

1 State of Arkansas

2 80th General Assembly

3 Regular Session, 1995

4 By: Representative Schexnayder

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For An Act To Be Entitled

8 "AN ACT TO AMEND VARIOUS SECTIONS OF ARKANSAS CODE TITLE 7
9 TO PROVIDE FOR STATE SUPPORTED POLITICAL PARTY PRIMARY
10 ELECTIONS; TO PROVIDE THAT THE STATE BOARD OF ELECTION
11 COMMISSIONERS HAS THE PRIMARY DUTY FOR CONDUCTING SUCH
12 ELECTIONS; TO PROVIDE THE DUTIES OF COUNTY BOARDS OF
13 ELECTION COMMISSIONERS AND POLITICAL COMMITTEES CONCERNING
14 POLITICAL PARTY PRIMARY ELECTIONS; TO PROVIDE FOR JOINT
15 PRIMARIES; TO REPEAL ARKANSAS CODE 7-7-501 THROUGH 7-7-504
16 CONCERNING JOINT PRIMARIES; AND FOR OTHER PURPOSES."

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Subtitle

20 "AN ACT TO PROVIDE FOR STATE SUPPORTED
21 POLITICAL PARTY PRIMARY ELECTIONS."

22

23

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

25

26 SECTION 1. Arkansas Code 7-3-101 is amended to read as follows:

27 "7-3-101. Duties and powers.

28 Subject to the provisions of this act and other applicable laws of
29 this state, organized political parties shall:

30 (1) Have the right to prescribe the qualifications of their own
31 membership;

32 (2) Prescribe the qualifications for voting in their party
33 primaries;

34 (3) Establish rules and procedures for their own organization."

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SECTION 2. Arkansas Code 7-7-201 is amended to read as follows:

"7-7-201. Law governing primary elections.

(a) The cost of political party primaries shall be borne by the state and shall be paid from an appropriation made to the state board of election commissioners for that purpose.

(b)(1) The state board of election commissioners shall have the primary responsibility for conducting political party primaries in this state. Within each county, the political party primary elections shall be conducted by the county board of election commissioners, under the direction of the state board of election commissioners. The state board of election commissioners shall have authority to adopt rules for the administration of primary elections consistent with the provisions of this chapter.

(2) Each political party shall be responsible for determining the qualifications of candidates seeking nomination by the political party, provide necessary applications for candidacy, accept and process the applications, and determine the order of its ballot.

(c) All political party primary elections shall be conducted in conformity with the provisions of this act, and these elections are declared to be legal elections.

(d) In cases of circumstances or procedures which may arise in connection with any primary election for which there is no provision of this act governing the circumstances or procedures, they shall be governed by the general election laws of this state or by party rules if there is no applicable general election law."

SECTION 3. Arkansas Code 7-7-202 is amended to read as follows:

"7-7-202. Preferential and general primaries - When required.

(a) Whenever any political party shall, by primary election, select party nominees as candidates at any general election for any United States, state, district, county, township, or municipal office, there shall be held a preferential primary election and a general primary election on the respective dates provided in § 7-7-203(a) and (b).

(b) A general primary election for a political party shall not be held

1 if there are no races where three (3) or more candidates qualify for the same
2 office or position as provided in subsection (c) of this section, unless a
3 general primary election is necessary to break a tie vote for the same office
4 or position at the preferential primary.

5 (c) If there are no races where three (3) or more candidates qualify for
6 the same office or position, only the preferential primary election shall be
7 held for the political party. If all nominations have been determined at the
8 preferential primary election, or by withdrawal of candidates as provided in
9 § 7-7-304(a) and (b), the general primary election shall not be held."

10

11 SECTION 4. Arkansas Code 7-7-203 is amended to read as follows:

12 "7-7-203. Dates.

13 (a) The general primary election shall be held on the second Tuesday
14 in June preceding the general election.

