

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

A Bill

HOUSE BILL 2313

4
5 By: Representative King
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For An Act To Be Entitled

8
9 AN ACT CONCERNING COMPLAINTS OF ELECTION LAW
10 VIOLATIONS; AND FOR OTHER PURPOSES.
11

Subtitle

12
13 AN ACT CONCERNING COMPLAINTS OF ELECTION
14 LAW VIOLATIONS.
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17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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19 SECTION 1. Arkansas Code Title 7, Chapter 4, Subchapter 1 is amended
20 to add an additional section to read as follows:

21 7-4-116. Complaints of election law violations.

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

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

28 (B) For any matters relating to campaign finance and
29 disclosure laws that the Arkansas Ethics Commission shall have the power and
30 authority to enforce according to §§ 7-6-217 and 7-6-281.

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

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

35 (4) A complaint must clearly state the alleged election
36 irregularity or illegality, when and where the alleged activity occurred,



1 supporting facts surrounding the allegations, and the desired resolution.

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

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

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

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

12 (2) The board may determine that:

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

15 (B) An investigation is necessary.

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

18 (4)(A) If the board determines that an investigation is
 19 necessary, the board shall provide a copy of the complaint to the party
 20 against 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.

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