

Stricken language would be deleted from present law. Underlined language would be added to present law.

1 State of Arkansas
2 81st General Assembly
3 Regular Session, 1997

As Engrossed: S3/7/97

A Bill

HOUSE BILL 1772

4
5 By: House Committee on State Agencies and Governmental Affairs
6
7

For An Act To Be Entitled

8
9 "AN ACT TO AMEND ARKANSAS CODE ANNOTATED [§] 7-7-103 TO
10 REQUIRE PETITIONS OF NOMINATION FOR INDEPENDENT MUNICIPAL
11 CANDIDATES IN CITIES OF THE FIRST CLASS TO HAVE AT LEAST
12 THIRTY (30) SIGNATURES, TO REQUIRE INDEPENDENT CANDIDATES
13 FOR MUNICIPAL OFFICE TO FILE PETITIONS OF NOMINATION WITH
14 THE COUNTY CLERK NO EARLIER THAN EIGHTY (80) DAYS PRIOR TO
15 THE GENERAL ELECTION AND TO AUTHORIZE THE COUNTY CLERK TO
16 DETERMINE WHETHER THE PETITION CONTAINS A SUFFICIENT
17 NUMBER OF QUALIFIED ELECTORS; TO AMEND SUBCHAPTER 2 OF
18 CHAPTER 7 OF TITLE 7 TO ESTABLISH PETITION REQUIREMENTS
19 FOR NEW POLITICAL PARTIES; TO REPEAL ARKANSAS CODE
20 ANNOTATED [§] 7-7-311 PERTAINING TO DELIVERY AND CUSTODY OF
21 BALLOTS AND BALLOT STUBS; TO AMEND VARIOUS SECTIONS OF
22 TITLE 7, CHAPTER 7, SUBCHAPTERS 1 THROUGH 4 TO MAKE
23 TECHNICAL CORRECTIONS; AND FOR OTHER PURPOSES."

Subtitle

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25
26 "TO AMEND VARIOUS SECTIONS OF TITLE 7,
27 CHAPTER 7, SUBCHAPTERS 1 THROUGH 4
28 PERTAINING TO NOMINATIONS AND PRIMARY
29 ELECTIONS."
30

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

32
33 SECTION 1. Arkansas Code Annotated [§] 7-6-102(a)(1) is amended to read
34 as follows:

35 "(a)(1) Candidates for state or district offices shall file with the
36 Secretary of State and candidates for county, municipal, or township offices
37 shall file with the county clerk of the county not later than 12:00 noon ~~on~~

1 ~~the first Tuesday of April fourteen~~ (14) days after the third Tuesday in
2 March, before the preferential primary election, a pledge in writing, stating
3 that they are familiar with the requirements of §§ 7-1-103, 7-1-104, 7-3-108,
4 and 7-6-101 - 7-6-104 and will, in good faith, comply with their terms."

5

6 SECTION 2. Arkansas Code Annotated § 7-7-103 is amended to read as
7 follows:

8 "7-7-103. Filing as an independent - Petitions - Disqualification.

9 ~~_____ (a) [Repealed.]~~

10 ~~_____ (b)~~(a) Any person desiring to have his name placed upon the ballot as an
11 independent candidate without political party affiliation for any state,
12 county, township, or district office in any general election in this state
13 shall file as an independent candidate in the manner provided in this section
14 no later than the date fixed by law as the deadline for filing political
15 practice pledges and party pledges if any are required by the rules of the
16 party to qualify as a candidate of a political party in a primary election or
17 the first day of May, whichever is later.

18 ~~_____ (c)(1)~~(b)(1) He shall furnish, at the time he files as an independent
19 candidate, petitions signed by not less than three percent (3%) of the
20 qualified electors in the county, township, or district in which the person is
21 seeking office, but in no event shall more than two thousand (2,000)
22 signatures be required for a district office.

