

1 State of Arkansas  
2 94th General Assembly  
3 Regular Session, 2023  
4

As Engrossed: H4/4/23

# A Bill

HOUSE BILL 1687

5 By: Representatives Long, *Wing*  
6 By: Senator K. Hammer  
7

## For An Act To Be Entitled

9 AN ACT CONCERNING PAPER BALLOTS; TO AMEND THE LAW  
10 CONCERNING PAPER BALLOTS AND THE MARKING AND COUNTING  
11 OF PAPER BALLOTS; TO AMEND THE LAW CONCERNING THE  
12 DECLARATION OF ELECTION RESULTS; TO DECLARE AN  
13 EMERGENCY; AND FOR OTHER PURPOSES.  
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## Subtitle

16 CONCERNING PAPER BALLOTS; TO AMEND THE  
17 LAW CONCERNING PAPER BALLOTS AND THE  
18 MARKING AND COUNTING OF PAPER BALLOTS; TO  
19 AMEND THE LAW CONCERNING THE DECLARATION  
20 OF ELECTION RESULTS; AND TO DECLARE AN  
21 EMERGENCY.  
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25 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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27 SECTION 1. Arkansas Code § 7-5-601, concerning paper ballots, is  
28 amended to add additional subsections to read as follows:

29 (f) Each paper ballot shall be compatible with the electronic vote  
30 tabulation devices selected by the Secretary of State under § 7-5-301.

31 (g)(1) A county that chooses to use a hand count of paper ballots in  
32 place of approved voting machines shall be responsible for:

33 (A) The cost of the hand-counted paper ballots and any  
34 devices or machines required for the printing of the hand-counted paper  
35 ballots under this subchapter; and

36 (B) The labor costs associated with the performance of the



1 hand count of paper ballots.

2 (2) A county that chooses to hand-count paper ballots shall be  
3 eligible to receive the amount of reimbursement as if the county performed a  
4 machine tabulation of the votes.

5 (h) The county board of election commissioners of any county that  
6 chooses to use hand count paper ballots instead of approved voting machines  
7 shall be responsible for compliance with § 7-5-311 and with the Equal Access  
8 to Voting Rights Act, Pub. L. No. 98-435, the Americans with Disabilities  
9 Act, Title II of Pub. L. No. 101-336, and the Help America Vote Act of 2002,  
10 Pub. L. No. 107-252 regarding the accessibility of voting locations for  
11 voters with disabilities.

12 (i) Each paper ballot to be hand counted shall contain a watermark on  
13 the ballot with a unique placement of the watermark for each election cycle.

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15 SECTION 2. Arkansas Code § 7-5-602(b) and (c), concerning ballots,  
16 number of ballots, marking devices, spoiled ballots, and official ballots,  
17 are amended to read as follows:

18 (b) A ballot shall not be received or counted in any election to which  
19 this subchapter applies unless it is approved and provided by the county  
20 board of election commissioners under this section.

21 (c) At all elections in counties that use paper ballots and in which  
22 those ballots are counted by hand, the ballots shall:

23 (1) First be marked using permanent ink; and

24 (2)(A) Be run through an electronic vote tabulation device  
25 before a hand count is conducted.

26 (B)(i) The requirement under subdivision (c)(2)(A) of this  
27 section shall apply in all general elections and preferential primary  
28 elections.

29 (ii) The requirement under (c)(2)(A) of this section  
30 is optional if an election:

31 (a) Is an election other than the general  
32 election or the preferential primary election; and

33 (b) Involves fewer than five thousand (5,000)  
34 registered voters.

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36 SECTION 3. Arkansas Code § 7-5-603 is amended to read as follows:

1 7-5-603. Counting paper ballots ~~at the polling site.~~

2 When paper ballots are to be counted ~~at the polling site,~~ the following  
3 procedures shall be followed:

4 (1)(A) In counting the paper ballots, the ballot box shall be  
5 opened and each paper ballot shall be counted in turn or by counting by  
6 offices and issues by first being run through a tabulation device before any  
7 hand count is conducted.

8 (B) The poll workers shall witness the counting of the  
9 paper ballots and shall keep separate tally lists of the votes cast for each  
10 candidate or issue on the paper ballot by precinct.

11 (C) The tabulated results shall be posted at each polling  
12 site prior to the completion of the hand count of the paper ballots;

13 (2)(A) After being run through a tabulation device, the paper  
14 ballots shall be placed in a sealed double-locking hard shell ballot box for  
15 transport to the designated hand count location and the seal initialed by a  
16 minimum of two (2) election officials.

17 (B) Each county board of election commissioners shall  
18 designate the hand count location thirty (30) days before an election.

