

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: H3/17/03

A Bill

Act 1165 of 2003
HOUSE BILL 2417

5 By: Representative Penix
6
7

For An Act To Be Entitled

9 AN ACT TO REVISE VARIOUS PROVISIONS CONCERNING
10 ELECTION PROCEDURES; AND FOR OTHER PURPOSES.
11

Subtitle

12 AN ACT TO REVISE VARIOUS PROVISIONS
13 CONCERNING ELECTION PROCEDURES.
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16

17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
18

19 SECTION 1. Arkansas Code § 6-14-115(a), concerning certification an
20 election, is amended to read as follows:

21 (a) At the close of the election, the election officials at each
22 polling place or at the place of central tabulation shall make a return of
23 the votes, certify the return, and file the certification in the office of
24 the county clerk of the county in which the district is administered for
25 delivery to its county board of election commissioners, who shall no earlier
26 than forty-eight (48) hours and not later than ~~three (3)~~ ten (10) days after
27 the election proceed to ascertain and declare the results of the election and
28 file the certification of election and one (1) of the ballots with the county
29 clerk.
30

31 SECTION 2. Arkansas Code § 7-5-101 is amended to read as follows:

32 7-5-101. Precinct boundaries and polling sites - Establishment and
33 alteration.

34 (a)(1) The county board of election commissioners is empowered to
35 alter the boundaries of existing election precincts and to establish new ones
36 when, in its judgment, it may be necessary.



1 (2)(A) The county board shall fix a polling site for each
2 election precinct.

3 (B) The county board may combine polling sites for two (2)
4 or more precincts when, in its judgment, it may be necessary.

5 (3) In changing the boundaries of existing precincts or in
6 creating new ones, the county board shall arrange them so that all qualified
7 voters residing therein may vote on the same day.

8 (4)(A) The county board shall not have the power to change the
9 boundaries of existing precincts, to create any new precinct, or to change
10 the polling site in any precinct within thirty (30) days of any election, but
11 all elections shall be held at the sites and within the boundaries as they
12 existed thirty (30) days before the date of the election.

13 (B) In the event of an emergency, a county board may
14 change a precinct boundary or a polling site.

15 (b) All polling sites shall be fixed at well-known points in the
16 several precincts and easily accessible to all electors entitled to vote
17 therein.

18 (c)(1)(A) The action of the county board in changing the polling site
19 in any precinct, in altering the boundaries of any precinct, or in
20 establishing any new one shall be determined in a public meeting pursuant to
21 § 7-4-105 and shall be entered in the record to be kept on file in the county
22 clerk's office.

23 (B) A copy of the order, which shall set out intelligently
24 and accurately the boundaries of precincts as so altered or established,
25 shall be filed with the clerk of the county court, who shall record the order
26 at full length on the record book on which the minutes of the proceedings of
27 the county court are recorded.

28 (2)(A)(i)(a) Within thirty (30) days after altering the
29 boundaries of an election precinct or establishing a new one, the county
30 board shall submit four (4) copies of the changes to the Secretary of State.

31 (b) The changes shall be submitted in the form
32 of a map and shall include a written description.

33 (ii) A short statement of why the changes were made
34 may be included.

35 (B) Upon receipt of the changes, the Secretary of State
36 shall immediately forward a copy to the office of the Attorney General, the

1 State Data Center, and the Cartography Section of the Arkansas State Highway
2 and Transportation Department.

3 (d)(1) Notice of any changes made in polling sites shall also be given
4 to the electors by posting information about any changes prominently at all
5 previous polling sites which were used in the last election.

6 (2) Except for school elections and special elections, the
7 notice shall also be mailed by the county clerk to each affected registered
8 voter at least fifteen (15) days before the election.

9 ~~(e) This subsection does not apply to runoff elections.~~

10

11 SECTION 3. Arkansas Code § 7-5-106 is amended to read as follows:

12 7-5-106. Runoff elections for county and municipal officers.

