

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

Act 835 of the Regular Session

1 State of Arkansas
2 86th General Assembly
3 Regular Session, 2007
4

As Engrossed: H3/13/07

A Bill

HOUSE BILL 2625

5 By: Representative Sumpter
6
7

8 **For An Act To Be Entitled**

9 AN ACT TO AMEND VARIOUS PROVISIONS OF THE
10 ARKANSAS CODE CONCERNING VOTING MACHINES; AND FOR
11 OTHER PURPOSES.
12

13 **Subtitle**

14 AN ACT TO AMEND VARIOUS PROVISIONS OF
15 THE ARKANSAS CODE CONCERNING VOTING
16 MACHINES.
17
18

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

21 *SECTION 1. Arkansas Code § 7-5-518(b), concerning the adjustment of a*
22 *counter, is amended to read as follows:*

23 *(b) If any counter ~~or tabulator~~ is found not to register zero (000),*
24 *the election officials shall immediately notify the county board of election*
25 *commissioners, who shall cause the counters to be adjusted at zero (000).*
26

27 *SECTION 2. Arkansas Code § 7-5-522 is amended to read as follows:*

28 *7-5-522. Voting procedure. ~~[Effective January 1, 2006.]~~*

29 *(a)(1) Where a voter presents himself or herself for the purpose of*
30 *voting, the election officials shall ascertain whether he or she is properly*
31 *qualified and registered pursuant to § 7-5-305.*

32 *(2) In preparing the machines, the election official shall*
33 *ensure that each voter will have access only to the proper ballot.*

34 *(b) Only one (1) voter at a time shall be permitted to approach a*
35 *voting machine. Having cast his or her vote, the voter shall at once move*



1 away from the voting machine and leave the polling room by the exit provided.

2 (c) No voter after having left the voting machine shall be permitted
3 to return to the voting machine except to complete the voting process.

4 (d) If a voter leaves an electronic ballot on a voting machine on
5 which the voter has either made some or no selections and has failed to
6 complete the process of casting the ballot and failed to notify an election
7 officer of his or her desire to cancel the ballot prior to departing the
8 polling site, two (2) election officers shall take action to complete the
9 process of casting the ballot and shall document:

10 (1) The time;

11 (2) The name of the voter;, if known

12 (3) The names of the election officers completing the process of
13 casting the ballot; and

14 (4) All other circumstances surrounding the abandoned ballot.

15
16 SECTION 3. Arkansas Code § 7-5-523 is repealed.

17 ~~7-5-523. Assistance to disabled voters. [Effective until January 1,~~
18 ~~2006.]~~

19 ~~{a}(1) A voter shall inform the election officials at the time that~~
20 ~~the voter presents himself or herself to vote that the voter is unable to~~
21 ~~east his ballot by voting machine because the voter cannot read or write or~~
22 ~~because of physical, sensory, or other disability or other legal cause, or~~
23 ~~that he or she is unable to complete the ballot without help and needs the~~
24 ~~assistance of some other person in casting his or her ballot. That voter may~~
25 ~~be assisted by:~~

26 ~~{A} Two (2) election officials; or~~

27 ~~{B} A person named by the voter.~~

28 ~~(2) If the voter is assisted by two (2) election officials, one~~
29 ~~{1} of the election officials shall observe the voting process and one {1}~~
30 ~~may assist the voter in operating the machine so as to vote the ballot in~~
31 ~~accordance with the wishes of the voter without comment or interpretation and~~
32 ~~shall be permitted to keep the curtain closed no longer than five {5}~~
33 ~~minutes.~~

34 ~~(3) If the voter is assisted by one {1} person named by the~~
35 ~~voter, he or she may assist the voter in operating the machine so as to vote~~
36 ~~the ballot in accordance with the wishes of the voter without comment or~~

1 ~~interpretation and shall be permitted to keep the curtain closed no longer~~
2 ~~than five (5) minutes.~~

3 ~~(4) The laws of this state with respect to assisting persons~~
4 ~~with disabilities in the casting of votes upon printed ballots shall govern,~~
5 ~~insofar as is practicable, the assistance of a voter in casting his or her~~
6 ~~ballot by voting machine.~~

7 ~~(5) It shall be the duty of the election officials at the~~
8 ~~polling site to make and maintain a list of the names of all persons~~
9 ~~assisting voters.~~

10 ~~(b) Any voter who because of physical, sensory, or other disability~~
11 ~~who presents himself or herself for voting by voting machine and who then~~
12 ~~informs election officials at the polling site that he or she is unable to~~
13 ~~stand in line for extended periods of time shall be entitled to be assisted~~
14 ~~by an election official to advance to the head of any line of voters then~~
15 ~~waiting in line to vote at the polling site.~~

16
17 *SECTION 4. Arkansas Code § 7-5-523 is repealed.*

18 ~~7-5-523. Assistance to voters with disabilities. [Effective January 1,~~
19 ~~2006.]~~

