

1 State of Arkansas
2 88th General Assembly
3 Regular Session, 2011
4
5 By: Representative Lea

A Bill

HOUSE BILL 1417

For An Act To Be Entitled

AN ACT CONCERNING THE CONDUCT OF NONPARTISAN
MUNICIPAL ELECTIONS; AND FOR OTHER PURPOSES.

Subtitle

CONCERNING THE CONDUCT OF NONPARTISAN
MUNICIPAL ELECTIONS.

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

SECTION 1. Arkansas Code § 7-5-106 is amended to read as follows:
7-5-106. Runoff elections for county ~~and municipal~~ officers.

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

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

(c)(1) If there is one (1) candidate who receives the highest number



1 of votes, but not a majority of the votes, and two (2) other candidates
 2 receive the same number of votes for the next highest number of votes cast, a
 3 tie shall be deemed to exist between the two (2) candidates.

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

7 (d) If one (1) of the two (2) candidates who received the highest
 8 number of votes for an office but not a majority in the general election
 9 withdraws prior to certification of the result of the general election, the
 10 remaining candidate who received the most votes at the general election shall
 11 be declared elected to the office and there shall be no general election
 12 runoff.

13 (e)(1) The person receiving the majority of the votes cast for the
 14 office at the runoff general election shall be declared elected.

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

20 ~~(f)(1) For the purposes of this section, the term "municipal officers"~~
 21 ~~shall include officers of cities of the first class and cities of the second~~
 22 ~~class and incorporated towns and shall include aldermen, members of boards of~~
 23 ~~managers, or other elective municipal offices elected by the voters of the~~
 24 ~~entire municipality or from wards or districts within a municipality.~~

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

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

30 ~~(g)(f)~~ The provisions of this section are intended to be in addition
 31 to and supplemental to the laws of this state pertaining to the election of
 32 county ~~and municipal~~ officers at general elections.

33
 34 SECTION 2. Arkansas Code § 14-42-206 is amended to read as follows:
 35 14-42-206. Municipal elections -- Nominating petitions.

36 (a)(1) The city or town council of any city or town with the mayor-

1 council form of government, by resolution passed before January 1 of the year
2 of the election, may request the county party committees of recognized
3 political parties under the laws of the state to conduct party primaries for
4 municipal offices for the forthcoming year.

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

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

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

14 (b)(1)(A) If a city or town council does not request party primaries
15 for municipal offices under subsection (a) of this section, the general
16 elections for municipal offices shall be held on the same dates and at the
17 same times and places as provided by law for preferential primary elections.

18 (B)(i) The names of candidates for municipal offices shall
19 be included on the ballots of the political parties and shall be designated
20 as nonpartisan municipal office candidates. However, separate ballots
21 containing the names of nonpartisan municipal candidates shall be prepared
22 and shall be made available to voters requesting the same.

23 (ii) The names of nonpartisan municipal office
24 candidates may be included on a ballot with the names of nonpartisan judicial
25 candidates.

26 (C) A voter shall not be required to vote in a political
27 party's preferential primary in order to be able to vote in nonpartisan
28 judicial elections.

29 (2)(A) A person shall not be elected to a nonpartisan municipal
30 office without receiving a majority of the votes cast at the election for the
31 office.

32 (B) In any nonpartisan municipal election in which a
33 person does not receive a majority of the votes cast, the two (2) candidates
34 receiving the highest and next highest number of votes shall be certified to
35 a runoff election that shall be held on the same date and at the same times
36 and places as the November general election.

1 (C) The names of the candidates in a nonpartisan municipal
2 runoff election shall be placed on the same ballots used for the November
3 general elections.

4 ~~(b)~~(c)(1) Any person desiring to become ~~an independent~~ a nonpartisan
5 candidate for municipal office in cities and towns with the mayor-council
6 form of government shall file not more than ninety (90) nor less than seventy
7 (70) days prior to the ~~general~~ preferential primary election by 12:00 noon
8 with the county clerk the petition of nomination in substantially the
9 following forms:

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

12
13
14 “PETITION OF NOMINATION

15 We, the undersigned qualified electors of the city (town) of,
16 Arkansas, being in number not less than ten (10) for incorporated towns and
17 cities of the second (2nd) class, and not less than thirty (30) for cities of
18 the first (1st) class, do hereby petition that the name of _____ be placed on
19 the ballot for the office of _____ at the next election of municipal
20 officials in 20 ____.

