

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 86th General Assembly
3 Regular Session, 2007
4

A Bill

HOUSE BILL 2763

5 By: Representative Saunders
6
7

For An Act To Be Entitled

9 AN ACT TO AMEND VARIOUS SECTIONS OF THE ARKANSAS
10 CODE PERTAINING TO ELECTIONS; AND FOR OTHER
11 PURPOSES.
12

Subtitle

13 AN ACT TO AMEND VARIOUS SECTIONS OF THE
14 ARKANSAS CODE PERTAINING TO ELECTIONS.
15
16
17

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

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

21 7-1-101. Definitions. [Effective January 1, 2006.]

22 As used in this title, unless the context or chapter otherwise
23 requires:

24 (1) "Administrator" means the administrative head of a long-term
25 care or residential care facility licensed by the state who is authorized in
26 writing by a patient of the long-term care or residential care facility to
27 deliver the application for an absentee ballot and to obtain or deliver the
28 absentee ballot to the county clerk;

29 (2) "Audit log" means an electronically stored record of events
30 and ballot images from which election officials may produce a permanent paper
31 record with a manual audit capacity for a voting system using voting
32 machines;

33 (3) "Authorized agent" means a person who is identified and
34 authorized to deliver the application, obtain a ballot, and deliver the
35 ballot on the day of the election to the county clerk by an applicant who is
36 medically unable to cast a ballot at a polling site due to unforeseen medical



1 necessity as set forth in an affidavit from the administrative head of a
 2 hospital or long-term or residential care facility;

3 (4) "Canvassing" means examining and counting the returns of
 4 votes cast at a public election to determine authenticity;

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

8 (6) "Counting location" means a location selected by the county
 9 board of election commissioners with respect to all elections for the
 10 automatic processing or counting, or both, of votes;

11 (7) "Designated bearer" means any person who is identified and
 12 authorized by the applicant to obtain from the county clerk or to deliver to
 13 the county clerk the applicant's ballot;

14 (8) "Election official" or "election officer" means a person who
 15 is a member of the county board of election commissioners or a person who is
 16 a poll worker designated by a county board of election commissioners to be an
 17 election clerk, election judge, or election sheriff;

18 (9) "Electronic vote tabulating device" means a device used to
 19 electronically scan a marked paper ballot for the purposes of tabulation;

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

24 (11) "First-time voter" means any registered voter who has not
 25 previously voted in a federal election in the state;

26 (12) "General or special election" means the regular biennial or
 27 annual elections for election of United States, state, district, county,
 28 township, and municipal officials and the special elections to fill vacancies
 29 therein and special elections to approve any measure. The term as used in
 30 this act shall not apply to school elections for officials of school
 31 districts;

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

35 (14) "Marking device" means any approved device for marking a
 36 paper ballot with ink or other substances which will enable the votes to be

1 tabulated by means of an electronic vote tabulating device;

2 (15) "Minority party" means that political party whose
 3 candidates were elected to less than a majority of the constitutional offices
 4 of this state in the last preceding general election or the political party
 5 which polled the second greatest number of votes for the office of Governor
 6 in the last preceding general election if all of the elected constitutional
 7 officers of this state are from a single political party;

8 (16) "Party certificate" means a written statement or receipt
 9 signed by the secretary or chair of the county committee or of the state
 10 committee, as the case may be, of the political party evidencing the name and
 11 title proposed to be used by the candidate on the ballot, the position the
 12 candidate seeks, payment of the fees, and filing of the party pledge, if any,
 13 required by the political party;

14 (17)(A) "Political party" means any group of voters which at the
 15 last preceding general election polled for its candidate for Governor in the
 16 state or nominees for presidential electors at least three percent (3%) of
 17 the entire vote cast for the office.

18 (B) No group of electors shall assume a name or
 19 designation which is so similar in the opinion of the Secretary of State to
 20 that of an existing political party as to confuse or mislead the voters at an
 21 election.

22 (C) When any political party fails to obtain three percent
 23 (3%) of the total votes cast at an election for the office of Governor or
 24 nominees for presidential electors, it shall cease to be a political party;

25 (18) "Polling site" means a location selected by the county
 26 board of election commissioners where votes are cast;

27 (19) "Precinct" means the geographical boundary lines dividing a
 28 county, municipality, township, or school district for voting purposes;

29 (20) "Primary election" means any election held by a political
 30 party in the manner provided by law for the purpose of selecting nominees of
 31 the political party for certification as candidates for election at any
 32 general or special election in this state;

33 (21) "Qualified elector" means a person who holds the
 34 qualifications of an elector and who is registered pursuant to Arkansas
 35 Constitution, Amendment 51;

36 (22) "Sample ballot" means a ballot for distribution to the

1 public or the press marked with the word "SAMPLE" so as to prevent the
 2 production of counterfeit ballots;

