

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 451 OF 1997  
HOUSE BILL 1777

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

## For An Act To Be Entitled

9 "AN ACT TO AMEND ARKANSAS CODE ANNOTATED § 7-5-101 TO  
10 PERMIT PRECINCT BOUNDARIES TO BE CHANGED WITHIN THIRTY  
11 (30) DAYS OF AN ELECTION IN THE EVENT OF AN EMERGENCY AND  
12 TO REQUIRE THE ACTIONS OF A COUNTY BOARD OF ELECTION  
13 COMMISSIONERS IN REGARD TO CHANGING PRECINCT BOUNDARIES  
14 AND POLLING SITES TO BE DETERMINED IN A PUBLIC MEETING AND  
15 TO BE KEPT ON FILE AT THE COUNTY CLERK'S OFFICE; TO AMEND  
16 ARKANSAS CODE ANNOTATED § 7-5-106 TO PROVIDE THAT RUNOFF  
17 ELECTIONS FOR COUNTY AND MUNICIPAL OFFICES SHALL OCCUR  
18 THREE (3) WEEKS AFTER A GENERAL ELECTION AND TO PROVIDE  
19 THAT A TIE VOTE IN A RUNOFF ELECTION SHALL BE DECIDED BY  
20 LOT; TO AMEND ARKANSAS CODE ANNOTATED § 7-5-202 TO TRANSFER  
21 THE DUTY TO GIVE PUBLIC NOTICE OF ELECTIONS FROM THE  
22 COUNTY SHERIFF TO THE COUNTY BOARD OF ELECTION  
23 COMMISSIONERS; TO AMEND ARKANSAS CODE ANNOTATED § 7-5-203  
24 AND § 7-5-204 TO REQUIRE CERTIFICATION OF CANDIDATES AND  
25 BALLOT QUESTIONS FIFTY (50) DAYS BEFORE THE ELECTION; TO  
26 AMEND ARKANSAS CODE ANNOTATED § 7-5-204 TO ELIMINATE THE  
27 REQUIREMENT THAT CONSTITUTIONAL AMENDMENTS BE PRINTED ON  
28 THE BALLOT; TO AMEND ARKANSAS CODE ANNOTATED § 7-5-208 TO  
29 PROVIDE THAT THE BALLOT ORDER OF CANDIDATES FOR RUNOFF  
30 ELECTIONS SHALL STAY THE SAME AS FOR THE PREVIOUS  
31 ELECTION; TO AMEND ARKANSAS CODE ANNOTATED § 7-5-209 TO  
32 ELIMINATE THE ROLE OF THE COURT IN CORRECTING BALLOT  
33 ERRORS AND TO REQUIRE THE COUNTY BOARD OF ELECTION  
34 COMMISSIONERS TO ADDRESS BALLOT ERRORS IN A PUBLIC  
35 MEETING; TO AMEND ARKANSAS CODE ANNOTATED § 7-5-211 TO  
36 REQUIRE THE COUNTY BOARD OF ELECTION COMMISSIONERS TO BE  
37 RESPONSIBLE FOR THE SECURITY OF ELECTION SUPPLIES, TO

1 DESIGNATE A PERSON TO DELIVER ELECTION SUPPLIES, AND TO  
 2 SPECIFY THAT THE COUNTY BOARD OF ELECTION COMMISSIONERS  
 3 SHALL PROVIDE ELECTION MATERIALS PRIOR TO ABSENTEE AND  
 4 EARLY VOTING; TO AMEND ARKANSAS CODE ANNOTATED § 7-5-301  
 5 AND § 7-5-303 TO CHANGE THE REQUIREMENTS REGARDING  
 6 INSPECTION OF ELECTION MATERIALS BY ELECTION OFFICIALS; TO  
 7 AMEND ARKANSAS CODE ANNOTATED § 7-5-312 TO SPECIFY THE  
 8 PROCEDURE TO USE WHEN A BALLOT IS CHALLENGED AND TO  
 9 REQUIRE THE COUNTY BOARD OF ELECTION COMMISSIONERS TO  
 10 DETERMINE THE VALIDITY OF CHALLENGED BALLOTS PRIOR TO  
 11 CERTIFICATION OF THE ELECTION; TO MAKE VARIOUS TECHNICAL  
 12 CORRECTIONS THROUGHOUT ARKANSAS CODE ANNOTATED §§ 7-5-101,  
 13 ET SEQ., 7-5-201, ET SEQ., AND 7-5-301, ET SEQ.; AND FOR  
 14 OTHER PURPOSES."

15  
 16 **Subtitle**

17 "TO AMEND VARIOUS PROVISIONS OF A.C.A. §§  
 18 7-5-101, ET SEQ., 7-5-201, ET SEQ., AND  
 19 7-5-301, ET SEQ., PERTAINING TO ELECTION  
 20 PROCEDURE."  
 21

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

23  
 24 SECTION 1. Arkansas Code Annotated § 7-5-101 is amended to read as  
 25 follows:

26 "7-5-101. Precinct boundaries and ~~voting places~~ polling sites -  
 27 Establishment and alteration.

28 (a)(1) The county board of election commissioners are empowered to  
 29 alter the boundaries of existing election precincts and to establish new ones  
 30 when, in their judgment, it may be necessary.