20 ~~(a)(1) A voter shall inform the election officials at the time that~~
21 ~~the voter presents himself or herself to vote that the voter is unable to~~
22 ~~cast his or her ballot by voting machine because the voter cannot read or~~
23 ~~write or because of physical, sensory, or other disability or other legal~~
24 ~~cause, or that he or she is unable to complete the ballot without help and~~
25 ~~needs the assistance of some other person in casting his or her ballot. That~~
26 ~~voter may be assisted by:~~

27 ~~(A) Two (2) election officials; or~~

28 ~~(B) A person named by the voter.~~

29 ~~(2) If the voter is assisted by two (2) election officials, one~~
30 ~~(1) of the election officials shall observe the voting process and one (1)~~
31 ~~may assist the voter in operating the machine so as to vote the ballot in~~
32 ~~accordance with the wishes of the voter without comment or interpretation.~~

33 ~~(3) If the voter is assisted by one (1) person named by the~~
34 ~~voter, he or she may assist the voter in operating the machine so as to vote~~
35 ~~the ballot in accordance with the wishes of the voter without comment or~~
36 ~~interpretation.~~

1 ~~(4) The laws of this state with respect to assisting persons~~
2 ~~with disabilities in the casting of votes upon printed ballots shall govern,~~
3 ~~insofar as is practicable, the assistance of a voter in casting his or her~~
4 ~~ballot by voting machine.~~

5 ~~(5) It shall be the duty of the election officials at the~~
6 ~~polling site to make and maintain a list of the names of all persons~~
7 ~~assisting voters.~~

8 ~~(b) A voter with a disability who requests to cast his or her ballot~~
9 ~~on a voting machine without assistance shall be provided with an audio or~~
10 ~~other device that shall be used in conjunction with the voting machine so~~
11 ~~that the voter may cast a secret ballot without assistance.~~

12 ~~(c) Any voter who because of physical, sensory, or other disability~~
13 ~~presents himself or herself for voting by voting machine and who then informs~~
14 ~~election officials at the polling site that he or she is unable to stand in~~
15 ~~line for extended periods of time shall be entitled to be assisted by an~~
16 ~~election official to advance to the head of any line of voters then waiting~~
17 ~~in line to vote at the polling site.~~

18
19 SECTION 5. Arkansas Code § 7-5-528 is amended to read as follows:

20 7-5-528. ~~Proclamation of election results~~ Machines released to
21 officers.

22 ~~Upon completion of all tabulation blanks, certificates, and statements,~~
23 ~~the election officials shall again proclaim in a loud and audible voice the~~
24 ~~results of the election as recorded in that precinct. However, if the machine~~
25 ~~is provided with a device for recording candidate and question counter~~
26 ~~totals, the return record for each machine shall be posted upon the wall of~~
27 ~~the polling room for all to see.~~

28 Voting machines shall be released to a person designated by the county
29 board of election commissioners for storage in a secure facility designated
30 by the county board.

31
32 SECTION 6. Arkansas Code § 7-5-530 is amended to read as follows:

33 7-5-530. ~~Machines released to officials~~ Impounding upon election
34 contest or recount Securing audit materials upon election contest or recount.
35 [Effective January 1, 2006.]

36 ~~(a) Immediately after the completion of the tabulation of the returns~~

1 ~~and the securing of the voting machines, the machines shall be released to~~
 2 ~~the proper officials designated by the county board of election~~
 3 ~~commissioners.~~

4 ~~(b)(a)~~ Upon the return of the voting machines, the The county board of
 5 election commissioners shall produce an audit log ~~from~~ for each voting
 6 machine used in the election.

7 ~~(e)(b)~~ In the event that there is an election contest filed, the judge
 8 of the court that has jurisdiction may order the ~~county sheriff to impound~~
 9 county board to secure the audit logs and the voter-verified paper audit
 10 trail alleged in the contest to be in question. The ~~sheriff shall take them~~
 11 ~~into his or her custody and~~ county board shall store them in a secure place
 12 *in the county courthouse* under lock and key awaiting further orders of the
 13 court.

14 ~~(d)(c)~~ In the event that any candidate in any election in which the
 15 machines have been utilized or any voter who questions the count of any
 16 question posed at any election gives written notice to the county board that
 17 he or she desires a recount, then the applicable county board shall ~~designate~~
 18 ~~the sheriff of the county to so place the audit logs and voter-verified paper~~
 19 ~~audit trails in his or her custody and~~ secure the audit logs and voter-
 20 verified paper audit trails and store them in a secure place in the county
 21 courthouse to which only he or she shall have access awaiting further orders
 22 of the applicable county board or court.

23
 24 **SECTION 7.** Arkansas Code § 7-5-532 is amended to read as follows:

25 7-5-532. Direct electronic voting machines.

26 (a) For purposes of this section:

27 (1) "Direct electronic voting machine" means a voting machine
 28 that:

29 (A) Records votes by means of a ballot display provided
 30 with mechanical or electro-optical components that may be actuated by the
 31 voter;

32 (B) Process the data by means of a computer program;

33 (C) Records voting data and ballot images in internal or
 34 external memory components; and

35 (D) Produces a tabulation of the voting data stored in a
 36 removable memory component and in printed copy; and

1 (2) "Voter-verified paper audit trail" means a contemporaneous
2 paper record of a ballot printed for the voter to confirm his or her votes
3 before the voter casts his or her ballot.