13 (a)~~(1)~~(A) Whenever there are more than two (2) candidates for election
14 to any county elected office, including the office of justice of the peace,
15 or for any municipal office at any general election held in this state and no
16 candidate for the municipal or county office receives a majority of the votes
17 cast for the office, there shall be a runoff general election held in that
18 county or municipality three (3) weeks following the date of the general
19 election at which the names of the two (2) candidates receiving the highest
20 number of votes, but not a majority, shall be placed on the ballot to be
21 voted upon by the qualified electors of the county or the municipality, as
22 the case may be.

23 ~~(B)~~(b) In the event that two (2) candidates receive the
24 highest number of votes and receive the same number of votes, a tie shall be
25 deemed to exist and the names of the two (2) candidates shall be placed on
26 the runoff general election ballot to be voted upon by the qualified electors
27 of the county or the municipality, as the case may be.

28 ~~(C)~~(c)(1) If there is one (1) candidate who receives the
29 highest number of votes, but not a majority of the votes, and two (2) other
30 candidates receive the same number of votes for the next highest number of
31 votes cast, a tie shall be deemed to exist between the two (2) candidates.

32 (2) The county board of election commissioners shall determine
33 the runoff candidate by lot at a public meeting and in the presence of the
34 two (2) candidates.

35 ~~(2)~~(A)(d)(1) The person receiving the majority of the votes cast
36 for the office at the runoff general election shall be declared elected.

1 ~~(B)~~(2) However, in the event that the two (2) candidates
2 seeking election to the same county or municipal office shall receive the
3 same number of votes in the runoff election, a tie shall be deemed to exist,
4 and the county board shall determine the winner by lot at an open public
5 meeting and in the presence of the two (2) candidates.

6 ~~(b)~~(e)(1) For the purposes of this section, the term "municipal
7 officers" shall include officers of cities of the first and second class and
8 incorporated towns and shall include aldermen, members of boards of managers,
9 or other elective municipal offices elected by the voters of the entire
10 municipality or from wards or districts within a municipality.

11 (2) The term "municipal officers" shall not include officers of
12 cities having a city manager form of government.

13 (3) The provisions of this section shall not be applicable to
14 election of members of the boards of directors and other officials of cities
15 having a city manager form of government.

16 ~~(e)~~(f) The provisions of this section are intended to be in addition
17 to and supplemental to the laws of this state pertaining to the election of
18 county and municipal officers at general elections.

19
20 SECTION 4. Arkansas Code § 7-5-205 is amended to read as follows:

21 7-5-205. Write-in candidates' votes - When counted.

22 (a) No votes for write-in candidates in general elections shall be
23 counted or tabulated unless:

24 ~~(a)~~(b)(1) The candidate or his or her agent shall notify in writing
25 the county board of election commissioners and either the Secretary of State,
26 if a state or district candidate, or a county clerk, if a candidate for a
27 county or township office, of his or her intention to be a write-in candidate
28 no earlier than noon on the third Tuesday in March not later than sixty (60)
29 days before the election day; and

30 (2) The name written on the ballot is the same name listed on
31 the write-in candidate's political practices pledge, except that any
32 abbreviation, misspelling, or other minor variation in the form of the name
33 of the candidate shall be disregarded if the intention of the voter may be
34 ascertained.

35 ~~(b)~~(c) This section shall not apply to the offices of Justice of the
36 Supreme Court, Judge of the Court of Appeals, circuit judge, or district

1 judge.

2

3 SECTION 5. Arkansas Code § 7-5-319(c) through (f), concerning
4 recounting votes, is amended to read as follows:

5 ~~(c)~~~~(1)~~ The county board shall open the package containing the ballots
6 and recount the ballots in the manner prescribed by law for the count to be
7 made by the election officials in the first instance or, if there is a
8 determination by the county board that the voting machine or automated
9 tabulating equipment may be malfunctioning, it may recount the ballots by any
10 manner prescribed by law.

