

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 84th General Assembly  
3 Regular Session, 2003  
4

*As Engrossed: H3/13/03 H3/24/03*

# A Bill

Act 1161 of 2003  
HOUSE BILL 2372

5 By: Representative King  
6  
7

## For An Act To Be Entitled

9 AN ACT CONCERNING REVISIONS TO THE STATE BOARD OF  
10 ELECTION COMMISSIONERS; AND FOR OTHER PURPOSES.

### Subtitle

11  
12 AN ACT CONCERNING REVISIONS TO THE STATE  
13 BOARD OF ELECTION COMMISSIONERS.  
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16

17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

18  
19 SECTION 1. Arkansas Code § 7-4-101 is amended to read as follows:

20 7-4-101. State Board of Election Commissioners - Members - Officers -  
21 Meetings.

22 (a) The State Board of Election Commissioners shall be composed of the  
23 following seven (7) persons, with at least one (1) from each district:

24 (1) The Secretary of State;

25 (2) One (1) person designated by the chairman of the state  
26 Democratic Party;

27 (3) One (1) person designated by the chairman of the state  
28 Republican Party;

29 (4) One (1) person to be chosen by the President Pro Tempore of  
30 the Senate;

31 (5) One (1) person to be chosen by the Speaker of the House of  
32 Representatives; and

33 (6) Two (2) persons to be chosen by the Governor, one (1) of  
34 whom shall be a county clerk and one (1) of whom shall have served for at  
35 least three (3) years as a county election commissioner.

36 (b) The Secretary of State shall serve as ~~chairman~~ chair and secretary



1 of the board ~~and keep the records of the state board.~~

2 (c) Except for the Secretary of State and the county clerk, no member  
3 of the ~~state~~ board shall be an elected public official.

4 (d)(1) The term on the ~~state~~ board of the elected state official shall  
5 be concurrent with the term ~~as~~ of the public elected ~~officer~~ official.

6 (2) The county clerk shall hold the office of county clerk when  
7 appointed to the ~~state~~ board and shall be removed as a member of the ~~state~~  
8 board if not in office.

9 (3)(A) ~~The term of office of the board members appointed by the~~  
10 ~~President Pro Tempore and the Speaker of the House shall be two (2) years or~~  
11 ~~until their successors are appointed and qualified in the manner provided in~~  
12 ~~this section for the initial appointment.~~ Members of the board appointed by  
13 the President Pro Tempore of the Senate and the Speaker of the House of  
14 Representatives shall be appointed for terms of two (2) years and shall  
15 continue to serve until successors have been appointed and taken the official  
16 oath.

17 (B) ~~The term on the state board of all other appointive~~  
18 ~~members shall be four (4) years or until their successors are appointed and~~  
19 ~~qualified in the manner provided in this section for the initial appointment.~~  
20 All other appointive members shall be appointed for terms of four (4) years  
21 and shall continue to serve until successors have been appointed and taken  
22 the official oath.

23 (4) No appointive member shall be appointed to serve more than  
24 two (2) consecutive full terms.

25 (5)(A) If a vacancy on the board occurs, a successor shall be  
26 appointed within thirty (30) days to serve the remainder of the unexpired  
27 term.

28 (B) The appointment shall be made by the official holding  
29 the office responsible for appointing the predecessor.

30 (e)(1) The ~~state~~ board shall meet as needed ~~at a time and place which~~  
31 ~~shall be designated by~~ upon call of the chair or upon written request to the  
32 chair of any four (4) ~~or more~~ members.

33 (2) A majority of the membership of the ~~state~~ board shall  
34 constitute a quorum for conducting business.

35 (3) No sanctions shall be imposed without the affirmative vote  
36 of at least four (4) members of the board.

1           ~~(3)~~(4) Meetings of the ~~state~~ board may be chaired and conducted  
2 by either the chair, ~~if present~~, or a ~~state board~~ member of the board  
3 designated by the chair as acting chair for the meeting ~~by the chair~~.

4           (f) ~~The state board shall perform the following duties~~ have the  
5 authority to:

6           (1) Publish a candidate's election handbook, in conjunction with  
7 the office of the Secretary of State and the Arkansas Ethics Commission,  
8 which outlines in a readable and understandable format the legal obligations  
9 of a candidate and any other suggestions that might be helpful to a candidate  
10 in complying with state election law;

11           (2) Conduct statewide training for election officials and county  
12 election commissioners;

13           (3) Adopt all necessary rules and regulations regarding training  
14 referred to in subdivision (f)(2) of this section and develop procedures for  
15 monitoring attendance;

16           (4) Monitor all election law-related legislation;

17           ~~(5) Review citizen complaints regarding violations of election~~  
18 ~~and voter registration laws and forward them to the proper authorities,~~  
19 ~~except as to § 7-1-103(a)(1)-(4), (6), and (7) or except for any matter~~  
20 ~~relating to campaign finance and disclosure laws, which the Arkansas Ethics~~  
21 ~~Commission shall have the same power and authority to enforce as is provided~~  
22 ~~the commission under §§ 7-6-217 and 7-6-218 for the enforcement of campaign~~  
23 ~~finance laws;~~