31 (2) The county board of election commissioners shall fix a ~~voting~~  
 32 ~~place~~ polling site for each election precinct. The commissioners may combine  
 33 ~~voting places~~ polling sites for two (2) or more precincts, when, in their  
 34 judgment, it may be necessary.

35 (3) In changing the boundaries of existing precincts, or in  
 36 creating new ones, the commissioners shall arrange them so that all qualified

1 voters residing therein may vote on the same day.

2           (4) The commissioners shall not have the power to change the  
3 boundaries of existing precincts, to create any new precinct, or to change the  
4 ~~voting place~~ polling site in any precinct, within thirty (30) days of any  
5 election, but all elections shall be held at the ~~places~~ sites, and within the  
6 boundaries, as they existed thirty (30) days before the date of the election.  
7 In the event of an emergency, a county board of election commissioners may  
8 change a precinct boundary or a polling site.

9           (b) All ~~voting places~~ polling sites shall be fixed at well-known points  
10 in the several precincts and easily accessible to all electors entitled to  
11 vote therein.

12           (c)(1)(A) The action of the commissioners in changing the ~~voting place~~  
13 polling site in any precinct, in altering the boundaries of any precinct, or  
14 in establishing any new one, shall be determined in a public meeting pursuant  
15 to § 7-4-105 and shall be entered in the record to be kept ~~by them~~ on file in  
16 the county clerks office.

17                       (B) A copy of the order, which shall set out intelligently  
18 and accurately the boundaries of precincts as so altered or established, shall  
19 be filed with the clerk of the county court, who shall record the order at  
20 full length on the record book on which the minutes of the proceedings of the  
21 county court are recorded.

22           (2)(A) Within thirty (30) days after altering the boundaries of  
23 an election precinct or establishing a new one, the county board of election  
24 commissioners shall submit four (4) copies of the changes to the Secretary of  
25 State. The changes shall be submitted in the form of a map and shall include a  
26 written description. A short statement of why the changes were made may be  
27 included.

28                       (B) Upon receipt of the changes, the Secretary of State  
29 shall immediately forward a copy to the office of the Attorney General, the  
30 State Data Center, and the Cartography Section of the Arkansas State Highway  
31 and Transportation Department.

32           (d) Notice of any changes made in polling sites shall also be given to  
33 the electors by posting information about any such changes prominently at all  
34 previous polling sites which were used in the last election.

35           ~~(e)(1) No later than five (5) calendar days before each election, the~~  
36 ~~county board of election commissioners of each county in this state shall give~~

1 ~~notice of election precinct polling locations by means reasonably calculated~~  
 2 ~~to reach the registered voters in the county.~~

3 ~~—————(2) This subsection does not apply to run-off elections."~~

4

5 SECTION 2. Arkansas Code Annotated § 7-5-105 is repealed.

6 ~~—————7-5-105. Payment to county clerk for registered voter lists.~~

7 ~~—————(a) The county clerks of the several counties of the state may~~  
 8 ~~reproduce the registered voter list maintained by the county clerk in any~~  
 9 ~~format that the office of the county clerk is capable of providing.~~

10 ~~—————(b) The county clerks shall be entitled to a fee in connection with the~~  
 11 ~~preparation of any registered voter list that shall reimburse the county clerk~~  
 12 ~~for reproduction expenses. The value of office equipment previously secured~~  
 13 ~~for the office of the county clerk shall not be considered when determining~~  
 14 ~~the amount of this fee.~~

15

16 SECTION 3. Arkansas Code Annotated § 7-5-106(a) is amended to read as  
 17 follows:

18 "(a) Whenever there are more than two (2) candidates for election to  
 19 any county elected office, including the office of justice of the peace, or  
 20 for any municipal office at any general election held in this state, and no  
 21 candidate for the municipal or county office receives a majority of the votes  
 22 cast for the office, there shall be a runoff general election held in that  
 23 county or municipality ~~two (2)~~ three (3) weeks following the date of the  
 24 general election at which the names of the two (2) candidates receiving the  
 25 highest number of votes, but not a majority, shall be placed on the ballot to  
 26 be voted upon by the qualified electors of the county or the municipality, as  
 27 the case may be. The person receiving the majority of the votes cast for the  
 28 office at the runoff general election shall be declared elected. However, in  
 29 the event the two (2) candidates seeking election to the same county or  
 30 municipal office shall receive the same number of votes, a tie shall be deemed  
 31 to exist, and the county board of election commissioners, at an open public  
 32 meeting, and in the presence of the two (2) candidates, shall determine the  
 33 winner by lot ~~unless one of the candidates requests a runoff election, in~~  
 34 ~~which case a runoff election shall be conducted as provided by this section."~~

35

36 SECTION 4. Arkansas Code Annotated § 7-5-108 is repealed.

1 ~~7-5-108. Time of runoff elections.~~  
 2 ~~Notwithstanding any other law to the contrary all runoff elections after~~  
 3 ~~August 13, 1993, shall occur three (3) weeks after the election which~~  
 4 ~~necessitates the runoff election.~~

5  
 6 SECTION 5. Arkansas Code Annotated § 7-5-109 is amended to read as  
 7 follows:

8 "7-5-109. Computerized voter registration lists.

9 (a) The county clerks of the several counties of the state may  
 10 reproduce the registered voter list maintained by the county clerk in any  
 11 format that the office of the county clerk is capable of providing.

