

1 **State of Arkansas**  
2 **80th General Assembly**  
3 **Regular Session, 1995**  
4 **By: Representative Schexnayder**

# **A Bill**

**ACT 901 OF 1995**  
**HOUSE BILL 1883**

## **For An Act To Be Entitled**

8 "AN ACT TO AMEND VARIOUS SECTIONS OF ARKANSAS CODE TITLE 7  
9 TO PROVIDE FOR STATE SUPPORTED POLITICAL PARTY PRIMARY  
10 ELECTIONS; TO PROVIDE THAT THE STATE BOARD OF ELECTION  
11 COMMISSIONERS HAS THE PRIMARY DUTY FOR CONDUCTING SUCH  
12 ELECTIONS; TO PROVIDE THE DUTIES OF COUNTY BOARDS OF  
13 ELECTION COMMISSIONERS AND POLITICAL COMMITTEES CONCERNING  
14 POLITICAL PARTY PRIMARY ELECTIONS; TO PROVIDE FOR JOINT  
15 PRIMARIES; TO REPEAL ARKANSAS CODE 7-7-501 THROUGH 7-7-504  
16 CONCERNING JOINT PRIMARIES; AND FOR OTHER PURPOSES."

## **Subtitle**

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19  
20 "AN ACT TO PROVIDE FOR STATE SUPPORTED  
21 POLITICAL PARTY PRIMARY ELECTIONS."

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

25  
26 SECTION 1. Arkansas Code 7-3-101 is amended to read as follows:

27 "7-3-101. Duties and powers.

28 Subject to the provisions of this act and other applicable laws of  
29 this state, organized political parties shall:

- 30 (1) Have the right to prescribe the qualifications of their own  
31 membership;  
32 (2) Prescribe the qualifications for voting in their party  
33 primaries;  
34 (3) Establish rules and procedures for their own organization."  
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SECTION 2. Arkansas Code 7-7-201 is amended to read as follows:

"7-7-201. Law governing primary elections.

(a) The cost of political party primaries shall be borne by the state and shall be paid from an appropriation made to the state board of election commissioners for that purpose.

(b)(1) The state board of election commissioners shall have the primary responsibility for conducting political party primaries in this state. Within each county, the political party primary elections shall be conducted by the county board of election commissioners, under the direction of the state board of election commissioners. The state board of election commissioners shall have authority to adopt rules for the administration of primary elections consistent with the provisions of this chapter.

(2) Each political party shall be responsible for determining the qualifications of candidates seeking nomination by the political party, provide necessary applications for candidacy, accept and process the applications, and determine the order of its ballot.

(c) All political party primary elections shall be conducted in conformity with the provisions of this act, and these elections are declared to be legal elections.

(d) In cases of circumstances or procedures which may arise in connection with any primary election for which there is no provision of this act governing the circumstances or procedures, they shall be governed by the general election laws of this state or by party rules if there is no applicable general election law."

SECTION 3. Arkansas Code 7-7-202 is amended to read as follows:

"7-7-202. Preferential and general primaries - When required.

(a) Whenever any political party shall, by primary election, select party nominees as candidates at any general election for any United States, state, district, county, township, or municipal office, there shall be held a preferential primary election and a general primary election on the respective dates provided in § 7-7-203(a) and (b).

(b) A general primary election for a political party shall not be held if there are no races where three (3) or more candidates qualify for the same

1 office or position as provided in subsection (c) of this section, unless a  
2 general primary election is necessary to break a tie vote for the same office  
3 or position at the preferential primary.

4 (c) If there are no races where three (3) or more candidates qualify for  
5 the same office or position, only the preferential primary election shall be  
6 held for the political party. If all nominations have been determined at the  
7 preferential primary election, or by withdrawal of candidates as provided in §  
8 7-7-304(a) and (b), the general primary election shall not be held."

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10 SECTION 4. Arkansas Code 7-7-203 is amended to read as follows:

11 "7-7-203. Dates.

12 (a) The general primary election shall be held on the second Tuesday in  
13 June preceding the general election.

