custody
23 of returns.

24 (a)(1) ~~As soon as the returns from all the precincts are received, but~~
25 ~~in no event~~ No earlier than forty-eight (48) hours after the election and no
26 later than the ~~third tenth~~ calendar day after the election, the county board
27 of election commissioners, from the certificates and ballots received from
28 the several precincts, shall proceed to ascertain, declare, and certify the
29 result of the election to the Secretary of State ~~unless the number of~~
30 ~~absentee ballots is sufficient to affect the election, in which case the~~
31 ~~county board shall declare results of the election no later than the tenth~~
32 ~~calendar day after the election.~~

33 (2) The county board shall declare preliminary and unofficial
34 results of the election, including a statement of the number of outstanding
35 absentee ballots of overseas voters, immediately after the count of the vote
36 is complete and report the preliminary and unofficial results to the county

1 clerk who shall immediately transmit the results to Secretary of State
 2 electronically.

3 ~~(2)~~ (3) The county board within seven (7) fourteen (14) calendar
 4 days after the day of the election or fourteen (14) calendar days if the
 5 number of absentee ballots is sufficient to affect the election shall deliver
 6 a certificate of election to the person having the highest numbers of legal
 7 votes for any county office.

8 (b) The county board shall also file in the office of the clerk of the
 9 county court a certificate setting forth in detail the result of the
 10 election.

11 (c)(1)(A) ~~Within three (3) days after the comparison and examination~~
 12 ~~of the returns of any election~~ No earlier than forty-eight (48) hours after
 13 the election and no later than the tenth (10th) calendar day after the
 14 election, the county board shall deposit certified copies of the abstracts of
 15 the returns of the election for members of Congress and all executive,
 16 legislative, and judicial officers in the nearest post office on the most
 17 direct route to the seat of government and directed to the Secretary of
 18 State.

19 (B) The board shall not receive compensation for election
 20 duties after the election until the election results have been certified and
 21 delivered to the Secretary of State.

22 (d)(1) It shall at the same time enclose in a separate envelope and
 23 direct to the Speaker of the House of Representatives, in care of the
 24 Secretary of State, at the seat of government, a certified copy of the
 25 abstract of votes given for Governor, Lieutenant Governor, Secretary of
 26 State, Treasurer of State, Auditor of State, and Attorney General.

27 (2) It is made the duty of the Secretary of State to safely keep
 28 the returns addressed to the Speaker of the House of Representatives until
 29 they shall be required for the purpose of ascertaining and declaring the
 30 result of the election as prescribed in Arkansas Constitution, Article 6, §
 31 3.

32
 33 *SECTION 2. Arkansas Code 7-7-309 is amended to read as follows:*

34 *7-7-309. Canvass and certification of returns.*

35 *The county board of election commissioners shall canvass the returns*
 36 *and examine the ballots when demanded. It may hear testimony, if offered, of*

1 fraudulent practices and illegal votes, may cast out illegal votes and
2 fraudulent returns, and find the true and legal vote cast for each candidate,
3 and shall certify the result not later than ~~three (3) days following the~~
4 ~~primary unless there are overseas ballots which will influence the outcome of~~
5 ~~the election, but in no event shall the certification be later than ten (10)~~
6 ~~days after the primary.~~

7

8 SECTION 3. Arkansas Code 7-7-203(g) is amended to read as follows:

9 (g)(1) The county board of election commissioners shall convene, at
10 the time specified in the notice to the members given by the chairman of the
11 board, no later than ~~three (3) days~~ the tenth (10th) day after each primary
12 election for the purpose of canvassing the returns and certifying the
13 election results unless the number of absentee votes is sufficient to affect
14 the election, in which case the board shall convene no earlier than the tenth
15 day after each primary election.

16 (2) If no time is specified for the meeting of the board, the
17 meeting shall be at 5:00 p.m.

18

19 SECTION 4. Arkansas Code 7-5-319 is amended to read as follows:

20 7-5-319. Recount.