23 (2) If the person is a candidate for state office or for United
24 States Senator in which a statewide race is required, the person shall file
25 petitions signed by not less than three percent (3%) of the qualified electors
26 of the state, or ten thousand (10,000) signatures of qualified electors,
27 whichever is the lesser. Each elector signing the petition shall be a
28 registered voter, and the petition shall be directed to the official with whom
29 the person is required by law to file nomination certificates to qualify as a
30 candidate, requesting that the name of the person be placed on the ballot for
31 election to the office mentioned in the petition.

32 (3) Petitions shall be circulated not earlier than sixty (60)
33 calendar days prior to the deadline for filing petitions to qualify as an
34 independent candidate.

35 (4) In determining the number of qualified electors in any
36 county, township, district, or in the state, the total number of votes cast

1 therein for all candidates in the preceding general election for the office of
2 Governor shall be conclusive of the number of qualified electors therein for
3 the purposes of this section.

4 ~~_____ (d)(1)(c)(1)~~ Independent candidates for municipal office may qualify by
5 petition of not less than ten (10) electors for incorporated towns and cities
6 of the second class ~~nor more than fifty (50)~~ and not less than thirty (30)
7 electors for cities of the first class, of the ward or city in which the
8 election is to be held. The county clerk shall determine whether the petition
9 contains a sufficient number of qualified electors.

10 (2) Independent candidates for municipal office shall file their
11 petitions of nomination with the county ~~board of election commissioners~~ clerk
12 not less than sixty (60) days nor more than eighty (80) days before the
13 general election.

14 ~~_____ (e)(d)~~ The sufficiency of any petition filed under the provisions of
15 this section may be challenged in the same manner as provided by law for
16 election contests, § 7-5-801 et seq.

17 ~~_____ (f)(e)~~ A person who has been defeated in a party primary shall not be
18 permitted to file as an independent candidate in the general election for the
19 office for which he was defeated in the party primary."
20

21 SECTION 3. Arkansas Code Annotated § 7-7-203 is amended to read as
22 follow:

23 "7-7-203. Dates.

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

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

28 (c) Party pledges, if any, and political practice pledges for primary
29 elections shall be filed, and any filing fees of a political party shall be
30 paid, during regular office hours in the period beginning at 12:00 noon on the
31 third Tuesday in March and ending at 12:00 noon on the fourteenth day
32 thereafter, before the preferential primary election. Party pledges, if any,
33 and political practice pledges shall be filed, and filing fees of a political
34 party for special primary elections shall be paid, on or before the deadline
35 established by proclamation of the Governor. Pledges and filing fees of the
36 political party for a new political party shall be filed and paid as provided

1 in subsection (g) of this section. ~~However, this subsection does not apply to~~
2 ~~preferential presidential primary candidates.~~

3 (d) No later than forty (40) days before the preferential primary
4 election, the chairman and secretary of the state committee of the political
5 party shall certify the ballot to the various county committees and the
6 various county boards of election commissioners the names of all candidates
7 who have qualified with the state committee for election by filing the party
8 pledge and paying the filing fees of the political party within the time
9 required by law.

10 (e) ~~Judges and clerks~~ Election officials of primary elections shall be
11 selected by the county board of election commissioners in the same manner as
12 in the general election.

13 ~~— (f) The boundaries of voting precincts in primary elections, and the~~
14 ~~voting places therein, shall be established at least thirty (30) days~~
15 ~~preceding any primary election, and any alteration or change therein made~~
16 ~~subsequent to that date shall be void.~~

17 ~~— (g)(f) Any group of voters desiring to form a new political party may do~~
18 ~~so by filing a petition with the Secretary of State in accordance with A.C.A.~~
19 ~~§ 7-7-204. The petition shall contain the signatures of qualified electors of~~
20 ~~this state equal in number to at least three percent (3%) of the total vote~~
21 ~~cast for the Office of Governor or nominees for presidential electors,~~
22 ~~whichever is less, at the last preceding election. The petitions shall be~~
23 ~~filed with the Secretary of State no later than 12:00 noon on the first~~
24 ~~Tuesday in the fourth calendar month before the preferential primary election.~~
25 ~~The petitions shall be circulated during the period beginning one hundred~~
26 ~~twenty (120) calendar days prior to the deadline for filing the petitions with~~
27 ~~the Secretary of State. However, this subsection does not apply to~~
28 ~~preferential presidential primary elections.~~