14 (b) The preferential primary election shall be held on the Tuesday  
15 three (3) weeks prior to the general primary election.

16 (c) Party pledges, if any, and political practice pledges for primary  
17 elections shall be filed, and any filing fees of a political party shall be  
18 paid, during regular office hours in the period beginning at 12:00 noon on the  
19 third Tuesday in March and ending at 12:00 noon on the fourteenth day  
20 thereafter, before the preferential primary election. Party pledges, if any,  
21 and political practice pledges shall be filed, and filing fees of a political  
22 party for special primary elections shall be paid, on or before the deadline  
23 established by proclamation of the Governor. Pledges and filing fees of the  
24 political party for a new political party shall be filed and paid as provided  
25 in subsection (g) of this section. However, this subsection does not apply to  
26 preferential presidential primary candidates.

27 (d) No later than forty (40) days before the preferential primary  
28 election, the chairman and secretary of the state committee of the political  
29 party shall certify to the various county committees and the various county  
30 boards of election commissioners the names of all candidates who have  
31 qualified with the state committee for election by filing the party pledge and  
32 paying the filing fees of the political party within the time required by law.

33 (e) Judges and clerks of primary elections shall be selected by the  
34 county board of election commissioners *in the same manner as in the general*  
35 *election.*

1 (f) The boundaries of voting precincts in primary elections, and the  
2 voting places therein, shall be established at least thirty (30) days  
3 preceding any primary election, and any alteration or change therein made  
4 subsequent to that date shall be void.

5 (g) Any group of voters desiring to form a new political party may do  
6 so by filing a petition with the Secretary of State. The petition shall  
7 contain the signatures of qualified electors of this state equal in number to  
8 at least three percent (3%) of the total vote cast for the Office of Governor  
9 or nominees for presidential electors, whichever is less, at the last  
10 preceding election. The petitions shall be filed with the Secretary of State  
11 no later than 12:00 noon on the first Tuesday in the fourth calendar month  
12 before the preferential primary election. The petitions shall be circulated  
13 during the period beginning one hundred twenty (120) calendar days prior to  
14 the deadline for filing the petitions with the Secretary of State. However,  
15 this subsection does not apply to preferential presidential primary elections.

16 (h) The county board of election commissioners shall convene, at the  
17 time specified in the notice to the members given by the chairman of the  
18 county board of election commissioners, no earlier than ten (10) calendar days  
19 and no later than fourteen (14) calendar days after each primary election for  
20 the purpose of canvassing the returns and certifying the election results. If  
21 no time is specified for the meeting of the board, the meeting shall be at  
22 5:00 p.m.

23 (i) The county convention of a political party holding a primary  
24 election shall be held on the first Monday following the date of the general  
25 primary.

26 (j) (1) The county board of election commissioners shall certify to the  
27 county clerk and the county committee a list of all duly nominated candidates  
28 for county, township, and municipal offices, *and the political parties county*  
29 *committee members and delegates.*

30 (2) At the same time, the county board of election commissioners  
31 shall certify to the state board of election commissioners and the secretary  
32 of the state committee the results of the contests for all United States,  
33 state, and district offices. Immediately after ascertaining the results for  
34 all United States, state, and district offices, the state board of election  
35 commissioners shall certify to the Secretary of State and the state committee

1 a list of all duly nominated candidates for the offices.

2 (k) (1) The Secretary of State shall, at least sixty (60) days prior to  
3 the date of the general election, notify by registered mail the chairman and  
4 secretary of the state committee of the respective political parties that a  
5 certificate of nomination is due for all duly nominated candidates for United  
6 States, state, and district offices in order that the candidate's name be  
7 placed on the ballot of the general election. The state committee shall issue  
8 certificates of nomination to all duly nominated candidates for United States,  
9 state, and district offices, who shall file the certificates with the  
10 Secretary of State at least forty-five (45) days but not more than fifty-five  
11 (55) days prior to the general election. However, if the chairman and  
12 secretary of the state committee of the respective political parties are not  
13 properly notified as directed by this section, the failure of a candidate to  
14 file a certificate of nomination shall not prevent that candidate's name from  
15 being placed on the ballot of the general election.

