

1
2 State of Arkansas
3 88th General Assembly
4 Regular Session, 2011

A Bill

HOUSE BILL 1417

5
6 By: Representative Lea

7 Filed with: Interim House Committee on City, County and Local Affairs
8 pursuant to A.C.A. §10-3-217.

For An Act To Be Entitled

9
10 AN ACT CONCERNING THE CONDUCT OF NONPARTISAN
11 MUNICIPAL ELECTIONS; AND FOR OTHER PURPOSES.

Subtitle

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15 CONCERNING THE CONDUCT OF NONPARTISAN
16 MUNICIPAL ELECTIONS.

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

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21 SECTION 1. Arkansas Code § 7-5-106 is amended to read as follows:

22 7-5-106. Runoff elections for county ~~and municipal~~ officers.

23 (a) Whenever there are more than two (2) candidates for election to
24 any county elected office, including the office of justice of the peace, ~~or~~
25 ~~for any municipal office at any general election held in this state and no~~
26 ~~candidate for the municipal or county office receives a majority of the votes~~
27 ~~east for the office,~~ there shall be a runoff general election held in that
28 county ~~or municipality~~ three (3) weeks following the date of the general
29 election at which the names of the two (2) candidates receiving the highest
30 number of votes, but not a majority, shall be placed on the ballot to be
31 voted upon by the qualified electors of the county ~~or the municipality, as~~
32 ~~the case may be.~~

33 (b) In the event that two (2) candidates receive the highest number of
34 votes and receive the same number of votes, a tie shall be deemed to exist
35 and the names of the two (2) candidates shall be placed on the runoff general

1 election ballot to be voted upon by the qualified electors of the county ~~or~~
2 ~~the municipality, as the case may be.~~

3 (c)(1) If there is one (1) candidate who receives the highest number
4 of votes, but not a majority of the votes, and two (2) other candidates
5 receive the same number of votes for the next highest number of votes cast, a
6 tie shall be deemed to exist between the two (2) candidates.

7 (2) The county board of election commissioners shall determine
8 the runoff candidate by lot at a public meeting and in the presence of the
9 two (2) candidates.

10 (d) If one (1) of the two (2) candidates who received the highest
11 number of votes for an office but not a majority in the general election
12 withdraws prior to certification of the result of the general election, the
13 remaining candidate who received the most votes at the general election shall
14 be declared elected to the office and there shall be no general election
15 runoff.

16 (e)(1) The person receiving the majority of the votes cast for the
17 office at the runoff general election shall be declared elected.

18 (2) However, in the event that the two (2) candidates seeking
19 election to the same county ~~or municipal~~ office shall receive the same number
20 of votes in the runoff election, a tie shall be deemed to exist, and the
21 county board shall determine the winner by lot at an open public meeting and
22 in the presence of the two (2) candidates.

23 ~~(f)(1) For the purposes of this section, the term "municipal officers"~~
24 ~~shall include officers of cities of the first class and cities of the second~~
25 ~~class and incorporated towns and shall include aldermen, members of boards of~~
26 ~~managers, or other elective municipal offices elected by the voters of the~~
27 ~~entire municipality or from wards or districts within a municipality.~~

28 ~~(2) The term "municipal officers" shall not include officers of~~
29 ~~cities having a city manager form of government.~~

30 ~~(3) The provisions of this section shall not be applicable to~~
31 ~~election of members of the boards of directors and other officials of cities~~
32 ~~having a city manager form of government.~~

33 ~~(g)(f)~~ The provisions of this section are intended to be in addition
34 to and supplemental to the laws of this state pertaining to the election of
35 county ~~and municipal~~ officers at general elections.

36

1 SECTION 2. Arkansas Code § 14-42-206 is amended to read as follows:
2 14-42-206. Municipal elections -- Nominating petitions.