29 ~~— (h)(g) The county board of election commissioners shall convene, at the~~
30 ~~time specified in the notice to the members given by the chairman of the~~
31 ~~board, no later than three (3) days after each primary election for the~~
32 ~~purpose of canvassing the returns and certifying the election results unless~~
33 ~~the number of absentee votes is sufficient to affect the election, in which~~
34 ~~case the board shall convene no earlier than the tenth day after each primary~~
35 ~~election. If no time is specified for the meeting of the board, the meeting~~
36 ~~shall be at 5:00 p.m.~~

1 ~~_____~~ ~~(i)~~(h) The county convention of a political party holding a primary
2 election shall be held on the first Monday following the date of the general
3 primary.

4 ~~_____~~ ~~(j)~~(1)(i)(1) The county board of election commissioners shall certify to
5 the county clerk and the county committee a list of all ~~duly~~ nominated
6 candidates for county, township, and municipal offices, and the political
7 parties' county committee members and delegates.

8 (2) At the same time, the county board of election commissioners
9 shall certify to the ~~State Board of Election Commissioners~~ Secretary of State
10 and the secretary of the state committee the results of the contests for all
11 United States, state, and district offices. Immediately after ascertaining the
12 results for all United States, state, and district offices, ~~the state board of~~
13 ~~election commissioners shall certify to the~~ Secretary of State shall certify
14 to and the state committee a list of all ~~duly~~ nominated candidates for the
15 offices.

16 ~~_____~~ ~~(k)~~(1)(j)(1) The Secretary of State shall, at least ~~sixty (60)~~ seventy
17 (70) days prior to the date of the general election, notify by registered mail
18 the chairman and secretary of the state committee of the respective political
19 parties that a certificate of nomination is due for all ~~duly~~ nominated
20 candidates for United States, state, and district offices in order that the
21 candidate's name be placed on the ballot of the general election. The state
22 committee shall issue certificates of nomination to all ~~duly~~ nominated
23 candidates for United States, state, and district offices, who shall file the
24 certificates with the Secretary of State at least ~~forty-five (45) days but not~~
25 ~~more than fifty-five (55)~~ sixty (60) days prior to the general election.

26 However, if the chairman and secretary of the state committee of the
27 respective political parties are not properly notified as directed by this
28 section, the failure of a candidate to file a certificate of nomination shall
29 not prevent that candidate's name from being placed on the ballot of the
30 general election.

31 (2) Each county clerk shall, at least sixty (60) days prior to
32 the date of the general election, notify by registered mail the chairman and
33 secretary of the county committee of the respective political parties that a
34 certified list of all ~~duly~~ nominated candidates for county, township, and
35 municipal offices is due and shall be filed with the county board of election
36 commissioners and the county clerk in order that the candidates' names be

1 placed on the ballot for the general election. The county committee shall
2 issue the certified list on behalf of those ~~duy~~ nominated candidates and
3 submit the certified list to the county board of election commissioners and
4 the county clerk at least forty-five (45) days but not more than fifty-five
5 (55) days prior to the general election. However, if the chairman and
6 secretary of the county committee of the respective political parties are not
7 properly notified as directed by this section, the failure of a certified list
8 to be filed shall not prevent any candidate's name from being placed on the
9 ballot of the general election."

10

11 SECTION 4. Subchapter 2 of Chapter 7 of Title 7 is amended by adding
12 the following new section:

13 "7-7-204. Petition requirements for a new political party.

14 (a) A group desiring to form a new political party shall do so by
15 filing a petition with the Secretary of State. The petition shall contain at
16 the time of filing the signatures of qualified electors of this state equal in
17 number to at least three percent (3%) of the total number of votes cast for
18 the office of Governor or nominees for presidential electors, whichever is
19 less, at the last preceding election. The petition shall be filed with the
20 Secretary of State no later than the first Monday in May before the general
21 election. The petitions shall be circulated during the period beginning one
22 hundred and fifty (150) days prior to the deadline for filing the petitions
23 with the Secretary of State.

