

**DRAFT – MARK UP**

Agency #108.00

**RULES  
FOR  
COUNTY ELECTION COMMISSIONERS  
TRAINING**

(Effective December 1, 2005; Revised December 29, 2015     )



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BUREAU OF  
LEGISLATIVE RESEARCH

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## Scope of Rules

These rules will set forth the procedures for training members of the county boards of election commissioners in the 75 counties in the State. These rules are in addition to, and not a substitute for, the laws of the State of Arkansas.

## §700 Definitions

- (a) County Board of Election Commissioners - the three-member board in each of the 75 counties in this State responsible for conducting all elections within their respective county, including two members elected by the county committee of the majority party and one member elected by the county committee of the minority party or persons appointed by the state chair of either the majority or minority party to fill a vacancy in that party's position.<sup>1</sup>
- (b) Candidate - for the purpose of these rules, any individual who has knowingly and willingly taken affirmative action, including solicitation of funds, for the purpose of seeking nomination for or election to any public office.<sup>2</sup>
- (c) Election Official - a person who is a member of the county board of election commissioners, a person who performs election coordinator duties, a person who is a poll worker designated by a county board of election commissioners to be an election clerk, election judge, or election sheriff, or a deputy county clerk or a person assigned by a county clerk to conduct early voting.<sup>3</sup>
- (d) Primary Election - any election held to select the nominees of a political party for election at any general or special election in this state.<sup>4</sup>

## §701 Qualifications of a Member of the County Board of Election Commissioners

The qualifications<sup>5</sup> of a member of the county board of election commissioners as determined by the General Assembly<sup>6</sup> are as follows:

- 1) Must be a qualified elector of this state;
- 2) Must be able to read and write the English language;
- 3) Must be a resident of the county in which he or she serves at the time of his or her appointment or election;
- 4) Must not have been found guilty or pled guilty or nolo contendere to the violation of any election law of this state;
- 5) Must not be a paid employee of any political party;

<sup>1</sup> A.C.A. § 7-4-102(a)

<sup>2</sup> A.C.A. § 7-6-201(2)

<sup>3</sup> A.C.A. § 7-1-101 as amended by Act 1042 of 2015

<sup>4</sup> A.C.A. § 7-1-101

<sup>5</sup> A.C.A. § 7-4-109 as amended by Act 1253 of 2015

<sup>6</sup> Art 3, § 10 of the Arkansas Constitution, as amended by Amendment 85

- 6) Must not be a paid employee of any person running for any office on the county's ballot;
- 7) Must not participate in the campaign of any candidate listed on a ballot or of a write-in candidate seeking election in that county that falls under their jurisdiction or authority;
- 8) Must not manage a campaign;
- 9) Must not perform labor for a campaign;
- 10) Must not solicit on behalf of a candidate or campaign;
- 11) Must not pass out handbills, signs, or other literature concerning a candidate's campaign;
- 12) Must not assist a candidate's campaign at a rally or parade;
- 13) Must not display candidate placards or signs on an automobile;
- 14) Must not be employed with a company that has any business dealings, contracts, or pending contracts with the county board of election commissioners at the time of his or her appointment to the county board;
- 15) Must not be a candidate for any office to be filled at an election while serving on the county board, except for appearing on the ballot as a candidate for a position in his or her political party; ~~and~~
- ~~15) 16) Must not be a chairman or secretary of a county political party;~~
- 17) Must not be married to or related within the second degree of consanguinity to any candidate running for office in the current election if objection to the service is made to the county board of election commissioners within ten (10) calendar days after the posting of the list of officials; ~~and-~~
- ~~16) 18) Must not be the spouse of a chairman of a county political party or the spouse of another county board of election commissioner if objection to the service is made to the county board of election commissioners within ten (10) calendar days after the posting of the list of officials.~~

If an objection filed against married members of the county election commission the objection can only be filed against one of the two married individuals.

A member of the county board may make a financial contribution to a candidate, attend a political party's state, district, or county meeting where a candidate or issue advocate speaks as a member of the audience, or participate in a political party convention.<sup>7</sup>

## §702 Required Training

Each member of the county boards of election commissioners shall attend either a comprehensive training program conducted by the State Board of Election Commissioners before the regularly scheduled preferential primary election or an advanced training program conducted by the State Board of Election Commissioners after each regular legislative session. Advanced training will be made available if the Director of the State Board determines that, based on the amount of changes in law and procedure from the previous election cycle, an advanced training program is appropriate for experienced county commissioners. Advanced trainings are to only be utilized for commissioners who are unable to attend the comprehensive training and may be conducted remotely. Advanced trainings may not necessarily include a detailed review of all basic laws and

<sup>7</sup> A.C.A. § 7-4-109(c)(2)(B)(ii) as amended by Act 1253 of 2015

procedures which are unchanged from the previous two election cycles but will address all aspects of the duties of an election commissioner.<sup>8</sup>

Any member of a county board of election commissioners who has not served on the commission during the previous two (2) preferential primary and general elections and previously attended the comprehensive training program conducted by the State Board of Election Commissioners must attend the comprehensive training program.

