

1 State of Arkansas
2 80th General Assembly
3 Regular Session, 1995
4 By: Senator Smith

A Bill

SENATE BILL 682

For An Act To Be Entitled

"AN ACT TO INCREASE THE PENALTY FOR ELECTIONEERING FROM A
MISDEMEANOR TO A FELONY; AND FOR OTHER PURPOSES."

Subtitle

"TO INCREASE THE PENALTY FOR
ELECTIONEERING FROM A MISDEMEANOR TO A
FELONY."

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

SECTION 1. Arkansas Code § 7-1-103 is amended to read as follows:

"7-1-103. Miscellaneous misdemeanor offenses - Penalties. The violation of any of the following shall be deemed misdemeanors punishable as provided in this section:

(1) It shall be unlawful for any person to appoint or offer to appoint anyone to any office or position of trust, or for any person to influence, attempt to influence, or offer to influence the appointment, nomination, or election of any person to office, in consideration of the support or assistance of the person for any candidate in any election in this state;

(2)(A) It shall be unlawful for any public officer, deputy, or assistant to devote any time or labor during usual office hours toward the campaign of any other candidate for office or for the nomination to any office;

(B) It shall be unlawful for any public officer or public employee of the State of Arkansas or of any county or municipality of this state to circulate an initiative or referendum petition or to solicit signatures on an initiative or referendum petition in any public office of the state, county, or municipal governments of Arkansas or during the usual

1 office hours or while on duty for any state agency or any county or municipal
2 government in Arkansas;

3 (3) It shall be unlawful for any public officer, deputy, or assistant
4 who may be a candidate for the nomination to any office, or who may be a
5 candidate for any office to be voted for at any election, to use any office
6 or room furnished at public expense for his political headquarters or to send
7 out or distribute any letters, circulars, or other campaign literature from a
8 public office or room;

9 (4) It shall be unlawful for any person to assess any state employee
10 for any political purpose whatever or to coerce by threats or otherwise any
11 state employee into making subscription or contribution for any political
12 purpose;

13 (5) It shall be unlawful for any person employed in any capacity in
14 any department of the State of Arkansas to have membership in any political
15 party or organization which advocates the overthrow of our constitutional
16 form of government;

17 (6) It shall be unlawful for any campaign banners, cards, or campaign
18 literature to be placed on any cars, trucks, or tractors belonging to the
19 State of Arkansas or any municipality or county in the state;

20 (7) All articles, statements, or communications appearing in any
21 newspaper printed or circulated in this state, intended or calculated to
22 influence the vote of any elector in any election, and for the publication of
23 which a consideration is paid, or to be paid, to the proprietor or publisher
24 of the newspaper, shall be preceded or followed by the word Advertisement
25 in conspicuous letters;

26 (8) Unless the statement, communication, advertisement, circular,
27 pamphlet, form letter, mimeographed, printed, duplicated, or other similar
28 matter plainly bears the name or names and post office addresses of the
29 individuals, firms, committees, or other group or groups sponsoring and
30 bearing the cost, no statement, communication, or advertisement of a
31 political nature may be published in a newspaper or other periodical within
32 the State of Arkansas, and no circular, pamphlet, letter, form letter,
33 statement, advertisement, or other similar matter of a political nature, may
34 be printed or distributed in this state. If the sponsors thereof are not the
35 same persons, groups, committees, or organizations bearing the cost thereof,

1 then the names of both the sponsor and those bearing the cost shall plainly
2 appear upon the advertising matter. If the sponsor, or those bearing the
3 cost thereof, are a group, committee, association, council, or other body,
4 then the names of the three (3) principal officers of the sponsoring or
5 paying groups, committees, associations, councils, or other bodies, together
6 with the correct post office address of each, shall also be printed thereon;

7 (9) No person shall willfully disturb or engage in riotous conduct at
8 or near any polling place with the intent or effect of disturbing or
9 interfering with the access of the electors to the polling place;

10 (10) No judge, clerk, or election sheriff shall perform any of the
11 duties of their respective positions before taking and subscribing to the
12 oath provided for in § 7-4-110;

13 (11) No person applying for a ballot shall swear falsely to any oath
14 administered by the election judges with reference to their qualifications to
15 vote;

16 (12) No person shall willfully cause or attempt to cause his own name
17 to be registered in any other election precinct than that in which he is or
18 will be before the next ensuing election qualified as an elector;

