

Stricken language would be deleted from present law. Underlined language would be added to present law.

1 State of Arkansas
2 81st General Assembly
3 Regular Session, 1997
4

A Bill

ACT 445 OF 1997
HOUSE BILL 1771

5 By: House Committee on State Agencies and Governmental Affairs
6
7

For An Act To Be Entitled

8
9 "AN ACT TO AMEND ARKANSAS CODE ANNOTATED § 7-1-101 TO
10 CLARIFY THE DEFINITION OF POLITICAL PARTY AND TO DEFINE
11 THE TERMS POLLING SITE AND PRECINCT; TO AMEND ARKANSAS
12 CODE ANNOTATED § 7-1-101 TO INCLUDE ADDITIONAL DEFINITIONS
13 RELATING TO ELECTION LAW; TO AMEND ARKANSAS CODE ANNOTATED
14 § 7-1-104 TO RAISE THE PENALTY FOR COMMITTING AN ELECTION
15 FELONY FROM AN UNCLASSIFIED FELONY TO A CLASS D FELONY; TO
16 AMEND VARIOUS SECTIONS OF ARKANSAS CODE ANNOTATED § 7-1-
17 101, ET SEQ. TO MAKE TECHNICAL CORRECTIONS; AND FOR OTHER
18 PURPOSES."
19

Subtitle

20
21 "TO CLARIFY THE DEFINITION OF POLITICAL
22 PARTY; TO RAISE THE PENALTY FOR
23 COMMITTING AN ELECTION FELONY FROM AN
24 UNCLASSIFIED FELONY TO A CLASS D FELONY;
25 AND TO MAKE TECHNICAL CORRECTIONS."
26

27 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
28

29 SECTION 1. Arkansas Code Annotated § 7-1-101 is amended to read as
30 follows:

31 "7-1-101. Definitions.

32 As used in this ~~act~~ title, unless the context or chapter otherwise
33 requires:

34 (1)(A) Political party means any group of voters which, at the
35 last-preceding general election, polled for its candidate for Governor in the
36 state or nominees for presidential electors at least three percent (3%) of the
37 entire vote cast for the office; ~~or which files with the Secretary of State a~~

1 ~~petition signed by qualified electors equal in number to at least three~~
2 ~~percent (3%) of the total vote cast for the Office of Governor or nominees for~~
3 ~~presidential electors at the last preceding election, declaring their~~
4 ~~intention of organizing a political party, the name of which shall be stated~~
5 ~~in the declaration, and of participating in the next succeeding general~~
6 ~~election.~~

7 (B) ~~Except in preferential presidential primary elections, the~~
8 ~~petition shall be filed with the Secretary of State not later than 12:00 noon~~
9 ~~of the first Tuesday in May before the preferential primary election for the~~
10 ~~general election in which the political party filing the petition desires to~~
11 ~~participate.~~—No group of electors shall assume a name or designation which is
12 so similar, in the opinion of the Secretary of State, to that of an existing
13 political party as to confuse or mislead the voters at an election.

14 (C) When any political party fails to obtain three percent (3%)
15 of the total votes cast at an election for the Office of Governor or nominees
16 for presidential electors, it shall cease to be a political party;

17 (2) Primary election means any election held by a political party in
18 the manner provided by law for the purpose of selecting nominees of said
19 political party for certification as candidates for election at any general or
20 special election in this state;

21 (3) General or special election means the regular biennial or annual
22 elections for election of United States, state, district, county, township,
23 and municipal officials and the special elections to fill vacancies therein,
24 and special elections to approve any measure. The term, as used in this act,
25 shall not apply to school elections for officials of school districts;

26 (4) Vacancy in nomination means the circumstances in which the nominee
27 of a political party selected at a primary election shall not be certified as
28 the nominee due to death, resignation, withdrawal, or other good and legal
29 cause arising subsequent to nomination and preceding the final date for
30 certification of nominations;

31 (5)(A) Vacancy in office means the vacancy in an elective office
32 created by death, resignation, or for other good and legal cause arising
33 subsequent to election to the office at a general or special election or
34 arising subsequent to taking office and prior to the expiration of the term of
35 office in those circumstances wherein the vacancy must be filled by a special
36 election rather than by appointment.

