

1 State of Arkansas  
2 80th General Assembly  
3 Regular Session, 1995

# A Bill

SENATE BILL 447

4 By: Senators Malone and Harriman  
5  
6

## For An Act To Be Entitled

8 "AN ACT TO AMEND ARKANSAS CODE 7-5-107, 7-7-312(c),  
9 7-7-504 AND 7-8-403 TO UPDATE LANGUAGE AND ELECTION  
10 ADMINISTRATION FOR EFFICIENT COMPLIANCE WITH THE NATIONAL  
11 VOTER REGISTRATION ACT OF 1993; AND FOR OTHER PURPOSES."  
12

## Subtitle

13 "TO AMEND THE ARKANSAS CODE TO UPDATE  
14 LANGUAGE AND ELECTION ADMINISTRATION FOR  
15 EFFICIENT COMPLIANCE WITH NATIONAL VOTER  
16 REGISTRATION ACT OF 1993"  
17  
18

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

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

22 "7-1-101. Definitions.

23 As used in this act, unless the context otherwise requires:

24 (1)(A) Political party means any group of voters which, at the  
25 last-preceding general election, polled for its candidate for Governor in the  
26 state or nominees for presidential electors at least three percent (3%) of  
27 the entire vote cast for the office; or which files with the Secretary of  
28 State a petition signed by qualified electors equal in number to at least  
29 three percent (3%) of the total vote cast for the Office of Governor or  
30 nominees for presidential electors at the last-preceding election, declaring  
31 their intention of organizing a political party, the name of which shall be  
32 stated in the declaration, and of participating in the next-succeeding  
33 general election.

34 (B) Except in preferential presidential primary elections, the  
35 petition shall be filed with the Secretary of State not later than 12:00 noon

1 of the first Tuesday in May before the preferential primary election for the  
2 general election in which the political party filing the petition desires to  
3 participate. No group of electors shall assume a name or designation which  
4 is similar, in the opinion of the Secretary of State, to that of an existing  
5 political party as to confuse or mislead the voters at an election.

6 (C) When any political party fails to obtain three percent (3%)  
7 of the total votes cast at an election for the Office of Governor or nominees  
8 for presidential electors, it shall cease to be a political party;

9 (2) Primary election means any election held by a political party in  
10 the manner provided by law for the purpose of selecting nominees of said  
11 political party for certification as candidates for election at any general  
12 or special election in this state;

13 (3) General or special election means the regular biennial or annual  
14 elections for election of United States, state, district, county, township,  
15 and municipal officials and the special elections to fill vacancies therein  
16 and special elections to approve any measure. The term, as used in this act,  
17 shall not apply to school elections for officials of school districts;

18 (4) Vacancy in nomination means the circumstances in which the  
19 nominee of a political party selected at a primary election shall not be  
20 certified as the nominee due to death, resignation, withdrawal, or other good  
21 and legal cause arising subsequent to nomination and preceding the final date  
22 for certification of nominations;

23 (5) Vacancy in office means the vacancy in an elective office  
24 created by death, resignation, or for other good and legal cause arising  
25 subsequent to election to the office at a general or special election or  
26 arising subsequent to taking office and prior to the expiration of the term  
27 of office in those circumstances wherein the vacancy must be filled by a  
28 special election rather than by appointment. The phrase vacancy in office  
29 shall not apply to the election of a person at a general election to fill an  
30 unexpired portion of a term of office;

31 (6) Majority party means that political party in the State of  
32 Arkansas whose candidates were elected to a majority of the constitutional  
33 offices of this state in the last-preceding general election;

34 (7) Minority party means that political party whose candidates were  
35 elected to less than a majority of the constitutional offices of this state

1 in the last-preceding general election or the political party which polled  
2 the second greatest number of votes for the office of Governor in the  
3 last-preceding general election if all of the elected constitutional officers  
4 of this state are from a single political party;

5 (8) Constitutional officers of this state means the Offices of the  
6 Governor, Lieutenant Governor, Secretary of State, Attorney General, Auditor  
7 or State, Treasurer of State, and Commissioner of State Lands;

8 (9) Qualified elector means a person who holds the qualifications of  
9 an elector and who is registered pursuant to Arkansas Constitution, Amendment  
10 51;

11 (10) Fail-safe voting means the mechanism established under the  
12 National Voter Registration Act of 1993 that allows voters who have moved  
13 within the same county to vote at their new precinct without having updated  
14 their voter registration records."

15

16 SECTION 2. Arkansas Code 7-5-107 is amended to read as follows:

17 "7-5-107. Use of voter registration lists by election officials.