19 (13) During any election, no person shall remove, tear down, or
20 destroy any booths or supplies, or other conveniences placed in any booth or
21 polling place for the purpose of enabling the voter to prepare his ballot;

22 (14) No person shall take or carry any ballot obtained from any judge
23 outside of the polling room or have in his possession outside of the polling
24 room before the closing of the polls any ballot provided by any county
25 election commissioners;

26 (15) No election official or other person shall unfold a ballot or,
27 without the express consent of the voter, ascertain or attempt to ascertain
28 any vote on a ballot before it is placed in the ballot box, or make or place
29 any mark or device on any ballot for the purpose or with the effect of
30 identifying the ballot with the elector;

31 (16) No person shall print or cause to be printed any ballot for any
32 election held under this act with the names of the candidates appearing
33 thereon in any other or different order or manner than provided by this act;

34 (17) No election judge or clerk shall permit the vote of any person to
35 be cast in any election precinct in this state in any election legally held

1 in this state when the person does not appear in person at the election
2 precinct and actually cast the vote. This subsection shall not apply to
3 persons entitled to cast absentee ballots;

4 (18) No person shall vote or offer to vote more than one (1) time in
5 any election held in this state, either in person or by absentee ballot, or
6 shall vote in more than one (1) election precinct in any election held in
7 this state. No person shall cast a ballot or vote in the preferential
8 primary of one (1) political party and then cast a ballot or vote in the
9 general primary of another political party in this state;

10 (19) No person shall vote, knowing himself not to be entitled to vote;
11 or vote more than once at any election, or knowingly cast more than one (1)
12 ballot, or attempt to do so; or alter or attempt to alter any ballot after it
13 has been cast; or add or attempt to add any ballot to those legally polled at
14 any election either by fraudulently introducing it into the ballot box before
15 or after the ballots have been counted, or at any other time or in any other
16 manner, with the intent or effect of affecting the count or recount of the
17 ballots; or withdraw or attempt to withdraw any ballot lawfully polled with
18 the intent or effect of affecting the count or recount of the ballots; or in
19 any manner interfere with the officers lawfully conducting the election or
20 the canvass or with the voters lawfully exercising their right to vote at the
21 election;

22 (20) No person shall make any bet or wager upon the result of any
23 election in this state;

24 (21) No election judge, clerk, poll watcher, or any other person in or
25 out of this state in any primary, general, or special election in this state
26 shall divulge to any person the results of any votes cast for any candidate
27 or on any issue in said election until thirty (30) minutes after the closing
28 of the polls on the day of the election. The provisions of this subdivision
29 shall not apply to any township or precinct in this state in which all of the
30 registered voters therein have voted prior to the closing of the polls in
31 those instances where there are fifteen (15) or fewer registered voters in
32 the precinct or township;

33 (22) *No person shall hand out or distribute any campaign literature or*
34 *any literature regarding any candidate or issue on the ballot, solicit*
35 *signatures on any petition, solicit contributions for any charitable or other*

1 purpose, or do any electioneering of any kind whatsoever within one hundred
2 feet (100') of the exterior of any building housing a polling place on
3 election day.

4 (23) Any person, election official, county clerk, or deputy clerk who
5 violates any provisions of the absentee voting laws shall be punished as
6 provided in this section;

7 (24) Any violation of this act not covered by this section and
8 §7-1-104 shall be considered a misdemeanor and shall be punishable as such;

9 (25) Except as otherwise provided, the violation of any provision of
10 this section shall be punishable by a fine not exceeding one thousand dollars
11 (\$1,000) or by imprisonment in the penitentiary not exceeding one (1) year,
12 or by both fine and imprisonment. Any person convicted under the provisions
13 of this section shall thereafter be ineligible to hold any office or
14 employment in any of the departments in this state. If any person is
15 convicted under the provisions of this section while employed by any of the
16 departments of this state, he shall be removed from employment immediately.
17 If any person is convicted under the provisions of this section while holding
18 public office, the conviction shall be deemed a misfeasance and malfeasance
19 in office and shall subject the person to impeachment."
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21 SECTION 2. Arkansas Code § 7-1-104 is amended to read as follows:

22 "7-1-104. Miscellaneous felonies - Penalties. The following offenses
23 shall be deemed felonies punishable as provided in this section:

24 (1) No person shall falsely make or fraudulently destroy any
25 certificate of nominations, or any part thereof, file any certificate of
26 nominations, knowing the certificate, or any part thereof, to be false;
27 suppress any nomination which has been duly filed, or any part thereof; or
28 forge or falsely write the name or initials of any judge of election on any
29 ballot;

30 (2) No public official or deputy responsible for registration shall in
31 any manner willfully or corruptly permit any person not entitled to register
32 for the purpose of voting to do so; or forge a registration or attempt to do
33 so;

34 (3) No person shall vote in any election in the state unless the
35 person is a qualified elector of this state and has registered to vote in the

1 manner provided by law;

2 (4) It shall be unlawful for any person to offer, accept, receive, or
3 pay any person any money, goods, wares, or merchandise or to solicit any
4 money, goods, wares, or merchandise for the purpose of influencing his or her
5 vote during the progress of any election in this state;

6 (5) It shall be unlawful for any person to intimidate, threaten,
7 harass or coerce or attempt to intimidate, threaten, harass or coerce any
8 elector or the family, business, or profession of the elector, and it shall
9 be unlawful to attempt to prevent any qualified elector from voting at any
10 election;

11 (6) It shall be unlawful for any person to attend any voting place on
12 election day and hand out or give away any campaign cards, placards, or other
13 articles for the purpose of influencing the electors to vote for any
14 candidate, except in the manner now provided by law;

15 (7) No person shall tamper with a voting machine or fraudulently
16 affect or attempt to affect its results;

17 (8) No person may cast a ballot in more than one (1) party primary
18 election on the same day in this state or for candidates for more than one
19 (1) political party;

20 (9) No person shall vote in any election more than one (1) vote;

21 (10) No person shall vote or attempt to vote other than his or her
22 legal ballot;

23 (11) No judge of any election shall knowingly permit any person to
24 vote other than his or her legal ballot in any election;

25 (12) No election official or other person shall fraudulently permit
26 any person to vote illegally, refuse the vote of any qualified elector, or
27 cast up or make a false return of any election;

28 (13) No election officer or other person shall willfully make a false
29 count of any election ballots or falsely or fraudulently certify the returns
30 of any election;

31 (14) No person shall fraudulently change, alter, or obliterate the
32 poll books or books of any election, or break any seals upon any ballot box,
33 voting machine, or stub box, except as authorized by law;

34 (15) No person shall contrive, alter, forge, counterfeit, detain,
35 mutilate, steal, secrete, or destroy any election returns or election

1 materials for the purpose of hindering or preventing or falsely reporting a
2 tabulation or check of the returns;

3 (16) No officer of election shall do any electioneering on any
4 election day;

5 (17) It shall be unlawful for any person to mislead any elector, who
6 cannot read or who requires assistance, about the contents of the ballot and
7 it shall be unlawful for any person to change or mark the ballot of any
8 elector who cannot read or who requires assistance, so as to prevent the
9 elector from voting as the elector intended.

10 (18) Any person who violates the provisions of § 7-5-702 or who shall
11 disclose how any voter may have voted, unless compelled to do so in a
12 judicial proceeding, shall be deemed guilty of a felony and punished as
13 provided in this section;

14 (19) Any person convicted of a felony as defined in this section shall
15 be punished by imprisonment in the penitentiary for not less than one (1)
16 year nor more than five (5) years or by a fine not to exceed five thousand
17 dollars (\$5,000), or by both fine and imprisonment. Any person convicted of a
18 felony as defined in this section shall be barred from holding public office
19 or employment in any of the departments of the state from the date of his
20 conviction. If the person is employed by any of the departments of this state
21 at the time of his conviction, he shall be removed from employment
22 immediately. If any person is convicted under the provisions of this section
23 while holding public office, the conviction shall be deemed a misfeasance and
24 malfeasance in office and shall subject the person to impeachment."

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26 SECTION 3. All provisions of this act of a general and permanent
27 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas
28 Code Revision Commission shall incorporate the same in the Code.

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30 SECTION 4. If any provision of this act or the application thereof to
31 any person or circumstance is held invalid, such invalidity shall not affect
32 other provisions or applications of the act which can be given effect without
33 the invalid provision or application, and to this end the provisions of this
34 act are declared to be severable.

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