

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.

Act 1174 of the Regular Session

1 State of Arkansas
2 85th General Assembly
3 Regular Session, 2005
4

As Engrossed: S3/14/05

A Bill

HOUSE BILL 2468

5 By: Representative Mahony
6 By: Senator Laverty
7
8

9 For An Act To Be Entitled

10 AN ACT TO AMEND CERTAIN SECTIONS OF THE ARKANSAS
11 CODE PERTAINING TO SCHOOL ELECTIONS; AND FOR
12 OTHER PURPOSES.
13

14 Subtitle

15 AN ACT TO AMEND SECTIONS OF THE ARKANSAS
16 CODE PERTAINING TO SCHOOL ELECTIONS.
17
18

19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
20

21 SECTION 1. Arkansas Code § 6-14-102 is amended to read as follows:

22 6-14-102. Annual school election date – Special school election.

23 (a)(1) The annual school election shall be held in each school
24 district of the state on the third Tuesday in September.

25 (2) The annual school election shall only concern issues
26 authorized to be on the ballot by the Arkansas Constitution or by statute and
27 no other issues shall appear on the ballot.

28 (b) The board of directors of any school district shall have the
29 authority to hold ~~the annual~~ a school election concerning the tax rate or
30 debt issues on a date other than that fixed by law provided that:

31 ~~(1)(A) The proposed budget of expenditures for the previous~~
32 ~~year, as published, incorrectly stated a proposed expenditure or rate of tax~~
33 ~~levy, as set forth in a certificate or certificates signed by each member of~~
34 ~~the board of directors, or was not published within the time required by law;~~

35 ~~(B) The district has suffered damage to its physical~~



1 facilities in an amount exceeding one hundred twenty five thousand dollars
2 (\$125,000) as a result of fire or other natural disaster and the board of
3 directors has determined that the proceeds of insurance on those facilities
4 will be insufficient to restore or replace the facilities; or

5 (C) The district will lose state aid because of a court
6 decision or legislation enacted by the General Assembly, and the board of
7 directors takes action to change the date of the annual school election to
8 consider a millage increase no less than sixty (60) days after the court's
9 decision or the effective date of the legislation;

10 (2)(1) All constitutional and statutory requirements for the
11 annual school election are met, notwithstanding subdivision (a)(1) of this
12 section; and

13 (2) The election is held before the date of the annual
14 school election; and

15 (3) The Director of the Department of Education approves
16 the date of the election is approved by the Director of the Department of
17 Education.

18 (c)(1) In any election year, if no more than one (1) candidate for
19 school district director presents a petition or notice in writing to the
20 county board of election commissioners as required by § 6-14-111 and if there
21 are no other ballot issues to be submitted to district electors for
22 consideration, with the exception of the local tax rate if that rate is not
23 being changed or restructured, the board of directors of any school district,
24 by resolution ~~duly adopted~~, may request the county board of election
25 commissioners to reduce the number of polling places or to open no polling
26 places on election day so that the election can be conducted by absentee
27 ballot and early voting only.

28 (2) The county board of election commissioners may provide that
29 no polling places be open on election day so that the election can be
30 conducted by absentee ballot and early voting only, if no more than one (1)
31 candidate for school district director presents a petition or notice in
32 writing to the county board of election commissioners as required by § 6-14-
33 111, and if there are no other ballot issues to be submitted to district
34 electors for consideration, with the exception of the local tax rate if that
35 rate is not being changed or restructured, if requested by resolution adopted
36 by the board of directors of any school district.

1 (3) In a county that uses voting machines or electronic voting,
2 the county board of election commissioners may choose to use paper ballots
3 counted by hand for the election.

4 ~~(d) The board of directors of any school district shall have the~~
5 ~~authority to request the county board of election commissioners to call a~~
6 ~~special election for the purpose of considering a rate of tax for additional~~
7 ~~millages for maintenance and operations or for debt service as authorized by~~
8 ~~Arkansas Constitution, Amendment 74, provided that:~~

9 ~~(1) All constitutional and statutory requirements for a special~~
10 ~~school election are met;~~

11 ~~(2) The date of the election is approved by the director; and~~

12 ~~(3) The special election is held on the second Tuesday of any~~
13 ~~month.~~

14
15 SECTION 2. Arkansas Code § 6-14-105 is repealed.

