

1 **State of Arkansas**
2 **78th General Assembly**
3 **Regular Session, 1991**

A BILL ACT 241 OF 1991
HOUSE BILL 1092

4 **By: Representatives Brown, Tullis and Flanagan**

5
6
7

For An Act To Be Entitled

8 "AN ACT TO AMEND ARKANSAS CODE 7-1-101 TO REVISE THE
9 DEFINITION OF 'GENERAL OR SPECIAL ELECTION' AND TO ADD THE
10 DEFINITION OF 'QUALIFIED ELECTOR'; TO AMEND ARKANSAS CODE
11 7-1-103 TO CONFORM WITH THIS ACT AND TO DELETE LANGUAGE
12 CONCERNING THE CLOSING OF DRAM SHOPS AND DRINKING HOUSES
13 DURING POLLING HOURS; AND FOR OTHER PURPOSES."

14

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

16

17 SECTION 1. Arkansas Code 7-1-101 is amended to read as follows:

18 "7-1-101. Definitions.

19 As used in this title, unless the context otherwise requires:

20 (1) (A) "Political party" means any group of voters which, at the last
21 preceding general election, polled for its candidate for Governor in the state
22 or nominees for presidential electors at least three percent (3%) of the
23 entire vote cast for the office; or which files with the Secretary of State a
24 petition signed by qualified electors equal in number to at least three
25 percent (3%) of the total vote cast for the Office of Governor or nominees for
26 presidential electors at the last preceding election, declaring their
27 intention of organizing a political party, the name of which shall be stated
28 in the declaration, and of participating in the next-succeeding general
29 election.

30 (B) Except in preferential presidential primary elections, the
31 petition shall be filed with the Secretary of State not later than 12:00 noon
32 of the first Tuesday in May before the preferential primary election for the
33 general election in which the political party filing the petition desires to
34 participate. No group of electors shall assume a name or designation which is
35 similar, in the opinion of the Secretary of State, to that of an existing
36 political party as to confuse or mislead the voters at an election.

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

4 (2) "Primary election" means any election held by a political party in
5 the manner provided by law for the purpose of selecting nominees of said
6 political party for certification as candidates for election at any general or
7 special election in this state;

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

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

18 (5) "Vacancy in office" means the vacancy in an elective office created
19 by death, resignation, or for other good and legal cause arising subsequent to
20 election to the office at a general or special election or arising subsequent
21 to taking office and prior to the expiration of the term of office in those
22 circumstances wherein the vacancy must be filled by a special election rather
23 than by appointment. The phrase "vacancy in office" shall not apply to the
24 election of a person at a general election to fill an unexpired portion of a
25 term of office;

26 (6) "Majority party" means that political party in the state of
27 Arkansas whose candidates were elected to a majority of the constitutional
28 offices of this state in the last preceding general election;

29 (7) "Minority party" means that political party whose candidates were
30 elected to less than a majority of the constitutional offices of this state in
31 the last preceding general election or the political party which polled the
32 second greatest number of votes for the office of Governor in the last
33 preceding general election if all of the elected constitutional officers of
34 this state are from a single political party;

35 (8) "Constitutional officers of this state" means the offices of the

1 Governor, Lieutenant Governor, Secretary of State, Attorney General, State
2 Auditor, State Treasurer, and Commissioner of State Lands;

3 (9) "Qualified elector" means a person who holds the qualifications of
4 an elector and who is registered pursuant to Amendment 51 to the Arkansas
5 Constitution."

6

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

8 "7-1-103. Miscellaneous misdemeanor offenses - Penalties.