1 (B) The phrase vacancy in office shall not apply to the election
 2 of a person at a general election to fill an unexpired portion of a term of
 3 office;

4 (6) Vacancy in election means the vacancy in an elective office,
 5 created by death, resignation, or for other good and legal cause arising prior
 6 to election to the office at a general or special election but arising
 7 subsequent to the certification of the ballot;

8 ~~——(6)(7)~~ Majority party means that political party in the State of
 9 Arkansas whose candidates were elected to a majority of the constitutional
 10 offices of this state in the last-preceding general election;

11 ~~——(7)(8)~~ Minority party means that political party whose candidates were
 12 elected to less than a majority of the constitutional offices of this state in
 13 the last-preceding general election or the political party which polled the
 14 second greatest number of votes for the Office of Governor in the
 15 last-preceding general election if all of the elected constitutional officers
 16 of this state are from a single political party;

17 ~~——(8)(9)~~ Constitutional officers of this state means the Offices of the
 18 Governor, Lieutenant Governor, Secretary of State, Attorney General, Auditor
 19 of State, Treasurer of State, and Commissioner of State Lands;

20 ~~——(9)(10)~~ Qualified elector means a person who holds the qualifications
 21 of an elector and who is registered pursuant to Arkansas Constitution,
 22 Amendment 51; ~~and~~

23 ~~——(10)(11)~~ Fail-safe voting means the mechanism established under the
 24 National Voter Registration Act of 1993 that allows voters who have moved
 25 within the same county to vote at their new precinct without having updated
 26 their voter registration records-;

27 (12) Canvassing means examining and counting the returns of votes cast
 28 at a public election to determine authenticity;

29 (13) Election official or Election officer means a person who is a
 30 member of the county board of election commissioners or a person who is a poll
 31 worker having been designated by a county board of election commissioners to
 32 be an election clerk, election judge, or election sheriff;

33 (14) Automatic tabulating equipment means apparatus necessary to
 34 automatically examine and count votes as designated on vote cards and data
 35 processing machines which can be used for counting votes and tabulating
 36 results, but shall not include those voting machines authorized under this

1 subchapter;

2 (15) Vote card means a card upon which the voter casts his votes by
 3 the process of punching;

4 (16) Candidate and issue labels means the cards, paper, booklet,
 5 pages, or other material containing the names of offices and candidates and
 6 statements of measures to be voted on;

7 (17) Counting location means a location selected by the county board
 8 of election commissioners with respect to all elections, for the automatic
 9 processing or counting, or both, of votes;

10 (18) Electronic voting system means a system of casting votes by use
 11 of marking devices and tabulating votes by use of automatic tabulating
 12 equipment or data processing equipment, but shall not include those voting
 13 machines authorized under this chapter;

14 (19) Marking device means either an apparatus in which vote cards are
 15 inserted and used in connection with a punch apparatus for piercing of vote
 16 cards by the voter or any approved device for marking a paper vote sheet with
 17 ink or other substances which will enable the votes to be tabulated by means
 18 of automatic tabulating equipment;

19 (20) Polling site means a location selected by the County Board of
 20 Election Commissioners where votes are cast; and

21 (21) Precinct means the geographical boundary lines dividing a county,
 22 municipality, township or school district for voting purposes."

23

24 SECTION 2. Arkansas Code Annotated § 7-1-103 is amended to read as
 25 follows:

26 "7-1-103. Miscellaneous misdemeanor offenses - Penalties.