3 ~~(22)~~(23) "Vacancy in election" means the vacancy in an elective
 4 office created by death, resignation, or other good and legal cause, arising
 5 prior to election to the office at a general or special election but arising
 6 subsequent to the certification of the ballot;

7 ~~(23)~~(24) "Vacancy in nomination" means the circumstances in
 8 which the person who received the majority of votes at the preferential
 9 primary election or general primary election cannot accept the nomination due
 10 to death or notifies the party that he or she will not accept the nomination
 11 due to serious illness, moving out of the area from which the person was
 12 elected as the party's nominee, or filing for another office preceding the
 13 final date for certification of nominations;

14 ~~(24)~~(25)(A) "Vacancy in office" means the vacancy in an elective
 15 office created by death, resignation, or other good and legal cause arising
 16 subsequent to election to the office at a general or special election or
 17 arising subsequent to taking office and prior to the expiration of the term
 18 of office in those circumstances wherein the vacancy must be filled by a
 19 special election rather than by appointment.

20 (B) The phrase "vacancy in office" shall not apply to the
 21 election of a person at a general election to fill an unexpired portion of a
 22 term of office;

23 ~~(25)~~(26) "Voting machine" means either:

24 (A) A direct recording electronic voting machine that:

25 (i) Records votes by means of a ballot display
 26 provided with mechanical or electro-optical components that may be actuated
 27 by the voter;

28 (ii) Processes the data by means of a computer
 29 program;

30 (iii) Records voting data and ballot images in
 31 internal and external memory components; and

32 (iv) Produces a tabulation of the voting data stored
 33 in a removable memory component and in a printed copy; or

34 (B) An electronic device for marking a paper ballot to be
 35 electronically scanned;

36 ~~(26)~~(27) "Voter-verified paper audit trail" means a

1 contemporaneous paper record of a ballot printed for the voter to confirm his
2 or her votes before the voter casts his or her ballot that:

3 (A) Allows the voter to verify the voter-verified paper
4 audit trail before the casting of the voter's ballot;

5 (B) Is not retained by the voter;

6 (C) Does not contain individual voter information;

7 (D) Is produced on paper that is sturdy, clean, and
8 resistant to degradation; and

9 (E) Is readable in a manner that makes the voter's ballot
10 choices obvious to the voter without the use of computer or electronic code;
11 and

12 ~~(27)~~(28) "Voting system" means:

13 (A) The total combination of mechanical,
14 electromechanical, or electronic equipment, including the software, firmware,
15 and documentation required to program, control, and support the equipment
16 that is used:

17 (i) To define ballots;

18 (ii) To cast and count votes;

19 (iii) To report or display election results; and

20 (iv) To maintain and produce any audit trail

21 information; and

22 (B) The practices and documentation used to:

23 (i) Identify system components and versions of
24 components;

25 (ii) Test the system during its development and
26 maintenance;

27 (iii) Maintain records of system errors and defects;

28 (iv) Determine specific system changes to be made to
29 a system after the initial qualification of the system; and

30 (v) Make available any materials to the voter,
31 including, but not limited to, notices, instructions, forms, or paper
32 ballots.

33

34 SECTION 2. Arkansas Code § 7-5-206 is amended to read as follows:

35 7-5-206. Publication requirements.

36 ~~(a)~~ The county board of election commissioners shall make publication

1 of all nominations filed with it, of all nominations certified to it by the
 2 Secretary of State, of all proposed amendments to the Arkansas Constitution,
 3 and of all other questions certified to it by the Secretary of State or
 4 required by law to be submitted to the electors at any election, by posting a
 5 list thereof at the door of the courthouse at least ten (10) days before the
 6 day of the election.

7 ~~(b) The county board shall alter any sample ballots distributed to the~~
 8 ~~public or members of the press so as to prevent persons from producing~~
 9 ~~counterfeit ballots by stamping sample ballots with the word "SAMPLE".~~

10
 11 SECTION 3. Arkansas Code § 7-5-210 is amended to read as follows:
 12 7-5-210. Ballots - Number - Official.

13 (a) The county board of election commissioners of each county in this
 14 state ~~not using voting machines~~ paper ballots counted by hand at the polling
 15 site, paper ballots counted by electronic vote tabulating device at the
 16 polling site, or paper ballots cast at a polling site and counted at a
 17 central location shall, ~~in due time for each general or special election,~~
 18 provide for each election precinct, ~~and for each ward of a city or~~
 19 ~~incorporated town in its county,~~ one hundred fifty (150) printed ballots for
 20 each one hundred (100), or fraction of one hundred (100), electors voting
 21 thereat at the last-preceding comparable election. Provided, however, the
 22 total number of ballots required to be printed for each election precinct ~~and~~
 23 ~~for each ward of a city or incorporated town~~ shall not be required to exceed
 24 one hundred five percent (105%) of the total number of registered voters for
 25 the respective precinct ~~or ward.~~

26 (b) No ballot shall be received or counted in any election to which
 27 this act applies unless it is provided by the county board as provided in
 28 this section.