A member of a county board of election commissioners shall attend additional interim training if deemed necessary and appropriate by the State Board.

### **§703 Compensation**

Upon completion of training conducted by the State Board of Election Commissioners: ~~Each Commissioner.~~ each county election commissioner attending the training is eligible to receive \$100, plus mileage reimbursement at the rate established for state employees by state travel regulations;<sup>9</sup> and

Any election commissioner who is trained under this section and who remains in office until the certification of the preferential primary election results shall be eligible to receive \$100 in compensation for attending training.

~~1.) Election commissioner training All compensation and reimbursement will be paid by the State Board to the County. Compensation shall be paid to the County Treasurer upon receipt from the county of the reporting form approved and provided by the State Board to the county for that purpose.~~

Attendance by county election coordinators is optional, and compensation for attending training will not be provided by the State Board.

### **§704 Noncompliance**

The State Board may withhold funding for county election commissioner training attendance from any county that fails to comply with the rules and guidelines developed by the State Board for the administration of election commissioner training, until all requirements are met to the satisfaction of the State Board.<sup>10</sup>

### **§705 Training Materials**

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<sup>8</sup> A.C.A. § 7-4-109(c)(1)

<sup>9</sup> A.C.A. § 7-4-109(c)(2)

<sup>10</sup> A.C.A. § 7-7-201(b)(3)

The State Board of Election Commissioners will provide training materials to each county election commissioner attending training.

DRAFT

State of Arkansas  
92nd General Assembly  
Regular Session, 2019

# A Bill

HOUSE BILL 1426

By: Representative M. Gray  
By: Senator J. Sturch

## For An Act To Be Entitled

AN ACT TO AMEND THE LAW CONCERNING SERVICE AS A POLL  
WORKER; TO PREVENT CONFLICTS OF INTEREST IN  
ELECTIONS; AND FOR OTHER PURPOSES.

## Subtitle

TO AMEND THE LAW CONCERNING SERVICE AS A  
POLL WORKER; AND TO PREVENT CONFLICTS OF  
INTEREST IN ELECTIONS.

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

SECTION 1. Arkansas Code § 7-5-202(a)(2), concerning service as an  
election official, deputy county clerk, or additional deputy, is amended to  
read as follows:

(2) A person shall not serve as an election official, ~~deputy~~  
~~county clerk, or additional deputy~~ if:

(A) The person is ~~married~~:

(i) Married to or related within the second degree  
of consanguinity to a candidate running for office in the election; ~~and~~

(ii) The spouse of a member of a county board of  
election commissioners; or

(iii) A county party chairman or his or her spouse;  
and

(B) Another person makes an objection to his or her  
service to the county board of election commissioners within ten (10)  
calendar days after posting the list of officials.

APPROVED: 2/28/19



State of Arkansas As Engrossed: H3/28/19 H3/29/19

92nd General Assembly

# A Bill

Regular Session, 2019

HOUSE BILL 1666

By: Representative Brown

By: Senator T. Garner

## For An Act To Be Entitled

AN ACT TO AMEND THE LAW CONCERNING ELECTION  
ADMINISTRATION AND PROCEDURES; TO AMEND THE LAW  
CONCERNING DUAL OFFICE HOLDING; AND FOR OTHER  
PURPOSES.

## Subtitle

TO AMEND THE LAW CONCERNING ELECTION  
ADMINISTRATION AND PROCEDURES; AND TO  
AMEND THE LAW CONCERNING DUAL OFFICE  
HOLDING.

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

SECTION 1. Arkansas Code § 7-4-102(a)(1), concerning the dates for  
election of county boards of election commissioners, is amended to read as  
follows:

(a)(1)(A) In January of each odd-numbered year following the election  
of county committee officers, members of the county board of election  
commissioners shall be elected by their respective county committees.

(B) A chair or secretary of a county political party shall  
not serve as a member of the county board of election commissioners.

SECTION 2. Arkansas Code § 7-4-107 is amended to read as follows:

7-4-107. Duties of county board of election commissioners — ~~Ballot  
boxes — Voting booths — Appointment of election officers.~~

(a) The county board of election commissioners shall ~~proceed to  
establish and allocate;~~





1           (1) Ensure compliance with all legal requirements relating to  
2 the conduct of elections;

3           (2) Exercise its duties consistently with the training and  
4 materials provided by the State Board of Election Commissioners;

5           (3) Allocate a sufficient number of secure ballot boxes in each  
6 precinct or if voting is conducted using pre-printed paper ballots for each  
7 polling site. The county board of election commissioners shall appoint based  
8 on the number of votes cast at that polling site in the immediately  
9 preceding;

10           (A) Preferential primary election or general election if  
11 the election for which the secure ballot boxes are prepared is a preferential  
12 primary election or general election; and

13           (B) Special election if the election for which the secure  
14 ballot boxes are prepared is a special election;

15           (4) Allocate sufficient components of a voting system approved  
16 for use under § 7-5-301 for each polling site based on the number of votes  
17 cast at that polling site in the immediately preceding: (A)

18 Preferential primary election or general election if the election for which  
19 the components are prepared is a preferential primary election or general  
20 election; and

21           (B) Special election if the election for which the  
22 components are prepared is a special election; and

23           (5) Appoint the requisite number of election officials at each  
24 site where voters present themselves to vote to ensure that there is a  
25 sufficient number of election officials at each site, based upon the votes in  
26 the immediately preceding comparable election.