27 (a) The violation of any of the following shall be deemed misdemeanors
 28 punishable as provided in this section:

29 (1) It shall be unlawful for any person to appoint or offer to
 30 appoint anyone to any office or position of trust, or for any person to
 31 influence, attempt to influence, or offer to influence the appointment,
 32 nomination, or election of any person to office, in consideration of the
 33 support or assistance of the person for any candidate in any election in this
 34 state;

35 (2)(A) It shall be unlawful for any public officer, deputy, or
 36 assistant to devote any time or labor during usual office hours toward the

1 campaign of any other candidate for office or for the nomination to any
 2 office;

3 (B) It shall be unlawful for any public officer or public
 4 employee of the State of Arkansas or of any county or municipality of this
 5 state to circulate an initiative or referendum petition or to solicit
 6 signatures on an initiative or referendum petition in any public office of the
 7 state, county, or municipal governments of Arkansas or during the usual office
 8 hours or while on duty for any state agency or any county or municipal
 9 government in Arkansas;

10 (3) It shall be unlawful for any public officer, deputy, or
 11 assistant who may be a candidate for the nomination to any office, or who may
 12 be a candidate for any office to be voted for at any election, to use any
 13 office or room furnished at public expense for his political headquarters or
 14 to send out or distribute any letters, circulars, or other campaign literature
 15 from a public office or room;

16 (4) It shall be unlawful for any person to assess any state
 17 employee for any political purpose whatever or to coerce by threats or
 18 otherwise any state employee into making subscription or contribution for any
 19 political purpose;

20 (5) It shall be unlawful for any person employed in any capacity
 21 in any department of the State of Arkansas to have membership in any political
 22 party or organization which advocates the overthrow of our constitutional form
 23 of government;

24 (6) It shall be unlawful for any campaign banners, cards, or
 25 campaign literature to be placed on any cars, trucks, or tractors belonging to
 26 the State of Arkansas or any municipality or county in the state;

27 (7) All articles, statements, or communications appearing in any
 28 newspaper printed or circulated in this state, or radio, television or any
 29 other electronic media intended or calculated to influence the vote of any
 30 elector in any election, and for the publication of which a consideration is
 31 paid, or to be paid, ~~to the proprietor or publisher of the newspaper,~~ shall be
 32 preceded or followed by the ~~word~~ words Paid Political Advertisement or Paid
 33 Political Ad in conspicuous letters;

34 ~~(8) Unless the statement, communication, advertisement, circular,~~
 35 ~~pamphlet, form letter, mimeographed, printed, duplicated, or other similar~~
 36 ~~matter plainly bears the name or names and post office addresses of the~~

1 ~~individuals, firms, committees, or other group or groups sponsoring and~~
 2 ~~bearing the cost, no statement, communication, or advertisement of a political~~
 3 ~~nature may be published in a newspaper or other periodical within the State of~~
 4 ~~Arkansas, and no circular, pamphlet, letter, form letter, statement,~~
 5 ~~advertisement, or other similar matter of a political nature, may be printed~~
 6 ~~or distributed in this state. If the sponsors thereof are not the same~~
 7 ~~persons, groups, committees, or organizations bearing the cost thereof, then~~
 8 ~~the names of both the sponsor and those bearing the cost shall plainly appear~~
 9 ~~upon the advertising matter. If the sponsor, or those bearing the cost~~
 10 ~~thereof, are a group, committee, association, council, or other body, then the~~
 11 ~~names of the three (3) principal officers of the sponsoring or paying groups,~~
 12 ~~committees, associations, councils, or other bodies, together with the correct~~
 13 ~~post office address of each, shall also be printed thereon;~~

14 ~~_____ (9)(8) No officer of election official shall do any~~
 15 ~~electioneering on any election day. No person shall hand out or distribute or~~
 16 ~~offer to hand out or distribute any campaign literature or any literature~~
 17 ~~regarding any candidate or issue on the ballot, solicit signatures on any~~
 18 ~~petition, solicit contributions for any charitable or other purpose, or do any~~
 19 ~~electioneering of any kind whatsoever within one hundred feet (100') of any~~
 20 ~~polling ~~place~~ site on election day;~~

21 ~~_____ (10)(9) No person shall willfully disturb or engage in riotous~~
 22 ~~conduct at or near any polling ~~place~~ site with the intent or effect of~~
 23 ~~disturbing or interfering with the access of the electors to the polling ~~place~~~~
 24 ~~site;~~

