

1 State of Arkansas As Engrossed: H3/28/19 H3/29/19

2 92nd General Assembly

# A Bill

3 Regular Session, 2019

HOUSE BILL 1666

4

5 By: Representative Brown

6 By: Senator T. Garner

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## For An Act To Be Entitled

9 AN ACT TO AMEND THE LAW CONCERNING ELECTION  
10 ADMINISTRATION AND PROCEDURES; TO AMEND THE LAW  
11 CONCERNING DUAL OFFICE HOLDING; AND FOR OTHER  
12 PURPOSES.

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## Subtitle

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

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SECTION 1. Arkansas Code § 7-4-102(a)(1), concerning the dates for  
election of county boards of election commissioners, is amended to read as  
follows:

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(a)(1)(A) In January of each odd-numbered year following the election  
of county committee officers, members of the county board of election  
commissioners shall be elected by their respective county committees.

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(B) A chair or secretary of a county political party shall  
not serve as a member of the county board of election commissioners.

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SECTION 2. Arkansas Code § 7-4-107 is amended to read as follows:  
7-4-107. Duties of county board of election commissioners —~~Ballot~~  
~~boxes~~ —~~Voting booths~~ —~~Appointment of election officers.~~

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(a) The county board of election commissioners shall ~~proceed to~~  
~~establish and allocate:~~



1 (1) Ensure compliance with all legal requirements relating to  
 2 the conduct of elections;

3 (2) Exercise its duties consistently with the training and  
 4 materials provided by the State Board of Election Commissioners;

5 (3) Allocate a sufficient number of secure ballot boxes in each  
 6 precinct or if voting is conducted using pre-printed paper ballots for each  
 7 polling site. The county board of election commissioners shall appoint based  
 8 on the number of votes cast at that polling site in the immediately  
 9 preceding:

10 (A) Preferential primary election or general election if  
 11 the election for which the secure ballot boxes are prepared is a preferential  
 12 primary election or general election; and

13 (B) Special election if the election for which the secure  
 14 ballot boxes are prepared is a special election;

15 (4) Allocate sufficient components of a voting system approved  
 16 for use under § 7-5-301 for each polling site based on the number of votes  
 17 cast at that polling site in the immediately preceding: (A)

18 Preferential primary election or general election if the election for which  
 19 the components are prepared is a preferential primary election or general  
 20 election; and

21 (B) Special election if the election for which the  
 22 components are prepared is a special election; and

23 (5) Appoint the requisite number of election officials at each  
 24 site where voters present themselves to vote to ensure that there is a  
 25 sufficient number of election officials at each site, based upon the votes in  
 26 the immediately preceding comparable election.

27 (b)(1) ~~It shall be the duty of the~~ The county board of election  
 28 commissioners ~~to~~ shall select and appoint a sufficient number of election  
 29 officials for each polling site as provided by subsection (a) of this section  
 30 and to perform the other duties prescribed not less than twenty (20) days  
 31 preceding an election.

32 (2)(A) Each polling site shall have a minimum of two (2)  
 33 election clerks, one (1) election judge, and one (1) election sheriff. ~~For a~~  
 34 ~~regularly scheduled election, all~~

35 (B) The election judge shall serve as the poll supervisor.

36 (C)(i) All election officials at a polling site shall have

1 completed training under § 7-4-109, ~~and at least one (1) election official at~~  
2 ~~a polling site shall have attended election training coordinated by the State~~  
3 ~~Board of Election Commissioners within twelve (12) months prior to the~~  
4 ~~election within the twelve (12) months before the election.~~

5 (ii) The minority party election commissioner shall  
6 have the option to designate a number of election officials equal to one (1)  
7 less than the majority of election officials at each polling site, with a  
8 minimum of two (2) election officials at each polling site.

9 (iii) In the event that the county party  
10 representatives on the county board of election commissioners fail to agree  
11 upon any election official to fill an election post allotted to the  
12 respective party twenty (20) days before the election, the county board of  
13 election commissioners shall appoint the remaining election officials.

14 ~~(c) The county board of election commissioners shall certify to the~~  
15 ~~county court the per diem of election officials and the mileage of the~~  
16 ~~election official carrying the returns to the county election commissioners'~~  
17 ~~office for allowance.~~

18 ~~(d)~~ The county board of election commissioners may permit election  
19 officials to work half-day or split shifts at the polls at any election so  
20 long as the requisite number of election officials is always present.

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22 SECTION 3. Arkansas Code § 7-4-108 is amended to read as follows:

23 7-4-108. Absence of election officials - Filling vacancy.

24 (a) If any election official ~~shall be~~ is absent at the time fixed for  
25 the opening of the polls, ~~then the other election officials shall appoint~~  
26 ~~some person or persons having the qualifications prescribed by this act for~~  
27 ~~election officials to supply the vacancy; and if all of the officials shall~~  
28 ~~be absent, then the voters present shall elect as election officials persons~~  
29 ~~having the required qualifications. The county board of election~~  
30 ~~commissioners shall be notified of any vacancies and substitutions of~~  
31 ~~election officials. the election judge shall immediately notify the county~~  
32 ~~board of election commissioners of the vacancy.~~

33 (b) If the county board of election commissioners does not timely  
34 appoint a new election official, and less than three (3) election officials  
35 are present at the opening of the polls, the election judge present shall  
36 appoint one (1) or more qualified persons to act as an election official

1 until the county board of election commissioners appoints a new election  
2 official.

3 (c)(1) Except as provided in subdivision (c)(2), upon notification of  
4 the absent election official, at least one (1) member of the county board of  
5 election commissioners shall respond to the polling site and assist with the  
6 election until the new election official is appointed.

7 (2) If all three (3) of the members of the county board of  
8 election commissioners are assisting at other polling sites and the election  
9 judge does not timely appoint a qualified person, the other election  
10 officials present at the polling site shall appoint a qualified person to act  
11 as an election official until the county board of election commissioners  
12 appoints a new election official.

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14 SECTION 4. Arkansas Code § 7-4-115 is amended to read as follows:

15 7-4-115. Legislative intent.

16 Due to the ~~recent~~ United States Eighth Circuit Court of Appeals ruling  
17 in Jones v. Conway County, Arkansas, 143 F.3d 417 (8th Cir. 1998), the status  
18 of county election commissioners as either county officials or state  
19 officials has become unclear. Because of this lack of clarity, there has been  
20 much confusion as to whether or not county election commissioners should have  
21 been or currently are immune from suit under the state's policy of tort  
22 immunity. It is the intent of the General Assembly to clarify the official  
23 status of county election commissioners. Prior to July 30, 1999, county  
24 election commissioners were state officials and, as such, were immune from  
25 suit pursuant to Arkansas Constitution, Article 5, § 20, and § 19-10-305.  
26 Upon July 30, 1999, county election commissioners are hereby deemed to be  
27 *county officials and are immune from suit pursuant to § 21-9-301.*

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29 SECTION 6. Arkansas Code § 7-5-515(a), concerning preparation of  
30 voting machines, *is amended* to read as follows:

31 (a) Immediately upon the proper certification of candidates and  
32 questions, the county board of election commissioners shall oversee  
33 programming of the election, proof the ballots, prepare the voting machines,  
34 ~~oversee their programming,~~ and test and adjust the voting machines for the  
35 election.

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*/s/Brown*

**APPROVED: 4/12/19**