

As Engrossed: 3/31/95

1 **State of Arkansas**
2 **80th General Assembly**
3 **Regular Session, 1995**
4 **By: Senators Malone and Harriman**

A Bill

ACT 946 OF 1995
SENATE BILL 447

For An Act To Be Entitled

"AN ACT TO AMEND ARKANSAS CODE 7-5-107, 7-7-312(c),
7-7-504 AND 7-8-403 TO UPDATE LANGUAGE AND ELECTION
ADMINISTRATION FOR EFFICIENT COMPLIANCE WITH THE NATIONAL
VOTER REGISTRATION ACT OF 1993; AND FOR OTHER PURPOSES."

Subtitle

"TO AMEND THE ARKANSAS CODE TO UPDATE
LANGUAGE AND ELECTION ADMINISTRATION FOR
EFFICIENT COMPLIANCE WITH NATIONAL VOTER
REGISTRATION ACT OF 1993"

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

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

"7-1-101. Definitions.

As used in this act, unless the context otherwise requires:

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

(B) Except in preferential presidential primary elections, the petition shall be filed with the Secretary of State not later than 12:00 noon of the first Tuesday in May before the preferential primary election for the

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1 general election in which the political party filing the petition desires to
2 participate. No group of electors shall assume a name or designation which is
3 similar, in the opinion of the Secretary of State, to that of an existing
4 political party as to confuse or mislead the voters at an election.

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

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

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

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

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

30 (6) Majority party means that political party in the State of
31 Arkansas whose candidates were elected to a majority of the constitutional
32 offices of this state in the last-preceding general election;

33 (7) Minority party means that political party whose candidates were
34 elected to less than a majority of the constitutional offices of this state in
35 the last-preceding general election or the political party which polled the

1 second greatest number of votes for the office of Governor in the
2 last-preceding general election if all of the elected constitutional officers
3 of this state are from a single political party;

4 (8) Constitutional officers of this state means the Offices of the
5 Governor, Lieutenant Governor, Secretary of State, Attorney General, Auditor
6 or State, Treasurer of State, and Commissioner of State Lands;

7 (9) Qualified elector means a person who holds the qualifications of
8 an elector and who is registered pursuant to Arkansas Constitution, Amendment
9 51;

10 (10) Fail-safe voting means the mechanism established under the
11 National Voter Registration Act of 1993 that allows voters who have moved
12 within the same county to vote at their new precinct without having updated
13 their voter registration records."

14

15 SECTION 2. Arkansas Code 7-5-107 is amended to read as follows:

16 "7-5-107. Use of voter registration lists by election officials.

17 In any election conducted in this state, precinct voter registration
18 lists shall be used by election officials in each precinct . Precinct voter
19 registration lists shall contain the name, address including zipcode, and date
20 of birth of each registered voter within the precinct including those who have
21 been designated inactive, the precinct number and county wherein the precinct
22 is located, the name and date of the election, and a space for the voter's
23 signature. The following shall be printed at the top of each page of the
24 precinct voter registration list:

25 IF YOU SIGN THIS FORM AND YOU ARE NOT A LAWFULLY REGISTERED VOTER, YOU
26 ARE MAKING A FALSE STATEMENT AND MAY BE COMMITTING PERJURY. PERJURY IS
27 PUNISHABLE BY UP TO A \$10,000 FINE AND UP TO 10 YEARS IMPRISONMENT."

28

29 SECTION 3. Arkansas Code 7-5-211 is amended to read as follows:

30 "7-5-211. Delivery of election supplies to sheriff - Exception.

31 (a) At least three (3) days before any election:

32 (1) The county board of election commissioners shall deliver to
33 the sheriff one hundred fifty (150) ballots for each one hundred (100), or
34 fraction of one hundred (100), electors voting in each election precinct in
35 the last comparable election;

1 (2) For each set of judges and clerks in each precinct, the
2 county election commissioners shall deliver to the sheriff the following
3 additional election supplies:

4 (A) A good and sufficient ballot box with *numbered seals*;

5 (B) Sufficient *_list of voters_ forms* adequate to record
6 the names of all registered voters who appear to vote in the precinct.