25 ~~_____ (11) [Repealed.]~~

26 ~~_____ (12) [Repealed.]~~

27 ~~_____ (13) [Repealed.]~~

28 ~~_____ (14)(10) No ~~judge, clerk, or election sheriff~~ election official~~
 29 ~~shall perform any of the duties of ~~their respective positions~~ the position~~
 30 ~~before taking and subscribing to the oath provided for in § 7-4-110;~~

31 ~~_____ (15)(11) No person applying for a ballot shall swear falsely to~~
 32 ~~any oath administered by the election ~~judges~~ officials with reference to their~~
 33 ~~qualifications to vote;~~

34 ~~_____ (16)(12) No person shall willfully cause or attempt to cause his~~
 35 ~~own name to be registered in any other election precinct than that in which he~~
 36 ~~is or will be before the next ensuing election qualified as an elector;~~

1 ~~_____ (17)~~(13) During any election, no person shall remove, tear down,
 2 or destroy any booths or supplies, or other conveniences placed in any booth
 3 or polling ~~place~~ site for the purpose of enabling the voter to prepare his
 4 ballot;

5 ~~_____ (18)~~(14) No person shall take or carry any ballot obtained from
 6 any ~~judge~~ election official outside of the polling room or have in his
 7 possession outside of the polling room before the closing of the polls any
 8 ballot provided by any county election commissioners;

9 ~~_____ (19)~~(15) No person shall furnish a ballot to any elector who
 10 cannot read informing him that it contains a name or names different from
 11 those which are written or printed thereon or shall change or mark the ballot
 12 of any elector who cannot read so as to prevent the elector from voting for
 13 any candidate, act, section, or constitutional amendment as the elector
 14 intended;

15 ~~_____ (20)~~(16) No election official or other person shall unfold a
 16 ballot or, without the express consent of the voter, ascertain or attempt to
 17 ascertain any vote on a ballot before it is placed in the ballot box, or make
 18 or place any mark or device on any ballot for the purpose or with the effect
 19 of identifying the ballot with the elector;

20 ~~_____ (21)~~(17) No person shall print or cause to be printed any ballot
 21 for any election held under this act with the names of the candidates
 22 appearing thereon in any other or different order or manner than provided by
 23 this act;

24 ~~_____ (22)~~(18) No election ~~judge or clerk~~ official shall permit the vote
 25 of any person to be cast in any election precinct in this state in any
 26 election legally held in this state when the person does not appear in person
 27 at the election precinct and actually cast the vote. This subsection shall not
 28 apply to persons entitled to cast absentee ballots;

29 ~~_____ (23)~~(19) No person shall vote or offer to vote more than one (1)
 30 time in any election held in this state, either in person or by absentee
 31 ballot, or shall vote in more than one (1) election precinct in any election
 32 held in this state. No person shall cast a ballot or vote in the preferential
 33 primary of one (1) political party and then cast a ballot or vote in the
 34 general primary of another political party in this state;

35 ~~_____ (24)~~(20) No person shall vote, knowing himself not to be entitled
 36 to vote; or vote more than once at any election, or knowingly cast more than

1 one (1) ballot, or attempt to do so; or alter or attempt to alter any ballot
 2 after it has been cast; or add or attempt to add any ballot to those legally
 3 polled at any election either by fraudulently introducing it into the ballot
 4 box before or after the ballots have been counted, or at any other time or in
 5 any other manner, with the intent or effect of affecting the count or recount
 6 of the ballots; or withdraw or attempt to withdraw any ballot lawfully polled
 7 with the intent or effect of affecting the count or recount of the ballots; or
 8 in any manner interfere with the ~~officers~~ officials lawfully conducting the
 9 election or the canvass or with the voters lawfully exercising their right to
 10 vote at the election;

11 ~~—————(25)~~(21) No person shall make any bet or wager upon the result of
 12 any election in this state;

