

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 S3/25/03

# A Bill

HOUSE BILL 2201

5 By: Representative King  
6  
7

## For An Act To Be Entitled

9 AN ACT TO CLARIFY THE PRESENCE OF CANDIDATES AND  
10 DESIGNATED POLL WATCHERS AT THE CASTING AND  
11 COUNTING OF BALLOTS; TO DEFINE THE RIGHTS AND  
12 RESPONSIBILITIES OF A POLL WATCHER; AND FOR OTHER  
13 PURPOSES.  
14

## Subtitle

15 AN ACT TO CLARIFY THE PRESENCE OF  
16 CANDIDATES AND DESIGNATED POLL WATCHERS  
17 AT THE CASTING AND COUNTING OF BALLOTS;  
18 TO DEFINE THE RIGHTS AND  
19 RESPONSIBILITIES OF A POLL WATCHER.  
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23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
24

25 SECTION 1. Arkansas Code § 7-5-312 is amended to read as follows:

26 7-5-312. Challenge of voter's ballot by poll watchers, candidates, or  
27 designees.

28 *(a)(1) During the progress of any election in this state, any*  
29 *candidate in person or by representative designated in writing shall have the*  
30 *right to be present within the polling site or room so as to observe and*  
31 *ascertain the identity of those persons presenting themselves to vote for the*  
32 *purpose of challenging any voter who appears for the purpose of casting a*  
33 *ballot. The document designating a representative shall be sufficient if it*  
34 *contains the signature of the candidate and states that the candidate*  
35 *designates the person as a representative and is notarized by a notary*  
36 *attesting that the signature is that of the candidate. No additional*



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~~requirement shall be imposed for the sufficiency of the document~~, any group seeking the passage or defeat of a measure on the ballot by representative designated in writing, and any political party with a candidate on the ballot by representative designated in writing may:

(A) Have only one (1) representative present at any one (1) time at each location within a polling site where voters identify themselves to election officials, so as to observe and ascertain the identity of those persons presenting themselves to vote for the purpose of challenging any voter who appears for the purpose of casting a ballot; and

(B) Have only one (1) representative present at any one (1) time at each location within the absentee ballot processing site where absentee ballots are processed, so as to observe and ascertain the identity of absentee voters for the purpose of challenging any absentee vote.

(2) The document designating a representative of a candidate, designating a representative of a group seeking the passage or defeat of a measure on the ballot, or designating a representative of a political party with a candidate on the ballot shall be presented by the poll watcher to the election official at the polling or counting location in the following form:

POLL WATCHER AUTHORIZATION FORM

Representative of a Candidate

I, \_\_\_\_\_, state that I am a candidate for the office of \_\_\_\_\_ in the \_\_\_\_\_ election. I further state that \_\_\_\_\_ is designated by me as my representative at the election for the purpose of Arkansas Code §§ 7-5-312, 7-5-316, 7-5-416, 7-5-417, and 7-5-615 in precinct \_\_\_\_\_ in \_\_\_\_\_ County, Arkansas.

Representative of a Group

I, \_\_\_\_\_, state that I represent the \_\_\_\_\_ group which is seeking



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2 (3) The poll watcher rights and responsibilities shall be printed  
3 on the back of the poll watcher authorization form as follows:

4  
5 POLL WATCHER RIGHTS AND RESPONSIBILITIES

6  
7  
8 A poll watcher may be:

- 9 • A candidate in person or by representative designated by a candidate;  
10 • A representative designated by any group seeking passage or defeat of a  
11 measure on the ballot; or  
12 • A representative of a party with a candidate on the ballot.

13  
14 Official recognition of poll watchers:

- 15 • Only one (1) poll watcher per candidate, group, or party at any one  
16 time may be officially recognized as a poll watcher at each location  
17 within a polling site where voters identify themselves to election  
18 officials;  
19 • Only one (1) poll watcher per candidate, group, or party at any one  
20 time may be officially recognized as a poll watcher at each location  
21 within the absentee ballot processing site where absentee ballots are  
22 processed;  
23 • Only one (1) poll watcher per candidate or party at any one time may be  
24 officially recognized as a poll watcher at the counting of the ballots;  
25 and  
26 • Poll watchers must display a valid affidavit in the form of a “Poll  
27 Watcher Authorization Form”.

28  
29 Poll watchers may:

- 30 • Observe the election officials;  
31 • Stand close enough to the precinct voter registration lists so as to  
32 hear the voter’s name and observe the voter’s signature;  
33 • Compile lists of persons voting;  
34 • Challenge ballots upon notification to an election official before the  
35 ballot is issued to the voter and upon completing a “Challenged Ballot  
36 Form”;

- 1 • Call to the attention of the election sheriff any occurrence believed  
2 to be an irregularity or violation of election law. The poll watcher  
3 may not discuss the occurrence unless the election sheriff invites the  
4 discussion; and
- 5 • Be present at the opening, processing, and canvassing of absentee  
6 ballots for the purpose of challenging the vote in the manner provided  
7 by law for personal voting challenges.

8

9 Poll watchers representing a candidate or political party may:

- 10 • Remain at the polling site after the poll closes if ballots are counted  
11 at the poll, be present at the counting of votes by electronic  
12 tabulation equipment at a centralized location, and be present at the  
13 counting of absentee ballots for the purpose of witnessing the counting  
14 of ballots by election officials; and
- 15 • Upon request made to an election official, inspect any or all ballots  
16 at the time the ballots are being counted.