12 (b) The county clerks shall be entitled to a fee in connection with the  
 13 preparation of any registered voter list that shall reimburse the county clerk  
 14 for reproduction expenses. The value of office equipment previously secured  
 15 for the office of the county clerk shall not be considered when determining  
 16 the amount of this fee.

17 ~~(a)(c)~~ Every county clerk who maintains on computer the list of  
 18 registered voters within the county shall on request provide the list on  
 19 computer disk or tape. The list shall include at least the name, address, and  
 20 precinct number of the voters.

21 ~~(b)(d)~~(1) The fee for a list, on computer disk or tape, of one (1) to  
 22 five thousand (5,000) registered voters shall be ten dollars (\$10.00).

23 (2) The fee for a list, on computer disk or tape, of five  
 24 thousand and one (5,001) to twenty-five thousand (25,000) registered voters  
 25 shall be twenty-five dollars (\$25.00).

26 (3) The fee for a list, on computer disk or tape, of more than  
 27 twenty-five thousand (25,000) registered voters shall be fifty dollars  
 28 (\$50.00)."

29  
 30 SECTION 6. Arkansas Code Annotated § 7-5-110 is amended to read as  
 31 follows:

32 "7-5-110. Registration lists for each ballot combination.

33 In any precinct with more than one (1) ballot combination, the county  
 34 clerk shall prepare ~~and deliver separate~~ precinct voter registration lists ~~for~~  
 35 ~~each ballot combination~~ that identify the district, sub-district, county,  
 36 municipality, ward, and school zone in which each voter is qualified to vote."

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SECTION 7. Arkansas Code Annotated § 7-5-202 is amended to read as follows:

"7-5-202. Public notice of elections.

(a) It shall be the duty of the ~~sheriff of each~~ county board of election commissioners at least twenty (20) days before each general election, and ten (10) days before the holding of each special election, to give public notice, ~~by proclamation,~~ throughout the county of the time and ~~several places~~ polling sites of holding the elections in ~~his~~ the county, and the officers to be elected at that time.

(b) At least five (5) days prior to a general or special election, a copy of the ~~proclamation~~ public notice shall be posted at each polling ~~place~~ site fixed for holding the election and published in a newspaper of general circulation in the county."

SECTION 8. Arkansas Code Annotated § 7-5-203 is amended to read as follows:

"7-5-203. Certification of candidate list.

Not less than ~~forty-five (45)~~ fifty (50) days before ~~each~~ each election day, the Secretary of State shall certify to all county boards of election commissioners full lists of all candidates to be voted for in their counties respectively, as the nominations have been certified to him. However, in special elections held to fill vacancies or to elect officers in case of a tie vote, the certification shall issue at the time specified in the writ of election issued by the appropriate constituted authority."

SECTION 9. Arkansas Code Annotated § 7-5-204 is amended to read as follows:

"7-5-204. Certification of questions submitted to voters.

Whenever a proposed amendment to the Constitution or other question is to be submitted to a vote of the people, the Secretary of State shall, not less than ~~forty (40)~~ fifty (50) days before ~~the~~ the election day, ~~duly~~ certify the amendment in question to the commissioners of each county in the state. The commissioners shall include the amendment in question in the posting which they are required to make under § 7-5-206 ~~and also print the same on the~~ ballots. However, in special elections held in case of a tie vote, the

1 certification shall issue at the time specified in the writ of election issued  
 2 by the Secretary of State."

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4 SECTION 10. Arkansas Code Annotated § 7-5-205 is amended to read as  
 5 follows:

6 "7-5-205. Write-in candidates' votes - When counted.

7 No votes for write-in candidates in general elections shall be counted  
 8 or tabulated unless the candidate or his agent shall notify in writing the  
 9 county board of election commissioners and either the Secretary of State if a  
 10 state or district candidate, or a county clerk if a candidate for a county  
 11 township or municipal office, of his intention to be a write-in candidate not  
 12 later than sixty (60) days before the ~~opening of the polls~~ election day."

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14 SECTION 11. Arkansas Code Annotated § 7-5-206(a) is amended to read as  
 15 follows:

16 "(a) The county board of election commissioners ~~of each county~~ shall  
 17 make publication of all nominations filed with them, of all nominations  
 18 certified to them by the Secretary of State, of all proposed amendments to the  
 19 Arkansas Constitution, and other questions certified to them by the Secretary  
 20 of State, or required by law to be submitted to the electors at any election,  
 21 by posting a list thereof at the door of the courthouse at least ten (10) days  
 22 before the day of the election."

23

24 SECTION 12. Arkansas Code Annotated § 7-5-207(a) is amended to read as  
 25 follows:

26 "(a) All election ballots provided by the county board of election  
 27 commissioners of any county in this state for any election shall contain in  
 28 the proper place the name of every candidate whose nomination for any office  
 29 to be filled at that election has been certified to the commissioners and  
 30 shall not contain the name of any candidate or person who has not been  
 31 certified. If any candidate shall, prior to the printing of the ballots,  
 32 notify the ~~secretary of the state committee~~ Secretary of State in the case of  
 33 a United States, state, or district office, or the ~~secretary of the county~~  
 34 ~~committee~~ county board of election commissioners in the case of a county,  
 35 city, or township office, in writing, signed by the candidate, and  
 36 acknowledged before an officer authorized to take acknowledgments, of his

1 desire to withdraw as a candidate for the office or position, the name of the  
2 person shall not be printed on the ballot at the ~~general or special~~ election."