13 ~~—————(26)~~(22) No election ~~judge, clerk~~ official, poll watcher, or any
 14 other person in or out of this state in any primary, general, or special
 15 election in this state shall divulge to any person the results of any votes
 16 cast for any candidate or on any issue in said election until thirty (30)
 17 minutes after the closing of the polls on the day of the election. The
 18 provisions of this subdivision shall not apply to any township or precinct in
 19 this state in which all of the registered voters therein have voted prior to
 20 the closing of the polls in those instances where there are fifteen (15) or
 21 fewer registered voters in the precinct or township;

22 ~~—————(27)~~(23) Any person, election official, county clerk, or deputy
 23 clerk who violates any provisions of the absentee voting laws shall be
 24 punished as provided in this section;

25 ~~—————(28)~~(b)(1) Any violation of this act not covered by this section
 26 and § 7-1-104 shall be considered a Class A misdemeanor and shall be
 27 punishable as such;

28 ~~—————(29)~~(2) Except as otherwise provided, the violation of any
 29 provision of this section shall be ~~punishable by a fine not exceeding one~~
 30 ~~thousand dollars (\$1,000) or by imprisonment in the penitentiary not exceeding~~
 31 ~~one (1) year, or by both fine and imprisonment~~ a Class A misdemeanor. Any
 32 person convicted under the provisions of this section shall thereafter be
 33 ineligible to hold any office or employment in any of the departments in this
 34 state. If any person is convicted under the provisions of this section while
 35 employed by any of the departments of this state, he shall be removed from
 36 employment immediately. If any person is convicted under the provisions of

1 this section while holding public office, the conviction shall be deemed a
 2 misfeasance and malfeasance in office and shall subject the person to
 3 impeachment."

4

5 SECTION 3. Arkansas Code Annotated § 7-1-104 is amended to read as
 6 follows:

7 "7-1-104. Miscellaneous felonies - Penalties.

8 (a) The following offenses shall be deemed felonies punishable as
 9 provided in this section:

10 (1) No person shall falsely make or fraudulently destroy any
 11 certificate of nominations, or any part thereof, file any certificate of
 12 nominations, knowing the certificate, or any part thereof, to be false;
 13 suppress any nomination which has been ~~duly~~ filed, or any part thereof; or
 14 forge or falsely write the name or initials of any ~~judge of election~~ election official
 15 on any ballot;

16 (2) No public official or deputy responsible for registration
 17 shall in any manner willfully or corruptly permit any person not entitled to
 18 register for the purpose of voting to do so; or forge a registration or
 19 attempt to do so;

20 (3) No person shall vote in any election in the state unless the
 21 person is a qualified elector of this state and has registered to vote in the
 22 manner provided by law;

23 (4) It shall be unlawful for any person to offer, accept,
 24 receive, or pay any person any money, goods, wares, or merchandise or to
 25 solicit any money, goods, wares, or merchandise for the purpose of influencing
 26 his or her vote during the progress of any election in this state;

27 (5) It shall be unlawful for any person to make any threat or
 28 attempt to intimidate any elector or the family, business, or profession of
 29 the elector, and it shall be unlawful to attempt to prevent any qualified
 30 elector from voting at any election;

31 ~~_____ (6) [Repealed.]~~

32 ~~_____ (7)~~ (6) It shall be unlawful for any person to attend any ~~voting~~
 33 ~~place~~ polling site on election day and hand out or give away any campaign
 34 cards, placards, or other articles for the purpose of influencing the electors
 35 to vote for any candidate, except in the manner now provided by law;

36 ~~_____ (8)~~ (7) No person shall tamper with a voting machine or

1 fraudulently affect or attempt to affect its results;

2 ~~_____ (9)~~(8) No person may cast a ballot in more than one (1) party

3 primary election on the same day in this state or for candidates for more than

4 one (1) political party;

5 ~~_____ (10)~~(9) No person shall vote in any election more than one (1)

6 vote;

7 ~~_____ (11)~~(10) No person shall vote or attempt to vote other than his or

8 her legal ballot;