29
 30 SECTION 4. Arkansas Code § 7-5-211 is amended to read as follows:
 31 7-5-211. Delivery of election supplies.

32 (a) At least one (1) day before any election:

33 (1)(A) The county board of election commissioners shall
 34 designate a suitable person or persons and deliver to the person or persons
 35 the ballots as set forth in § 7-5-210.

36 (B) The person shall not be an elected official, ~~the an~~

1 elected official's deputy, or a candidate for office;

2 (2) For each set of election officials in each ~~precinct~~ polling
 3 place, the county board shall deliver to the designated person or persons the
 4 following additional election supplies, if applicable:

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

6 (B) Sufficient list-of-voters forms adequate to record the
 7 names of all registered voters who appear to vote in the ~~precinct~~ polling
 8 place;

9 (C) A precinct voter registration list;

10 (D) Sufficient tally sheets;

11 (E) Envelopes to seal the ballots and certificates;

12 (F) Separate sheets containing blank forms of certificates
 13 prepared to enable the election officials to properly certify the ~~result of~~
 14 ~~the election~~ paper ballot count at the polling site, upon which certificates
 15 shall be endorsed a blank form of oath to be taken by the election officials
 16 before entering upon the discharge of their duties;

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

20 (H) In those counties in which an optical scanner is used
 21 to count paper ballots, the marking instrument recommended by the
 22 manufacturer of the optical scanner for proper marking on the ballots shall
 23 be provided.

24 (b) The county board shall be responsible for the security of the
 25 delivered election materials.

26 (c) The county board shall be responsible for providing ballots and
 27 election materials for absentee and early voting to the county clerk prior to
 28 the beginning day for absentee and early voting.

29

30 SECTION 5. Arkansas Code § 7-5-301(e), concerning the purchase or
 31 procurement of voting machines or electronic vote tabulating devices, is
 32 amended to read as follows:

33 (e) The Secretary of State or the county ~~board of election~~
 34 ~~commissioners~~ shall not purchase or procure any voting machine or electronic
 35 vote tabulating device unless the party selling the machine or device shall:

36 (1) Guarantee the machines in writing for a period of one (1)

1 year; and

2 (2) Provide, if deemed necessary by the county, personnel for
 3 the supervision and training of county personnel for at least two (2)
 4 elections, one (1) primary and one (1) general.

5
 6 SECTION 6. Arkansas Code § 7-5-304 is amended to read as follows:

7 7-5-304. Opening and closing polls - Time.

8 (a) The polls shall be opened at 7:30 a.m., and they shall remain open
 9 continuously until 7:30 p.m.

10 (b) In all counties, when the polls close, all persons who have
 11 presented themselves for voting and who are then in line at the polling site
 12 shall be permitted to cast their votes.

13
 14 SECTION 7. Arkansas Code § 7-5-310 is amended to read as follows:

15 7-5-310. Privacy - Assistance to voters with disabilities. [Effective
 16 January 1, 2006.]

17 (a) Each voter shall be provided the privacy to mark his or her
 18 ballot. Privacy shall be provided by each county board of election
 19 commissioners or county clerk to ensure that voters desiring privacy are not
 20 singled out.

21 (b)(1) A voter shall inform the election officials or county clerk at
 22 the time that the voter presents himself or herself to vote that he or she is
 23 unable to mark the ballot because he or she cannot read or write or because
 24 of physical, sensory, or other disability or other legal cause.

25 (2) The voter shall be directed to a voting machine equipped for
 26 use by persons with disabilities where he or she may elect to cast his or her
 27 ballot without assistance, or the voter may request assistance with either
 28 the paper ballot or the voting machine, depending on the voting system in use
 29 for the election, by:

30 (A) Two (2) election officials; or

31 (B) A person named by the voter.

32 (3) If the voter is assisted by two (2) election officials, one
 33 (1) of the election officials shall observe the voting process and one (1)
 34 may assist the voter in marking and casting the ballot according to the
 35 wishes of the voter without comment or interpretation.

36 (4) If the voter is assisted by one (1) person named by the

1 voter, he or she may assist the voter in marking and casting the ballot
 2 according to the wishes of the voter without any comment or interpretation.

3 (5) It shall be the duty of the election officials at the
 4 polling site to make and maintain a list of the names and addresses of all
 5 persons assisting voters.

6 (c) Any voter who because of physical, sensory, or other disability
 7 who presents himself or herself for voting and who then informs an election
 8 official at the polling site that he or she is unable to stand in line for
 9 extended periods of time shall be entitled to and assisted by an election
 10 official to advance to the head of any line of voters then waiting in line to
 11 vote at the polling site.