24 (b) The petition shall declare the intent of organizing a political
25 party, the name of which shall be stated in the declaration, and of
26 participating in the next general election. No political party or group shall
27 assume a name or designation which is so familiar, in the opinion of the
28 Secretary of State, as to confuse or mislead the voters at an election.

29 (c) The petition shall contain the form of verification as set forth in
30 A.C.A. § 7-9-109.

31 (d) The Secretary of State shall determine the sufficiency of the
32 signatures submitted within thirty (30) days of filing.

33 (e) If the petition is determined to be insufficient, the Secretary of
34 State shall forthwith notify the sponsors in writing, through their designated
35 agent, and shall set forth his reasons for so finding. When the notice is
36 delivered, the sponsors shall have an additional fifteen (15) days in which to

1 do any or all of the following:

2 (1) Solicit and obtain additional signatures;

3 (2) Submit proof to show that the rejected signatures, or some of
4 them, are good and should be counted;

5 (3) Make the petition more definite and certain.

6 (f) Any amendments and corrections shall not materially change the
7 purpose and effect of the petition. No changes shall be made in the petition,
8 except to correct apparent typographical errors or omissions.

9 (g) Upon certification of sufficiency by the Secretary of State, a new
10 political party shall be declared by the Secretary of State. A new political
11 party formed by the petition process may nominate candidates by convention for
12 the first election after certification. If the new party maintains party
13 status by obtaining three percent (3%) of the total vote cast for the Office
14 of Governor or nominees for presidential electors at the first election after
15 certification, the new political party shall nominate candidates in the party
16 primary as set forth in A.C.A. § 7-7-101, et seq.

17 (h) Any challenges to the certification of the Secretary of State shall
18 be filed with the Pulaski County Circuit Court."

19

20 SECTION 5. Arkansas Code Annotated § 7-7-301(b) is amended to read as
21 follows:

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

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

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

"7-7-302. Selection of primary election officers.
The ~~judges, clerks, and other~~ election officials of primary elections shall be selected in the same manner as for general elections and shall be subject to the same requirements as provided for general elections."

SECTION 7. Arkansas Code Annotated § 7-7-308 is amended to read as follows:

"7-7-308. Determination of right to vote - Precinct registration lists [Effective January 1, 1996.]

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

- (1) Request the voter to identify himself in order to verify the existence of his name on the precinct voter registration list;
- (2) Request the voter, in the presence of the election ~~judge~~ official, to state his date of birth and address;
- (3) Determine that the voter's date of birth and address are the same as those on the precinct voter registration list;
- (4) If the date of birth given by the voter is not the same as that on the precinct voter registration list, request the voter to provide identification as the election ~~judge~~ official deems appropriate;
- (5)(A) If the voter's address is not the same as that on the precinct voter registration list, verify with the county clerk that the address is within the precinct.
 - (B) If the address is within the precinct, request the voter to complete a voter registration application form for the purpose of updating county voter registration record files.
 - (C) If the address is not within the precinct, instruct the voter to contact the county clerk's office to determine the proper precinct;
- (6) If the voter's name is not the same as that on the precinct voter registration list, request the voter to complete a voter registration application form for purposes of updating county voter registration record files;
- (7) Request the voter, in the presence of the election

1 ~~judge~~official, to sign his name, including his given name, his middle name or
2 initial, if any, and his last name in the space provided on the precinct voter
3 registration list. If a person is unable to sign his signature or make his
4 mark or cross, the election ~~judge~~official shall enter his initials and the
5 voter's date of birth in the space for the person's signature on the precinct
6 voter registration list.

