

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

A Bill

HOUSE BILL 1774

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 §§ 7-4-101, 7-4-
10 102, 7-4-104, 7-4-107, 7-4-108, 7-4-109, 7-4-110 AND 7-4-
11 112 TO MAKE TECHNICAL CORRECTIONS; TO AMEND ARKANSAS CODE
12 ANNOTATED § 7-4-105 TO REQUIRE ALL COMMISSIONERS OF COUNTY
13 BOARDS OF ELECTION TO BE NOTIFIED OF ALL MEETINGS AND TO
14 SPECIFY THAT ALL MEETINGS SHALL BE PUBLIC; TO AMEND
15 ARKANSAS CODE ANNOTATED § 7-4-107 TO REMOVE LIMITATIONS ON
16 THE NUMBER OF BALLOTS ELECTION OFFICIALS MAY COUNT AND TO
17 CHANGE THE NUMBER OF ELECTION OFFICIALS REQUIRED AT A
18 POLLING SITE; TO AMEND ARKANSAS CODE ANNOTATED § 7-4-111 TO
19 CHANGE THE COMPENSATION OF THE MEMBERS OF COUNTY BOARDS OF
20 ELECTION TO NOT MORE THAN FIFTY DOLLARS (\$50.00) PER
21 OFFICIAL MEETING; AND FOR OTHER PURPOSES."

Subtitle

22
23
24 "TO AMEND VARIOUS SECTIONS OF A.C.A. § 7-
25 4-101, ET SEQ., PERTAINING TO COUNTY
26 BOARDS OF ELECTION COMMISSIONERS."
27

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

29

30 SECTION 1. Arkansas Code Annotated § 7-4-101(f) is amended to read as
31 follows:

32 "(f) The State Board of Election Commissioners shall perform the
33 following duties:

34 (1) Publish a candidate's election handbook, in conjunction with
35 the Arkansas Ethics Commission, which outlines, in a readable and
36 understandable format, the legal obligations of a candidate and any other
37 suggestions that might be helpful to a candidate in complying with state

1 election law;

2 (2) Conduct statewide training for election ~~clerks and judges~~
 3 officials and county election commissioners;

4 (3) Monitor all election law-related legislation;

5 (4) Conduct investigations of citizen complaints and issue
 6 advisory opinions regarding violations of election and voter registration
 7 laws, except as to § 7-1-103(1) through (4), (6), (7), and (8), or except for
 8 any matter relating to campaign finance and disclosure laws, which the
 9 Arkansas Ethics Commission shall have the same power and authority to enforce
 10 as is provided the commission under §§ 7-6-217 and 7-6-218 for the enforcement
 11 of campaign finance laws;

12 (5) To develop procedures for receiving citizen complaints which
 13 are referred to in subdivision (f)(4) of this section;

14 (6) Formulate, adopt, and promulgate all necessary rules and
 15 regulations to assure even and consistent application of fair and orderly
 16 election procedures; and

17 (7) Promulgate all regulations necessary to assure compliance
 18 with the National Voter Registration Act of 1993."

19

20 SECTION 2. Arkansas Code Annotated § 7-4-102(c) and (d) are amended to
 21 read as follows:

22 "(c) Notification of the election of the third member of the county
 23 board of election commissioners shall be made in writing, over the signature
 24 of the chairman ~~and secretary~~ of the state board, and the ~~secretary~~ board
 25 shall mail to each of the elected county commissioners at their last known
 26 addresses a notice of their election and, in addition, shall mail to the
 27 clerks of the county courts a certificate of the appointment of the
 28 commissioners.

29 (d) Upon receipt of the certificate of the appointment, it shall be the
 30 duty of the county clerk to cause to be sent to each of the commissioners, by
 31 registered mail, notice to appear before the clerk at least thirty (30) days
 32 prior to the date of the general election to take and subscribe to the oath
 33 prescribed by Arkansas Constitution, Article 19, § 20. The oath shall be
 34 endorsed upon the certificate, and, when so endorsed, the certificate shall be
 35 filed in the office of the county clerk and a duplicate thereof forwarded to
 36 the Secretary of ~~the State Board of Election Commissioners.~~"

1

2 SECTION 3. Arkansas Code Annotated § 7-4-104 is amended to read as
3 follows:

4 "7-4-104. Lists of county chairmen - Notification of vacancies.