21
22
23 Printed

24 Name Signature Street Date of Birth Date of Signing”

25
26
27 (B) For candidates for alderman elected by ward in cities
28 of the first class and cities of the second class, the nominating petitions
29 shall be signed only by qualified electors of the ward in the following
30 manner:

31
32 “PETITION OF NOMINATION

33 We, the undersigned qualified electors of Ward of the city of
34 _____, Arkansas, being in number not less than ten (10) for incorporated
35 towns and cities of the second (2nd) class, and not less than thirty (30) for
36 cities of the first (1st) class, do hereby petition that the name of _____ be

1 placed on the ballot for the office of Alderman, Ward _____, position _____,
2 of the next election of municipal officials in 20 _____.

3
4
5 Printed

6 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
13 “PETITION OF NOMINATION

14 We, the undersigned qualified electors of the city of,
15 Arkansas, being in number not less than ten (10) for incorporated towns and
16 cities of the second (2nd) class, and not less than thirty (30) for cities of
17 the first (1st) class, do hereby petition that the name of _____ be placed on
18 the ballot for the office of Alderman, Ward _____, position _____, of the
19 next election of municipal officials in 20 _____.

20
21
22 Printed

23 Name Signature Street Address Date of Birth Date of Signing”
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25

26 (2)(A) ~~An independent~~ A nonpartisan candidate for municipal
27 office may qualify by a petition of not fewer than ten (10) electors for
28 incorporated towns and cities of the second class and not fewer than thirty
29 (30) electors for cities of the first class of the ward or city in which the
30 election is to be held.

31 (B) The county clerk shall determine within ten (10) days
32 of filing whether the petition contains the names of a sufficient number of
33 qualified electors.

34 (C) The county clerk promptly shall notify the candidate
35 of the result.

36 (3) ~~Independent~~ Nonpartisan candidates for municipal office

1 shall file a political practices pledge and an affidavit of eligibility at
2 the time of filing their petitions.

3 (4)(A) ~~An independent~~ A nonpartisan candidate shall state the
4 position, including the position number, if any, on his or her petition.

5 (B) When a nonpartisan candidate has identified the
6 position sought on the notice of candidacy, the nonpartisan candidate shall
7 not be allowed to change the position but may withdraw a notice of candidacy
8 and file a new notice of candidacy designating a different position before
9 the deadline for filing.

10 (5) The sufficiency of a petition filed under this section may
11 be challenged in the same manner as election contests under § 7-5-801 et seq.

12 ~~(6) A person who has been defeated in a party primary shall not~~
13 ~~file as an independent candidate in the general election for the office for~~
14 ~~which he or she was defeated in the party primary.~~

15 ~~(c)(1)(A)(d)(1) If no candidate receives a majority of the votes cast~~
16 ~~in the general election, the two (2) candidates receiving the highest number~~
17 ~~of votes cast for the office to be filled shall be the nominees for the~~
18 ~~respective offices, to be voted upon in a runoff election pursuant to § 7-5-~~
19 ~~106.~~

20 ~~(B) In any case, except~~ Except for the office of mayor, in
21 which only one (1) candidate has filed and qualified for the office, the
22 candidate shall be declared elected and the name of the person shall be
23 certified as elected without the necessity of putting the person's name on
24 the ~~general~~ preferential primary election ballot for the office.

25 (2) If the office of mayor is unopposed, then the candidate for
26 mayor shall be printed on the ~~general~~ preferential primary election ballot
27 and the votes for mayor shall be tabulated as in all contested races.

28 ~~(d)(1)(A) The governing body of any city of the first class, city of~~
29 ~~the second class, or incorporated town may enact an ordinance requiring~~
30 ~~independent candidates for municipal office to file petitions for nomination~~
31 ~~as independent candidates with the county clerk.~~

32 ~~(i) No earlier than twenty (20) days prior to the~~
33 ~~preferential primary election; and~~

34 ~~(ii) No later than 12:00 noon on the day before the~~
35 ~~preferential primary election.~~

36 ~~(B) The governing body may establish this filing deadline~~

1 ~~for municipal offices even if the municipal offices are all independent or~~
2 ~~otherwise nonpartisan.~~

3 ~~(2)(A) The ordinance shall be enacted no later than ninety (90)~~
4 ~~days prior to the filing deadline.~~

5 ~~(B) The ordinance shall be published at least one (1) time~~
6 ~~a week for two (2) consecutive weeks immediately following adoption of the~~
7 ~~ordinance in a newspaper having a general circulation in the city.~~

8 (e) Nothing in this section shall repeal any law pertaining to the
9 city administrator form of government or the city manager form of government.

10 (f) This section does not apply in any respect to the election of
11 district judges.

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