15 (b) The preferential primary election shall be held on the Tuesday
16 three (3) weeks prior to the general primary election.

17 (c) Party pledges, if any, and political practice pledges for primary
18 elections shall be filed, and any filing fees of a political party shall be
19 paid, during regular office hours in the period beginning at 12:00 noon on
20 the third Tuesday in March and ending at 12:00 noon on the fourteenth day
21 thereafter, before the preferential primary election. Party pledges, if any,
22 and political practice pledges shall be filed, and filing fees of a political
23 party for special primary elections shall be paid, on or before the deadline
24 established by proclamation of the Governor. Pledges and filing fees of the
25 political party for a new political party shall be filed and paid as provided
26 in subsection (g) of this section. However, this subsection does not apply to
27 preferential presidential primary candidates.

28 (d) No later than forty (40) days before the preferential primary
29 election, the chairman and secretary of the state committee of the political
30 party shall certify to the various county committees and the various county
31 boards of election commissioners the names of all candidates who have
32 qualified with the state committee for election by filing the party pledge
33 and paying the filing fees of the political party within the time required by
34 law.

35 (e) Judges and clerks of primary elections shall be selected by the

1 county board of election commissioners *in the same manner as in the general*
2 *election.*

3 (f) The boundaries of voting precincts in primary elections, and the
4 voting places therein, shall be established at least thirty (30) days
5 preceding any primary election, and any alteration or change therein made
6 subsequent to that date shall be void.

7 (g) Any group of voters desiring to form a new political party may do
8 so by filing a petition with the Secretary of State. The petition shall
9 contain the signatures of qualified electors of this state equal in number to
10 at least three percent (3%) of the total vote cast for the Office of Governor
11 or nominees for presidential electors, whichever is less, at the last
12 preceding election. The petitions shall be filed with the Secretary of State
13 no later than 12:00 noon on the first Tuesday in the fourth calendar month
14 before the preferential primary election. The petitions shall be circulated
15 during the period beginning one hundred twenty (120) calendar days prior to
16 the deadline for filing the petitions with the Secretary of State. However,
17 this subsection does not apply to preferential presidential primary
18 elections.

19 (h) The county board of election commissioners shall convene, at the
20 time specified in the notice to the members given by the chairman of the
21 county board of election commissioners, no earlier than ten (10) calendar
22 days and no later than fourteen (14) calendar days after each primary
23 election for the purpose of canvassing the returns and certifying the
24 election results. If no time is specified for the meeting of the board, the
25 meeting shall be at 5:00 p.m.

26 (i) The county convention of a political party holding a primary
27 election shall be held on the first Monday following the date of the general
28 primary.

29 (j)(1) The county board of election commissioners shall certify to
30 the county clerk and the county committee a list of all duly nominated
31 candidates for county, township, and municipal offices, *and the political*
32 *parties county committee members and delegates.*

33 (2) At the same time, the county board of election commissioners
34 shall certify to the state board of election commissioners and the secretary
35 of the state committee the results of the contests for all United States,

1 state, and district offices. Immediately after ascertaining the results for
2 all United States, state, and district offices, the state board of election
3 commissioners shall certify to the Secretary of State and the state committee
4 a list of all duly nominated candidates for the offices.

5 (k)(1) The Secretary of State shall, at least sixty (60) days prior to
6 the date of the general election, notify by registered mail the chairman and
7 secretary of the state committee of the respective political parties that a
8 certificate of nomination is due for all duly nominated candidates for United
9 States, state, and district offices in order that the candidate's name be
10 placed on the ballot of the general election. The state committee shall issue
11 certificates of nomination to all duly nominated candidates for United
12 States, state, and district offices, who shall file the certificates with the
13 Secretary of State at least forty-five (45) days but not more than fifty-five
14 (55) days prior to the general election. However, if the chairman and
15 secretary of the state committee of the respective political parties are not
16 properly notified as directed by this section, the failure of a candidate to
17 file a certificate of nomination shall not prevent that candidate's name from
18 being placed on the ballot of the general election.