5 (a) It shall be the duty of the majority and minority parties to keep
6 on file with their respective state chairman a complete list of all of their
7 respective county chairmen. It shall be the duty of the respective state
8 chairmen of both the majority and minority parties to keep on file with the
9 ~~Secretary of the State Board of Election Commissioners~~ Secretary of State a
10 complete list of the county chairmen and to notify promptly ~~the secretary of~~
11 ~~the state board~~ Secretary of State of any death, resignation,
12 disqualification, or vacancies in the office of any county chairman and of the
13 election of a new chairman to fill any vacancies thus created.

14 (b) It shall be the duty of the ~~secretary of the state board~~ Secretary
15 of State to keep the lists of county chairmen furnished by the respective
16 state chairmen of the majority and minority parties as public records open at
17 all times to public inspection."
18

19 SECTION 4. Arkansas Code Annotated § 7-4-105 is amended to read as
20 follows:

21 "7-4-105. County board of election commissioners - Officers - Meetings.

22 (a) The county board of election commissioners shall hold office until
23 their successors are appointed and qualified. The commissioners shall meet at
24 the courthouse at least thirty (30) days prior to the general election and
25 shall organize themselves into a board of election commissioners by electing
26 one (1) member chairman ~~and another clerk~~. Each commissioner shall have one
27 (1) vote, and two (2) commissioners shall constitute a quorum, and the
28 concurring votes of any two (2) shall decide ~~all~~ all questions before them, unless
29 otherwise provided by law.

30 (b) The chair of a county board of election commissioners shall notify
31 all commissioners of all meetings. Any meeting of two (2) or more county
32 board of election commissioners when official business is conducted shall be
33 public and held pursuant to the Arkansas Freedom of Information Act, A.C.A. §
34 25-19-101, et seq. The county board of election commissioners shall keep
35 minutes of all meetings when official business is conducted, and the minutes
36 shall be filed of record with the county clerk."

1

2 SECTION 5. Arkansas Code Annotated § 7-4-107 is amended to read as
3 follows:

4 "7-4-107. Duties of county board of election commissioners - Ballot
5 boxes - Voting booths - Appointment of election officers.

6 (a) The county board of election commissioners shall proceed to
7 establish and allocate a sufficient number of ballot boxes in each precinct or
8 polling ~~place~~ site not using voting machines. The county board of election
9 commissioners, ~~or the county committee in a primary election,~~ shall appoint
10 the requisite number of ~~judges and clerks~~ election officials at each ballot
11 box to ensure that, based upon the votes in the immediately preceding
12 comparable election, there is a sufficient number of ~~judges and clerks~~
13 election officials at each ballot box ~~so that no set of judges and clerks will~~
14 ~~count more than three hundred (300) ballots or more than two hundred (200)~~
15 ~~absentee ballots following the close of the polls. In any event, other than~~
16 ~~counties using voting machines or electronic scanning equipment, there shall~~
17 ~~be at least one (1) set of three (3) judges and two (2) clerks for each voting~~
18 ~~precinct. There shall be only two (2) judges for each voting precinct in~~
19 ~~counties using electronic scanning equipment. The board may permit judges and~~
20 ~~clerks to work half-day or split shifts at the polls at any election so long~~
21 ~~as the requisite number of judges and clerks are always present. At the time~~
22 ~~of appointment of election judges and clerks, the board shall also appoint one~~
23 ~~(1) election sheriff for each polling place in the county.~~

24 ~~—— (b) At general, primary, special, and school elections in counties~~
25 ~~which use paper ballots, the county board of election commissioners shall~~
26 ~~provide in each polling place at least one (1) voting booth for each fifty~~
27 ~~(50) registered electors voting in the last preceding comparable election.~~
28 ~~Each voting booth shall be situated so as to permit voters to prepare their~~
29 ~~ballots screened from observation and shall be furnished with any supplies and~~
30 ~~conveniences as will enable the voter to prepare his ballot. The voting booths~~
31 ~~shall be situated in the polling places in plain view of the election~~
32 ~~officials. No person other than the election officials and those admitted for~~
33 ~~the purpose of voting shall be permitted within the immediate voting area,~~
34 ~~which shall be considered as within six feet (6') of the voting booths, except~~
35 ~~by authority of the judges of election and then only when necessary to keep~~
36 ~~order and enforce the law.~~

