

State of Arkansas

76th General Assembly

Regular Session, 1987

AS ENGROSSED 2/4/87

HOUSE BILL 1258

By: Representatives Cabe, Flanagan, Clark and Easley

"AN ACT TO AMEND VARIOUS PROVISIONS OF THE ELECTION LAWS TO
CORRECT VAGUE AND AMBIGUOUS LANGUAGE; AND FOR OTHER
PURPOSES."

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

SECTION 1. Subsection (e) of Section 5 of Article 1 of Act 465 of 1969, as amended, the same being Arkansas Statute 3-105(e), is hereby amended to read as follows:

"(e) Nominees for election at a special election called for the purpose of filling a vacancy in office for member of the House of Representatives of the Congress of the United States, for Lieutenant Governor, or as a member of the Senate or House of Representatives of the General Assembly shall be chosen as follows:

(1) Whenever a vacancy shall exist in any of the aforementioned offices, the Governor shall certify in writing to the State Committee of the respective political parties the fact of such vacancy and shall request the respective State Committee to make a determination and notify him in writing within ten (10) days with respect to whether the political party desires to hold a special primary election to choose a nominee of such party as a candidate for election to the office in which the vacancy exists. If the State Committee of any political party shall notify the Governor, within the time provided above, of their request to hold a special primary election, it shall be mandatory that said political party desiring to choose a nominee for election to the office in which the vacancy exists to choose such nominee at a special primary election. In issuing the proclamation calling for a special election to fill the vacancy in office, the Governor shall also specify the date on which the special primary elections shall be held, and the date on which a run-off

primary election shall be held in the event a candidate does not receive a majority vote. The proclamation of the Governor shall also establish the deadline for filing as a candidate for nomination, which deadline shall allow at least ten (10) days in which candidates may file for nomination. The date of the special primary election shall be at least thirty (30) days, but no more than sixty (60) days, subsequent to the date fixed as a deadline for qualifying as a candidate for nomination, and shall be at least ten (10) days prior to the date fixed in the proclamation for holding the special election to fill the vacancy in office. Certificates of nomination of persons nominated at a special primary election shall be filed, and the filing fees therefor paid, to the appropriate official at least seven (7) days prior to the date for holding the special election to fill the vacancy in office.

(2) Any person desiring to be a candidate for such office as an independent candidate without political party affiliation, may file nomination petitions signed by not less than fifteen percent (15%) of the qualified electors of the district or of the State, as the case may be, as determined by the total number of votes cast in the last preceding general election for all candidates for the office of Governor. Such petitions shall be filed on or before the deadline fixed in the proclamation of the Governor to file and qualify as a candidate for nomination at the special primary elections, or if no special primary election is to be held, the Governor shall, in his proclamation, establish the filing period for independent candidates.

(3) If the State Committee of any political party fails to notify the Governor, within the time provided hereinabove, of the desire to hold a special primary election to choose a nominee of such political party as a candidate for election to fill the vacancy in office, or if the State Committee of any political party timely notifies the Governor of the desire not to hold such a primary election, the Governor shall, in issuing his proclamation calling for the special election, fix a deadline for filing as a nominee for election at such special election. In such event, nominations may be made upon certification of the chairman or secretary of a convention of delegates of a political party called and held ;in accordance with the rules of the party."

SECTION 2. Subsection (1) of Section 13 of Article 1 of Act 465 of 1969, as amended, the same being Arkansas Statute 3-113(1), is hereby amended to read as follows:

"(1) Any group of voters desiring to form a new political party may do so by filing a petition with the Secretary of State. The petition shall contain the signatures of qualified electors of this State equal in number to at least three percent (3%) of the total vote cast for the office of Governor or nominees for Presidential Electors, whichever is less, at the last preceding election. The petitions shall be filed with the Secretary of State no later than twelve o'clock (12:00) noon on the first Tuesday in the fourth calendar month before the preferential primary election. The petitions shall be circulated during the period beginning one hundred twenty (120) calendar days prior to the deadline for filing the petitions with the Secretary of State."

SECTION 3. Section 4 of Article 3 of Act 465 of 1969, the same being Arkansas Statute 3-304, is hereby amended to read as follows:

"Section 4. When any vacancy shall happen in the office of member of the United States House of Representatives from this State by death, resignation, removal or otherwise, it shall be the duty of the Governor, by proclamation, to order the sheriffs of the several counties to order an election to be held, on a certain day to be named in such proclamation, to supply such vacancy, and such election shall be conducted in the same manner, and returns thereof made, as herein prescribed for general elections."