11 ~~(2)~~~~(d)~~ The result as found upon the recount, if it differs from
12 that certified by the election officials, shall be included in the canvass as
13 the vote for the particular precinct for which the recount was ordered and
14 made.

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

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

20 (2) In the event that the outcome of the election is altered by
21 recount, the costs of the recount shall be refunded to the candidate who
22 petitioned for the recount.

23 ~~(f)~~~~(g)~~ The costs of any recount shall be based on the actual costs
24 incurred to conduct the recount, but in no instance shall the amount charged
25 to conduct a recount exceed the rate of twenty-five cents (25¢) per vote cast
26 in the precincts where the recount is requested or a total of two thousand
27 five hundred dollars (\$2,500) for the entire county, whichever is less.

28

29 SECTION 6. Arkansas Code § 7-7-103(a) and (b), concerning filing as an
30 independent, is amended to read as follows:

31 (a) Any person desiring to have his name placed upon the ballot as an
32 independent candidate without political party affiliation for any state,
33 county, township, or district office in any general election in this state
34 shall file as an independent candidate a notice of candidacy identifying the
35 elective office ~~and a nominating petition in the manner provided in this~~
36 ~~section~~ no later than the date fixed by law as the deadline for filing

1 political practices pledges and party pledges if any are required by the
2 rules of the party to qualify as a candidate of a political party in a
3 primary election.

4 (b)(1)(A) The person shall furnish by May 1 of the year in which the
5 election is to be held petitions signed by not less than three percent (3%)
6 of the qualified electors in the county, township, or district in which the
7 person is seeking office, but in no event shall more than two thousand
8 (2,000) signatures be required for a district, county, or township office.

9 (B) If the person is a candidate for state office or for
10 United States Senator in which a statewide race is required, the person shall
11 file petitions signed by not less than three percent (3%) of the qualified
12 electors of the state or which contain ten thousand (10,000) signatures of
13 qualified electors, whichever is the lesser.

14 (2) Each elector signing the petition shall be a registered
15 voter, and the petition shall be directed to the official with whom the
16 person is required by law to file nomination certificates to qualify as a
17 candidate and shall request that the name of the person be placed on the
18 ballot for election to the office mentioned in the petition.

19 (3) Petitions shall be circulated not earlier than sixty (60)
20 calendar days prior to the deadline for filing petitions to qualify as an
21 independent candidate.

22 (4) In determining the number of qualified electors in any
23 county, township, or district or in the state, the total number of votes cast
24 therein for all candidates in the preceding general election for the office
25 of Governor shall be conclusive of the number of qualified electors therein
26 for the purposes of this section.

27
28 SECTION 7. Arkansas Code § 7-7-203(g), concerning dates for holding
29 elections, is amended to read as follows:

30 (g)(1) The county board shall convene, at the time specified in the
31 notice to the members given by the chair of the board, no later than the
32 tenth day after each primary election for the purpose of canvassing the
33 returns and certifying the election results ~~unless the number of absentee~~
34 ~~votes is sufficient to affect the election, in which case the county board~~
35 ~~shall convene no earlier than the tenth day after each primary election.~~

36 (2) If no time is specified for the meeting of the board, the

1 meeting shall be at 5:00 p.m.

2

3 SECTION 8. Arkansas Code § 7-7-205(a), concerning new political
4 parties, is amended to read as follows:

5 (a)(1) A group desiring to form a new political party shall do so by
6 filing a petition with the Secretary of State.

7 (2) The petition shall contain at the time of filing the
8 signatures of qualified electors of this state equal in number to at least
9 three percent (3%) of the total number of votes cast for the office of
10 Governor or nominees for presidential electors, whichever is less, at the
11 last preceding election.

12 ~~(3) The petition shall be filed with the Secretary of State no~~
13 ~~later than the first Monday in May before the general election. The Secretary~~
14 ~~of State shall not accept for filing any new party petition that is not prima~~
15 ~~facie sufficient at the time of filing.~~

16 (4) The petitions shall be circulated during the period
17 beginning one hundred fifty (150) days prior to the deadline for filing the
18 petitions with the Secretary of State.