19 (2) Each county clerk shall, at least sixty (60) days prior to
20 the date of the general election, notify by registered mail the chairman and
21 secretary of the county committee of the respective political parties that a
22 certified list of all duly nominated candidates for county, township, and
23 municipal offices is due and shall be filed with the county board of election
24 commissioners and the county clerk in order that the candidates' names be
25 placed on the ballot for the general election. The county committee shall
26 issue the certified list on behalf of those duly nominated candidates and
27 submit the certified list to the county board of election commissioners and
28 the county clerk at least forty-five (45) days but not more than fifty-five
29 (55) days prior to the general election. However, if the chairman and
30 secretary of the county committee of the respective political parties are not
31 properly notified as directed by this section, the failure of a certified
32 list to be filed shall not prevent any candidate's name from being placed on
33 the ballot of the general election."

34

35 SECTION 5. Arkansas Code 7-7-301 is amended to read as follows:

1 "7-7-301. Party pledges and party filing fees.

2 (a) A political party may impose a filing fee for candidates seeking
3 nomination by that party. The filing fee for county, municipal, and township
4 offices shall be fixed by the county committee, as authorized by the state
5 executive committee. For all other races the filing fee shall be established
6 by the state executive committee. On or before the time provided in §
7 7-7-203(c), all candidates at primary elections of political parties shall
8 file any pledge required by such party and shall pay the party filing fees
9 required by the party, as follows:

10 (1) Candidates for United States Senator, Representative in
11 Congress, and all state offices shall file the pledge and pay the party
12 filing fees with the secretary of the state committee of the political party
13 or his designated agent;

14 (2) Candidates for district offices, including, but not limited
15 to, the offices of State Representative and State Senator, shall file the
16 pledge with the secretary of the state committee of the political party or
17 his designated agent and pay the party filing fees with the secretary of the
18 state committee of the political party or his designated agent;

19 (3) All candidates for county, municipal, and township offices
20 and candidates for county committeeman and delegates to the county convention
21 shall file the pledge and pay the party filing fees with the secretary of the
22 county committee of the political party.

23 (b)(1) Before the name of any person shall appear on the primary
24 ballot of a political party as a candidate for any local, state, or federal
25 office, the secretary of the county committee or the secretary of the state
26 committee, as the case may be, of the political party must make an
27 affirmative determination that the person complies with the eligibility
28 requirements of the office.

29 (2) The secretary of the county committee or state committee, as
30 the case may be, shall require an affidavit of eligibility from the
31 candidate, and the secretary may make such independent investigation as he
32 deems necessary to determine the eligibility of the candidate to serve in the
33 office he seeks, including the power to compel the person to answer
34 interrogatories. The affidavit of eligibility shall be filed along with the
35 filing fee and party pledge, and the investigation concerning the eligibility

1 shall be concluded within two (2) weeks after the filing deadline for
2 nomination.

3 (c) The county clerk shall not accept for filing the political
4 practices pledge of any candidate for nomination by a political party to any
5 county office, nor shall the Secretary of State accept for filing the
6 political practice pledge of any candidate for nomination by a political
7 party to any district office, unless the candidate first furnishes written
8 evidence of payment of all party filing fees required by the political party
9 for candidates for the office of which the person is seeking nomination and
10 written evidence of the filing of all party pledges required by the political
11 party, if any. Written evidence shall mean a written statement or receipt
12 signed by the secretary or chairman of the county committee or the state
13 committee, as the case may be, of the political party evidencing payment of
14 the fees and filing of the party pledge, if any, required by the political
15 party.

16 (d) Any candidate who shall fail to file the party pledge and pay the
17 party filing fee at the time and in the manner as provided in this section
18 shall not have his name printed on the ballot at any primary election.