12
 13 SECTION 8. Arkansas Code § 7-5-305 is amended to read as follows:

14 7-5-305. Requirements.

15 (a) Before a person is permitted to vote, the election official shall:

16 (1) Request the voter to identify himself or herself in order to
 17 verify the existence of his or her name on the precinct voter registration
 18 list;

19 (2) Request the voter, in the presence of the election official,
 20 to state his or her address and state or confirm his or her date of birth;

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

23 (4) If the date of birth given by the voter is not the same as
 24 that on the precinct voter registration list, request the voter to provide
 25 identification as the election official deems appropriate;

26 (5)(A) If the voter's address is not the same as that on the
 27 precinct voter registration list, verify with the county clerk that the
 28 address is within the precinct.

29 (B) If the address is within the precinct, request the
 30 voter to complete a voter registration application form for the purpose of
 31 updating county voter registration record files.

32 (C) If the address is not within the precinct, ~~instruct~~
 33 ~~the voter to:~~

34 (i) Contact the county clerk's office to determine
 35 the proper precinct; and

36 (ii) ~~Go~~ Instruct the voter to go to the polling site

1 serving that precinct in order for his or her vote to be counted;

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

6 (7) Request the voter, in the presence of the election official,
 7 to sign his or her name, including the given name, middle name or initial, if
 8 any, and last name in the space provided on the precinct voter registration
 9 list. If a person is unable to sign his or her signature or make his or her
 10 mark or cross, the election official shall enter the voter's initials and the
 11 voter's date of birth in the space for the person's signature on the precinct
 12 voter registration list;

13 (8)(A) Request the voter for purposes of identification to
 14 provide a current and valid photo identification or a copy of a current
 15 utility bill, bank statement, government check, paycheck, or other government
 16 document that shows the name and address of the voter.

17 (B)(i) If a voter is unable to provide this
 18 identification, the election official shall indicate on the precinct voter
 19 registration list that the voter did not provide identification.

20 (ii) A first-time voter who registers by mail
 21 without providing identification when registering and desires to vote in
 22 person but who does not meet the identification requirements of subdivision
 23 (a)(8)(A) of this section may cast a provisional ballot.

24 (iii) Following each election, the county board of
 25 election commissioners may review the precinct voter registration lists and
 26 may provide the information of the voters not providing identification at the
 27 polls to the prosecuting attorney.

28 (iv) The prosecuting attorney may investigate
 29 possible voter fraud;

30 (9) Record the voter's name or request the voter to print his or
 31 her name on the list of voters form;

32 ~~(9)~~(10) Follow the procedures under §§ 7-5-310, 7-5-311, and 7-
 33 5-523, if the person is a voter with a disability and presents himself or
 34 herself to vote; and

35 ~~(10)~~(11) Permit the person to cast a provisional ballot if the
 36 person received an absentee ballot according to the precinct voter

1 registration list.

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

4

5 SECTION 9. Arkansas Code § 7-5-311 is amended to read as follows:

6 7-5-311. Voters with disabilities - Special procedures.

7 (a) The county boards of election commissioners ~~with respect to~~
 8 ~~general, special, and primary elections under their several jurisdictions~~
 9 shall provide voting locations which are accessible to voters with
 10 disabilities and shall provide reasonable and adequate methods whereby voters
 11 with disabilities may personally and secretly execute their ballots at the
 12 polling places.

13 (b) The State Board of Election Commissioners, after conferring with
 14 and obtaining the assistance of persons with disabilities or organizations of
 15 citizens with disabilities, shall offer to assist local election authorities
 16 with the implementation of Title II requirements of the Americans with
 17 Disabilities Act and with the Title III requirements of the Help America Vote
 18 Act regarding accessibility for voters with disabilities.

19 (c) As used in this section, the term "disability" means any physical,
 20 mental, or sensory impairment.

21 (d)(1) The county board shall be responsible for compliance with this
 22 section and with Pub. L. No. 98-435, Title II of Pub. L. No. 101-336, the
 23 Americans with Disabilities Act, and the Help America Vote Act regarding the
 24 accessibility of voting locations for voters with disabilities.

25 (2)(A) The state board shall provide the chair of each county
 26 board ~~and the chair of each county political party~~ a copy of this section and
 27 of Pub. L. No. 98-435.

28 (B) The state board shall send the copies by certified
 29 mail.