19 (C) A minimum of two (2) election officials shall  
20 transport the paper ballots to the hand count location.

21 (D) All ballots from voting machines used for compliance  
22 with the Equal Access to Voting Rights Act, Pub. L. No. 98-435, the Americans  
23 with Disabilities Act, Title II of Pub. L. No. 101-336, and the Help America  
24 Vote Act of 2002, Pub. L. No. 107-252 shall be counted with the hand-counted  
25 paper ballots.

26 (E) All paper ballots shall be stored in a secure location  
27 approved by the county board of election commissioners when not in use by a  
28 poll worker performing the hand count of the paper ballots;

29 (3)(A) When two (2) or more paper ballots are found folded  
30 together, it shall be considered as conclusive evidence the paper ballots are  
31 fraudulent and neither of the paper ballots shall be counted.

32 (B) If a paper ballot is found to contain marks for more  
33 than the maximum allowable number of candidates in any one (1) contest, the  
34 contest shall be considered overvoted, and it shall be the responsibility of  
35 the ~~poll workers~~ county board of election commissioners to determine the  
36 voter's intent;

1           ~~(3)(A)~~(4)(A) Upon the close of the polls, the poll workers  
2 immediately shall certify and attest the list of voters and continue the  
3 count to completion.

4           (B)(i) A hand count of paper ballots shall be completed a  
5 minimum of twenty-four (24) hours before the certification deadline.

6           (ii) If the hand count of paper ballots is not  
7 completed a minimum of twenty-four (24) hours before the certification  
8 deadline, the machine tabulated results under subdivision (1) of this section  
9 shall be the certified results of the election.

10          (C)(i) If a poll worker becomes sick or incapacitated from  
11 any other cause, the remaining poll workers shall continue the count until it  
12 is completed.

13          (ii) The county board of election commissioners  
14 shall ensure there is a minimum of four (4) poll workers available to  
15 continue the count.

16          (D) All hand-count paper ballot totals shall be recorded  
17 by race in each precinct, and posted at the designated hand-count location  
18 upon the completion of the hand count of the paper ballots;

19          (5) A minimum of two (2) poll workers are required to verify the  
20 vote on each hand-counted paper ballot;

21          ~~(4)(6)~~ After the count is completed, the poll workers shall make  
22 out the certificates of election in triplicate and immediately post one (1)  
23 copy outside the polling site; and

24          ~~(5)(A)~~(7)(A)(i) The counting of paper ballots shall be open to  
25 the public.

26                   (ii) the public shall maintain a minimum distance of  
27 three (3) feet from the poll workers counting the paper ballots.

28                   (iii) If sufficient room to maintain a minimum  
29 distance of three (3) feet from the poll workers counting the paper ballots  
30 may not be achieved, the candidate, the candidate's designated or authorized  
31 representative, and designated or authorized representatives of the political  
32 parties shall be given priority viewing by the county board of election  
33 commissioners.

34           (B) Any candidate or political party may be present in  
35 person or by representative designated in writing under § 7-5-312 at the  
36 count of the paper ballots in any election for the purpose of determining

1 whether or not the paper ballots in any election precinct are fairly and  
2 accurately counted.

3 (C) The candidate in person or an authorized  
4 representative of the candidate or political party shall be permitted, upon a  
5 request's being made to a poll worker, to inspect any or all paper ballots  
6 after the paper ballots have been counted.

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8 SECTION 4. EMERGENCY CLAUSE. It is found and determined by the General  
9 Assembly of the State of Arkansas that sufficient laws to ensure the  
10 integrity of paper ballot elections do not currently exist; that this act is  
11 immediately necessary to establish adequate guidelines and requirements to  
12 ensure that elections conducted by paper ballot are safe and secure and to  
13 fortify the integrity of each and every election conducted within the State  
14 of Arkansas; that adequate guidelines are required to ensure elections  
15 conducted by paper ballots accommodate disabled Arkansas citizens and are in  
16 compliance with the Americans with Disabilities Act; and that the  
17 preservation of safe and secure elections is necessary to preserve the public  
18 peace, health and safety. Therefore, an emergency is declared to exist, and  
19 this act being immediately necessary to preserve the public peace, health and  
20 safety shall become effective on:

21 (1) The date of its approval by the Governor;

22 (2) If the bill is neither approved nor vetoed by the Governor,  
23 the expiration of the period of time during which the Governor may veto the  
24 bill; or

25 (3) If the bill is vetoed by the Governor and the veto is  
26 overridden, the date the last house overrides the veto.

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28 /s/Long

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31 **APPROVED: 4/12/23**

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