18 In any election conducted in this state, precinct voter registration  
19 lists shall be used by election officials in each precinct . Precinct voter  
20 registration lists shall contain the name, address including zipcode, and  
21 date of birth of each registered voter within the precinct including those  
22 who have been designated inactive, the precinct number and county wherein the  
23 precinct is located, the name and date of the election, and a space for the  
24 voter's signature. The following shall be printed at the top of each page of  
25 the precinct voter registration list:

26 IF YOU SIGN THIS FORM AND YOU ARE NOT A LAWFULLY REGISTERED VOTER, YOU  
27 ARE MAKING A FALSE STATEMENT AND MAY BE COMMITTING PERJURY. PERJURY IS  
28 PUNISHABLE BY UP TO A \$10,000 FINE AND UP TO 10 YEARS IMPRISONMENT."

29

30 SECTION 3. Arkansas Code 7-5-211 is amended to read as follows:

31 "7-5-211. Delivery of election supplies to sheriff - Exception.

32 (a) At least three (3) days before any election:

33 (1) The county board of election commissioners shall deliver to  
34 the sheriff one hundred fifty (150) ballots for each one hundred (100), or  
35 fraction of one hundred (100), electors voting in each election precinct in

1 the last comparable election;

2           (2) For each set of judges and clerks in each precinct, the  
3 county election commissioners shall deliver to the sheriff the following  
4 additional election supplies:

5                   (A) A good and sufficient ballot box with *numbered seals*;

6                   (B) Sufficient list of voters forms adequate to record  
7 the names of all registered voters who appear to vote in the precinct.

8                   (C) A precinct voter registration list;

9                   (D) Sufficient tally sheets;

10                   (E) Envelopes to seal up the ballots and certificates;

11                   (F) Separate sheets containing blank forms of certificates  
12 prepared to enable the judges of election to properly certify the result of  
13 the election, upon which certificates shall be endorsed a blank form of oath  
14 to be taken by the judges, clerks, and sheriffs of election before entering  
15 upon the discharge of their duties; and

16                   (G) Voter registration application forms for voters using  
17 fail-safe voting and other record keeping supplies necessary to document  
18 fail-safe voting procedures.

19           (b) If the sheriff is a candidate for reelection in a contested race,  
20 it shall be the duty of the county board of election commissioners to appoint  
21 some suitable person or persons in each precinct to perform the duties of the  
22 sheriff. The sheriff and his deputies are disqualified to discharge those  
23 duties in such case."

24

25           SECTION 4. Arkansas Code 7-5-301 is amended to read as follows:

26           "7-5-301. Delivery of election supplies to judges.

27           It shall be the duty of each election sheriff to deliver the ballot and  
28 stub boxes, list of voter forms, a precinct voter registration list, blank  
29 certificates of election, tally sheets, voting booths, if provided, voter  
30 registration forms and other election materials from the office of the county  
31 sheriff to the judges of election when the judges have assembled at the  
32 voting place for the purpose of holding the election."

33

34           SECTION 5. Arkansas Code 7-5-302 is amended to read as follows:

35           "7-5-302. Documents to be posted in polling area.

1 Before the polls open, the election officials shall post the following  
2 in a conspicuous place in the polling area:

3 (1) At least two (2) copies of instructions to voters, including  
4 instructions for fail-safe voting procedures;

5 (2) In general elections, at least two (2) copies of all constitutional  
6 amendments and acts to be voted on."  
7

8 SECTION 6. Arkansas Code 7-5-305 is amended to read as follows:

9 "7-5-305. Identification of qualified voters.

10 (a) Before a person is permitted to vote, the election judge shall:

11 (1) Request the voter to identify himself in order to verify the  
12 existence of his name on the precinct voter registration list;

13 (2) Request the voter, in the presence of the election judge, to  
14 state his date of birth and his address;

15 (3) Determine that the voter's date of birth and address are the  
16 same as those on the precinct voter registration list;

17 (4) If the date of birth given by the voter is not the same as  
18 that on the precinct voter registration list, request the voter to provide  
19 identification as the election judge deems appropriate;

20 (5) If the voter's address is not the same as that on the  
21 precinct voter registration list, verify with the county clerk that the  
22 address is within the precinct. If the address is within the precinct,  
23 request the voter to complete a voter registration application form for the  
24 purpose of updating county voter registration record files. If the address  
25 is not within the precinct, instruct the voter to contact the county clerk's  
26 office to determine the proper precinct;

27 (6) If the voter's name is not the same as that on the precinct  
28 voter registration list, request the voter to complete a voter registration  
29 application form for purposes of updating county voter registration record  
30 files;

31 (7) Request the voter, in the presence of the election judge to  
32 sign his name, including his given name, his middle name or initial, if any,  
33 and his last name in the space provided on the precinct voter registration  
34 list. If a person is unable to sign his signature or make his mark or cross,  
35 the election judge shall enter his initials and the voter's date of birth in

1 the space for the person's signature on the precinct voter registration list.