30

31 SECTION 10. Arkansas Code § 7-5-314 is amended to read as follows:

32 7-5-314. Duties of election officials - Voter lists ~~—Voters in line at~~
 33 ~~closing time.~~

34 ~~(a) At least one (1) election official in each precinct or at each box~~
 35 ~~shall mark the voter's name as having voted on the precinct voter~~
 36 ~~registration list furnished by the county clerk.~~

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

3 ~~(c) In all counties, when the polls close, all persons who have~~
 4 ~~presented themselves for voting and who are then in line at the polling site~~
 5 ~~shall be permitted to cast their votes.~~

6 ~~(d)~~ The election officials shall ~~then~~ total the number of voters on
 7 the ~~voter lists~~ list of voters form, and the lists shall be certified and
 8 attested by the election officials.

9
 10 SECTION 11. Arkansas Code § 7-5-315 is amended to read as follows:

11 7-5-315. Counting ballots at the polling site.

12 In counting the ballots at the polling site, the following procedures
 13 shall be followed:

14 (1) The votes received by an unopposed candidate in any election
 15 held in this state shall not be counted or tabulated by the election
 16 officials. The word "UNOPPOSED" shall be sufficient to insert on the tally
 17 sheet to indicate that the candidate has received a majority of the votes
 18 cast in the election. However, the votes received by an unopposed candidate
 19 for the office of mayor or circuit clerk shall be counted and tabulated by
 20 the election officials;

21 (2) No write-in vote in any election in this state may be
 22 counted unless the name of the write-in candidate shall have been written on
 23 the ballot in the handwriting of the person casting the vote;

24 (3) In counting the ballots, the ballot box shall be opened, and
 25 the ballots shall be counted by counting each ballot in turn or by counting
 26 by offices and issues. The election officials must witness the counting of
 27 the ballots and shall keep separate tally lists of the votes cast for each
 28 candidate or issue on the ballot;

29 (4) When two (2) or more ballots are found folded together, it
 30 shall be considered as conclusive evidence of their being fraudulent, and
 31 neither of them shall be counted. If a ballot shall be found to contain a
 32 greater number of names for any one (1) office than the number of persons
 33 required to fill the office, it shall be considered fraudulent as to the
 34 whole of the names designated to fill the office, but no further;

35 (5) Upon the close of the polls, the election officials shall
 36 immediately certify and attest the list of voters and continue the count to

1 completion. If any of the election officials become sick or incapacitated
 2 from any other cause, the remaining election officials shall continue the
 3 count until it is completed;

4 (6) After the count is completed, the election officials shall
 5 make out the certificates of election in triplicate and immediately post one
 6 (1) copy outside the polling site; and

7 (7)(A) The votes received by any person whose name appeared on
 8 the ballot and who withdrew or died after the certification of the ballot or
 9 filing period ended shall be counted.

10 (B)(i) If the person received enough votes to win
 11 nomination or election, a vacancy in the nomination or election shall be
 12 declared.

13 (ii)(a) If the person received enough votes to
 14 qualify for a runoff, the person's name shall appear on the runoff ballot;
 15 and

16 (b) If enough votes are cast for the person to
 17 win the runoff, then a vacancy in the nomination or election shall exist; ~~and~~

18 ~~(8) Any person who votes in an election as a result of a federal~~
 19 ~~or state court order or any other order extending the time established for~~
 20 ~~closing the polls may only vote in that election by casting a provisional~~
 21 ~~ballot according to the procedure set out in § 7-5-306(b). The ballot shall~~
 22 ~~be separated and held apart from other provisional ballots cast by those not~~
 23 ~~affected by the order.~~

24
 25 SECTION 12. Arkansas Code § 7-5-413(c), concerning voting machine
 26 duties, is amended to read as follows:

27 (c)(1) At the time designated ~~by law for the closing of the polls on~~
 28 ~~election day~~ in the notice of election, a set of election officials for the
 29 machines used for early voting shall canvass the vote in the manner provided
 30 for regular polling sites. After the canvass has been made, the machines
 31 shall be secured and shall remain inaccessible to voting.

32 (2) The results of the canvass shall be returned to the county
 33 board of election commissioners to be tabulated and canvassed with and in the
 34 same manner as the returns of other election precincts.

35
 36

1 SECTION 13. Arkansas Code § 7-7-103(b), concerning filing as an
 2 independent candidate, is amended to read as follows:

3 (b)(1)(A) The person shall furnish by 12:00 noon on May 1 of the year
 4 in which the election is to be held petitions signed by not less than three
 5 percent (3%) of the qualified electors in the county, township, or district
 6 in which the person is seeking office, but in no event shall more than two
 7 thousand (2,000) signatures be required for a district, county, or township
 8 office.

9 (B) If the person is a candidate for state office or for
 10 United States Senator in which a statewide race is required, the person shall
 11 file petitions signed by not less than three percent (3%) of the qualified
 12 electors of the state or which contain ten thousand (10,000) signatures of
 13 qualified electors, whichever is the lesser.