19

20 SECTION 9. Arkansas Code § 7-7-205(g), concerning new political
21 parties, is amended to read as follows:

22 (g)(1) Upon certification of sufficiency by the Secretary of State, a
23 new political party shall be declared by the Secretary of State.

24 (2) A new political party formed by the petition process may
25 nominate candidates by convention for the first election after certification.

26 (3) Nominated candidates shall file a political practice pledge
27 with the Secretary of State or county clerk, as the case may be, no later
28 than sixty (60) days prior to the general election.

29 (4) If the new party maintains party status by obtaining three
30 percent (3%) of the total vote cast for the office of Governor or nominees
31 for presidential electors at the first election after certification, the new
32 political party shall nominate candidates in the party primary as set forth
33 in § 7-7-101 et seq.

34

35 SECTION 10. Arkansas Code § 14-42-206 is amended to read as follows:
36 14-42-206. Municipal primary elections - Nominating petitions.

1 (a)(1) The city or town council of any city or town with the mayor-
2 council form of government, by resolution passed before January 1 of the year
3 of the election, may request the county party committees of recognized
4 political parties under the laws of the state to conduct party primaries for
5 municipal offices for the forthcoming year.

6 (2) Such resolution shall remain in effect for the subsequent
7 elections unless revoked by the city or town council.

8 (3) When the resolution has been adopted, the clerk or recorder
9 shall mail a certified copy of the resolution to the chairs of the county
10 party committees and to the chairs of the state party committees.

11 (4) Candidates nominated for municipal office by political
12 primaries under this section shall be certified by the county party
13 committees to the county board of election commissioners and shall be placed
14 on the ballot at the general election ballot.

15 (b)(1) Any person desiring to become an independent candidate for
16 municipal office in cities and towns with the mayor-council form of
17 government shall file not more than eighty (80) days nor less than sixty (60)
18 days prior to the general election by twelve o'clock noon with the county
19 clerk the petition of nomination in substantially the following forms:

20 (A) For all candidates except aldermen in cities of the
21 first class and cities of the second class:

22 "PETITION OF NOMINATION

23 We, the undersigned qualified electors of the city (town) of...,
24 Arkansas, being in number not less than ten (10) for incorporated towns and
25 cities of the second (2nd) class, and not less than thirty (30) for cities of
26 the first (1st) class, do hereby petition that the name of...be placed on the
27 ballot for the office of...at the next election of municipal officials in
28 20....

29 Printed Name Signature Street Address Date of Birth Date of Signing

30

31 (B) For candidates for alderman elected by ward in cities
32 of the first class and cities of the second class, the nominating petitions
33 shall be signed only by qualified electors of the ward in the following
34 manner:

35 "PETITION OF NOMINATION

36 We, the undersigned qualified electors of Ward... of the city of...,

1 Arkansas, being in number not less than ten (10) for incorporated towns and
2 cities of the second (2nd) class, and not less than thirty (30) for cities of
3 the first (1st) class, do hereby petition that the name of... be placed on
4 the ballot for the office of Alderman, Ward..., position..., of the next
5 election of municipal officials in ~~1920~~....

6 Printed Name Signature Street Address Date of Birth Date of Signing
7

8 (C) For at-large candidates for alderman of a ward in
9 cities of the first class and cities of the second class, the nominating
10 petitions shall be signed by any qualified elector of the city in the
11 following manner:

12 "PETITION OF NOMINATION

13 We, the undersigned qualified electors of the city of,
14 Arkansas, being in number not less than ten (10) for incorporated towns and
15 cities of the second (2nd) class, and not less than thirty (30) for cities of
16 the first (1st) class, do hereby petition that the name of... be placed on
17 the ballot for the office of Alderman, Ward..., position..., of the next
18 election of municipal officials in ~~1920~~....