16 (2) Each county clerk shall, at least sixty (60) days prior to  
17 the date of the general election, notify by registered mail the chairman and  
18 secretary of the county committee of the respective political parties that a  
19 certified list of all duly nominated candidates for county, township, and  
20 municipal offices is due and shall be filed with the county board of election  
21 commissioners and the county clerk in order that the candidates' names be  
22 placed on the ballot for the general election. The county committee shall  
23 issue the certified list on behalf of those duly nominated candidates and  
24 submit the certified list to the county board of election commissioners and  
25 the county clerk at least forty-five (45) days but not more than fifty-five  
26 (55) days prior to the general election. However, if the chairman and  
27 secretary of the county committee of the respective political parties are not  
28 properly notified as directed by this section, the failure of a certified list  
29 to be filed shall not prevent any candidate's name from being placed on the  
30 ballot of the general election."

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32 SECTION 5. Arkansas Code 7-7-301 is amended to read as follows:

33 "7-7-301. Party pledges and party filing fees.

34 (a) A political party may impose a filing fee for candidates seeking  
35 nomination by that party. The filing fee for county, municipal, and township

1 offices shall be fixed by the county committee, as authorized by the state  
2 executive committee. For all other races the filing fee shall be established  
3 by the state executive committee. On or before the time provided in §  
4 7-7-203(c), all candidates at primary elections of political parties shall  
5 file any pledge required by such party and shall pay the party filing fees  
6 required by the party, as follows:

7           (1) Candidates for United States Senator, Representative in  
8 Congress, and all state offices shall file the pledge and pay the party filing  
9 fees with the secretary of the state committee of the political party or his  
10 designated agent;

11           (2) Candidates for district offices, including, but not limited  
12 to, the offices of State Representative and State Senator, shall file the  
13 pledge with the secretary of the state committee of the political party or his  
14 designated agent and pay the party filing fees with the secretary of the state  
15 committee of the political party or his designated agent;

16           (3) All candidates for county, municipal, and township offices  
17 and candidates for county committeeman and delegates to the county convention  
18 shall file the pledge and pay the party filing fees with the secretary of the  
19 county committee of the political party.

20           (b)(1) Before the name of any person shall appear on the primary ballot  
21 of a political party as a candidate for any local, state, or federal office,  
22 the secretary of the county committee or the secretary of the state committee,  
23 as the case may be, of the political party must make an affirmative  
24 determination that the person complies with the eligibility requirements of  
25 the office.

26           (2) The secretary of the county committee or state committee, as  
27 the case may be, shall require an affidavit of eligibility from the candidate,  
28 and the secretary may make such independent investigation as he deems  
29 necessary to determine the eligibility of the candidate to serve in the office  
30 he seeks, including the power to compel the person to answer interrogatories.  
31 The affidavit of eligibility shall be filed along with the filing fee and  
32 party pledge, and the investigation concerning the eligibility shall be  
33 concluded within two (2) weeks after the filing deadline for nomination.

34           (c) The county clerk shall not accept for filing the political  
35 practices pledge of any candidate for nomination by a political party to any

1 county office, nor shall the Secretary of State accept for filing the  
2 political practice pledge of any candidate for nomination by a political party  
3 to any district office, unless the candidate first furnishes written evidence  
4 of payment of all party filing fees required by the political party for  
5 candidates for the office of which the person is seeking nomination and  
6 written evidence of the filing of all party pledges required by the political  
7 party, if any. Written evidence shall mean a written statement or receipt  
8 signed by the secretary or chairman of the county committee or the state  
9 committee, as the case may be, of the political party evidencing payment of  
10 the fees and filing of the party pledge, if any, required by the political  
11 party.

12 (d) Any candidate who shall fail to file the party pledge and pay the  
13 party filing fee at the time and in the manner as provided in this section  
14 shall not have his name printed on the ballot at any primary election.