3

4 SECTION 13. Arkansas Code Annotated § 7-5-208 is amended to read as  
5 follows:

6 "7-5-208. Paper Ballots - Form.

7 (a) All election ballots provided by the county board of election  
8 commissioners of any county in this state for any election shall be alike and  
9 shall be printed in plain type.

10 (b) Each ballot shall be printed on ~~a single sheet of paper~~ with a  
11 perforated portion capable of being detached for use as the ballot stub.

12 (c) As ballots are printed, the portion that shall be used as the  
13 ballot stub shall be numbered consecutively from one (1) to the number which  
14 is the total amount of ballots provided for the election.

15 (d) On the back or outside of the ballot shall be printed the words  
16 OFFICIAL BALLOT for ..... , followed by the appropriate designation for the  
17 particular election and its date.

18 (e) The heading on the front or inner side of each ballot shall be:

19

20 OFFICIAL BALLOT ..... ELECTION ..... , 19 ....

21

22 Vote by placing an ~~'X' in the square~~ appropriate mark opposite the person  
23 for whom you wish to vote.

24

25 If the ballot contains an initiated or referred amendment, act, or  
26 measure, the heading shall also contain these words - Vote on amendments,  
27 acts, and measures by placing an ~~'X' in the square~~ appropriate mark above the  
28 amendment (or act or measure) either FOR or AGAINST.

29

30 (f)(1) Every ballot shall contain the name of each candidate who has  
31 been nominated or has qualified in accordance with law for each office. The  
32 names of the candidates shall be listed in a perpendicular column under the  
33 name of each office to be filled.

34 (2)(A) However, the names of all unopposed candidates for offices  
35 for which no notice has been filed within the time prescribed in § 7-5-205,  
36 except the names of all unopposed candidates for the office of mayor or



1 circuit clerk, shall be grouped together on the ballot indicating the office  
 2 and the name of the unopposed candidate for each office in a single column. At  
 3 the top of the list of the names of all unopposed candidates shall appear on  
 4 the ballot the words Unopposed Candidates, and to the right thereof there  
 5 shall be a square in which the voter may cast a vote for all the candidates by  
 6 placing an ~~X in the square~~ appropriate mark, so that the votes may be  
 7 separately counted and tabulated as required in § 7-5-205.

8 (B) The names of unopposed candidates for the office of  
 9 mayor or circuit clerk shall be separately printed from any grouping of  
 10 unopposed candidates, with a ~~square~~ place in which the voter may cast a vote  
 11 for each unopposed candidate for the office of mayor or circuit clerk by  
 12 placing an ~~X in the square~~ appropriate mark, so that the votes may be  
 13 separately counted and tabulated as required in § 7-5-315.

14 (3) In all elections, except primary elections, at the bottom of  
 15 each list of names for each position or office appearing on the ballot, there  
 16 shall be a blank line or lines for possible write-in votes for that position  
 17 or office. However, the blank line shall not appear on the ballot with respect  
 18 to those offices and candidates for positions in which no person has qualified  
 19 as a write-in candidate by filing his intentions to be a write-in candidate  
 20 within the time prescribed in § 7-5-205.

21 (4) The order in which the names of the respective candidates  
 22 shall appear on the ballots shall be determined by lot at a public meeting of  
 23 the county board of election commissioners not less than thirty-five (35) days  
 24 prior to the general elections. It is expressly understood and provided that  
 25 the selection on the order of the ballot in all other elections shall be and  
 26 remain as provided by law. For runoff elections, the ballot order for  
 27 eligible candidates shall stay the same as for the previous election.

28 (5) Beside the name of each candidate in the general election  
 29 shall be his party designation or the name INDEPENDENT if he represents no  
 30 officially recognized party.

31 (g) At the right of the name of each candidate and on the same line  
 32 there shall be a square. Above each act, amendment, or measure to be voted on  
 33 there shall be the words FOR and AGAINST - one above the other with a square  
 34 to the right of each word and on the same line. With respect to all offices  
 35 and the candidates for those offices who are unopposed and have been grouped  
 36 together in the manner provided in subsection (f) of this section, the names

1 of all those candidates and their respective offices shall appear under the  
2 heading of Unopposed Candidates . The elector shall vote on each and all such  
3 candidates by casting a single vote in a square placed to the right of the  
4 heading Unopposed Candidates as provided in subdivision (f)(2) of this  
5 section.

6 (h) Opposite the designation of each office there shall appear these  
7 words: VOTE FOR ..... The number of persons required to fill the  
8 vacancy in office shall be placed in the blank space as:

9

10 Justice of the Peace VOTE FOR TEN (10). "

11

12 SECTION 14. Arkansas Code Annotated § 7-5-209 is amended to read as  
13 follows:

14 "7-5-209. Ballots - Correction of errors.

15 Whenever it shall appear by affidavit that an error or omission has  
16 occurred in the publication of the names or description of candidates  
17 nominated for office or in the printing of ballots, ~~the circuit court of any~~  
18 ~~county or the judge thereof in vacation or, if the circuit judge is then~~  
19 ~~absent from the county, the judge of the county court shall, upon the~~  
20 ~~application of any elector, by order, require the county board of election~~  
21 ~~commissioners to the county board of election commissioners shall in a public~~  
22 meeting, announce the error or omission, and immediately correct the error or  
23 omission or to show cause why the correction should not be done."