19
20 Printed Name Signature Street Address Date of Birth Date of Signing
21

22 (2) The county clerk shall determine whether the petition
23 contains a sufficient number of qualified electors.

24 (3) Independent candidates for municipal office shall file a
25 political practices pledge no later than sixty (60) days prior to the date of
26 the general election by twelve o'clock noon.

27 (c)(1)(A) If no candidate receives a majority of the votes cast in the
28 general election, the two (2) candidates receiving the highest number of
29 votes cast for the office to be filled shall be the nominees for the
30 respective offices, to be voted upon in a runoff election pursuant to § 7-5-
31 106.

32 (B) In any case, except for the office of mayor, in which
33 only one (1) candidate shall have filed and qualified for the office, the
34 candidate shall be declared elected and the name of the person shall be
35 certified as elected without the necessity of putting the person's name on
36 the general election ballot for the office.

1 (2) If the office of mayor is unopposed, then the candidate for
2 mayor shall be printed on the general election ballot and the votes for mayor
3 shall be tabulated as in all contested races.

4 (3) Any municipal judge position that is elected other than
5 citywide will not be affected by this section.

6 (d) Special elections for mayors in cities of the first class and
7 other special elections of officials required by law in cities and towns
8 shall use the procedure in this section.

9 (e)(1) *The governing body of any city of the first class, city of the*
10 *second class, or incorporated town may enact an ordinance requiring*
11 *independent candidates for municipal office to file petitions for nomination*
12 *as independent candidates with the county clerk no later than noon on the day*
13 *before the preferential primary election.*

14 (2) *The ordinance shall be enacted no later than ninety (90)*
15 *days prior to the filing deadline. The ordinance shall be published at least*
16 *once a week for two (2) consecutive weeks immediately following adoption of*
17 *the ordinance in a newspaper having a general circulation in the city.*

18 (f) Nothing in this section shall repeal any law pertaining to the
19 city administrator form of government or the city manager form of government.

20 (g) This section does not apply in any respect to the election of
21 district judges.

22
23 SECTION 13. Arkansas Code § 14-43-304(c), concerning the time for a
24 special runoff election for mayor in cities having a mayor-council
25 government, is amended to read as follows:

26 (c)(1) In the event that no candidate for mayor of cities of the
27 first class receives a majority of the votes cast in the general election,
28 the two (2) candidates receiving the highest number of votes shall be
29 certified to a special runoff election, which shall be held ~~two (2)~~ three (3)
30 weeks from the day on which the general election is held.

31 (2) The special runoff election shall be conducted in the same
32 manner as provided by law, and the election results thereof shall be
33 canvassed and certified in the manner provided by law.

34
35 SECTION 14. Arkansas Code § 25-18-206(c), concerning distributing
36 copies of the acts of the General Assembly, is amended to read as follows:

1 (c)(1) The Secretary of State shall reserve from sale copies of the
2 acts of the General Assembly for free distribution of one (1) copy of each,
3 as they are published and bound, to the following officers, only upon written
4 request therefor within thirty (30) days following the date of adjournment
5 sine die of any legislative session:

- 6 (A) County judges;
- 7 (B) County clerks;
- 8 (C) Prosecuting attorneys;
- 9 (D) ~~Municipal~~ District judges;
- 10 (E) Circuit judges;
- 11 (F) The Supreme Court Reporter;
- 12 (G) Supreme Court Justices;
- 13 (H) Court of Appeals Judges;
- 14 (I) The Supreme Court Librarian;
- 15 (J) The Attorney General;
- 16 (K) Each state department;
- 17 (L) Justices of the peace;
- 18 (M) Circuit clerks;
- 19 (N) Sheriffs;
- 20 (O) Tax collectors;
- 21 (P) County treasurers;
- 22 (Q) Assessors; and
- 23 (R) Members of the General Assembly.

24 (2) However, the Attorney General upon written request within
25 the same time period shall be supplied with two (2) copies of each.

26 /s/ Penix

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29 *APPROVED: 4/8/2003*
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