

1 **State of Arkansas**  
2 **79th General Assembly**  
3 **Regular Session, 1993**  
4 **By: Representative Wyrick**

# A Bill

**HOUSE BILL**

## For An Act To Be Entitled

8 "AN ACT TO AMEND ARKANSAS CODE § 7-5-413 AND § 7-5-416 TO  
9 CHANGE THE TIME FOR COUNTING ABSENTEE BALLOTS AND  
10 REQUIRING THE RESULTS NOT BE RELEASED UNTIL 8:00 P.M. ON  
11 ELECTION DAY; AND FOR OTHER PURPOSES."

## Subtitle

14 "AN ACT TO CHANGE THE TIME FOR COUNTING ABSENTEE BALLOTS  
15 AND DELAYING THE RELEASE OF THE RESULTS UNTIL 8:00 P.M. ON  
16 ELECTION DAY."

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

20 SECTION 1. Arkansas Code § 7-5-413 is hereby amended to read as  
21 follows:

22 "7-5-413. Voting machines - Discretionary use - Related duties.

23 (a) In any election in which voting machines are to be used in all or  
24 part of the election precincts, the appropriate authority charged with holding  
25 the election shall, within its discretion, determine by proper resolution or  
26 order whether or not voting machines shall be used for absentee voting by  
27 personal appearance at the election.

28 (b) If it is determined by that authority that voting machines shall be  
29 used for absentee voting by personal appearance, a voting machine or machines  
30 shall be placed in the office of the clerk who is to conduct the absentee  
31 voting for the election in accordance with this subchapter. The clerk shall  
32 follow the legal requirements for voting set forth in Arkansas Constitution,  
33 Amendment 51 insofar as applicable to absentee voting. Those persons entitled  
34 under the law to vote absentee by personal appearance at the clerk's office  
35 shall cast their votes on voting machines under the laws applicable to

1 absentee voting, and the clerk shall enter on a duplicate list the name of  
2 each voter at the time he votes.

3 (c) After the regular business hours, the clerk shall seal the machines  
4 at the close of each day's voting in the presence of authorized poll watchers,  
5 if any, and the seal shall be broken by the clerk in the presence of the  
6 authorized watchers, if any, the following morning when the voting begins.  
7 Voting absentee by machine will be concluded on the day before election day at  
8 the time the county clerk's office regularly closes. When absentee voting is  
9 concluded, the clerk shall lock and seal the machines.

10 (d) At 8:00 a.m. on election day, a set of judges and clerks for the  
11 machines used for absentee voting shall open the machines and canvass the vote  
12 in the manner provided for regular polling places. After the canvass has been  
13 made, the machines shall be locked and sealed and shall remain locked against  
14 voting for the same period as required for other machines used in the  
15 election. The results of the canvass shall be returned to the appropriate  
16 authority to be tabulated and canvassed with and in the same manner as the  
17 returns of other election precincts. The results shall not be released until  
18 8:00 p.m. on election day.

19 (e) Any candidate or political party may be present in person or by  
20 representative designated in writing during the progress of absentee voting  
21 and at the canvass of the results in any election for the purpose of  
22 determining whether or not the votes in any election are fairly and accurately  
23 cast and counted."

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25 SECTION 2. Arkansas Code § 7-5-416 is hereby amended to read as  
26 follows:

27 "7-5-416. Counting of ballots.

28 (a) The judges and clerks for absentee ballots shall meet in the office  
29 of the county clerk at 8:00 a.m on election day for the purpose of opening,  
30 canvassing, and counting the absentee ballots. Candidates may be present in  
31 person at any election, and in general or special elections candidates and  
32 political parties may be present by representative, designated in writing,  
33 during the opening, canvassing, and counting of the absentee ballots as herein  
34 provided.

35 (b) The opening, counting, and canvassing shall be conducted as

1 follows:

2           (1) One (1) of the judges shall open large envelopes one by one  
3 and as soon as he opens one, he shall read aloud from the statement in the  
4 larger envelope the name of the voter and the voting precinct in which he  
5 claims to be a legal voter;

6           (2) As each large envelope is opened and the name of the voter is  
7 read, the clerks for the absentee box shall list in duplicate the name and  
8 voting precinct of the voter and shall write on the stub end of the ballot  
9 taken from the large envelope, the number of the voter taken from this list of  
10 voters;

11           (3) If no challenge is made and the statement is in proper form,  
12 the judge shall, without opening the small envelope containing the ballot,  
13 remove the small envelope and place it in the ballot box without marking it in  
14 any way;

15           (4) The one inch (1") ballot stub ends shall be placed in a  
16 separate ballot box designated for them and retained as are other ballot stub  
17 ends;

18           (5) After all of the large envelopes have been opened and a list  
19 has been made in duplicate of the name and voting precinct of the voters, as  
20 required herein, the judges and clerks of the absentee box shall preserve all  
21 the statements of voters and deliver them to the county clerk who shall file  
22 and keep them for six (6) months after the election, and the statements shall  
23 be made available for public inspection during regular business hours;

24           (6) When all of the small envelopes containing the ballots have  
25 been placed in the ballot box and the one inch (1") stub ends have been  
26 deposited in a separate box, the ballot box shall be shaken thoroughly so as  
27 to mix the ballots;

28           (7) After the shaking of the box, the ballot box shall be opened  
29 and the judges shall open the small envelopes, remove the ballots, and count  
30 the votes cast in the same manner as votes cast in a regular voting precinct  
31 are counted. The results of canvassing and counting of absentee ballots shall  
32 not be released until 8:00 p.m. on election day.

33           (c) If any person casting an absentee ballot dies before the polls open  
34 on election day, his vote shall not be counted.

35           (d) It is the intent of this section to permit the judges and clerks

1 for absentee ballots to meet and open the large envelope and make a list in  
2 duplicate of the name and voting precinct of each voter casting an absentee  
3 ballot, to write on the stub end of the ballot taken from the large envelope  
4 the number of the voter taken from the list of voters, and to deposit the  
5 small envelope containing the ballot in the ballot box and to deposit the one  
6 inch (1") ballot stub ends in another ballot box, prior to 8:00 a.m. on  
7 election day. It is further the specific intent of this section that none of  
8 the absentee ballots shall be opened and counted prior to 8:00 a.m. on  
9 election day."

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11           SECTION 3. All provisions of this act of general and permanent nature  
12 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code  
13 Revision Commission shall incorporate the same in the Code.

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15           SECTION 4. If any provisions of this act or the application thereof to  
16 any person or circumstance is held invalid, the invalidity shall not affect  
17 other provisions or applications of the act which can be given effect without  
18 the invalid provisions or application, and to this end the provisions of this  
19 act are declared to be severable.

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21           SECTION 5. All laws and parts of laws in conflict with this act are  
22 hereby repealed.

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