9 The violation of any of the following shall be deemed misdemeanors
10 punishable as provided in this section:

11 (1) It shall be unlawful for any person to appoint or offer to appoint
12 anyone to any office or position of trust, or for any person to influence,
13 attempt to influence, or offer to influence the appointment, nomination, or
14 election of any person to office, in consideration of the support or
15 assistance of the person for any candidate in any election in this state;

16 (2)(A) It shall be unlawful for any public officer, deputy, or
17 assistant to devote any time or labor during usual office hours toward the
18 campaign of any other candidate for office or for the nomination to any
19 office;

20 (B) It shall be unlawful for any public officer or public
21 employee of the State of Arkansas or of any county or municipality of this
22 state to circulate an initiative or referendum petition or to solicit
23 signatures on an initiative or referendum petition in any public office of the
24 state, county, or municipal governments of Arkansas or during the usual office
25 hours or while on duty for any state agency or any county or municipal
26 government in Arkansas;

27 (3) It shall be unlawful for any public officer, deputy, or assistant
28 who may be a candidate for the nomination to any office, or who may be a
29 candidate for any office to be voted for at any election, to use any office or
30 room furnished at public expense for his political headquarters or to send out
31 or distribute any letters, circulars, or other campaign literature from a
32 public office or room;

33 (4) It shall be unlawful for any person to assess any state employee
34 for any political purpose whatever or to coerce by threats or otherwise any
35 state employee into making subscription or contribution for any political

1 purpose;

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

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

9 (7) All articles, statements, or communications appearing in any
10 newspaper printed or circulated in this state, intended or calculated to
11 influence the vote of any elector in any election, and for the publication of
12 which a consideration is paid, or to be paid, to the proprietor or publisher
13 of the newspaper, shall be preceded or followed by the word "Advertisement" in
14 conspicuous letters;

15 (8) Unless the statement, communication, advertisement, circular,
16 pamphlet, form letter, mimeographed, printed, duplicated, or other similar
17 matter plainly bears the name or names and post office addresses of the
18 individuals, firms, committees, or other group or groups sponsoring and
19 bearing the cost, no statement, communication, or advertisement of a political
20 nature may be published in a newspaper or other periodical within the State of
21 Arkansas, and no circular, pamphlet, letter, form letter, statement,
22 advertisement, or other similar matter of a political nature, may be printed
23 or distributed in this state. If the sponsors thereof are not the same
24 persons, groups, committees, or organizations bearing the cost thereof, then
25 the names of both the sponsor and those bearing the cost shall plainly appear
26 upon the advertising matter. If the sponsor, or those bearing the cost
27 thereof, are a group, committee, association, council, or other body, then the
28 names of the three (3) principal officers of the sponsoring or paying groups,
29 committees, associations, councils, or other bodies, together with the correct
30 post office address of each, shall also be printed thereon;

31 (9) No officer of election shall do any electioneering on any election
32 day. No person shall hand out or distribute or offer to hand out or
33 distribute any campaign literature or any literature regarding any candidate
34 or issue on the ballot, solicit signatures on any petition, solicit
35 contributions for any charitable or other purpose, or do any electioneering of

1 any kind whatsoever within one hundred feet (100') of any polling place on
2 election day;

3 (10) No person shall willfully disturb or engage in riotous conduct at
4 or near any polling place with the intent or effect of disturbing or
5 interfering with the access of the electors to the polling place;

6 (11) It shall be unlawful for any person or group of persons to solicit
7 or receive money or other valuable consideration from any political candidate
8 for office where the return consideration is a promise to place, or placement
9 of, the candidate's name or identity among a list or register of recommended
10 candidates for office;

11 (12) It shall be unlawful for any person or group of persons to
12 distribute or cause to be distributed, on election day, any list or register
13 as is contemplated in subsection (11) of this section;

14 (13) It shall be unlawful for any person or group of persons to
15 knowingly carry, or cause to be carried or transmitted, into any polling place
16 on election day, any list or register as is contemplated in subsection (11) of
17 this section or to refer to any list or register while marking his ballot;

18 (14) No judge, clerk, or election sheriff shall perform any of the
19 duties of their respective positions before taking and subscribing to the oath
20 provided for in § 7-4-110;

21 (15) No person applying for a ballot shall swear falsely to any oath
22 administered by the election judges with reference to their qualifications to
23 vote;

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

27 (17) During any election, no person shall remove, tear down, or destroy
28 any booths or supplies, or other conveniences placed in any booth or polling
29 place for the purpose of enabling the voter to prepare his ballot;