17

18 Poll watchers may not:

- 19 • Be within six feet (6') of any voting machine or booth used by voters to  
20 cast their ballot;
- 21 • Electioneer inside the polling site or within one hundred feet (100') of  
22 the primary exterior entrance used by voters to the building containing  
23 the polling site;
- 24 • Speak to any voter or in any way attempt to influence a voter inside  
25 the polling site or within one hundred feet (100') of the primary  
26 exterior entrance used by voters to the building containing the polling  
27 site; or
- 28 • Disrupt the orderly conduct of the election.

29

30 (b)(1) When the ballot of any voter is thus challenged, it shall be  
31 treated as a provisional ballot, and it shall be the duty of the election  
32 officials in the election precinct to make and retain a list of the names of  
33 all persons so challenged, and the following procedure shall be followed:

34 (A) The voter shall separate his marked ballot and ballot  
35 stub;

36 (B) The voter shall place the ~~challenged~~ ballot in a

1 single ~~challenged~~ provisional ballot envelope and seal the envelope; and

2 (C) The voter shall place the ballot stub and the sealed  
3 ~~challenged~~ provisional ballot envelope and challenge form in a ~~challenged~~  
4 provisional voter envelope.

5 (2) ~~The All provisional ballots of all challenged persons~~ shall  
6 be preserved, secured, and separated from the remaining ballots to the end  
7 that the right of any person to vote may be determined later by the county  
8 board of election commissioners or the court in which an election contest may  
9 thereafter be filed.

10 (c) The county board shall, prior to certification of the results of  
11 the election, determine whether the ~~challenged~~ provisional ballots are valid.  
12 If, upon examination of any ~~challenged~~ provisional ballots, the county board  
13 suspects that a violation of the election laws has occurred, the county board  
14 may refer the matter to the prosecuting attorney.

15 ~~(d)(1) Any group seeking the passage or defeat of a measure on the~~  
16 ~~ballot may designate a person or persons to be present within the polling~~  
17 ~~site or room to observe and ascertain the identity of those persons~~  
18 ~~presenting themselves to vote for the purpose of challenging any voter who~~  
19 ~~appears for the purpose of casting a ballot.~~

20 ~~(2) Only one (1) representative of a candidate or issue shall be~~  
21 ~~allowed to be present at any one (1) time.~~

22 ~~(3) Any group wishing to designate a representative shall file a~~  
23 ~~statement with the county clerk stating whether the group is for or against a~~  
24 ~~measure and naming the persons authorized to represent the group.~~

25 ~~(4) A representative of the group seeking to be present within~~  
26 ~~the polling site or room shall present a copy of the document with a~~  
27 ~~certificate from the county clerk stating that the document has been filed.~~  
28

29 SECTION 2. Arkansas Code § 7-5-316(a), concerning the presence of the  
30 candidate at the polls, is amended to read as follows:

31 (a) After the polls have been closed, the counting of votes shall be  
32 open to the public, and any candidate or political party may be present in  
33 person or by representative designated in writing pursuant to § 7-5-312 at  
34 the count of the ballots in any election for the purpose of determining  
35 whether or not the ballots in any election precinct are fairly and accurately  
36 counted. The candidate, political party, or authorized representative of the

1 candidate or political party shall be permitted, upon a request being made to  
 2 an election official, to inspect any or all ballots at the time the ballots  
 3 are being counted.

4  
 5 SECTION 3. Arkansas Code § 7-5-416(a), concerning counting absentee  
 6 ballots, is amended to read as follows:

7 (a)(1) The election officials for absentee ballots shall meet in the  
 8 courthouse in a place designated by the county board of election  
 9 commissioners on election day for the purpose of processing absentee ballots.

10 (2) The county board shall post at the county clerk's office the  
 11 time and location of the opening, processing, canvassing, and counting of  
 12 absentee ballots.

13 (3) The county clerk shall forward the absentee ballot  
 14 applications sorted alphabetically or by precinct to the election officials  
 15 for absentee ballots.

16 (4) ~~Candidates may be present in person at any election, and in~~  
 17 ~~general or special elections, The counting of absentee ballots shall be open~~  
 18 ~~to the public, and~~ candidates and political parties may be present in person  
 19 or by a representative designated in writing pursuant to § 7-5-312 during the  
 20 opening, processing, canvassing, and counting of the absentee ballots as  
 21 provided in this subchapter.

22 (5) ~~No election results may be printed or released~~ absentee or  
 23 early votes shall be counted prior to the closing of the polls.

24  
 25 SECTION 4. Arkansas Code § 7-5-417(a), concerning challenging absentee  
 26 votes, is amended to read as follows:

27 (a) When the name and voting precinct of a voter is read by the  
 28 election official, any candidate or qualified poll watcher, ~~candidate, or~~  
 29 ~~candidate's representative~~ pursuant to § 7-5-312, may challenge the vote in  
 30 the manner provided by law for personal voting challenges, and the election  
 31 officials shall receive the evidence or testimony to establish the challenge.

32  
 33 SECTION 5. Arkansas Code § 7-5-615(a), concerning the tabulation of  
 34 votes, is amended to read as follows:

35 (a) The counting of votes by electronic tabulating equipment shall be  
 36 open to the public, and any candidate or ~~his designated representative~~

1 political party may be present in person or by representative designated in  
2 writing pursuant to § 7-5-312 and shall have the same right to view the  
3 counting as is authorized by law for viewing the counting of paper ballots.  
4

5 */s/ King*  
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