24

25 SECTION 15. Arkansas Code Annotated § 7-5-211 is amended to read as  
26 follows:

27 "7-5-211. Delivery of election supplies ~~to sheriff~~ - ~~Exception.~~

28 (a) At least ~~three (3) days~~ one (1) day before any election:

29 (1) The county board of election commissioners shall ~~deliver to~~  
30 ~~the sheriff one hundred fifty (150) ballots for each one hundred (100), or~~  
31 ~~fraction of one hundred (100), electors voting in each election precinct in~~  
32 ~~the last comparable election, except the total number of ballots required to~~  
33 ~~be delivered for each election precinct, and for each ward of a city or~~  
34 ~~incorporated town, shall not be required to exceed one hundred five percent~~  
35 ~~(105%) of the total number of registered voters for the respective precinct or~~  
36 ward designate a suitable person or persons and deliver to such person or

1 persons the ballots as set forth in § 7-5-210;

2 (2) For each set of ~~judges and clerks~~ election officials in each  
 3 precinct, the county board of election commissioners shall deliver to the  
 4 ~~sheriff~~ designated person or persons the following additional election  
 5 supplies, if applicable:

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

7 (B) Sufficient list-of-voters forms adequate to record the  
 8 names of all registered voters who appear to vote in the precinct;

9 (C) A precinct voter registration list;

10 (D) Sufficient tally sheets;

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

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

17 (G) Voter registration application forms for voters using  
 18 fail-safe voting and other recordkeeping supplies necessary to document  
 19 fail-safe voting procedures.

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

26 (c) The county board of election commissioners shall be responsible for  
 27 the security of the delivered election materials.

28 (d) The county board of election commissioners shall be responsible for  
 29 providing ballots and election materials for absentee and early voting to the  
 30 county clerk prior to the beginning day for absentee and early voting."

31

32 SECTION 16. Arkansas Code Annotated § 7-5-301 is amended to read as  
 33 follows:

34 "7-5-301. Delivery Inspection of election supplies ~~to judges~~.

35 ~~It shall be the duty of each election sheriff to deliver the ballot and~~  
 36 ~~stub boxes, list-of-voters forms, a precinct voter registration list, blank~~

1 ~~certificates of election, tally sheets, voting booths, if provided, voter~~  
 2 ~~registration forms and other election materials from the office of the county~~  
 3 ~~sheriff to the judges of election when the judges have assembled at the voting~~  
 4 ~~place for the purpose of holding the election. The election officials shall~~  
 5 ~~inspect the election supplies prior to the opening of the polls.~~"

6

7 SECTION 17. Arkansas Code Annotated § 7-5-303 is repealed.

8 ~~7-5-303. Inspection of ballots by judges.~~

9 ~~Before the polls open, the election judges shall inspect the ballots:~~

10 ~~(1) If the ballots are in numerical sequence when they are delivered to~~  
 11 ~~the polling place, the judges and clerks shall shuffle them;~~

12 ~~(2) If any of the ballots are delivered to the polling place without a~~  
 13 ~~black-out sticker thereon, the judges shall place a black-out sticker on each~~  
 14 ~~ballot over the ballot number which does not have a black-out sticker.~~

15 ~~However, a black-out sticker shall not be placed over the ballot number~~  
 16 ~~appearing on the ballot stub.~~

17

18 SECTION 18. Arkansas Code Annotated § 7-5-305 is amended to read as  
 19 follows:

20 "7-5-305. Identification of qualified voters. [Effective January 1,  
 21 1996.]

22 (a) Before a person is permitted to vote, the election ~~judge~~ official  
 23 shall:

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

26 (2) Request the voter, in the presence of the election ~~judge~~  
 27 official, to state his date of birth and his address;

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

30 (4) If the date of birth given by the voter is not the same as  
 31 that on the precinct voter registration list, request the voter to provide  
 32 identification as the election ~~judge~~ official deems appropriate;

33 (5)(A) If the voter's address is not the same as that on the  
 34 precinct voter registration list, verify with the county clerk that the  
 35 address is within the precinct.

36 (B) If the address is within the precinct, request the

1 voter to complete a voter registration application form for the purpose of  
 2 updating county voter registration record files.

3 (C) If the address is not within the precinct, instruct the  
 4 voter to contact the county clerk's office to determine the proper precinct;

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

9 (7) Request the voter, in the presence of the election ~~judge~~  
 10 official to sign his name, including his given name, his middle name or  
 11 initial, if any, and his last name in the space provided on the precinct voter  
 12 registration list. If a person is unable to sign his signature or make his  
 13 mark or cross, the election ~~judge~~ official shall enter his initials and the  
 14 voter's date of birth in the space for the person's signature on the precinct  
 15 voter registration list.

16 (b) A person not listed on the precinct voter registration list may  
 17 vote only in accordance with § 7-5-306."

18

19 SECTION 19. Arkansas Code Annotated § 7-5-306 is amended to read as  
 20 follows:

21 "7-5-306. Procedure when voter's name is not on the precinct voter  
 22 registration list. [Effective January 1, 1996.]