1 ~~——(c)(b)~~ It shall be the duty of the county board of election
2 commissioners, not less than twenty (20) days preceding a general election, to
3 select and appoint a sufficient number of ~~judges and clerks and an election~~
4 ~~sheriff~~ election officials for each ~~voting precinct or box in each precinct~~
5 polling site as provided by subsection (a) of this section and to perform the
6 other duties prescribed. ~~Two (2) judges and one (1) clerk for each set of~~
7 ~~judges and clerks for each ballot box in each precinct shall be chosen and~~
8 ~~appointed by two (2) members of the county board of election commissioners~~
9 ~~representing the majority party and one (1) judge and one (1) clerk for each~~
10 ~~set of judges and clerks for each ballot box in each precinct shall be chosen~~
11 ~~and appointed by the member of the county board of election commissioners~~
12 ~~representing the minority party.~~ Each polling site shall have a minimum of two
13 (2) election clerks, one (1) election judge, and one (1) election sheriff.
14 The minority party election commissioner shall have the option to designate a
15 number of election officials equal to one (1) less than the majority of
16 election officials at each polling site, with a minimum of two (2) election
17 officials at each polling site. In the event the county ~~majority party~~
18 representatives on the county board of election commissioners fail to agree
19 upon any ~~judge or clerk~~ election official to fill any election post allotted
20 to the ~~majority~~ respective party twenty (20) days before the election, then
21 and in that event, the ~~state chairman of the majority party or his designee~~
22 county board of election commissioners shall appoint the remaining ~~judges and~~
23 ~~clerks~~ election officials for the ~~majority party in the county.~~ Within fifteen
24 (15) days prior to the election, the county board of election commissioners
25 shall prepare, publish, and post in a public place in the county sheriff's
26 office and in the county clerk's office of each county their ~~respective~~ lists
27 of appointees ~~as judges and clerks of elections, and sheriffs of elections of~~
28 election officials.

29 ~~——(d)~~ In any county using voting machines, the county board of election
30 commissioners shall appoint one (1) judge and one (1) clerk to represent each
31 the majority and the minority parties at each polling place and to supervise
32 and conduct the election. The county board of election commissioners shall
33 select one (1) election sheriff for each polling place to serve on a
34 nonpartisan basis. Additional sets of judges and clerks may be appointed at
35 each polling place if the county board of election commissioners determines
36 they are necessary, and the board may permit judges and clerks to work

1 ~~half-day or split shifts at the polls at any election so long as the requisite~~
 2 ~~number of judges and clerks are always present.~~

3 ~~——(e)(c)~~ The county board of election commissioners shall certify to the
 4 county court the per diem of ~~judges and clerks of election and sheriffs of~~
 5 election officials and the mileage of the judge election official carrying the
 6 returns to the county election commissioners' office for allowance.

7 (d) The board may permit election officials to work half-day or split
 8 shifts at the polls at any election so long as the requisite number of
 9 election officials are always present.

10 ~~——(f)(e)~~ Fifteen (15) days following any election, each county election
 11 commissioner shall file an affidavit with the state board of election
 12 commissioners to the effect that all duties and responsibilities of the county
 13 election commissioner have been complied with."
 14

15 SECTION 6. Arkansas Code Annotated § 7-4-108 is amended to read as
 16 follows:

17 "7-4-108. Absence of election ~~officers~~ officials - Filling vacancy.

18 ~~——(a)~~ If any election judge official shall be absent at the time fixed
 19 for the opening of the polls, then the other ~~judge or judges~~ election
 20 officials shall appoint some person or persons having the qualifications
 21 prescribed by this act for election ~~judges~~ officials to supply the vacancy;
 22 and if all of the ~~judges~~ officials shall be absent, then the voters present
 23 shall elect as ~~judges~~ election officials persons having the required
 24 qualifications. The county board of election commissioners shall be notified
 25 of any vacancies and substitutions of election officials.

26 ~~——(b)~~ If any clerk or election sheriff shall be absent at the time fixed
 27 for the opening of the polls, the ~~judges of the election of the precinct shall~~
 28 ~~appoint some person or persons having the qualifications prescribed by this~~
 29 ~~act for clerk or election sheriff to supply the vacancy."~~

30
 31 SECTION 7. Arkansas Code Annotated § 7-4-109 is amended to read as
 32 follows:

33 "7-4-109. Qualifications of state and county commissioners and other
 34 election ~~officers~~ officials.