19 (e) The names of candidates who file with the state committee as
20 provided in this section shall be certified to the various county committees
21 and the various county boards of election commissioners in the manner and at
22 the time provided in § 7-7-203(d)."

23

24 SECTION 6. Arkansas Code 7-7-302 is amended to read as follows:

25 "7-7-302. Selection of primary election officers.

26 The judges, clerks, and other officials of primary elections shall be
27 selected in the same manner as for general elections and shall be subject to
28 the same requirements as provided for general elections. "

29

30 SECTION 7. Arkansas Code 7-7-303 is amended to read as follows:

31 "7-7-303. Precincts - Boundaries - Policing.

32 (a) The election precincts in all political party primary elections
33 shall be the same as established by the county board of election
34 commissioners for general elections.

35 (b)(1) The county board of election commissioners shall provide for

1 the preservation of order at all primary election precincts and shall allow
2 no crowd to collect at the polling place nearer than authorized by law.

3 (2) No person charged with the duty of preserving order at the
4 polling place shall in any manner influence or endeavor to influence any
5 person in casting his vote.

6 (3) No person who is a public officeholder, candidate for
7 office, or deputy of a public officer shall be eligible to serve as an
8 officer to keep order at any primary election polling place.

9 (4) Persons appointed as election sheriffs to keep order at
10 polling places in primary elections shall have the authority of a police
11 officer in keeping order and enforcing the laws of this state with respect to
12 polling places in primary elections."

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14 SECTION 8. Arkansas Code 7-7-304 is amended to read as follows:

15 "7-7-304. Names to be included on ballots - Withdrawal - Unopposed
16 candidates - Position.

17 (a)(1) Whenever two (2) or more persons qualify for a primary election
18 of a political party as candidates for an office or position and only one (1)
19 is to be elected, their names shall be printed on the ballot at the
20 preferential primary election.

21 (2) If, at the preferential primary election for a political
22 party, a candidate receives a majority of the votes cast for that office or
23 position, the person shall be declared the party nominee and it shall not be
24 necessary for the candidate's name to appear on the ballot at the general
25 primary election.

26 (3) If no candidate receives a majority of the votes cast for an
27 office or position at the preferential primary election for a political
28 party, the names of the two (2) candidates of the political party who
29 received the highest number of votes for an office or position shall be
30 printed upon the ballots at the general primary election.

31 (b) If any candidate shall, either prior to the certification of the
32 ballot for the preferential primary or subsequent to the preferential primary
33 but prior to the certification of the ballot for the general primary
34 election, notify the secretary of the state committee in the case of a United
35 States, state, or district office, or the secretary of the county committee

1 in the case of a county, city, or township office, in writing, signed by the
2 candidate, and acknowledged before an officer authorized by law to take
3 acknowledgments, of his desire to withdraw as a candidate for the office or
4 position, then the committee shall immediately notify the county board of
5 election commissioners or the state board of election commissioners, as the
6 case may be and the name of the person shall not be printed on the
7 preferential primary ballot or the general primary ballot, as the case may
8 be.

9 (c) When only one (1) candidate qualifies for a particular office or
10 position, the office or position and the name of the unopposed candidate
11 shall be omitted from the political party's ballot in all primary elections,
12 and the candidate shall be certified as the nominee of the political party
13 for the particular office or position in the same manner as if the office and
14 candidate had been voted upon at the primary election.

15 (d) Where there are two (2) or more nominees to be selected for the
16 same office, such as Associate Justice of the Supreme Court, State Senator,
17 State Representative, justice of the peace, alderman, or for any other office
18 or place, the proper committee shall require the candidates to designate in
19 writing a particular position, i.e., Position Number 1, Position Number 2,
20 Position Number 3, etc., at the time a party pledge is required to be filed
21 with the secretary of the committee. An independent candidate shall
22 designate his position prior to circulation of his petition. When a
23 candidate has once filed and designated for a certain position, he shall not
24 be permitted to thereafter change the position.