15 (e) The names of candidates who file with the state committee as  
16 provided in this section shall be certified to the various county committees  
17 and the various county boards of election commissioners in the manner and at  
18 the time provided in § 7-7-203(d)."

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20 SECTION 6. Arkansas Code 7-7-302 is amended to read as follows:

21 "7-7-302. Selection of primary election officers.

22 The judges, clerks, and other officials of primary elections shall be  
23 selected in the same manner as for general elections and shall be subject to  
24 the same requirements as provided for general elections. "

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26 SECTION 7. Arkansas Code 7-7-303 is amended to read as follows:

27 "7-7-303. Precincts - Boundaries - Policing.

28 (a) The election precincts in all political party primary elections  
29 shall be the same as established by the county board of election commissioners  
30 for general elections.

31 (b)(1) The county board of election commissioners shall provide for the  
32 preservation of order at all primary election precincts and shall allow no  
33 crowd to collect at the polling place nearer than authorized by law.

34 (2) No person charged with the duty of preserving order at the  
35 polling place shall in any manner influence or endeavor to influence any

1 person in casting his vote.

2 (3) No person who is a public officeholder, candidate for office,  
3 or deputy of a public officer shall be eligible to serve as an officer to keep  
4 order at any primary election polling place.

5 (4) Persons appointed as election sheriffs to keep order at  
6 polling places in primary elections shall have the authority of a police  
7 officer in keeping order and enforcing the laws of this state with respect to  
8 polling places in primary elections."

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10 SECTION 8. Arkansas Code 7-7-304 is amended to read as follows:

11 "7-7-304. Names to be included on ballots - Withdrawal - Unopposed  
12 candidates - Position.

13 (a) (1) Whenever two (2) or more persons qualify for a primary election  
14 of a political party as candidates for an office or position and only one (1)  
15 is to be elected, their names shall be printed on the ballot at the  
16 preferential primary election.

17 (2) If, at the preferential primary election for a political  
18 party, a candidate receives a majority of the votes cast for that office or  
19 position, the person shall be declared the party nominee and it shall not be  
20 necessary for the candidate's name to appear on the ballot at the general  
21 primary election.

22 (3) If no candidate receives a majority of the votes cast for an  
23 office or position at the preferential primary election for a political party,  
24 the names of the two (2) candidates of the political party who received the  
25 highest number of votes for an office or position shall be printed upon the  
26 ballots at the general primary election.

27 (b) If any candidate shall, either prior to the certification of the  
28 ballot for the preferential primary or subsequent to the preferential primary  
29 but prior to the certification of the ballot for the general primary election,  
30 notify the secretary of the state committee in the case of a United States,  
31 state, or district office, or the secretary of the county committee in the  
32 case of a county, city, or township office, in writing, signed by the  
33 candidate, and acknowledged before an officer authorized by law to take  
34 acknowledgments, of his desire to withdraw as a candidate for the office or  
35 position, then the committee shall immediately notify the county board of



1 election commissioners or the state board of election commissioners, as the  
2 case may be and the name of the person shall not be printed on the  
3 preferential primary ballot or the general primary ballot, as the case may be.

4 (c) When only one (1) candidate qualifies for a particular office or  
5 position, the office or position and the name of the unopposed candidate shall  
6 be omitted from the political party's ballot in all primary elections, and the  
7 candidate shall be certified as the nominee of the political party for the  
8 particular office or position in the same manner as if the office and  
9 candidate had been voted upon at the primary election.

10 (d) Where there are two (2) or more nominees to be selected for the  
11 same office, such as Associate Justice of the Supreme Court, State Senator,  
12 State Representative, justice of the peace, alderman, or for any other office  
13 or place, the proper committee shall require the candidates to designate in  
14 writing a particular position, i.e., Position Number 1, Position Number 2,  
15 Position Number 3, etc., at the time a party pledge is required to be filed  
16 with the secretary of the committee. An independent candidate shall designate  
17 his position prior to circulation of his petition. When a candidate has once  
18 filed and designated for a certain position, he shall not be permitted to  
19 thereafter change the position.