14 (2) Each elector signing the petition shall be a registered
 15 voter, and the petition shall be directed to the official with whom the
 16 person is required by law to file ~~nomination certificates~~ the petition to
 17 qualify as a candidate and shall request that the name of the person be
 18 placed on the ballot for election to the office mentioned in the petition.

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

22 (4) In determining the number of qualified electors in any
 23 county, township, or district or in the state, the total number of votes cast
 24 therein for all candidates in the preceding general election for the office
 25 of Governor shall be conclusive of the number of qualified electors therein
 26 for the purposes of this section.

27
 28 SECTION 14. Arkansas Code § 7-7-203(c), concerning the dates of
 29 elections, is amended to read as follows:

30 (c)(1) Party pledges, if any, shall be filed and any filing fees of a
 31 political party, if any, shall be paid during regular office hours in the
 32 period beginning at 12:00 noon on the third Tuesday in March and ending at
 33 12:00 noon on the fourteenth day thereafter before the preferential primary
 34 election.

35 (2) A party certificate and the political practice pledge for
 36 primary elections shall be filed with the county clerk or the Secretary of

1 State, as the case may be, during regular office hours in the period
 2 beginning at 12:00 noon on the third Tuesday in March and ending at 12:00
 3 noon on the fourteenth day thereafter before the preferential primary
 4 election.

5 (3) The name of a candidate who fails to file a party
 6 certificate by the filing deadline with the Secretary of State or county
 7 clerk, as the case may be, shall not appear on the ballot.

8 (4) Party pledges, if any, shall be filed, filing fees, if any,
 9 shall be paid, and party certificates and political practice pledges shall be
 10 filed for special primary elections on or before the deadline established by
 11 proclamation of the Governor.

12 ~~(5) Pledges and filing fees of the political party for a new~~
 13 ~~political party shall be filed and paid as provided in subsection (f) of this~~
 14 ~~section.—~~

15

16 SECTION 15. Arkansas Code § 7-7-304(b), concerning names to be
 17 included on ballots, is amended to read as follows:

18 (b) If any candidate, either prior to the certification of the ballot
 19 for the preferential primary or subsequent to the preferential primary but
 20 prior to the certification of the ballot for the general primary election,
 21 shall notify the secretary of the state committee in the case of a United
 22 States, state, or district office or the secretary of the county committee in
 23 the case of a county, city, or township office, in writing, signed by the
 24 candidate and acknowledged before an officer authorized by law to take
 25 acknowledgments, of his or her desire to withdraw as a candidate for the
 26 office or position, then the committee shall immediately notify the county
 27 board of election commissioners or the ~~State Board of Election Commissioners~~
 28 Secretary of State, as the case may be, and the name of the person shall not
 29 be printed on the preferential primary ballot or the general primary ballot,
 30 as the case may be.

31 (c) When only one (1) candidate qualifies for a particular office or
 32 position, the office or position and the name of the unopposed candidate
 33 shall be printed on the political party's ballot in all primary elections.

34 (d) Where there are two (2) or more nominees to be selected for the
 35 same office, such as Associate Justice of the Supreme Court, state senator,
 36 state representative, justice of the peace, alderman, or for any other office

1 ~~or place~~, the proper committee shall require the candidates to designate in
 2 writing a particular position, i.e., Position Number 1, Position Number 2,
 3 Position Number 3, etc., at the time that a party pledge is required to be
 4 filed with the secretary of the committee. An independent candidate shall
 5 designate his or her position prior to circulation of his or her petition.
 6 When a candidate has once filed and designated for a certain position, that
 7 candidate shall not be permitted to thereafter change the position.

8 (e) The provisions of subsection (d) of this section with respect to
 9 filing for positions shall be equally applicable to candidates seeking
 10 election at all general and special elections of this state and to all school
 11 elections.

12
 13 SECTION 16. Arkansas Code § 7-7-305(b), concerning the printing of
 14 election ballots, is amended to read as follows:

15 (b) The order in which the names of the respective candidates,
 16 including candidates for federal, state, and local offices and including
 17 persons nominated for committeemen and delegates to the county convention,
 18 and the order in which issues and measures are to appear on the ballots at
 19 all preferential and general primary elections shall be determined by lot at
 20 the public meeting of the county ~~committee~~ board of election commissioners
 21 held not later than thirty-five (35) days before the preferential primary
 22 election. ~~Ten~~ The county board shall give ten (10) days' written notice of
 23 the time and place of the meeting ~~shall be given each member by~~ to the chair,
 24 ~~vice chair, or secretary of the county committee and.~~ The chair, vice chair,
 25 ~~or secretary~~ shall publish notice of the time and place of holding the
 26 meeting in some newspaper of general circulation in the county.

27
 28 SECTION 17. Arkansas Code § 7-7-308 is amended to read as follows:

29 7-7-308. Determination of right to vote - Precinct registration lists.