3 (a)(1) The city or town council of any city or town with the mayor-
4 council form of government, by resolution passed before January 1 of the year
5 of the election, may request the county party committees of recognized
6 political parties under the laws of the state to conduct party primaries for
7 municipal offices for the forthcoming year.

8 (2) The resolution shall remain in effect for the subsequent
9 elections unless revoked by the city or town council.

10 (3) When the resolution has been adopted, the clerk or recorder
11 shall mail a certified copy of the resolution to the chairs of the county
12 party committees and to the chairs of the state party committees.

13 (4) Candidates nominated for municipal office by political
14 primaries under this section shall be certified by the county party
15 committees to the county board of election commissioners and shall be placed
16 on the ballot at the general election.

17 (b)(1)(A) If a city or town council does not request party primaries
18 for municipal offices under subsection (a) of this section, the general
19 elections for municipal offices shall be held on the same dates and at the
20 same times and places as provided by law for preferential primary elections.

21 (B)(i) The names of candidates for municipal offices shall
22 be included on the ballots of the political parties and shall be designated
23 as nonpartisan municipal office candidates. However, separate ballots
24 containing the names of nonpartisan municipal candidates shall be prepared
25 and shall be made available to voters requesting the same.

26 (ii) The names of nonpartisan municipal office
27 candidates may be included on a ballot with the names of nonpartisan judicial
28 candidates.

29 (C) A voter shall not be required to vote in a political
30 party's preferential primary in order to be able to vote in nonpartisan
31 judicial elections.

32 (2)(A) A person shall not be elected to a nonpartisan municipal
33 office without receiving a majority of the votes cast at the election for the
34 office.

35 (B) In any nonpartisan municipal election in which a
36 person does not receive a majority of the votes cast, the two (2) candidates

1 receiving the highest and next highest number of votes shall be certified to
2 a runoff election that shall be held on the same date and at the same times
3 and places as the November general election.

4 (C) The names of the candidates in a nonpartisan municipal
5 runoff election shall be placed on the same ballots used for the November
6 general elections.

7 ~~(b)~~(c)(1) Any person desiring to become ~~an independent~~ a nonpartisan
8 candidate for municipal office in cities and towns with the mayor-council
9 form of government shall file not more than ninety (90) nor less than seventy
10 (70) days prior to the ~~general~~ preferential primary election by 12:00 noon
11 with the county clerk the petition of nomination in substantially the
12 following forms:

13 (A) For all candidates except aldermen in cities of the
14 first class and cities of the second class:

17 "PETITION OF NOMINATION

18 We, the undersigned qualified electors of the city (town) of,
19 Arkansas, being in number not less than ten (10) for incorporated towns and
20 cities of the second (2nd) class, and not less than thirty (30) for cities of
21 the first (1st) class, do hereby petition that the name of _____ be placed on
22 the ballot for the office of _____ at the next election of municipal
23 officials in 20 _____.

26 Printed

27 Name Signature Street Date of Birth Date of Signing"

30 (B) For candidates for alderman elected by ward in cities
31 of the first class and cities of the second class, the nominating petitions
32 shall be signed only by qualified electors of the ward in the following
33 manner:

35 "PETITION OF NOMINATION

1 We, the undersigned qualified electors of Ward of the city of
2 _____, Arkansas, being in number not less than ten (10) for incorporated
3 towns and cities of the second (2nd) class, and not less than thirty (30) for
4 cities of the first (1st) class, do hereby petition that the name of _____ be
5 placed on the ballot for the office of Alderman, Ward _____, position _____,
6 of the next election of municipal officials in 20 _____.

7
8

9 Printed

10 Name Signature Street Address Date of Birth Date of Signing"

11

12 (C) For at-large candidates for alderman of a ward in
13 cities of the first class and cities of the second class, the nominating
14 petitions shall be signed by any qualified elector of the city in the
15 following manner:

16

17 "PETITION OF NOMINATION

18 We, the undersigned qualified electors of the city of,
19 Arkansas, being in number not less than ten (10) for incorporated towns and
20 cities of the second (2nd) class, and not less than thirty (30) for cities of
21 the first (1st) class, do hereby petition that the name of _____ be placed on
22 the ballot for the office of Alderman, Ward _____, position _____, of the
23 next election of municipal officials in 20 _____.