20 (e) The provisions of subsection (d) with respect to filing for  
21 positions shall be equally applicable to candidates seeking election at all  
22 general and special elections of this state and to all school elections."

23

24 SECTION 9. Arkansas Code 7-7-305 is amended to read as follows:

25 "7-7-305. Printing of ballots - Form.

26 (a) The ballots of the primary election shall be provided by the county  
27 board of election commissioners. The form of the ballots shall be the same  
28 as provided by law for ballots in general or special elections in this state.  
29 *A different color ballot may be used to distinguish between political*  
30 *parties.*

31 (b) The order in which the names of the respective candidates,  
32 including candidates for federal, state, and local offices and including  
33 persons nominated for committeemen and delegates to the county convention, and  
34 the order in which issues and measures are to appear on the ballots at all  
35 preferential and general primary elections, shall be determined by lot at the

1 public meeting of the county committee held not later than thirty-five days  
2 before the preferential primary election. Ten (10) days\_ written notice of  
3 the time and place of the meeting shall be given each member by the chairman,  
4 vice chairman, or secretary of the committee. The chairman, vice chairman, or  
5 secretary shall publish notice of the time and place of holding the meeting in  
6 some newspaper of general circulation in the county.

7 (c) Any person who shall file for any elective office in this state may  
8 use not more than three (3) given names, one of which may be a nickname or any  
9 other word used for the purpose of identifying such person to the voters and  
10 may add as a prefix to his name the title or an abbreviation of an elective  
11 public office the person holds. The name of every candidate shall be printed  
12 on the ballot in the same form as the candidate signed the political practice  
13 pledge. No candidate shall be permitted to change the form in which his name  
14 will be printed on the ballot after the deadline for filing the political  
15 practice pledge."

16

17 SECTION 10. Arkansas Code 7-7-306 is amended to read as follows:

18 "7-7-306. Partisan ballots only.

19 At each primary election each county board of election commissioners  
20 shall furnish separate ballots for each political party containing only the  
21 names of persons seeking offices to be voted upon as a nominee or candidate of  
22 that political party."

23

24 SECTION 11. Arkansas Code 7-7-308 (c)(3) is amended to read as follows:

25 "(3) The precinct registration lists shall at all times be available to  
26 public inspection."

27

28 SECTION 12. Arkansas Code 7-7-309 is amended to read as follows:

29 "7-7-309. Canvass and certification of returns.

30 The county board of election commissioners shall canvass the returns and  
31 examine the ballots when demanded. It may hear testimony, if offered, of  
32 fraudulent practices and illegal votes, may cast out illegal votes and  
33 fraudulent returns, and find the true and legal vote cast for each candidate,  
34 *and shall certify the result not later than three (3) days following the*  
35 *primary unless there are overseas ballots which will influence the outcome of*

1 the election."

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3 SECTION 13. Arkansas Code 7-7-310 is amended to read as follows:

4 "7-7-310. Filing and preservation of returns, ballots, and other  
5 documents.

6 (a) The county board of election commissioners, immediately upon having  
7 canvassed the returns and, where demanded, examined the ballots and upon  
8 having certified the results of the primary as required in this subchapter,  
9 shall file, in the office of the county clerk of the county all '*lists of*  
10 *voters' forms, precinct voter registration lists*, and all ballots, affidavits,  
11 and other documents received from the judges of election.

12 (b) These materials shall be preserved by the county clerk for a period  
13 of six (6) months, subject to the orders of any court of competent  
14 jurisdiction, or, if a contest is pending, until the contest is determined."

15

16 SECTION 14. Arkansas Code 7-7-311 is amended to read as follows:

17 "7-7-311. Delivery and custody of ballots and stubs - Destruction.

18 (a) The county board of election commissioners shall deliver the  
19 ballots to the county clerk in the ballot boxes of the respective voting  
20 precincts locked and sealed, and shall take the receipt of the clerk for them.