23 (a) If the voter's name is not on the precinct voter registration list,  
 24 the election ~~judge~~ official shall permit the voter to vote only under the  
 25 following conditions:

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

30 (2) The voter gives and affirms his current residence and the  
 31 election ~~judge~~ official verifies with the county clerk that the voter's  
 32 residence is within the precinct;

33 (3) The voter completes an updated voter registration application  
 34 form; and

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

36 (b) If the voter is not listed on the precinct voter registration list

1 and the ~~county clerk~~ election official is unable to verify the voter's  
 2 registration with the county clerk and the voter contends that he or she is  
 3 eligible to vote, then the voter may vote a challenged ballot which shall only  
 4 be counted upon verification of the voter's registration status by the county  
 5 board of election commissioners prior to certification of election.

6 (c) The election ~~judges and clerks~~ official shall indicate on the  
 7 voters list those persons who vote under these circumstances."  
 8

9 SECTION 20. Arkansas Code Annotated § 7-5-307 is amended to read as  
 10 follows:

11 "7-5-307. ~~Judge's~~ Election official's initials.

12 Before giving the voter a ballot, ~~the judge~~ an election official shall  
 13 initial the back of the ballot."  
 14

15 SECTION 21. Arkansas Code Annotated § 7-5-309 is amended to read as  
 16 follows:

17 "7-5-309. Voting procedure.

18 (a) At general, primary, special, and school elections in counties  
 19 which use paper ballots, the county board of election commissioners shall  
 20 provide in each polling site at least one (1) voting booth for each fifty (50)  
 21 registered electors voting in the last-preceding comparable election. Each  
 22 voting booth shall be situated so as to permit voters to prepare their ballots  
 23 screened from observation and shall be furnished with any supplies and  
 24 conveniences as will enable the voter to prepare his ballot. The voting booths  
 25 shall be situated in the polling site in plain view of the election officials.  
 26 No person other than the election officials and those admitted for the purpose  
 27 of voting shall be permitted within the immediate voting area, which shall be  
 28 considered as within six feet (6') of the voting booths, except by authority  
 29 of the election officials and then only when necessary to keep order and  
 30 enforce the law.

31 ~~—(a)~~ (b) Upon receiving his ballot, the voter shall proceed to mark it by  
 32 placing an ~~X~~ in the appropriate squares ~~appropriate mark~~. No voter shall be  
 33 allowed more than five (5) minutes to mark his ballot. The voter shall then  
 34 separate his ballot on the perforated line and personally deposit the larger  
 35 portion in the ballot box provided and the smaller portion or ballot stub in  
 36 the stub box provided.

1 ~~\_\_\_\_\_~~ ~~(b)~~(c) The voter shall not be required to sign, initial, or in any way  
 2 identify himself with the ballot, the ballot stub, or the list of voters other  
 3 than in the manner herein set forth. However, ~~a judge~~ an election official may  
 4 inspect the back of the ballot before the voter deposits it to see if it has  
 5 been initialed by ~~a judge~~ an election official.

6 ~~\_\_\_\_\_~~ ~~(c)~~(d) After having voted, or declined to do so, the voter shall  
 7 immediately depart from the polling ~~place~~ site."

8

9 SECTION 22. Arkansas Code Annotated § 7-5-310 is amended to read as  
 10 follows:

11 "7-5-310. Privacy - Assistance to disabled voters.

12 (a) Each voter shall be provided the privacy to mark his or her ballot.  
 13 Privacy shall be provided by the county boards of election commissioners to  
 14 ensure that voters desiring privacy are not singled out.

15 (b) If a voter informs the ~~judges~~ election officials that he is unable  
 16 to mark his ballot because he cannot read or write or because of physical,  
 17 sensory, or other disability or other legal cause, such person may be assisted  
 18 by two (2) election ~~judges~~ officials or by ~~a~~ any person selected by the voter,  
 19 who shall mark the ballot so as to vote the ballot in accordance with the  
 20 voter's wishes.

21 (c) Any voter because of physical, sensory, or other disability who  
 22 presents himself or herself for voting and who then informs ~~the election~~  
 23 ~~sheriff of each~~ an election official at the polling place site that he or she  
 24 is unable to stand in line for extended periods of time shall be entitled to  
 25 and assisted by ~~the election sheriff~~ an election official to advance to the  
 26 head of any line of voters then waiting in line to vote at the polling ~~place~~  
 27 site."

28

29 SECTION 23. Arkansas Code Annotated § 7-5-312 is amended to read as  
 30 follows:

31 "7-5-312. Challenge of voter's ballot by poll watchers, candidates or  
 32 designees.

33 (a) During the progress of any election in this state, any candidate in  
 34 person or by representative designated in writing shall have the right to be  
 35 present within the polling ~~place~~ site or room so as to observe and ascertain  
 36 the identity of those persons presenting themselves to vote for the purpose of

1 challenging any voter who appears for the purpose of casting a ballot. The  
 2 document designating a representative shall be sufficient if it contains the  
 3 signature of the candidate and states that the candidate designates the person  
 4 as a representative and is notarized by a notary attesting that the signature  
 5 is that of the candidate. No additional requirement shall be imposed for the  
 6 sufficiency of the document.

7 (b)(1) When the ballot of any voter is thus challenged, it shall be the  
 8 duty of the ~~judges and clerks~~ election officials in the election precinct to  
 9 make and retain a list of the names of all persons so challenged ~~and~~ the  
 10 following procedure shall be followed:

11 (A) the voter shall separate his marked ballot and ballot  
 12 stub;

13 (B) the voter shall place the challenged ballot in a single  
 14 challenged ballot envelope and seal the envelope;

15 (C) the voter shall place the ballot stub and the sealed  
 16 challenged ballot envelope and challenge form in a challenged voter envelope.