24           ~~(6) Develop procedures for reviewing and forwarding citizen~~  
25 ~~complaints referred to in subdivision (f)(5) of this section;~~

26           ~~(7)~~(5) Formulate, adopt, and promulgate all necessary rules and  
27 regulations to assure even and consistent application of voter registration  
28 laws and fair and orderly election procedures;

29           ~~(8)~~(6)(A) Appoint certified election monitors to any county upon  
30 a signed, written request under oath filed with the ~~state~~ board and a  
31 determination by the ~~state~~ board that appointing a monitor is necessary.

32           (B) Certified election monitors shall serve as observers  
33 for the purpose of reporting to the ~~state~~ board on the conduct of the  
34 election.

35           (C) The ~~state~~ board may allow for reasonable compensation  
36 for election monitors;

1           ~~(9)(7)~~ Assist the county board of election commissioners in the  
2 performance of the administrative duties of the election process if the ~~state~~  
3 board determines that assistance is necessary and appropriate;

4           (8)(A) Formulate, adopt, and promulgate all necessary rules and  
5 regulations to establish uniform and nondiscriminatory administrative  
6 complaint procedures consistent with the requirements of Title IV of the  
7 federal Help America Vote Act.

8           (B) The cost of compliance with Title IV of the federal  
9 Help America Vote Act shall be paid from the fund established to comply with  
10 the federal Help America Vote Act; and

11           ~~(10)(9) If the state board finds a violation~~ Investigate alleged  
12 violations and render findings and impose disciplinary action according to §  
13 7-4-118 for violations of election and voter registration laws, except as to  
14 § 7-1-103(a)(1)-(4), (6), and (7), ~~or~~ and except for any matters relating to  
15 campaign finance and disclosure laws which the ~~commission~~ Arkansas Ethics  
16 Commission shall have the same power and authority to enforce under according  
17 to §§ 7-6-217 and 7-6-218. for the enforcement of campaign finance laws, the  
18 state board may do one (1) or more of the following:

19           ~~(A) Issue a public letter of caution or warning or~~  
20 ~~reprimand;~~

21           ~~(B)(i) Impose a fine of not less than twenty five dollars~~  
22 ~~(\$25.00) nor more than one thousand dollars (\$1,000) for negligent or~~  
23 ~~intentional violation of this subchapter.~~

24           ~~(ii) The state board shall adopt rules governing the~~  
25 ~~imposition of such fines in accordance with the provisions of the Arkansas~~  
26 ~~Administrative Procedure Act, § 25-15-201 et seq.~~

27           ~~(iii) All moneys received by the state board in~~  
28 ~~payment of fines shall be deposited in the State Treasury as general~~  
29 ~~revenues; or~~

30           ~~(C) Report its finding, along with such information and~~  
31 ~~documents as it deems appropriate, and make recommendations to the proper law~~  
32 ~~enforcement authorities;~~

33           ~~(11) The state board shall complete its investigation of a~~  
34 ~~complaint filed pursuant to this section within no later than ninety (90)~~  
35 ~~days of the filing of the complaint; and~~

36           ~~(12) Any final action of the state board under this section shall~~

1 ~~constitute an adjudication for purposes of judicial review under § 25-15-212.~~  
2 ~~(g) All election related questions are to be answered by the Secretary~~  
3 ~~of State's office pursuant to § 7-1-106 and shall be consistent and in~~  
4 ~~conformity with any policies, guidelines, or regulations established by the~~  
5 ~~state board.~~

6 ~~(h)(g) The Attorney General shall provide legal assistance to the~~  
7 ~~state board in answering questions regarding election laws.~~

8 (h)(1) The board may appoint a director who may hire a staff.

9 ~~(i)(1)(2) The Director of the State Board of Election Commissioners~~  
10 ~~and the staff shall serve at the pleasure of the state board.~~

11 ~~(2) The Secretary of State shall exercise daily supervision of~~  
12 ~~the director and the staff, consistent with personnel policy.~~

13 (3) The state board shall set the personnel policies in  
14 accordance with the Regular Salary Procedures and Restrictions Act, § 21-5-  
15 101 et seq., and the Uniform Classification and Compensation Act, § 21-5-201  
16 et seq.

17  
18 SECTION 2. Arkansas Code Title 7, Chapter 4, Subchapter 1 is amended  
19 to add an additional section to read as follows:

20 7-4-118. Complaints of election law violations.