9 ~~_____ (12)~~(11) No ~~judge of any~~ election official shall knowingly permit

10 any person to vote other than his or her legal ballot in any election;

11 ~~_____ (13)~~(12) No election official or other person shall fraudulently

12 permit any person to vote illegally, refuse the vote of any qualified elector,

13 or cast up or make a false return of any election;

14 ~~_____ (14)~~(13) No election ~~officer~~ official or other person shall

15 willfully make a false count of any election ballots or falsely or

16 fraudulently certify the returns of any election;

17 ~~_____ (15)~~(14) No person shall fraudulently change, alter, or obliterate

18 the poll books or books of any election, or break any seals upon any ballot

19 box, voting machine, or stub box, except as authorized by law;

20 ~~_____ (16)~~(15) No person shall contrive, alter, forge, counterfeit,

21 detain, mutilate, steal, secrete, or destroy any election returns or election

22 materials for the purpose of hindering or preventing or falsely reporting a

23 tabulation or check of the returns;

24 ~~_____ (17)~~(16) Any person who violates the provisions of § 7-5-702 or

25 who shall disclose how any voter may have voted, unless compelled to do so in

26 a judicial proceeding, shall be deemed guilty of a Class D felony and punished

27 as provided in this section;

28 ~~_____ (18)~~(b) Any person convicted of a felony as defined in this

29 section shall be ~~punished by imprisonment in the penitentiary for not less~~

30 ~~than one (1) year nor more than five (5) years or by a fine not to exceed five~~

31 ~~thousand dollars (\$5,000), or by both fine and imprisonment~~ guilty of a Class

32 D felony. Any person convicted of a felony as defined in this section shall be

33 barred from holding public office or employment in any of the departments of

34 the state from the date of his conviction. If the person is employed by any of

35 the departments of this state at the time of his conviction, he shall be

36 removed from employment immediately. If any person is convicted under the

1 provisions of this section while holding public office, the conviction shall
 2 be deemed a misfeasance and malfeasance in office and shall subject the person
 3 to impeachment."

4

5 SECTION 4. Arkansas Code Annotated § 7-1-105 is amended to read as
 6 follows:

7 "7-1-105. Majority of qualified electors.

8 Whenever any law of this state shall require that a proposition or
 9 question shall be adopted by a majority of the qualified electors of this
 10 state, of a city, or of a county based on the total number of electors of the
 11 state, city, or county, appearing on the certified list of all ~~poll taxpayers~~
 12 qualified electors thereof, the majority required for the adoption of the
 13 proposition or question hereafter shall be deemed to be the majority of the
 14 qualified electors of the state, city, or county voting on the proposition or
 15 question at the election."

16

17 SECTION 5. Arkansas Code Annotated § 7-1-107 is repealed.

18 ~~7-1-107. Independent candidates for municipal office - Filing.~~

19 ~~(a) The governing body of any first class city, second class city, or~~
 20 ~~incorporated town may enact an ordinance requiring independent candidates for~~
 21 ~~municipal office to file petitions for nomination as independent candidates~~
 22 ~~with the county board of election commissioners no later than noon on the day~~
 23 ~~before the preferential primary election.~~

24 ~~(b) The ordinance shall be enacted no later than ninety (90) days prior~~
 25 ~~to the filing deadline. The ordinance shall be published at least once a week~~
 26 ~~for two (2) consecutive weeks immediately following adoption of the ordinance~~
 27 ~~in a newspaper having a general circulation in the city.~~

28

29 SECTION 6. All provisions of this act of a general and permanent nature
 30 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
 31 Revision Commission shall incorporate the same in the Code.

32

33 SECTION 7. If any provision of this act or the application thereof to
 34 any person or circumstance is held invalid, such invalidity shall not affect
 35 other provisions or applications of the act which can be given effect without
 36 the invalid provision or application, and to this end the provisions of this

1 act are declared to be severable.

2

3 SECTION 8. All laws and parts of laws in conflict with this act are
4 hereby repealed.

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APPROVED:3-11-97

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