17 (2) The ballots of all challenged persons shall be ~~counted,~~  
 18 preserved, secured and separated from the remaining ballots to the end that  
 19 the right of any person to vote may be determined later ~~either~~ by the county  
 20 board of election commissioners ~~or the county committee in a primary~~ or the  
 21 court in which an election contest may thereafter be filed.

22 (c) ~~If the outcome of the election could not be changed if the~~  
 23 ~~challenged ballots are invalidated, the county board of election commissioners~~  
 24 ~~is not required to examine those ballots. However, if the outcome of the~~  
 25 ~~election could be changed if the challenged ballots were invalidated, then the~~  
 26 The county board of election commissioners shall, prior to certification of  
 27 the results of the election, determine whether the challenged ballots are  
 28 valid. If, upon examination of any challenged ballots, the county board of  
 29 election commissioners suspects that a violation of the election laws has  
 30 occurred, the board may refer the matter to the prosecuting attorney.

31 (d)(1) Any group seeking the passage or defeat of a measure on the  
 32 ballot may designate a person or persons to be present within the polling  
 33 ~~place~~ site or room to observe and ascertain the identity of those persons  
 34 presenting themselves to vote for the purpose of challenging any voter who  
 35 appears for the purpose of casting a ballot.

36 (2) Only one (1) representative of ~~the group~~ a candidate or issue



1 shall be allowed to be present at any one (1) time.

2 (3) Any group wishing to designate a representative shall file a  
3 statement with the county clerk stating whether the group is for or against a  
4 measure and naming the persons authorized to represent the group.

5 (4) A representative of the group seeking to be present within  
6 the polling ~~place~~ site or room shall present a copy of the document with a  
7 certificate from the county clerk stating that the document has been filed."  
8

9 SECTION 24. Arkansas Code Annotated § 7-5-313 is amended to read as  
10 follows:

11 "7-5-313. Spoiled ballots - Cancellation and return.

12 (a) Any voter who shall by accident or mistake mar or spoil any ballot  
13 so that he cannot conveniently or clearly vote on the ballot may return it to  
14 the ~~judges~~ election officials and receive another not to exceed three (3) in  
15 all.

16 (b) Spoiled ballots shall be cancelled by ~~a judge~~ an election official  
17 writing CANCELLED on its face and initialling the ballot. The cancelled  
18 ballots shall be preserved separately from other ballots and returned to the  
19 county board of election commissioners ~~or, in primary elections, the county~~  
20 ~~committee,~~ and shall be open to public inspection."  
21

22 SECTION 25. Arkansas Code Annotated § 7-5-314 is amended to read as  
23 follows:

24 "7-5-314. Duties of election ~~clerks~~ officials - Voter lists - Voters in  
25 line at closing time. [Effective January 1, 1996.]

26 (a) ~~The election clerks~~ At least one (1) election official in each  
27 precinct or at each box shall mark the voter's name as having voted, on the  
28 precinct voter registration list furnished by the county clerk;

29 (b) If a voter's name does not appear on the precinct voter  
30 registration list, the voter may vote only in accordance with § 7-5-306.

31 (c) In all counties, when the polls close, all persons who have  
32 presented themselves for voting and who are then in line at the polling ~~place~~  
33 site shall be permitted to cast their votes. The election ~~clerks~~ officials  
34 shall then total the number of voters on the voter lists, and such lists shall  
35 be certified and attested by the election ~~judges and attested by the election~~  
36 ~~clerks~~ officials."

1

2 SECTION 26. Arkansas Code Annotated § 7-5-315 is amended to read as  
3 follows:

4 "7-5-315. Counting ballots at the polling site.

5 In counting the ballots at the polling site, the following procedures  
6 shall be followed:

7 (1) The votes received by an unopposed candidate in any election held  
8 in this state shall not be counted or tabulated by the election officials.  
9 The word UNOPPOSED shall be sufficient to insert on the tally sheet to  
10 indicate that the candidate has received a majority of the votes cast in the  
11 election. However, the votes received by an unopposed candidate for the office  
12 of mayor or circuit clerk shall be counted and tabulated by the election  
13 officials;

14 (2) No write-in vote in any election in this state may be counted  
15 unless the name of the write-in candidate shall have been written on the  
16 ballot in the handwriting of the person casting the vote;

17 (3) In counting the ballots, the ballot box shall be opened, and the  
18 ballots shall be counted by counting each ballot in turn or by counting by  
19 offices and issues. The ~~judges of the~~ election officials must witness the  
20 counting of the ballots, ~~and the two (2) clerks~~ shall keep separate tally  
21 lists of the votes cast for each candidate or issue on the ballot;

22 (4) When two (2) or more ballots are found folded together, it shall be  
23 considered as conclusive evidence of their being fraudulent, and neither of  
24 them shall be counted. If a ballot shall be found to contain a greater number  
25 of names for any one (1) office than the number of persons required to fill  
26 the office, it shall be considered fraudulent as to the whole of the names  
27 designated to fill the office, but no further;

28 (5) Upon the close of the polls, the ~~judges and clerks~~ election  
29 officials shall immediately certify and attest the list of voters and continue  
30 the count to completion. If any of the ~~judges and clerks~~ election officials  
31 become sick or incapacitated from any other cause, the remaining ~~judges and~~  
32 ~~clerks~~ election officials shall continue the count until it is completed;

33 (6) After the count is completed, the ~~judges and clerks~~ election  
34 officials shall make out the certificates of election, in triplicate, and  
35 immediately post one (1) copy outside the polling ~~place~~ site;

36 (7) The votes received by any person whose name appeared on the ballot

1 and who withdrew or died after the certification of the ballot or filing  
 2 period ended shall be counted. If the person received enough votes to win  
 3 nomination or election, a vacancy in nomination or election shall be declared.  
 4 If the person received enough votes to qualify for a runoff, the person's  
 5 name shall appear on the runoff ballot and if enough votes are cast for the  
 6 person to win the runoff then a vacancy in nomination or election shall  
 7 exist."