25 (e) The provisions of subsection (d) with respect to filing for
26 positions shall be equally applicable to candidates seeking election at all
27 general and special elections of this state and to all school elections."
28

29 SECTION 9. Arkansas Code 7-7-305 is amended to read as follows:

30 "7-7-305. Printing of ballots - Form.

31 (a) The ballots of the primary election shall be provided by the
32 county board of election commissioners. The form of the ballots shall be
33 the same as provided by law for ballots in general or special elections in
34 this state. *A different color ballot may be used to distinguish between*
35 *political parties.*

1 (b) The order in which the names of the respective candidates,
2 including candidates for federal, state, and local offices and including
3 persons nominated for committeemen and delegates to the county convention,
4 and the order in which issues and measures are to appear on the ballots at
5 all preferential and general primary elections, shall be determined by lot at
6 the public meeting of the county committee held not later than thirty-five
7 days before the preferential primary election. Ten (10) days_ written notice
8 of the time and place of the meeting shall be given each member by the
9 chairman, vice chairman, or secretary of the committee. The chairman, vice
10 chairman, or secretary shall publish notice of the time and place of holding
11 the meeting in some newspaper of general circulation in the county.

12 (c) Any person who shall file for any elective office in this state
13 may use not more than three (3) given names, one of which may be a nickname
14 or any other word used for the purpose of identifying such person to the
15 voters and may add as a prefix to his name the title or an abbreviation of an
16 elective public office the person holds. The name of every candidate shall
17 be printed on the ballot in the same form as the candidate signed the
18 political practice pledge. No candidate shall be permitted to change the
19 form in which his name will be printed on the ballot after the deadline for
20 filing the political practice pledge."
21

22 SECTION 10. Arkansas Code 7-7-306 is amended to read as follows:

23 "7-7-306. Partisan ballots only.

24 At each primary election each county board of election commissioners
25 shall furnish separate ballots for each political party containing only the
26 names of persons seeking offices to be voted upon as a nominee or candidate
27 of that political party."
28

29 SECTION 11. Arkansas Code 7-7-308 (c)(3) is amended to read as
30 follows:

31 "(3) The precinct registration lists shall at all times be available
32 to public inspection."
33

34 SECTION 12. Arkansas Code 7-7-309 is amended to read as follows:

35 "7-7-309. Canvass and certification of returns.

1 The county board of election commissioners shall canvass the returns
2 and examine the ballots when demanded. It may hear testimony, if offered, of
3 fraudulent practices and illegal votes, may cast out illegal votes and
4 fraudulent returns, and find the true and legal vote cast for each candidate,
5 *and shall certify the result not later than three (3) days following the*
6 *primary unless there are overseas ballots which will influence the outcome of*
7 *the election."*

8

9 SECTION 13. Arkansas Code 7-7-310 is amended to read as follows:

10 "7-7-310. Filing and preservation of returns, ballots, and other
11 documents.

12 (a) The county board of election commissioners, immediately upon
13 having canvassed the returns and, where demanded, examined the ballots and
14 upon having certified the results of the primary as required in this
15 subchapter, shall file, in the office of the county clerk of the county all
16 *'lists of voters' forms, precinct voter registration lists, and all ballots,*
17 affidavits, and other documents received from the judges of election.

18 (b) These materials shall be preserved by the county clerk for a
19 period of six (6) months, subject to the orders of any court of competent
20 jurisdiction, or, if a contest is pending, until the contest is determined."

21

22 SECTION 14. Arkansas Code 7-7-311 is amended to read as follows:

23 "7-7-311. Delivery and custody of ballots and stubs - Destruction.

24 (a) The county board of election commissioners shall deliver the
25 ballots to the county clerk in the ballot boxes of the respective voting
26 precincts locked and sealed, and shall take the receipt of the clerk for
27 them.