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

11 (c) If a voter's name does not appear on the precinct voter
12 registration list, the election ~~judge~~official shall permit the voter to vote
13 only under the following conditions:

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

18 (2) The voter gives and affirms his current residence, and the
19 election ~~judge~~official verifies with the county clerk that the voter's
20 residence is within the precinct;

21 (3) The voter completes an updated voter registration application
22 form; and

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

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

29 (e) The election ~~judges and clerks~~officials shall indicate on the
30 voters list those persons who vote under these circumstances.

31 (f) After the polls close, the election ~~clerk~~official shall total the
32 number of voters on the list.

33 (g) The precinct registration lists shall at all times be available to
34 public inspection."

35

36 SECTION 8. Arkansas Code Annotated § 7-7-309 is amended to read as

1 follows:

2 "7-7-309. Canvass and certification of returns.

3 The county board of election commissioners shall canvass the returns and
4 examine the ballots when demanded. It may hear testimony, if offered, of
5 fraudulent practices and illegal votes, may cast out illegal votes and
6 fraudulent returns, and find the true and legal vote cast for each candidate,
7 and shall certify the result not later than three (3) days following the
8 primary unless there are overseas ballots which will influence the outcome of
9 the election, but in no event shall the certification be later than ten (10)
10 days after the primary."

11

12 SECTION 9. Arkansas Code Annotated § 7-7-310(a) is amended to read as
13 follows:

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

21

22 SECTION 10. Arkansas Code Annotated § 7-7-311 is repealed.

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 them.~~

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

32 ~~(c) At the end of two (2) years if no contest is pending involving the~~
33 ~~inspection of the ballots, the county clerk shall, in the presence of the~~
34 ~~chairman and secretary of the county board of election commissioners or a~~
35 ~~committee of not less than three (3) persons appointed by the county board of~~
36 ~~election commissioners for that purpose, open the ballot boxes, and, without~~

1 ~~examining the ballots, destroy them, and take from the chairman and secretary~~
2 ~~of the county board of election commissioners, or the witness designated by~~
3 ~~the county board of election commissioners, a certificate showing the facts in~~
4 ~~connection with the destruction of the ballots and file it as a permanent~~
5 ~~record in his office. He shall thereupon return to the county committee the~~
6 ~~ballot boxes.~~

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

12

13 SECTION 11. Arkansas Code Annotated § 7-7-401 is amended to read as
14 follows:

15 "7-7-401. Certification of nominations.

16 (a) The county board of election commissioners shall certify the
17 nomination of all county, township, and municipal offices to the county
18 committee of the political party, state committee of the political party, and
19 ~~county clerk, and State Board of Election Commissioners.~~ It shall further
20 certify the vote of all candidates for United States, state, and district
21 office to the state committee and the Secretary of State.

22 (b) ~~The State Board of Election Commissioners~~ Secretary of State shall
23 receive the returns from the county board of election commissioners and
24 canvass and certify the result thereof as provided by law. The boards or their
25 officers shall, when ordered by a circuit court as provided by law, annul the
26 certifications made and make certifications in accordance with the judgment of
27 the circuit court.

28 (c) The nominations of any and all political parties for candidates
29 chosen at a regular or special primary election held by the political party
30 shall be certified by the ~~canvassing board of the primary election~~ county
31 board of election commissioners.

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

36 (2) All certificates of nomination made by the chairman and

1 secretary of conventions or of ~~canvassing boards of primary~~ county boards of
2 election commissioners of primary elections shall be ~~duly~~ acknowledged before
3 an officer authorized by law to take acknowledgments.

4 (e) Nomination as an independent candidate without political party
5 affiliation for election to any office shall be certified by petition of
6 electors in the manner provided in § 7-7-103."

7

8 SECTION 12. All provisions of this act of a general and permanent
9 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas
10 Code Revision Commission shall incorporate the same in the Code.

11

12 SECTION 13. If any provision of this act or the application thereof to
13 any person or circumstance is held invalid, such invalidity shall not affect
14 other provisions or applications of the act which can be given effect without
15 the invalid provision or application, and to this end the provisions of this
16 act are declared to be severable.

17

18 SECTION 14. All laws and parts of laws in conflict with this act are
19 hereby repealed.

20

/s/Stalnaker et al

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