21 (b) The clerk shall not unlock the ballot boxes or break the seal  
22 thereof except upon order and direction of the court having jurisdiction over  
23 contests as provided in this act. He shall keep the ballot boxes in a vault if  
24 there is a vault of sufficient capacity in the courthouse; otherwise he shall  
25 keep them in a room under his control, under lock and key.

26 (c) At the end of *two (2) years* if no contest is pending involving the  
27 inspection of the ballots, the county clerk shall, in the presence of the  
28 chairman and secretary of the county board of election commissioners or a  
29 committee of not less than three (3) persons appointed by the county board of  
30 election commissioners for that purpose, open the ballot boxes, and, without  
31 examining the ballots, *destroy* them, and take from the chairman and secretary  
32 of the county board of election commissioners, or the witness designated by  
33 the county board of election commissioners, a certificate showing the facts in  
34 connection with the *destruction* of the ballots and file it as a permanent  
35 record in his office. He shall thereupon return to the county committee the

1 ballot boxes.

2 (d) The county treasurer shall retain the custody of and safely keep  
3 all ballot stubs sealed in ballot stub boxes which are delivered to him from  
4 the several precincts for a period of *two (2) years* after which time they  
5 shall be destroyed unless an election contest has been filed or a criminal  
6 prosecution has been initiated in connection with the election."

7

8 SECTION 15. Arkansas Code 7-7-312 is amended to read as follows:

9 "7-7-312. Common polling places.

10 The county board of election commissioners shall establish common  
11 polling places for the *joint conduct of the* primary elections of all political  
12 parties."

13

14 SECTION 16. Arkansas Code 7-7-401 is amended to read as follows:

15 "7-7-401. Certification of nominations.

16 (a) The county board of election commissioners shall certify the  
17 *nomination of all county, township, and municipal offices to the county*  
18 *committee of the political party, state committee of the political party,*  
19 *county clerk, and State Board of Election Commissioners. It shall further*  
20 *certify the vote of all candidates for United States, state, and district*  
21 *office to the state committee.*

22 (b) The state board of election commissioners shall receive the returns  
23 from the county board of election commissioners and canvass and certify the  
24 result thereof as provided by law. The boards or their officers shall, when  
25 ordered by a circuit court as provided by law, annul the certifications made  
26 and make certifications in accordance with the judgment of the circuit court.

27 (c) The nominations of any and all political parties for candidates  
28 chosen at a regular or special primary election held by the political party  
29 shall be certified by the canvassing board of the primary election.

30 (d) (1) Nominees of political parties chosen by a convention of  
31 delegates, in those circumstances in which nominations by political party  
32 conventions are authorized by law, shall be certified by the chairman and  
33 secretary of the convention of delegates held by the political party.

34 (2) All certificates of nomination made by the chairman and  
35 secretary of conventions or of canvassing boards of primary elections shall be

1 duly acknowledged before an officer authorized by law to take acknowledgments.

2 (e) Nomination as an independent candidate without political party  
3 affiliation for election to any office shall be certified by petition of  
4 electors in the manner provided in § 7-7-103."

5

6 SECTION 17. Arkansas Code 7-7-106, 7-7-501, 7-7-502, 7-7-503, and 7-7-  
7 504 are repealed.

8

9 SECTION 18. All provisions of this act of a general and permanent  
10 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas  
11 Code Revision Commission shall incorporate the same in the Code.

12

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

18

19 SECTION 20. All laws and parts of laws in conflict with this act are  
20 hereby repealed.

21

22 SECTION 21. EMERGENCY. It is found and determined by the General  
23 Assembly of the State of Arkansas that the state should provide for a state  
24 supported political primary system; and that this act should become effective  
25 immediately for the proper administration of this act. Therefore, an  
26 emergency is hereby declared to exist and this act being necessary for the  
27 immediate preservation of the public peace, health and safety shall be in full  
28 force and effect from and after its passage and approval.

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31 /s/Rep. Schexnayder

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33 APPROVED: 4-4-95

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