2 (b) A person not listed on the precinct voter registration list may  
3 only vote in accordance with Arkansas Code 7-5-306."

4

5 SECTION 7. Arkansas Code 7-5-306 is amended to read as follows:

6 "7-5-306. Procedure when voter's name is not on the precinct voter  
7 registration list.

8 (a) If the voter's name is not on the precinct voter registration list  
9 , the election judge shall permit the voter to vote only under the following  
10 conditions:

11 (1) The voter identifies himself by stating his name and date of  
12 birth and is verified by the county clerk as a registered voter within the  
13 county and, if the county is divided into more than one (1) congressional  
14 district, within same congressional district;

15 (2) The voter gives and affirms his current  
16 residence and the election judge verifies with the county clerk that the  
17 voter's residence is within the precinct;

18 (3) The voter completes an updated voter  
19 registration application form;

20 (4) The voter signs the precinct voter registration  
21 list.

22 (b) If the voter is not listed on the precinct voter registration list  
23 and the county clerk is unable to verify the voter's registration and the  
24 voter contends that he or she is eligible to vote, then the voter may vote a  
25 challenged ballot which shall only be counted upon verification of the  
26 voter's registration status.

27 (c) The election judges and clerks shall indicate on the voters list  
28 those persons who vote under these circumstances."

29

30 SECTION 8. Arkansas Code 7-5-314 is amended to read as follows:

31 "7-5-314. Duties of election clerks - Voter lists - Voters in line at  
32 closing time.

33 (a) The election clerks in each precinct or at each box, shall mark  
34 the voter's name, as having voted, on the precinct voter registration list  
35 furnished by the clerk;

1 (b) If a voter's name does not appear on the precinct voter  
2 registration list, the voter may only vote in accordance with Arkansas Code  
3 7-5-306.

4 (c) In all counties, when the polls close, all persons who have  
5 presented themselves for voting and who are then in line at the polling place  
6 shall be permitted to cast their votes. The election clerks shall then total  
7 the number of voters on the voter lists, and such lists shall be certified by  
8 the election judges and attested by the election clerks."

9

10 SECTION 9. Arkansas Code 7-5-317 is amended to read as follows:

11 "7-5-317. Processing and delivery of election materials.

12 (a) After the count of the ballots is completed, all of the election  
13 returns shall be processed and delivered in the following manner:

14 (1) The list of voters form, the precinct voter registration  
15 list, voter registration application forms and other record-keeping supplies  
16 shall be delivered to the county clerk;

17 (2) Certificates of election results and tally sheets:

18 (A) One (1) copy of the certificate of election results  
19 shall be posted in a conspicuous place outside the polling place immediately  
20 after the ballots are counted;

21 (B) One (1) copy of the certificate of election results  
22 with one (1) copy of the tally sheets shall be delivered to the county clerk;

23 (C) One (1) copy of the certificate of election results  
24 shall be returned with one (1) copy of the tally sheets and reports of  
25 challenges of voters, if any, to the county board of election commissioners  
26 or, in a primary, the county committee.

27 (3) Ballots:

28 (A) The election judges shall securely envelope the  
29 ballots separately *and place the ballots in a container with a numbered seal*  
30 and then deliver the ballots with the tally sheets and other election  
31 materials to the county board of election commissioners or, in a primary, the  
32 county committee;

33 (B) All cancelled ballots shall be preserved separately  
34 from the other ballots and returned to the county board of election  
35 commissioners or, in a primary, the county committee.

1           (4) Stub boxes: Sealed stub boxes shall be delivered to the  
2 county treasurer for storage.

3           (b) All of the election materials and returns shall be delivered by  
4 the election judges within twenty-four (24) hours after the polls close to  
5 the county board of election commissioners or, in a primary, the county  
6 committee."

7

8           SECTION 10. Arkansas Code 7-7-308 is amended to read as follows:

9           "7-7-308. Determination of right to vote - Precinct registration  
10 lists.