27           (b)(1) ~~It shall be the duty of the~~ The county board of election  
28 commissioners to shall select and appoint a sufficient number of election  
29 officials for each polling site as provided by subsection (a) of this section  
30 and to perform the other duties prescribed not less than twenty (20) days  
31 preceding an election.

32           (2)(A) Each polling site shall have a minimum of two (2)  
33 election clerks, one (1) election judge, and one (1) election sheriff. ~~For a~~  
34 ~~regularly scheduled election, all~~

35           (B) The election judge shall serve as the poll supervisor.

36           (C)(i) All election officials at a polling site shall have

1 completed training under § 7-4-109, ~~and at least one (1) election official at~~  
2 ~~a polling site shall have attended election training coordinated by the State~~  
3 ~~Board of Election Commissioners within twelve (12) months prior to the~~  
4 ~~election within the twelve (12) months before the election.~~

5 (ii) The minority party election commissioner shall  
6 have the option to designate a number of election officials equal to one (1)  
7 less than the majority of election officials at each polling site, with a  
8 minimum of two (2) election officials at each polling site.

9 (iii) In the event that the county party  
10 representatives on the county board of election commissioners fail to agree  
11 upon any election official to fill an election post allotted to the  
12 respective party twenty (20) days before the election, the county board of  
13 election commissioners shall appoint the remaining election officials.

14 ~~(c) The county board of election commissioners shall certify to the~~  
15 ~~county court the per diem of election officials and the mileage of the~~  
16 ~~election official carrying the returns to the county election commissioners'~~  
17 ~~office for allowance.~~

18 ~~(d)~~ The county board of election commissioners may permit election  
19 officials to work half-day or split shifts at the polls at any election so  
20 long as the requisite number of election officials is always present.

21  
22 SECTION 3. Arkansas Code § 7-4-108 is amended to read as follows:

23 7-4-108. Absence of election officials – Filling vacancy.

24 (a) If any election official ~~shall be~~ is absent at the time fixed for  
25 the opening of the polls, ~~then the other election officials shall appoint~~  
26 ~~some person or persons having the qualifications prescribed by this act for~~  
27 ~~election officials to supply the vacancy; and if all of the officials shall~~  
28 ~~be absent, then the voters present shall elect as election officials persons~~  
29 ~~having the required qualifications. The county board of election~~  
30 ~~commissioners shall be notified of any vacancies and substitutions of~~  
31 ~~election officials.~~ the election judge shall immediately notify the county  
32 board of election commissioners of the vacancy.

33 (b) If the county board of election commissioners does not timely  
34 appoint a new election official, and less than three (3) election officials  
35 are present at the opening of the polls, the election judge present shall  
36 appoint one (1) or more qualified persons to act as an election official

1 until the county board of election commissioners appoints a new election  
2 official.

3 (c)(1) Except as provided in subdivision (c)(2), upon notification of  
4 the absent election official, at least one (1) member of the county board of  
5 election commissioners shall respond to the polling site and assist with the  
6 election until the new election official is appointed.

7 (2) If all three (3) of the members of the county board of  
8 election commissioners are assisting at other polling sites and the election  
9 judge does not timely appoint a qualified person, the other election  
10 officials present at the polling site shall appoint a qualified person to act  
11 as an election official until the county board of election commissioners  
12 appoints a new election official.

13  
14 SECTION 4. Arkansas Code § 7-4-115 is amended to read as follows:

15 7-4-115. Legislative intent.

16 Due to the ~~recent~~ United States Eighth Circuit Court of Appeals ruling  
17 in Jones v. Conway County, Arkansas, 143 F.3d 417 (8th Cir. 1998), the status  
18 of county election commissioners as either county officials or state  
19 officials has become unclear. Because of this lack of clarity, there has been  
20 much confusion as to whether or not county election commissioners should have  
21 been or currently are immune from suit under the state's policy of tort  
22 immunity. It is the intent of the General Assembly to clarify the official  
23 status of county election commissioners. Prior to July 30, 1999, county  
24 election commissioners were state officials and, as such, were immune from  
25 suit pursuant to Arkansas Constitution, Article 5, § 20, and § 19-10-305.  
26 Upon July 30, 1999, county election commissioners are hereby deemed to be  
27 county officials and are immune from suit pursuant to § 21-9-301.

28  
29 SECTION 6. Arkansas Code § 7-5-515(a), concerning preparation of  
30 voting machines, is amended to read as follows:

31 (a) Immediately upon the proper certification of candidates and  
32 questions, the county board of election commissioners shall oversee  
33 programming of the election, proof the ballots, prepare the voting machines,  
34 ~~oversee their programming,~~ and test and adjust the voting machines for the  
35 election.

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*/s/Brown*

**APPROVED: 4/12/19**