30 (18) No person shall take or carry any ballot obtained from any judge
31 outside of the polling room or have in his possession outside of the polling
32 room before the closing of the polls any ballot provided by any county
33 election commissioners;

34 (19) No person shall furnish a ballot to any elector who cannot read
35 informing him that it contains a name or names different from those which are

1 written or printed thereon or shall change or mark the ballot of any elector
2 who cannot read so as to prevent the elector from voting for any candidate,
3 act, section, or constitutional amendment as the elector intended;

4 (20) No election official or other person shall unfold a ballot or,
5 without the express consent of the voter, ascertain or attempt to ascertain
6 any vote on a ballot before it is placed in the ballot box, or make or place
7 any mark or device on any ballot for the purpose or with the effect of
8 identifying the ballot with the elector;

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

12 (22) No election judge or clerk shall permit the vote of any person to
13 be cast in any election precinct in this state in any election legally held in
14 this state when the person does not appear in person at the election precinct
15 and actually cast the vote. This subsection shall not apply to persons
16 entitled to cast absentee ballots;

17 (23) No person shall vote or offer to vote more than one (1) time in
18 any election held in this state, either in person or by absentee ballot, or
19 shall vote in more than one (1) election precinct in any election held in this
20 state. No person shall cast a ballot or vote in the preferential primary of
21 one (1) political party and then cast a ballot or vote in the general primary
22 of another political party in this state;

23 (24) No person shall vote, knowing himself not to be entitled to vote;
24 or vote more than once at any election, or knowingly cast more than one (1)
25 ballot, or attempt to do so; or alter or attempt to alter any ballot after it
26 has been cast; or add or attempt to add any ballot to those legally polled at
27 any election either by fraudulently introducing it into the ballot box before
28 or after the ballots have been counted, or at any other time or in any other
29 manner, with the intent or effect of affecting the count or recount of the
30 ballots; or withdraw or attempt to withdraw any ballot lawfully polled with
31 the intent or effect of affecting the count or recount of the ballots; or in
32 any manner interfere with the officers lawfully conducting the election or the
33 canvass or with the voters lawfully exercising their right to vote at the
34 election;

35 (25) No person shall make any bet or wager upon the result of any

1 election in this state;

2

3 (26) No election judge, clerk, poll watcher, or any other person in or
4 out of this state in any primary, general, or special election in this state
5 shall divulge to any person the results of any votes cast for any candidate or
6 on any issue in said election until thirty (30) minutes after the closing of
7 the polls on the day of the election. The provisions of this subdivision
8 shall not apply to any township or precinct in this state in which all of the
9 registered voters therein have voted prior to the closing of the polls in
10 those instances where there are fifteen (15) or fewer registered voters in the
11 precinct or township;

12 (27) Any person, election official, county clerk, or deputy clerk who
13 violates any provisions of the absentee voting laws shall be punished as
14 provided in this section;

15 (28) Any violation of this act not covered by this section and §
16 7-1-104 shall be considered a misdemeanor and shall be punishable as such;

17 (29) Except as otherwise provided, the violation of any provision of
18 this section shall be punishable by a fine not exceeding one thousand dollars
19 (\$1,000) or by imprisonment in the penitentiary not exceeding one (1) year, or
20 by both fine and imprisonment. Any person convicted under the provisions of
21 this section shall thereafter be ineligible to hold any office or employment
22 in any of the departments in this state. If any person is convicted under the
23 provisions of this section while employed by any of the departments of this
24 state, he shall be removed from employment immediately. If any person is
25 convicted under the provisions of this section while holding public office,
26 the conviction shall be deemed a misfeasance and malfeasance in office and
27 shall subject the person to impeachment."

28

29 SECTION 3. 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 4. 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

1 the invalid provision or application, and to this end the provisions of this
2 act are declared to be severable.

3

4 SECTION 5. All laws or parts of laws in conflict with this act are
5 hereby repealed.

6

7 APPROVED: 2-27-91

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22