

1 State of Arkansas
2 82nd General Assembly
3 Regular Session, 1999

A Bill

HOUSE BILL 1058

4
5 By: Representative Pappas
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For An Act To Be Entitled

8
9 "AN ACT TO ESTABLISH PROCEDURES TO CHALLENGE THE
10 QUALIFICATIONS OF A CANDIDATE FOR PUBLIC OFFICE; AND
11 FOR OTHER PURPOSES."

Subtitle

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14 "AN ACT TO ESTABLISH PROCEDURES TO
15 CHALLENGE THE QUALIFICATIONS OF A
16 CANDIDATE FOR PUBLIC OFFICE."
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18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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20 SECTION 1. (a) Any person may challenge the declaration of candidacy
21 or qualifications of any candidate or to have the candidate's name printed on
22 the ballot.

23 (b) The challenge shall be made by filing a verified petition with the
24 State Board of Election Commissioners. The petition shall set forth the
25 claims on which the challenger wishes to challenge the declaration of
26 candidacy or qualifications of the candidate and the facts in support of the
27 claim.

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29 SECTION 2. (a) In the case of a challenge to a candidate for
30 nominations in a primary election, the petition shall be filed no later than
31 ten (10) days after the filing deadline for candidates for the primary
32 election.

33 (b) In the case of a challenge to a candidate for election to an office
34 in general or special election, the petition shall be filed no later than five
35 (5) days after the latest date for certification of a candidate by the officer
36 responsible for issuing such certification.

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 2 SECTION 3. (a) If a challenge is made, the State Board of Election
 3 Commissioners shall notify, in writing, the candidate and those candidates who
 4 may be affected:

5 (1) That the candidate's qualifications are being challenged and
 6 the stated claims of the challenger; and

7 (2) That the challenger has requested a hearing on the matter
 8 before the State Board of Election Commissioners.

9 (b) The State Board of Election Commissioners shall inform the
 10 candidate of the date, time, and place of the hearing immediately upon the
 11 information becoming available. However, in no instance shall the hearing
 12 take place more than ten (10) days after the complaint has been filed with the
 13 State Board of Election Commissioners.

14 (c) The State Board of Election Commissioners shall make a
 15 determination upon the validity of the alleged improprieties, whether of form
 16 or substance, and shall decide challenges and issue findings of fact and
 17 conclusions within seventy-two (72) hours after the hearing. The party filing
 18 the challenge has the burden of proof to sustain the challenge by a
 19 preponderance of the evidence.

20 (d) If the State Board of Election Commissioners determines that the
 21 candidate is not qualified, the Secretary of State shall withhold the name of
 22 the candidate from the ballot or strike such candidate's name from the ballot
 23 if the ballots have been printed. If there is insufficient time to strike the
 24 candidate's name or reprint the ballots, a prominent notice shall be placed at
 25 each affected polling place advising voters of the disqualification of the
 26 candidate and all votes cast for the candidate shall be void and shall not be
 27 counted.

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 29 SECTION 4. (a) The elector filing the challenge or the candidate
 30 challenged shall have the right to appeal the decision of the State Board of
 31 Election Commissioners by filing a petition in the court of competent
 32 jurisdiction within ten (10) days after the entry of the final decision by the
 33 State Board of Election Commissioners.

34 (1) The filing of the petition shall not itself stay the decision
 35 of the State Board of Election Commissioners; however, the court may order a
 36 stay upon a finding of good cause.

1 (2) Immediately after service of the petition, the State Board of
 2 Election Commissioners shall transmit the original or a certified copy of the
 3 entire record of the proceedings under review to the court.

4 (3) The review shall be conducted by the court without a jury and
 5 shall be confined to the record. The court shall not substitute its judgment
 6 for that of the State Board of Election Commissioners as to the weight of the
 7 evidence on questions of fact.

8 (4) The court may affirm the decision or remand the case for
 9 further proceedings.

10 (5) The court may reverse or modify the decision if substantial
 11 rights of the appellant have been prejudiced because the findings, inferences,
 12 conclusions, or decisions of the State Board of Election Commissioners are:

13 (A) In violation of the Constitution or laws of this state;

14 (B) In excess of the statutory authority of the State Board
 15 of Election Commissioners;

16 (C) Made upon unlawful procedures;

17 (D) Affected by other error of law;

18 (E) Clearly erroneous in view of the reliable, probative,
 19 and substantial evidence on the whole record; or

20 (F) Arbitrary or capricious or characterized by an abuse of
 21 discretion or a clearly unwarranted exercise of discretion.

22 (b) An aggrieved party may obtain a review of any final judgment of the
 23 court by the Court of Appeals or the Supreme Court, as provided by law.

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 25 SECTION 5. All provisions of this Act of a general and permanent nature
 26 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
 27 Revision Commission shall incorporate the same in the Code.

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 29 SECTION 6. If any provision of this Act or the application thereof to
 30 any person or circumstance is held invalid, such invalidity shall not affect
 31 other provisions or applications of the Act which can be given effect without
 32 the invalid provision or application, and to this end the provisions of this
 33 Act are declared to be severable.

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 35 SECTION 7. All laws and parts of laws in conflict with this Act are
 36 hereby repealed.