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

- 31 (1) Request the voter to identify himself in order to verify the
- 32 existence of his name on the precinct voter registration list;
- 33 (2) Request the voter, in the presence of the election official,
- 34 to state his date of birth and address;
- 35 (3) Determine that the voter's date of birth and address are the
- 36 same as those on the precinct voter registration list;

1 (4) If the date of birth given by the voter is not the same as
 2 that on the precinct voter registration list, request the voter to provide
 3 identification as the election official deems appropriate;

4 (5)(A) If the voter's address is not the same as that on the
 5 precinct voter registration list, verify with the county clerk that the
 6 address is within the precinct.

7 (B) If the address is within the precinct, request the
 8 voter to complete a voter registration application form for the purpose of
 9 updating county voter registration record files.

10 (C) If the address is not within the precinct, ~~instruct~~
 11 ~~the voter to contact the county clerk's office to determine the proper~~
 12 ~~precinct;~~

13 (i) Contact the county clerk's office to determine
 14 the proper precinct; and

15 (ii) Instruct the voter to go to the polling site
 16 servng that precinct in order for his or her vote to be counted;

17 (6) If the voter's name is not the same as that on the precinct
 18 voter registration list, request the voter to complete a voter registration
 19 application form for purposes of updating county voter registration record
 20 files; ~~and~~

21 (7) Request the voter, in the presence of the election official,
 22 to sign his name, including his given name, his middle name or initial, if
 23 any, and his last name in the space provided on the precinct voter
 24 registration list. If a person is unable to sign his signature or make his
 25 mark or cross, the election official shall enter his initials and the voter's
 26 date of birth in the space for the person's signature on the precinct voter
 27 registration list; and

28 (8) Record the voter's name on or request the voter to print his
 29 or her name on the list of voters form.

30 (b) At the same time that the voter identifies himself and the party
 31 primary or other election in which he or she intends to vote, the election
 32 official ~~of the party primary which the voter designates~~ shall mark next to
 33 the voter's name on the precinct voter registration list ~~furnished by the~~
 34 ~~county clerk as having voted~~ the party primary or other election in which the
 35 voter chooses to vote.

36 (c) If a voter's name does not appear on the precinct voter

1 registration list, the election official shall permit the voter to vote only
 2 under the following conditions:

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

7 (2) The voter gives and affirms his current residence, and the
 8 election official verifies with the county clerk that the voter's residence
 9 is within the precinct;

10 (3) The voter completes an updated voter registration
 11 application form; and

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

13 (d) If the voter is not listed on the precinct voter registration list
 14 and the county clerk is unable to verify the voter's registration but the
 15 voter contends that he or she is eligible to vote, then the voter may vote a
 16 provisional ballot which shall only be counted upon verification of the
 17 voter's registration status.

18 (e) The election officials shall make and retain a separate list of
 19 all voters who cast a provisional ballot.

20 (f) After the polls close, the election official shall total the
 21 number of voters on the list of voters form.

22 (g) The precinct registration lists shall at all times be available to
 23 public inspection.

24
 25 SECTION 18. Arkansas Code § 7-7-309 is amended to read as follows:

26 7-7-309. Canvass and certification of returns.

27 The county board of election commissioners shall canvass the returns
 28 and examine the ballots when demanded. It may hear testimony, if offered, of
 29 fraudulent practices and illegal votes, may cast out illegal votes and
 30 fraudulent returns, may find the true and legal vote cast for each candidate,
 31 and it shall certify the result not sooner than forty-eight (48) hours and
 32 not later than ten (10) days after the primary.

33
 34 SECTION 19. Arkansas Code § 7-9-305 is amended to read as follows:

35 7-9-305. Election and certification of delegates.

36 (a) The county board of election commissioners shall include on the

1 general election ballots the names of all candidates for delegate to the
 2 constitutional convention as certified by the Secretary of State.

3 (b)(1) The candidate receiving a majority of the votes for a
 4 particular position in the general election shall be declared elected as a
 5 delegate to the convention.

6 (2) In the event that more than two (2) candidates are seeking a
 7 particular delegate position and that no candidate receives a majority of the
 8 votes cast for all candidates for the position, the names of the two (2)
 9 candidates receiving the highest number of votes for the position shall be
 10 certified to a special runoff election which shall be held by the respective
 11 county board of election commissioners of the district ~~two (2)~~ three (3)
 12 weeks from the day on which the general election is held. The special runoff
 13 election shall be conducted in the same manner as is now provided by law, and
 14 the election results shall be canvassed and certified in the manner provided
 15 by law.

16 (3) A tie vote for a delegate position in the special runoff
 17 election shall be determined by drawing lots in the presence of the circuit
 18 court of the county within ten (10) days from the date of the election.