7 (C) A precinct voter registration list;

8 (D) Sufficient tally sheets;

9 (E) Envelopes to seal up the ballots and certificates;

10 (F) Separate sheets containing blank forms of certificates
11 prepared to enable the judges of election to properly certify the result of
12 the election, upon which certificates shall be endorsed a blank form of oath
13 to be taken by the judges, clerks, and sheriffs of election before entering
14 upon the discharge of their duties; and

15 (G) Voter registration application forms for voters using
16 fail-safe voting and other record keeping supplies necessary to document
17 fail-safe voting procedures.

18 (b) If the sheriff is a candidate for reelection in a contested race,
19 it shall be the duty of the county board of election commissioners to appoint
20 some suitable person or persons in each precinct to perform the duties of the
21 sheriff. The sheriff and his deputies are disqualified to discharge those
22 duties in such case."

23

24 SECTION 4. Arkansas Code 7-5-301 is amended to read as follows:

25 "7-5-301. Delivery of election supplies to judges.

26 It shall be the duty of each election sheriff to deliver the ballot and
27 stub boxes, list of voter forms, a precinct voter registration list, blank
28 certificates of election, tally sheets, voting booths, if provided, voter
29 registration forms and other election materials from the office of the county
30 sheriff to the judges of election when the judges have assembled at the voting
31 place for the purpose of holding the election."

32

33 SECTION 5. Arkansas Code 7-5-302 is amended to read as follows:

34 "7-5-302. Documents to be posted in polling area.

35 Before the polls open, the election officials shall post the following

1 in a conspicuous place in the polling area:

2 (1) At least two (2) copies of instructions to voters, including
3 instructions for fail-safe voting procedures;

4 (2) In general elections, at least two (2) copies of all constitutional
5 amendments and acts to be voted on."
6

7 SECTION 6. Arkansas Code 7-5-305 is amended to read as follows:

8 "7-5-305. Identification of qualified voters.

9 (a) Before a person is permitted to vote, the election judge shall:

10 (1) Request the voter to identify himself in order to verify the
11 existence of his name on the precinct voter registration list;

12 (2) Request the voter, in the presence of the election judge, to
13 state his date of birth and his address;

14 (3) Determine that the voter's date of birth and address are the
15 same as those on the precinct voter registration list;

16 (4) If the date of birth given by the voter is not the same as
17 that on the precinct voter registration list, request the voter to provide
18 identification as the election judge deems appropriate;

19 (5) If the voter's address is not the same as that on the
20 precinct voter registration list, verify with the county clerk that the
21 address is within the precinct. If the address is within the precinct,
22 request the voter to complete a voter registration application form for the
23 purpose of updating county voter registration record files. If the address is
24 not within the precinct, instruct the voter to contact the county clerk's
25 office to determine the proper precinct;

26 (6) If the voter's name is not the same as that on the precinct
27 voter registration list, request the voter to complete a voter registration
28 application form for purposes of updating county voter registration record
29 files;

30 (7) Request the voter, in the presence of the election judge to
31 sign his name, including his given name, his middle name or initial, if any,
32 and his last name in the space provided on the precinct voter registration
33 list. If a person is unable to sign his signature or make his mark or cross,
34 the election judge shall enter his initials and the voter's date of birth in
35 the space for the person's signature on the precinct voter registration list.

1 (b) A person not listed on the precinct voter registration list may
2 only vote in accordance with Arkansas Code 7-5-306."

3

4 SECTION 7. Arkansas Code 7-5-306 is amended to read as follows:

5 "7-5-306. Procedure when voter's name is not on the precinct voter
6 registration list.

7 (a) If the voter's name is not on the precinct voter registration list
8 , the election judge shall permit the voter to vote only under the following
9 conditions:

10 (1) The voter identifies himself by stating his name and date of
11 birth and is verified by the county clerk as a registered voter within the
12 county and, if the county is divided into more than one (1) congressional
13 district, within same congressional district;

14 (2) The voter gives and affirms his current residence
15 and the election judge verifies with the county clerk that the voter_s
16 residence is within the precinct;

17 (3) The voter completes an updated voter registration
18 application form;

19 (4) The voter signs the precinct voter registration
20 list.