8

9 SECTION 27. Arkansas Code Annotated § 7-5-316(a) is amended to read as  
 10 follows:

11 "(a) After the polls have been closed, any candidate or political party  
 12 may be present in person or by representative designated in writing at the  
 13 count of the ballots in any election for the purpose of determining whether or  
 14 not the ballots in any election precinct are fairly and accurately counted.  
 15 The candidate, political party, or authorized representative shall be  
 16 permitted, upon request being made to ~~a judge or clerk~~ an election official,  
 17 to inspect any or all ballots at the time the ballots are being counted."

18

19 SECTION 28. Arkansas Code Annotated § 7-5-317 is amended to read as  
 20 follows:

21 "7-5-317. Processing and delivery of election materials. [Effective  
 22 January 1, 1996.]

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

25 (1) The list-of-voters form, the precinct voter registration  
 26 list, voter registration application forms, and other recordkeeping supplies  
 27 shall be delivered to the county clerk;

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

29 (A) One (1) copy of the certificate of election results  
 30 shall be posted in a conspicuous place outside the polling ~~place~~ site  
 31 immediately after the ballots are counted;

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

34 (C) One (1) copy of the certificate of election results  
 35 shall be returned with one (1) copy of the tally sheets and reports of  
 36 challenges of voters, if any, to the county board of election commissioners

1 ~~or, in a primary, the county committee;~~

2 (3) Ballots:

3 (A) The election ~~judges~~ officials shall securely envelope  
 4 the ballots separately and place the ballots in a container with a numbered  
 5 seal and then deliver the ballots with the tally sheets and other election  
 6 materials to the county board of election commissioners ~~or, in a primary, the~~  
 7 ~~county committee;~~

8 (B) All cancelled ballots shall be preserved separately  
 9 from the other ballots and returned to the county board of election  
 10 commissioners ~~or, in a primary, the county committee;~~

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

13 (b) All of the election materials and returns shall be delivered by the  
 14 election ~~judges~~ officials within twenty-four (24) hours after the polls close  
 15 to the county board of election commissioners ~~or, in a primary, the county~~  
 16 ~~committee."~~

17

18 SECTION 29. Arkansas Code Annotated § 7-5-318 is amended to read as  
 19 follows:

20 "7-5-318. Failure to deliver materials - Penalty - Messenger to obtain  
 21 delinquent returns.

22 (a) If the election ~~judges~~ officials fail to deliver the ballots,  
 23 ballot stubs, certification of election, voter lists, and other election  
 24 returns within the time period and in the manner provided for in § 7-5-317,  
 25 the election ~~judges~~ officials shall forfeit the sum of two hundred dollars  
 26 (\$200) to be recovered by action of debt in the name of the state for the use  
 27 of the county.

28 (b) Upon failure of delivery of the election returns within twenty-four  
 29 (24) hours after the polls close, the county board of election commissioners,  
 30 ~~or in a primary the county committee,~~ shall dispatch a peace officer to obtain  
 31 the election returns, and all expenses incurred by sending the messenger shall  
 32 be paid by the defaulting election ~~judges~~ officials."

33

34 SECTION 30. Arkansas Code Annotated § 7-5-319(a) and (b) are amended to  
 35 read as follows:

36 "(a) At any time before the county board of election commissioners

1 shall finally complete the canvass of the returns of any election and ~~declare~~  
 2 certify the result, any candidate voted for who may be dissatisfied with the  
 3 returns from any precinct may have a recount of the votes cast therein if the  
 4 candidate presents the county board of election commissioners with a petition  
 5 showing reasonable grounds for believing that the return, as made by the  
 6 ~~judges of~~ election officials, does not give a correct statement of the vote as  
 7 actually cast, as it is shown by the ballots returned with the certificate of  
 8 the ~~judges~~ election officials.

9 (b) Upon the prayer of the petition being granted, the commissioners  
 10 shall open the package containing the ballots and recount the ballots in the  
 11 manner prescribed by law for the count to be made by the ~~judges~~ election  
 12 officials in the first instance. The result as found upon the recount, if it  
 13 differs from that certified by the ~~judges~~ election officials, shall be  
 14 included in the canvass as the vote for the particular precinct for which the  
 15 recount was ordered and made."

16

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

20

21 SECTION 32. If any provision of this act or the application thereof to  
 22 any person or circumstance is held invalid, such invalidity shall not affect  
 23 other provisions or applications of the act which can be given effect without  
 24 the invalid provision or application, and to this end the provisions of this  
 25 act are declared to be severable.

26

27 SECTION 33. All laws and parts of laws in conflict with this act are  
 28 hereby repealed.

29

APPROVED:3-12-97

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