SECTION 4. Subsection (b) of Section 2 of Article 5 of Act 465 of 1969, as amended, the same being Arkansas Statute 3-502(b), is hereby amended to read as follows:

"(b) The County Chairman of the County Committee of the majority party and the County Chairman of the County Committee of the minority party shall be members of the County Board of Election Commissioners together with one (1) additional or third member to be appointed by the State Board of Election Commissioners. The third member for each of the County Board of Election Commissioners shall be appointed by the State Board of Election Commissioners from a list of five (5) names submitted to the State Board of Election Commissioners by the County Committee of the majority party. Said nominees

shall be certified to the State Board of Election Commissioners by the Chairman of the County Committee of the majority party. Said third members for each of the County Board of Election Commissions shall be elected by majority vote of the State Board of Election Commissioners from the list of five (5) nominees submitted. Said list of five (5) nominees shall be certified and submitted to the State Board of Election Commissioners by the majority party County Committee Chairman subsequent to the primary election but at least fifty (50) calendar days before any General Election for State, District or County office and the third member of each County Board of Election Commissioners shall be elected as aforesaid by the State Board of Election Commissioners at least forty (40) calendar days before any General Election for State, District or County office. In the event of the failure of any County Chairman of the County Central Committee of the majority party to submit five (5) names in nomination for the third member of the County Board of Election Commissioners within the time herein stipulated the State Board of Election Commissioners shall nominate and elect by majority vote said third member."

SECTION 5. Section 4 of Article 5 of Act 465 of 1969, as amended, the same being Arkansas Statute 3-504, is hereby amended to read as follows:

"Section 4. The members of the State Board of Election Commissioners, the members of each county board of election commissioners, precinct judges and clerks shall be qualified electors of this State, able to read and write the English language, and shall not have been found guilty, pled guilty or nolo contendere to the violation of any election law of this State. No member of a county board of election commissioners shall be a candidate for any office to be filled at any election while serving on the county board. Furthermore, all members of each county board of election commissioners, precinct judges and clerks shall be residents of the county in which they serve at the time of their appointment or election. Provided, however, that if at the time of posting election officials, the county election commission of any county in this State having a population of more than 25,000 inhabitants, as determined by the most recent federal decennial census, shall by unanimous vote find that it is impossible to obtain qualified election officials from any precinct or precincts and the election commission shall make due certification of that finding to the county clerk, then in that event other

qualified citizens of the county may be designated to serve in such precinct or precincts."

SECTION 6. The second unnumbered paragraph of Section 5 of Article 5 of Act 465 of 1969, the same being the second unnumbered paragraph of Arkansas Statute 3-505, is hereby amended to read as follows:

"In the event that no County Chairman or County Vice Chairman has been elected in any of the several counties of Arkansas for either the majority party or minority party by the fiftieth (50th) calendar day before any General Election, then and in that event, the State Board of Election Commissioners shall have authority to elect by majority vote qualified persons from the county committee of the majority or minority party so affected to fill such vacancies whether or not such vacancies be caused by failure to elect, death, resignation or disqualification, provided, however, that all such appointments to fill the vacancies of the County Boards of Election Commissioners shall be terminated immediately upon the election of a County Chairman or County Vice Chairman qualified to serve upon said County Board of Election Commissioners as herein provided."

SECTION 7. Section 7 of Article 7 of Act 465 of 1969, the same being Arkansas Statute 3-707, is hereby amended to read as follows:

"Section 7. To be qualified to vote, a person shall have registered at least twenty (20) calendar days immediately prior to the election and in the manner set forth by Amendment 51 to the Constitution of Arkansas."

SECTION 8. Subsection (b) of Section 17 of Article 7 of Act 465 of 1969, the same being Arkansas Statute 3-717(b), is hereby amended to read as follows:

"(b) No write-in vote in any election in this State may be counted unless the name of the write-in candidate shall have been written on the ballot in the handwriting of the person casting the vote."

SECTION 9. Subsection (2) of subsection (a) of Section 4 of Article 9 of Act 465 of 1969, as amended, the same being Arkansas Statute 3-904(a)(2), is hereby amended to read as follows:

"(2) If the applicant does not use the form prescribed in Article 9, Section 5 of Act 465 of 1969, as amended, he may make an application for an absentee ballot by letter or postcard if received by the County Clerk not

later than seven (7) calendar days prior to the date of the election, if said letter or postcard contains information sufficient to the County Board of Election Commissioners and the County Clerk to accept the letter or postcard in lieu of the application form."