21 (b) If the voter is not listed on the precinct voter registration list
22 and the county clerk is unable to verify the voter's registration and the
23 voter contends that he or she is eligible to vote, then the voter may vote a
24 challenged ballot which shall only be counted upon verification of the voter's
25 registration status.

26 (c) The election judges and clerks shall indicate on the voters list
27 those persons who vote under these circumstances."

28

29 SECTION 8. Arkansas Code 7-5-314 is amended to read as follows:

30 "7-5-314. Duties of election clerks - Voter lists - Voters in line at
31 closing time.

32 (a) The election clerks in each precinct or at each box, shall mark the
33 voter's name, as having voted, on the precinct voter registration list
34 furnished by the clerk;

35 (b) If a voter's name does not appear on the precinct voter registration

1 list, the voter may only vote in accordance with Arkansas Code 7-5-306.

2 (c) In all counties, when the polls close, all persons who have
3 presented themselves for voting and who are then in line at the polling place
4 shall be permitted to cast their votes. The election clerks shall then total
5 the number of voters on the voter lists, and such lists shall be certified by
6 the election judges and attested by the election clerks."

7

8 SECTION 9. Arkansas Code 7-5-317 is amended to read as follows:

9 "7-5-317. Processing and delivery of election materials.

10 (a) After the count of the ballots is completed, all of the election
11 returns shall be processed and delivered in the following manner:

12 (1) The list of voters form, the precinct voter registration
13 list, voter registration application forms and other record-keeping supplies
14 shall be delivered to the county clerk;

15 (2) Certificates of election results and tally sheets:

16 (A) One (1) copy of the certificate of election results
17 shall be posted in a conspicuous place outside the polling place immediately
18 after the ballots are counted;

19 (B) One (1) copy of the certificate of election results
20 with one (1) copy of the tally sheets shall be delivered to the county clerk;

21 (C) One (1) copy of the certificate of election results
22 shall be returned with one (1) copy of the tally sheets and reports of
23 challenges of voters, if any, to the county board of election commissioners
24 or, in a primary, the county committee.

25 (3) Ballots:

26 (A) The election judges shall securely envelope the ballots
27 separately *and place the ballots in a container with a numbered seal* and then
28 deliver the ballots with the tally sheets and other election materials to the
29 county board of election commissioners or, in a primary, the county committee;

30 (B) All cancelled ballots shall be preserved separately
31 from the other ballots and returned to the county board of election
32 commissioners or, in a primary, the county committee.

33 (4) Stub boxes: Sealed stub boxes shall be delivered to the
34 county treasurer for storage.

35 (b) All of the election materials and returns shall be delivered by the

1 election judges within twenty-four (24) hours after the polls close to the
2 county board of election commissioners or, in a primary, the county
3 committee."

4

5 SECTION 10. Arkansas Code 7-7-308 is amended to read as follows:

6 "7-7-308. Determination of right to vote - Precinct registration lists.

7 (a) Before a person is permitted to vote, an election judge shall:

8 (1) Request the voter to identify himself in order to verify the
9 existence of his name on the precinct voter registration list;

10 (2) Request the voter, in the presence of the election judge, to
11 state his date of birth and address;

12 (3) Determine that the voter's date of birth and address are the
13 same as those on the precinct voter registration list;

14 (4) If the date of birth given by the voter is not the same as
15 that on the precinct voter registration list, request the voter to provide
16 identification as the election judge deems appropriate;

17 (5) If the voter's address is not the same as that on the
18 precinct voter registration list, verify with the county clerk that the
19 address is within the precinct. If the address is within the precinct,
20 request the voter to complete a voter registration application form for the
21 purpose of updating county voter registration record files. If the address is
22 not within the precinct, instruct the voter to contact the county clerk's
23 office to determine the proper precinct;

24 (6) If the voter's name is not the same as that on the precinct
25 voter registration list, request the voter to complete a voter registration
26 application form for purposes of updating county voter registration record
27 files;

28 (7) Request the voter, in the presence of the election judge, to
29 sign his name, including his given name, his middle name or initial, if any,
30 and his last name in the space provided on the precinct voter registration
31 list. If a person is unable to sign his signature or make his mark or cross,
32 the election judge shall enter his initials and the voter's date of birth in
33 the space for the person's signature on the precinct voter registration list.