28 (b) The clerk shall not unlock the ballot boxes or break the
29 seal thereof except upon order and direction of the court having jurisdiction
30 over contests as provided in this act. He shall keep the ballot boxes in a
31 vault if there is a vault of sufficient capacity in the courthouse; otherwise
32 he shall keep them in a room under his control, under lock and key.

33 (c) At the end of *two (2) years* if no contest is pending involving the
34 inspection of the ballots, the county clerk shall, in the presence of the
35 chairman and secretary of the county board of election commissioners or a
committee of not less than three (3) persons appointed by the county board of

1 election commissioners for that purpose, open the ballot boxes, and, without
2 examining the ballots, *destroy* them, and take from the chairman and secretary
3 of the county board of election commissioners, or the witness designated by
4 the county board of election commissioners, a certificate showing the facts
5 in connection with the *destruction* of the ballots and file it as a permanent
6 record in his office. He shall thereupon return to the county committee the
7 ballot boxes.

8 (d) The county treasurer shall retain the custody of and safely keep
9 all ballot stubs sealed in ballot stub boxes which are delivered to him from
10 the several precincts for a period of *two (2) years* after which time they
11 shall be destroyed unless an election contest has been filed or a criminal
12 prosecution has been initiated in connection with the election."
13

14 SECTION 15. Arkansas Code 7-7-312 is amended to read as follows:

15 "7-7-312. Common polling places.

16 The county board of election commissioners shall establish common
17 polling places for the *joint conduct of the* primary elections of all
18 political parties."
19

20 SECTION 16. Arkansas Code 7-7-401 is amended to read as follows:

21 "7-7-401. Certification of nominations.

22 (a) The county board of election commissioners shall certify the
23 *nomination of all county, township, and municipal offices to the county*
24 *committee of the political party, state committee of the political party,*
25 *county clerk, and State Board of Election Commissioners. It shall further*
26 *certify the vote of all candidates for United States, state, and district*
27 *office to the state committee.*

28 (b) The state board of election commissioners shall receive the
29 returns from the county board of election commissioners and canvass and
30 certify the result thereof as provided by law. The boards or their officers
31 shall, when ordered by a circuit court as provided by law, annul the
32 certifications made and make certifications in accordance with the judgment
33 of the circuit court.

34 (c) The nominations of any and all political parties for candidates
35 chosen at a regular or special primary election held by the political party

1 shall be certified by the canvassing board of the primary election.

2 (d)(1) Nominees of political parties chosen by a convention of
3 delegates, in those circumstances in which nominations by political party
4 conventions are authorized by law, shall be certified by the chairman and
5 secretary of the convention of delegates held by the political party.

6 (2) All certificates of nomination made by the chairman and
7 secretary of conventions or of canvassing boards of primary elections shall
8 be duly acknowledged before an officer authorized by law to take
9 acknowledgments. (e) Nomination as an independent candidate without
10 political party affiliation for election to any office shall be certified by
11 petition of electors in the manner provided in § 7-7-103."

12

13 SECTION 17. Arkansas Code 7-7-106, 7-7-501, 7-7-502, 7-7-503, and 7-7-
14 504 are repealed.

15

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

19

20 SECTION 19. If any provision of this act or the application thereof to
21 any person or circumstance is held invalid, such invalidity shall not affect
22 other provisions or applications of the act which can be given effect without
23 the invalid provision or application, and to this end the provisions of this
24 act are declared to be severable.

25

26 SECTION 20. All laws and parts of laws in conflict with this act are
27 hereby repealed.

28

29 SECTION 21. EMERGENCY. It is found and determined by the General
30 Assembly of the State of Arkansas that the state should provide for a state
31 supported political primary system; and that this act should become effective
32 immediately for the proper administration of this act. Therefore, an
33 emergency is hereby declared to exist and this act being necessary for the
34 immediate preservation of the public peace, health and safety shall be in
35 full force and effect from and after its passage and approval.

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/s/Rep. Schexnayder