35 (a)(1) The members of the State Board of Election Commissioners, the
 36 members of each county board of election commissioners, and ~~precinct judges~~

1 ~~and clerks~~ election officials shall be qualified electors of this state, able
 2 to read and write the English language, and shall not have been found guilty
 3 or pled guilty or nolo contendere to the violation of any election law of this
 4 state.

5 (2) No member of a county board of election commissioners shall
 6 be a candidate for any office to be filled at any election while serving on
 7 the county board.

8 (b) Furthermore, all members of each county board of election
 9 commissioners shall be residents of the county in which they serve at the time
 10 of their appointment or election. All ~~precinct judges and clerks~~ election
 11 officials shall be residents of the precincts in which they serve at the time
 12 of their appointment. However, if, at the time of posting election officials,
 13 the county board of election commissioners shall, by unanimous vote, find that
 14 it is impossible to obtain qualified election officials from any precinct or
 15 precincts and shall make certification of that finding to the county clerk,
 16 then other qualified citizens of the county may be designated to serve in the
 17 precinct or precincts.

18 (c) No person who is a paid employee of any political party or of any
 19 person running for statewide office shall be eligible to be a member of a
 20 county board of election commissioners or an election ~~judge or clerk~~ official.

21 (d) No member of a county board of election commissioners shall be a
 22 candidate for any office to be filled at any general election while serving on
 23 the county board.

24 (e) No person may serve as an election ~~judge, clerk, or officer~~
 25 official if related within the second degree of consanguinity to any candidate
 26 running for office in the current election if objection to such service is
 27 made to the county board of election commissioners within ten (10) calendar
 28 days after the posting or publishing of the list of officials."
 29

30 SECTION 8. Arkansas Code Annotated § 7-4-110 is amended to read as
 31 follows:

32 "7-4-110. Oath of election officers.

33 (a) The ~~judges, clerks, and sheriffs of elections~~ election officials,
 34 before entering on their duties, shall take, before some person authorized by
 35 law to administer oaths, the following oath:
 36

1 I, , do swear that I will perform the duties of an
2 election ~~. (judge/clerk/sheriff)~~ official of this election according
3 to law and to the best of my abilities, and that I will studiously endeavor to
4 prevent fraud, deceit, and abuse in conducting the same, and that I will not
5 disclose how any voter shall have voted, unless required to do so as a witness
6 in a judicial proceeding or a proceeding to contest an election.

7 (b) In case there shall be no person present at the opening of any
8 election authorized to administer oaths, it shall be lawful for the ~~judges of~~
9 ~~the election~~ officials to administer the oath to each other ~~and to the clerks;~~
10 and the ~~judges~~ election officials shall have full power and authority to
11 administer all oaths that may be necessary in conducting any election."
12

13 SECTION 9. Arkansas Code Annotated § 7-4-111(b) is amended to read as
14 follows:

15 "(b) Each member of the county board of election commissioners shall
16 receive for ~~his services~~ the sum of not ~~less more~~ than ~~fifteen dollars~~
17 ~~(\$15.00) per day for each day, or any portion of it, actually engaged in the~~
18 ~~duties of his office concerning the holding of elections~~ fifty dollars (\$50.00)
19 per public meeting when official business is conducted."
20

21 SECTION 10. Arkansas Code Annotated § 7-4-112 is amended to read as
22 follows:

23 "7-4-112. Compensation of election officers.

24 (a) The ~~judges, clerks, and sheriffs of the~~ election officials shall
25 receive a minimum of seven dollars and fifty cents (\$7.50) for holding an
26 election, or such greater amount as may be appropriated ~~by the quorum court of~~
27 ~~the county.~~

28 (b) In addition, each ~~judge of the~~ election official carrying the
29 returns from the precincts to the county board of election commissioners'
30 office ~~or to the county committee's office~~ shall be allowed mileage at such
31 rate as may be ~~prescribed by the quorum court of the county~~ appropriated but
32 not to exceed the rate prescribed for state employees in state travel
33 regulations."
34

35 SECTION 11. All provisions of this act of a general and permanent
36 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas

1 Code Revision Commission shall incorporate the same in the Code.

2

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

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9 SECTION 13. All laws and parts of laws in conflict with this act are
10 hereby repealed.

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