21 ~~(a) At any time before the county board of election commissioners~~
22 ~~shall finally complete the canvass of the returns of any election and certify~~
23 ~~the result, any candidate voted for who may be dissatisfied with the returns~~
24 ~~from any precinct shall have a recount of the votes cast therein upon the~~
25 ~~candidate's presenting the county board with a petition requesting the~~
26 ~~recount. At the time that the petition requesting the recount is filed, the~~
27 ~~county board shall provide a copy of the test results on the voting machines~~
28 ~~performed pursuant to § 7-5-504(20) and § 7-5-611(c) and (d) to the candidate~~
29 ~~requesting the recount. The county board shall wait at least forty-eight (48)~~
30 ~~hours after the close of the elections to certify the results. However, only~~
31 ~~one (1) recount per candidate per election shall be permitted. The county~~
32 ~~board shall certify the results of the last recount. The county board may~~
33 ~~upon its own motion conduct a recount of the returns from any or all~~
34 ~~precincts.—~~

35 (a)(1) Any candidate voted for who may be dissatisfied with the returns
36 from any precinct shall have a recount of the votes cast therein upon the

1 candidate's presenting the county board with a petition requesting the
2 recount.

3 (2) When the number of outstanding absentee ballots of overseas
4 voters is not sufficient to change the results of the election, the candidate
5 must present the petition no later than two (2) days after the county board
6 of election commissioners declares preliminary and unofficial results of the
7 election, including a statement of the number of outstanding absentee ballots
8 of overseas voters.

9 (3) When the number of outstanding absentee ballots of overseas
10 voters is sufficient to potentially change the results of the election the
11 candidate must present the petition at any time before the county board
12 finally completes the canvass of the returns of the election and certifies
13 the result.

14 (b) At the time that the petition requesting the recount is presented,
15 the board shall provide a copy of the test results on the voting machines
16 performed pursuant to § 7-5-504(20) and § 7-5-611(c) and (d) to the candidate
17 requesting the recount. Only one (1) recount per candidate per election shall
18 be permitted. The board shall certify the results of the last recount. The
19 board may upon its own motion conduct a recount of the returns from any or
20 all precincts.

21 ~~(b)(c)~~ (1) The county board shall open the package containing the
22 ballots and recount the ballots in the manner prescribed by law for the count
23 to be made by the election officials in the first instance or if there is a
24 determination by the county board that the voting machine or automated
25 tabulating equipment may be malfunctioning, it may recount the ballots by any
26 manner prescribed by law.

27 (2) The result as found upon the recount, if it differs from
28 that certified by the election officials, shall be included in the canvass as
29 the vote for the particular precinct for which the recount was ordered and
30 made.

31 ~~(e)(d)~~ After the recount is completed, the ballots shall again be
32 sealed and kept as provided by law.

33 ~~(d)(e)~~ (1) The costs for any recount must be borne by the candidate
34 petitioning for it, and payment of the costs must be made to the county board
35 prior to the recount in an amount determined by the county board.

36 (2) In the event that the outcome of the election is altered by

1 recount, the costs of the recount shall be refunded to the candidate who
2 petitioned for the recount.

3 ~~(e)~~(f) The costs of any recount shall be based on the actual costs
4 incurred to conduct the recount, but in no instance shall the amount charged
5 to conduct a recount exceed the rate of twenty-five cents (\$0.25) per vote
6 cast in the precincts where the recount is requested or a total of two
7 thousand five hundred dollars (\$2,500) for the entire county, whichever is
8 less.

9
10 SECTION 5. Arkansas Code 3-9-206(b)(1) is amended to read as follows:

11 (b)(1) The election shall be held and conducted and the results
12 certified under the supervision of the county board of election commissioners
13 in the manner provided by the election laws of this state.

14 (2) The county board of election commissioners shall fix the
15 date of the election not less than thirty (30) days nor more than sixty (60)
16 days from the date the election was called pursuant to subdivision (a)(1) or
17 (a)(2) of this section and give notice thereof by publication in a newspaper
18 of general circulation in the city or county by at least two (2) insertions,
19 the last being not less than ten (10) days prior to the election.

20 (3) The county board of election commissioners shall tabulate
21 the votes and certify the results to the county clerk within ~~three (3)~~ ten
22 (10) days after the election.

23 /s/ King
24
25

26 APPROVED: 4/11/2001
27
28
29
30
31
32
33
34
35
36