16 ~~6-14-105. Special election on petition of school district board of~~
17 ~~directors.~~

18 ~~(a) If the board of directors of a school district deems it advisable~~
19 ~~to hold a special election in the district, the board of directors shall~~
20 ~~present a petition to the county court of the county of its domicile.~~

21 ~~(b)(1) If the county court approves of the petition, it shall enter an~~
22 ~~order fixing a day for the special election not earlier than thirty (30) days~~
23 ~~after the date of the order.~~

24 ~~(2) The county court shall set the date for the special election~~
25 ~~so that the special election is held on the second Tuesday of any month.~~

26
27 SECTION 3. Arkansas Code § 6-14-106 is amended to read as follows:

28 6-14-106. Polling places.

29 (a) The county board of election commissioners of each county shall
30 designate all the polling sites for each school district in its respective
31 county, including districts having territory in more than one (1) county but
32 which are domiciled in its county for administrative purposes, and shall
33 provide the election supplies and appoint the election officials for holding
34 all school elections.

35 (b) If a school district has territory in more than one (1) county,
36 the county board of election commissioners of the county in which it is

1 domiciled shall either:

2 (1) Designate one (1) or more polling sites in each county in
3 which any part of the district lies; or

4 (2) Designate one (1) or more polling sites in the county in
5 which the district is domiciled for administrative purposes, at which all
6 qualified electors of the district, regardless of their county of residence,
7 may vote.

8 (c) When the county board of election commissioners of any county in
9 which a district is domiciled for administrative purposes determines that a
10 polling site shall not be designated in the other county in which a portion
11 of the district lies, it shall designate ~~a~~ and publish in a paper of general
12 circulation in that area the location of the polling site in the county in
13 which the district is administered for those electors of the district in the
14 other county to vote. The board shall take appropriate action to assure that
15 the necessary precinct registration files are delivered to that polling site
16 in order that the electors in the nonadministering county may vote in the
17 school election.

18 (d) The board of directors of each school district shall cause to be
19 published, by at least one (1) insertion in a newspaper with general
20 circulation in the county or counties wherein in which the school district is
21 located, not more than ten (10) days nor less than three (3) days ~~prior to~~
22 before any school election, a notice identifying the polling site for each
23 ward or precinct. If the polling site for any ward or precinct has changed
24 since the last election, the notice shall indicate the change.

25

26 SECTION 4. Arkansas Code § 6-14-109 is amended to read as follows:

27 6-14-109. Notice of elections.

28 (a) The board of directors of each school district shall give notice
29 by advertisement once a week for three (3) weeks ~~of~~ before each election to
30 be held within the district, setting out the time, place, and questions to be
31 submitted to the electors at the election.

32 (b) The advertisement ~~herein~~ provided for shall begin at least twenty
33 (20) days before the date of the school election and shall be in a newspaper
34 either published in or having a bona fide circulation in the county or
35 counties wherein in which the district is administered.

36 (c) This provision for notice of school elections shall be the sole

1 requirement for the publication of the notice.

2
3 SECTION 5. Arkansas Code § 6-14-111 is amended to read as follows:

4 6-14-111. Ballots – Write-in candidates.

5 (a) The county board of election commissioners of the county in which
6 the school district is domiciled for administrative purposes shall prepare
7 and furnish ballots and all other necessary supplies for the annual school
8 election.

9 (b)(1) The county board of election commissioners shall place on the
10 ballots as candidates for school district director names of any qualified
11 voters whose names have been filed and verified by the county clerk of the
12 county in which the school district is domiciled for administrative purposes.

13 (2) The county clerk of the county in which the school district
14 is domiciled for administrative purposes shall certify to the board of
15 election commissioners that the petition contains the names of at least
16 twenty (20) qualified registered voters who are residents of the district and
17 respective electoral zone, if directors are elected from zones, at least
18 forty-five (45) days before the annual school election.

19 (3) Candidates shall circulate the petitions no earlier than
20 ninety (90) calendar days before the annual school election.