24

25

26 Printed

27 Name Signature Street Address Date of Birth Date of Signing"

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29

30 (2)(A) ~~An independent~~ A nonpartisan candidate for municipal
31 office may qualify by a petition of not fewer than ten (10) electors for
32 incorporated towns and cities of the second class and not fewer than thirty
33 (30) electors for cities of the first class of the ward or city in which the
34 election is to be held.

1 (B) The county clerk shall determine within ten (10) days
2 of filing whether the petition contains the names of a sufficient number of
3 qualified electors.

4 (C) The county clerk promptly shall notify the candidate
5 of the result.

6 (3) ~~Independent~~ Nonpartisan candidates for municipal office
7 shall file a political practices pledge and an affidavit of eligibility at
8 the time of filing their petitions.

9 (4)(A) ~~An independent~~ A nonpartisan candidate shall state the
10 position, including the position number, if any, on his or her petition.

11 (B) When a nonpartisan candidate has identified the
12 position sought on the notice of candidacy, the nonpartisan candidate shall
13 not be allowed to change the position but may withdraw a notice of candidacy
14 and file a new notice of candidacy designating a different position before
15 the deadline for filing.

16 (5) The sufficiency of a petition filed under this section may
17 be challenged in the same manner as election contests under § 7-5-801 et seq.

18 ~~(6) A person who has been defeated in a party primary shall not
19 file as an independent candidate in the general election for the office for
20 which he or she was defeated in the party primary.~~

21 ~~(c)(1)(A)(d)(1) If no candidate receives a majority of the votes cast
22 in the general election, the two (2) candidates receiving the highest number
23 of votes cast for the office to be filled shall be the nominees for the
24 respective offices, to be voted upon in a runoff election pursuant to § 7-5-
25 106.~~

26 ~~(B) In any case, except~~ Except for the office of mayor, in
27 which only one (1) candidate has filed and qualified for the office, the
28 candidate shall be declared elected and the name of the person shall be
29 certified as elected without the necessity of putting the person's name on
30 the ~~general~~ preferential primary election ballot for the office.

31 (2) If the office of mayor is unopposed, then the candidate for
32 mayor shall be printed on the ~~general~~ preferential primary election ballot
33 and the votes for mayor shall be tabulated as in all contested races.

34 ~~(d)(1)(A) The governing body of any city of the first class, city of
35 the second class, or incorporated town may enact an ordinance requiring~~

1 ~~independent candidates for municipal office to file petitions for nomination~~
2 ~~as independent candidates with the county clerk:~~

3 ~~(i) No earlier than twenty (20) days prior to the~~
4 ~~preferential primary election; and~~

5 ~~(ii) No later than 12:00 noon on the day before the~~
6 ~~preferential primary election.~~

7 ~~(B) The governing body may establish this filing deadline~~
8 ~~for municipal offices even if the municipal offices are all independent or~~
9 ~~otherwise nonpartisan.~~

10 ~~(2)(A) The ordinance shall be enacted no later than ninety (90)~~
11 ~~days prior to the filing deadline.~~

12 ~~(B) The ordinance shall be published at least one (1) time~~
13 ~~a week for two (2) consecutive weeks immediately following adoption of the~~
14 ~~ordinance in a newspaper having a general circulation in the city.~~

15 (e) Nothing in this section shall repeal any law pertaining to the
16 city administrator form of government or the city manager form of government.

17 (f) This section does not apply in any respect to the election of
18 district judges.

19
20 Referred by the Arkansas House of Representatives

21 Prepared by: MBM/VJF
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