4 (b) The ~~State Board of Election Commissioners~~ Secretary of State or
5 the county ~~board of election commissioners~~ shall not purchase or procure a
6 direct recording electronic voting machine that does not include a voter-
7 verified paper audit trail.

8 (c)(1) All direct recording electronic voting machines in use on or
9 after January 1, 2006, shall include a voter-verified paper audit trail,
10 except for those direct recording electronic voting machines in use during
11 the 2004 general election.

12 (2) All direct recording electronic voting machines purchased on
13 or after August 12, 2005 shall include a voter-verified paper audit trail.

14 (d) A direct read electronic voting machine with a voter-verified
15 paper audit trail shall meet the following conditions:

16 (1) The voter-verified paper audit trail *may* be verified by the
17 voter before the casting of the voter's ballot;

18 (2) The voter-verified paper audit trail shall not be retained
19 by the voter;

20 (3) The voter-verified paper audit trail shall not contain
21 individual voter information;

22 (4) The paper used in producing the voter-verified paper audit
23 trail shall be sturdy, clean, and resistant to degradation; and

24 (5) The voter-verified paper audit trail shall be readable in a
25 manner that makes the voter's ballot choices obvious to the voter without the
26 use of computer or electronic code.

27 (e)(1) For any recount of an election in which ballots are cast using
28 a direct recording electronic voting machine with a voter-verified paper
29 audit trail, the voter-verified paper audit trail shall serve as the official
30 ballot to be recounted.

31 (2) Voter-verified paper audit trails shall be preserved in the
32 same manner and for the same time period as ballots and certificates are
33 preserved under § 7-5-702.

34
35 *SECTION 8. Arkansas Code § 7-5-614 is amended to read as follows:*

36 *7-5-614. Locations for vote tabulation - Procedures. ~~Effective January~~*

1 ~~1, 2006.~~

2 ~~(a)(1) The For the tabulation of votes of a precinct may be by~~
3 ~~electronic vote tabulating devices at a central counting location or at the~~
4 ~~polling sites.~~

5 ~~(2) Provisional ballots and absentee ballots shall be processed~~
6 ~~and counted at the courthouse or other central counting location in the~~
7 ~~county.~~

8 ~~(3) The county board of election commissioners with respect to~~
9 ~~all elections shall give notice of the location within the county of each~~
10 ~~place at which votes will be counted by electronic vote tabulating devices~~
11 ~~and of the names or numbers of all precincts whose votes will be counted at~~
12 ~~each location, by posting the notice in a conspicuous place in the county~~
13 ~~courthouse at least three (3) days prior to each election.~~

14 ~~(b) For the tabulation of provisional and absentee ballots at a~~
15 ~~central location beginning on election day.~~

16 ~~(1)(A) The election officials shall place in the container~~
17 ~~provided for ~~the~~ that purpose all ballots that have been cast.~~

18 ~~(B) ~~This~~ The container shall be sealed and delivered to~~
19 ~~the county board of election commissioners forthwith by the election~~
20 ~~officials together with the unused, void, and defective ballots; and~~

21 ~~(2)(A) All proceedings at the counting location shall be under~~
22 ~~the direction of at least two (2) election officials named by the county~~
23 ~~board of election commissioners with respect to all elections.~~

24 ~~(B) In all elections, when possible, the election~~
25 ~~officials shall represent the majority party and the minority party.~~

26
27 SECTION 9. Arkansas Code § 7-5-615 is amended to read as follows:

28 7-5-615. Tabulation of votes - Defective ~~vote cards~~ ballots -
29 Certification of returns. ~~{Effective January 1, 2006.}~~

30 (a) The counting of votes by electronic vote tabulating devices at the
31 courthouse or other central counting location shall be open to the public,
32 and any candidate or political party may be present in person or by
33 representative designated in writing pursuant to § 7-5-312 to view the
34 counting.

35 (b) No person except those employed and authorized for that purpose
36 shall touch any ballot or return.

1 (c) The election officials at the counting place and all persons
2 operating the electronic vote tabulating devices shall take the same oath
3 required by law for election officials before entering upon their duties.

4 (d) If any ballot is damaged or defective so that it cannot properly
5 be counted by the electronic vote tabulating device, a true duplicate copy
6 shall be made of the damaged ballot in the presence of tabulation election
7 officials if the votes are tabulated at a central location. The duplicate
8 shall be substituted for the damaged ballot. All duplicate ballots shall be
9 clearly labeled "duplicate" and shall be counted in lieu of the damaged or
10 defective ballot.

11 (e) The return printed by the electronic vote tabulating device, to
12 which has been added the return of write-in, early, and absentee votes, shall
13 constitute the official return of each ~~precinct~~ polling site. All returns
14 shall be certified by the election officials in charge of the tabulation
15 thereof in the manner provided by law.

16 (f) Upon completion of the count, the returns shall be open to the
17 public.

18
19 /s/ Sumpter

20
21 APPROVED: 4/2/2007
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36