11          (a) Before a person is permitted to vote, an election judge shall:

12               (1) Request the voter to identify himself in order to verify the  
13 existence of his name on the precinct voter registration list;

14               (2) Request the voter, in the presence of the election judge, to  
15 state his date of birth and address;

16               (3) Determine that the voter's date of birth and address are the  
17 same as those on the precinct voter registration list;

18               (4) If the date of birth given by the voter is not the same as  
19 that on the precinct voter registration list, request the voter to provide  
20 identification as the election judge deems appropriate;

21               (5) If the voter's address is not the same as that on the  
22 precinct voter registration list, verify with the county clerk that the  
23 address is within the precinct. If the address is within the precinct,  
24 request the voter to complete a voter registration application form for the  
25 purpose of updating county voter registration record files. If the address  
26 is not within the precinct, instruct the voter to contact the county clerk's  
27 office to determine the proper precinct;

28               (6) If the voter's name is not the same as that on the precinct  
29 voter registration list, request the voter to complete a voter registration  
30 application form for purposes of updating county voter registration record  
31 files;

32               (7) Request the voter, in the presence of the election judge, to  
33 sign his name, including his given name, his middle name or initial, if any,  
34 and his last name in the space provided on the precinct voter registration  
35 list. If a person is unable to sign his signature or make his mark or cross,



1 the election judge shall enter his initials and the voter's date of birth in  
2 the space for the person's signature on the precinct voter registration list.

3 (b) At the same time the voter identifies himself and the party primary  
4 in which he intends to vote, the election clerk of the party primary which  
5 the voter designates shall mark the voter's name on the precinct voter  
6 registration list furnished by the county clerk as having voted.

7 (c) If a voter's name does not appear on the precinct voter  
8 registration list, the election judge shall permit the voter to vote only  
9 under the following conditions:

10 (1) The voter identifies himself by stating his name and date of  
11 birth and is verified by the county clerk as a registered voter within the  
12 county and, if the county is divided into more than one (1) congressional  
13 district, within the same congressional district;

14 (2) The voter gives and affirms his current residence and the  
15 election judge verifies with the county clerk that the voter's residence is  
16 within the precinct;

17 (3) The voter completes an updated voter registration  
18 application form; and

19 (4) The voter signs the precinct voter registration list.

20 (d) If the voter is not listed on the precinct voter registration list  
21 and the county clerk is unable to verify the voter's registration and the  
22 voter contends that he or she is eligible to vote, then the voter may vote a  
23 challenged ballot which shall only be counted upon verification of the  
24 voter's registration status.

25 (e) The election judges and clerks shall indicate on the voters list  
26 those persons who vote under these circumstances.

27 (f) After the polls close, the election clerk shall total the number of  
28 voters on the list.

29 (g) The precinct voter registration lists and \_list of voters\_ forms  
30 shall at all times be available to public inspection and, after the polls are  
31 closed, shall be returned to the appropriate county committees."

32

33 SECTION 11. Arkansas Code 7-7-310 is amended to read as follows:

34 "7-7-310. Filing and preservation of returns, ballots, and other  
35 documents.

1 (a) The county committee, immediately upon having canvassed the  
2 returns and, where demanded, examined the ballots and upon having certified  
3 the results of the primary as required in this subchapter, shall file, in the  
4 office of the county clerk of the county and, where there is more than one  
5 (1) district, in the district of the county where the meetings of the county  
6 committee are held, all the returns, all lists of voters forms, precinct  
7 voter registration lists, and all ballots, affidavits, and other documents  
8 received from the judges of election, and it shall be obligatory upon the  
9 committee, its chairman, and secretary.

10 (b) These materials shall be preserved by the county clerk for a  
11 period of two (2) years , subject to the orders of any court of competent  
12 jurisdiction, or, if a contest is pending, until the contest is determined."  
13

14 SECTION 12. Arkansas Code 7-7-312(c) is amended to read as follows:

15 "(c) The county clerk shall furnish each county committee represented  
16 at the polling place one (1) copy of the appropriate precinct voter  
17 registration list to determine each person's right to vote in any party  
18 primary being conducted at the common polling place."  
19

20 SECTION 13. Arkansas Code 7-7-504 is amended to read as follows:

21 "7-7-504. Registration files and voter lists.

22 (a) In voting machine counties where common polling places are  
23 established, the county clerk shall furnish each county committee represented  
24 at the polling place one (1) copy of the appropriate precinct voter  
25 registration list to determine each person's right to vote in any party  
26 primary being conducted at the common polling place.

27 (b) Where separate polling places are established, a copy of the  
28 appropriate precinct voter registration list shall be delivered to each  
29 county committee by the county clerk."  
30

31 SECTION 14. This act shall be effective January 1, 1996.  
32

33 SECTION 15. All provisions of this act of a general and permanent  
34 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas  
35 Code Revision Commission shall incorporate the same in the Code.

1

2       SECTION 16. If any provision of this act or the application thereof to  
3 any person or circumstance is held invalid, such invalidity shall not affect  
4 other provisions or applications of the act which can be given effect without  
5 the invalid provision or application, and to this end the provisions of this  
6 act are declared to be severable.

7

8       SECTION 17. All laws and parts of laws in conflict with this act are  
9 hereby repealed.

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11

*/s/Malone*

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