19 (c) The results of the election of delegates at the general election,
 20 or at a special runoff election held for delegate positions, shall be
 21 certified to the Secretary of State along with the other election results as
 22 is now provided by law.

23
 24 SECTION 20. Arkansas Code § 7-10-102(b)(2), concerning nonpartisan
 25 elections of judges and justices, is amended to read as follows:

26 (2) The names of candidates for nonpartisan judicial offices
 27 shall be included on the ballots of the political parties and shall be
 28 designated as nonpartisan judicial candidates. However, separate ballots
 29 containing ~~only~~ the names of nonpartisan judicial candidates shall be
 30 prepared and shall be made available to voters requesting the same.

31
 32 SECTION 21. Arkansas Code § 14-42-206 is amended to read as follows:

33 14-42-206. Municipal ~~primary~~ elections - Nominating petitions.

34 (a)(1) The city or town council of any city or town with the mayor-
 35 council form of government, by resolution passed before January 1 of the year
 36 of the election, may request the county party committees of recognized

1 political parties under the laws of the state to conduct party primaries for
2 municipal offices for the forthcoming year.

3 (2) The resolution shall remain in effect for the subsequent
4 elections unless revoked by the city or town council.

5 (3) When the resolution has been adopted, the clerk or recorder
6 shall mail a certified copy of the resolution to the chairs of the county
7 party committees and to the chairs of the state party committees.

8 (4) Candidates nominated for municipal office by political
9 primaries under this section shall be certified by the county party
10 committees to the county board of election commissioners and shall be placed
11 on the ballot at the general election.

12 (b)(1) Any person desiring to become an independent candidate for
13 municipal office in cities and towns with the mayor-council form of
14 government shall file not more than one hundred ten (110) nor less than
15 ninety (90) days prior to the general election by 12:00 noon with the county
16 clerk the petition of nomination in substantially the following forms:

17 (A) For all candidates except aldermen in cities of the
18 first class and cities of the second class:

19
20
21

22 "PETITION OF NOMINATION

23

24 We, the undersigned qualified electors of the city (town) of _____,
25 Arkansas, being in number not less than ten (10) for incorporated towns and
26 cities of the second (2nd) class, and not less than thirty (30) for cities of
27 the first (1st) class, do hereby petition that the name of _____ be placed
28 on the ballot for the office of _____ at the next election of municipal
29 officials in 20 _____.

30
31

32 Printed Signature Street Address Date of
33 Date of

34
35

36 Name Birth Signing

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We, the undersigned qualified electors of the city of _____, Arkansas, being in number not less than ten (10) for incorporated towns and cities of the second (2nd) class, and not less than thirty (30) for cities of the first (1st) class, do hereby petition that the name of _____ be placed on the ballot for the office of Alderman, Ward _____, position _____, of the next election of municipal officials in 20 _____.

Printed Date of	Signature	Street Address	Date of
Name	Birth	Signing	
.....			

(2) The county clerk shall determine whether the petition contains a sufficient number of qualified electors.

(3) Independent candidates for municipal office shall file a political practices pledge no later than sixty (60) days prior to the date of the general election by 12:00 noon.

(c)(1)(A) If no candidate receives a majority of the votes cast in the general election, the two (2) candidates receiving the highest number of votes cast for the office to be filled shall be the nominees for the respective offices, to be voted upon in a runoff election pursuant to § 7-5-106.

(B) In any case, except for the office of mayor, in which only one (1) candidate has filed and qualified for the office, the candidate shall be declared elected and the name of the person shall be certified as elected without the necessity of putting the person's name on the general election ballot for the office.

(2) If the office of mayor is unopposed, then the candidate for

1 mayor shall be printed on the general election ballot and the votes for mayor
2 shall be tabulated as in all contested races.

3 (d) Special elections for mayors in cities of the first class and
4 other special elections of officials required by law in cities and towns
5 shall use the procedure in this section.

6 (e)(1)(A) The governing body of any city of the first class, city of
7 the second class, or incorporated town may enact an ordinance requiring
8 independent candidates for municipal office to file petitions for nomination
9 as independent candidates with the county clerk:

10 (i) No earlier than twenty (20) days prior to the
11 preferential primary election; and

12 (ii) No later than noon on the day before the
13 preferential primary election.

14 (B) The governing body may establish this filing deadline
15 for municipal offices even if the municipal offices are all independent or
16 otherwise nonpartisan.

17 (2)(A) The ordinance shall be enacted no later than ninety (90)
18 days prior to the filing deadline.

19 (B) The ordinance shall be published at least one (1) time
20 a week for two (2) consecutive weeks immediately following adoption of the
21 ordinance in a newspaper having a general circulation in the city.

22 (f) Nothing in this section shall repeal any law pertaining to the
23 city administrator form of government or the city manager form of government.

24 (g) This section does not apply in any respect to the election of
25 district judges.

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