21 (a)(1) The State Board of Election Commissioners may investigate  
22 alleged violations, render findings, and impose disciplinary action according  
23 to this subchapter for violations of election and voter registration laws,  
24 except:

25 (A) For the provisions in § 7-1-103(a)(1) through (4), (6)  
26 and (7); and

27 (B) For any matters relating to campaign finance and  
28 disclosure laws that the Arkansas Ethics Commission shall have the power and  
29 authority to enforce according to §§ 7-6-217 and 7-6-218.

30 (2) For purposes of subdivision (a)(1), the State Board of  
31 Election Commissioners may file a complaint.

32 (3) A complaint must be filed with the board in writing within  
33 thirty (30) days of the alleged violation.

34 (4) A complaint must clearly state the alleged election  
35 irregularity or illegality, when and where the alleged activity occurred,  
36 supporting facts surrounding the allegations, and the desired resolution.

1           (5) A complaint must be signed by the complainant under penalty  
2 of perjury.

3           (6)(A) Filing of a frivolous complaint is considered a violation  
4 of this subchapter.

5           (B) For purposes of this section, "frivolous" means  
6 clearly lacking any basis in fact or law.

7           (b)(1) Upon receipt by the board of a complaint stating facts  
8 constituting violation of election or voter registration laws under its  
9 jurisdiction signed under penalty of perjury, the board shall proceed to  
10 investigate the alleged violation.

11           (2) The board may determine that:

12           (A) The complaint can be disposed of through documentary  
13 submissions; or

14           (B) An investigation is necessary.

15           (3) The board may forward the complaint, along with the  
16 information and documentation as deemed appropriate, to the proper authority.

17           (4)(A) If the board determines that an investigation is  
18 necessary, the board shall provide a copy of the complaint with instructions  
19 regarding the opportunity to respond to the complaint to the party against  
20 whom the complaint is lodged.

21           (B) The board may administer oaths for the purpose of  
22 taking sworn statements from any person thought to have knowledge of any  
23 facts pertaining to the complaint.

24           (C) The board may request the party against whom the  
25 complaint is lodged to answer allegations in writing, produce relevant  
26 evidence, or appear in person before the board.

27           (D) The board may subpoena any person or the books,  
28 records, or other documents relevant to an inquiry by the board that are  
29 being held by any person and take sworn statements.

30           (E) The board shall provide the subject of the subpoena  
31 with reasonable notice of the subpoena and an opportunity to respond.

32           (F) The board shall advise, in writing, the complainant  
33 and the party against whom the complaint is lodged of the final action taken.

34           (c) If the board finds that probable cause exists for finding a  
35 violation of election or voter registration laws under its jurisdiction, the  
36 board may determine that a full public hearing be called.

1           (d) If the board finds a violation of election or voter registration  
2 laws under its jurisdiction, then the board may do one (1) or more of the  
3 following:

4                   (1) Issue a public letter of caution, warning, or reprimand;

5                   (2) Impose a fine of not less than twenty-five dollars (\$25.00)  
6 nor more than one thousand dollars (\$1,000) for each negligent or intentional  
7 violation;

8                   (3) Report its findings, along with the information and  
9 documents as it deems appropriate, and make recommendations to the proper law  
10 enforcement authorities; or

11                   (4) Assess costs for the investigation and hearing.

12           (e)(1) The board shall adopt rules governing the imposition of the  
13 fines in accordance with the provisions of the Arkansas Administrative  
14 Procedure Act, § 25-15-201 et seq.

15                   (2)(A) The board may file suit in the circuit court of Pulaski  
16 County or in the circuit court of the county in which the debtor resides, or,  
17 according to the Small Claims Procedure Act, § 16-17-601 et seq., in the  
18 small claims division of any district court in the State of Arkansas, to  
19 obtain a judgment for the amount of any fine imposed according to its  
20 authority.

21                   (B) The action by the court shall not involve further  
22 judicial review of the board's actions.

23                   (C) The fee normally charged for the filing of a suit in  
24 any of the circuit or district courts in the State of Arkansas shall be  
25 waived on behalf of the board.

26                   (3) All moneys received by the board in payment of fines shall  
27 be deposited in the State Treasury as general revenues.

28           (f)(1) The board shall complete its investigation of a complaint filed  
29 according to this section and take final action within one hundred eighty  
30 (180) days of the filing of the complaint.

31                   (2) However, if a hearing under subdivision (c)(1) of this  
32 section is conducted, all action on the complaint by the board shall be  
33 completed within two hundred forty (240) days.

34                   (3) Any final action of the board under this section shall  
35 constitute an adjudication for purposes of judicial review under § 25-15-212.

36           (g)(1) The board shall keep a record of all inquiries, investigations,

1 and proceedings.

2 (2) Records relating to investigations by the board are exempt  
3 from the Freedom of Information Act of 1967, until a hearing is set or the  
4 Director's investigation is closed.

5 (3) The board may, through its members or staff, disclose  
6 otherwise confidential information to proper law enforcement officials,  
7 agencies, and bodies as may be required to conduct its investigation.

8

9 /s/ King

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APPROVED: 4/8/2003

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