34 (b) At the same time the voter identifies himself and the party primary
35 in which he intends to vote, the election clerk of the party primary which the

1 voter designates shall mark the voter's name on the precinct voter
2 registration list furnished by the county clerk as having voted.

3 (c) If a voter's name does not appear on the precinct voter
4 registration list, the election judge shall permit the voter to vote only
5 under the following conditions:

6 (1) The voter identifies himself by stating his name and date of
7 birth and is verified by the county clerk as a registered voter within the
8 county and, if the county is divided into more than one (1) congressional
9 district, within the same congressional district;

10 (2) The voter gives and affirms his current residence and the
11 election judge verifies with the county clerk that the voter's residence is
12 within the precinct;

13 (3) The voter completes an updated voter registration application
14 form; and

15 (4) The voter signs the precinct voter registration list.

16 (d) If the voter is not listed on the precinct voter registration list
17 and the county clerk is unable to verify the voter's registration and the
18 voter contends that he or she is eligible to vote, then the voter may vote a
19 challenged ballot which shall only be counted upon verification of the voter's
20 registration status.

21 (e) The election judges and clerks shall indicate on the voters list
22 those persons who vote under these circumstances.

23 (f) After the polls close, the election clerk shall total the number of
24 voters on the list.

25 (g) The precinct voter registration lists and _list of voters_ forms
26 shall at all times be available to public inspection and, after the polls are
27 closed, shall be returned to the appropriate county committees."

28

29 SECTION 11. Arkansas Code 7-7-310 is amended to read as follows:

30 "7-7-310. Filing and preservation of returns, ballots, and other
31 documents.

32 (a) The county committee, immediately upon having canvassed the returns
33 and, where demanded, examined the ballots and upon having certified the
34 results of the primary as required in this subchapter, shall file, in the
35 office of the county clerk of the county and, where there is more than one (1)

1 district, in the district of the county where the meetings of the county
2 committee are held, all the returns, all lists of voters forms, precinct
3 voter registration lists, and all ballots, affidavits, and other documents
4 received from the judges of election, and it shall be obligatory upon the
5 committee, its chairman, and secretary.

6 (b) These materials shall be preserved by the county clerk for a period
7 of two (2) years , subject to the orders of any court of competent
8 jurisdiction, or, if a contest is pending, until the contest is determined."
9

10 SECTION 12. Arkansas Code 7-7-312(c) is amended to read as follows:

11 "(c) The county clerk shall furnish each county committee represented
12 at the polling place one (1) copy of the appropriate precinct voter
13 registration list to determine each person's right to vote in any party
14 primary being conducted at the common polling place."
15

16 SECTION 13. Arkansas Code 7-7-504 is amended to read as follows:

17 "7-7-504. Registration files and voter lists.

18 (a) In voting machine counties where common polling places are
19 established, the county clerk shall furnish each county committee represented
20 at the polling place one (1) copy of the appropriate precinct voter
21 registration list to determine each person's right to vote in any party
22 primary being conducted at the common polling place.

23 (b) Where separate polling places are established, a copy of the
24 appropriate precinct voter registration list shall be delivered to each county
25 committee by the county clerk."
26

27 SECTION 14. This act shall be effective January 1, 1996.
28

29 SECTION 15. All provisions of this act of a general and permanent
30 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas
31 Code Revision Commission shall incorporate the same in the Code.
32

33 SECTION 16. 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 17. All laws and parts of laws in conflict with this act are
5 hereby repealed.

6

7

/s/Malone

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APPROVED: 4-6-95