SECTION 10. Section 3 of Act 42 of the First Extraordinary Session of 1972, the same being Arkansas Statute 3-1103.1, is hereby amended to read as follows:

"Section 3. Independent candidates for municipal office shall file their political practices pledges with the County Clerk of the County not less than sixty (60) calendar days before the General Election."

SECTION 11. Section 2 of Act 319 of 1937, the same being Arkansas Statute 80-305, is hereby amended to read as follows:

"Section 2. All persons who have registered to vote, in the manner prescribed by Amendment 51 to the Arkansas Constitution, at least 20 calendar days immediately prior to the school election shall be deemed qualified elector of the school district in which they reside, and shall have the privilege of voting in all school elections."

SECTION 12. Section 1 of Act 154 of 1939, the same being Arkansas Statute 80-310, is hereby amended to read as follows:

"Section 1. Duplicate ballots and ballot boxes shall be used in any school district in this State under the following conditions:

In any district in this State in which there is a contest for the office of School Director any ten qualified electors of said district may petition the county board of election commissioners at least ten days prior to the election and request said county board of election commissioners to provide duplicate ballots and ballot boxes necessary in conducting such election.

The duplicate ballots and boxes shall conform to those now provided by law in primary elections, and the primary election law shall apply as nearly as possible to the holding of school elections without conflicting with the present law governing school elections.

When such petition is delivered to the county board of election commissioners it shall be its duty to provide duplicate ballots and boxes for the district and deliver the same to the judges and clerks of the election as now

provided by the school law.

Such judges and clerks shall use said duplicate ballots and boxes in the same manner as now provided by law in primary elections and when the polls have closed the election the judges shall at once seal the duplicate box and deliver the same as soon as possible to the county treasurer, who shall safely keep the same until the time for filing contests in school elections has expired, but in case of a contest said treasurer shall not destroy said ballots until ordered to do so by the court having jurisdiction of the contest.

The original ballot box shall be returned to the county judge and by him safely kept until the time for contesting an election has expired and in case of a contest shall preserve the said ballot box and ballots. Both the original and duplicate ballots shall be competent evidence in case of contest."

SECTION 13. Section 85 of Act 169 of 1931, the same being Arkansas Statute 80-315, is hereby amended to read as follows:

"Section 85. At all annual or special elections the board of directors of each district shall pay the expenses of the election out of the school fund."

SECTION 14. The last unnumbered paragraph of Section 1 of Act 403 of 1951, as amended, the same being the last unnumbered paragraph of Arkansas Statute 80-318, is hereby amended to read as follows:

"At the close of the election, the judges at each polling place shall make a return of the votes, certified by the clerks of the election, and file this in the office of the county clerk of the county in which said district is administered, for delivery to its county board of election commissioners, who shall, not later than the eleventh (11th) calendar day after the election, proceed to ascertain and declare the results of the election and file their findings and one of the ballots with the county clerk. Within fourteen (14) calendar days after the election, the county court shall canvass the returns and declare the result of the election by an order entered of record. This order shall be final unless an appeal is taken from it to the circuit court within fifteen (15) calendar days after it has been entered. The county clerk of the county in which the district is administered shall file a certified copy of said order with the county clerk of each county in which any part of the district lies."

SECTION 15. Section 3 of Act 366 of 1951, the same being Arkansas Statute 80-323, is hereby amended to read as follows:

"Section 3. Actions to contest the election of county and school district officers shall follow the procedures set out in Act 465 of 1969 as it now exists or is hereafter amended."

SECTION 16. The following laws are hereby repealed:

- (a) Subsection (f) of Section 13 of Article 1 of Act 465 of 1969, as amended (Ark. Stat. 3-113(f));
- (b) Section 6 of Article 13 of Act 465 of 1969 (Ark. Stat. 3-1306);
- (c) Section 1 of Act 319 of 1937 (Ark. Stat. 80-304);
- (d) The last paragraph of Section 11 of Act 30 of 1935, (the last paragraph of Ark. Stat. 80-311);
- (e) Sections 79 and 84 of Act 169 of 1931 (Ark. Stat. 80-313); and
- (f) Section 1 of Act 56 of 1949 (Ark. Stat. 80-317).

/s/ Gloria Cabe