21 (c) Votes for a write-in candidate for school district director shall
22 not be counted or tabulated unless not later than forty (40) days before the
23 annual school election the candidate notifies in writing the county board of
24 election commissioners of the county in which the school district is
25 domiciled for administrative purposes of his or her intention to be a write-
26 in candidate.

27
28 SECTION 6. Arkansas Code § 6-14-115 is amended to read as follows:

29 6-14-115. Return, canvass, and appeal – Filing.

30 (a) At the close of the election, the election officials at each
31 polling place or at the place of central tabulation shall make a return of
32 the votes, certify the return, and file the certification in the office of
33 the county clerk of the county in which the district is administered for
34 delivery to its county board of election commissioners, who no earlier than
35 forty-eight (48) hours and not later than ten (10) days after the election
36 shall proceed to ascertain and declare the results of the election and file

1 the certification of election and one (1) of the ballots with the county
2 clerk.

3 (b) The county clerk of the county in which the district is
4 administered shall file a certified copy of the certification of election
5 with the county clerk of each county in which any part of the district lies.

6 (c) The county clerk of the county in which the district is
7 administered shall submit a certified copy of the certification of election
8 and a copy of the ballot to the Director of the Department of Education no
9 later than five (5) days following the requirements set forth in subsection
10 (a) of this section.

11

12 SECTION 7. Arkansas Code § 6-14-116 is amended to read as follows:
13 6-14-116. Contest of election.

14 (a) If the election of any member of a school district board of
15 directors is contested, it shall be before the circuit court of the county
16 ~~wherein~~ in which the school district is domiciled.

17 (b) All actions to contest the election shall be commenced within
18 twenty (20) days after the date the election is certified ~~at which any such~~
19 ~~person was elected.~~

20 (c) Actions to contest the election of school district officers shall
21 follow the procedures set out in § 7-5-801 et seq.

22

23 SECTION 8. Arkansas Code § 6-14-120 is amended to read as follows:
24 6-14-120. Election of school district boards of directors.

25 (a) At each annual school election there shall be elected in rural
26 school districts one (1) or more directors ~~director~~ for a term of three (3)
27 years, ~~and in school districts in which there was in 1933 a city of the first~~
28 ~~class, there shall be elected two (2) directors each for a term of three (3)~~
29 ~~years. In all other school districts, at each annual election one (1)~~
30 ~~director shall be elected~~ or for a term of five (5) years, as determined by
31 the school district board of directors.

32 (b) All directors elected or appointed ~~in accordance with the~~
33 ~~provisions of this act~~ shall serve until their successors are elected and
34 qualified.

35 (c) In the case of a tie vote for a position of director, a runoff
36 election shall be held on a day three (3) weeks after the regular school

1 election, at which the names of the two (2) candidates receiving the tie vote
2 shall be placed on the ballot, and the candidate receiving the highest number
3 of votes at the runoff election shall be declared elected.

4 (d) The runoff election provided for herein shall be conducted in the
5 manner prescribed by law for other school elections.

6
7 SECTION 9. Arkansas Code § 6-14-121 is amended to read as follows:
8 6-14-121. Runoff elections.

9 (a)(1) Whenever there are more than two (2) candidates for election to
10 any position on a school district board at any election held in this state
11 and whenever no candidate for any district position receives a majority of
12 the votes cast for the office or whenever there is a tie vote, there shall be
13 a runoff election held in the district.

14 (2) The names of the two (2) candidates receiving the highest
15 number of votes, but not a majority, shall be placed on the ballot to be
16 voted upon by the qualified electors for that position on a school district
17 board.

18 (3) The runoff election shall be held three (3) weeks following
19 the date of the election.

20 (b) The person receiving the majority of the votes cast for the
21 position at the runoff election shall be declared elected.

22 (c) In the event the two (2) candidates seeking election to the same
23 district position shall receive the same number of votes in a runoff
24 election, a tie shall be deemed to exist. The county board of election
25 commissioners shall determine the winner by lot at an open public meeting and
26 in the presence of the two (2) candidates.

27 (d) The provisions of this section are intended to be in addition to
28 and supplemental to the laws of this state pertaining to the election of
29 school district boards of directors.

30
31 /s/ Mahony
32
33

34 **APPROVED: 3/22/2005**
35
36

1