

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 87th General Assembly
3 Regular Session, 2009
4

As Engrossed: S2/2/09
A Bill

HOUSE BILL 1021

5 By: Representatives Woods, George
6 By: *Senator Miller*
7

8
9 **For An Act To Be Entitled**

10 AN ACT TO REPEAL THE PRESIDENTIAL PREFERENTIAL
11 PRIMARY ELECTION; AND FOR OTHER PURPOSES.
12

13 **Subtitle**

14 AN ACT TO REPEAL THE PRESIDENTIAL
15 PREFERENTIAL PRIMARY ELECTION.
16
17

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

20 SECTION 1. Arkansas Code § 7-5-103 is amended to read as follows:

21 7-5-103. Special elections.

22 (a)(1) All special elections to fill vacancies in an office shall be
23 called by proclamation, ordinance, resolution, or order of the appropriate
24 constituted authority.

25 (2) The proclamation, ordinance, resolution, or order shall be
26 published as soon as practicable in a newspaper of general circulation in
27 which the special election is held and the proclamation, ordinance,
28 resolution, or order shall establish:

29 (A) The date of the election;

30 (B) The date of the primary election, if any;

31 (C) The deadline for filing party certificates and
32 political practices pledges, if required, with the county clerk or Secretary
33 of State, as the case may be, if applicable;

34 (D) The deadline for party conventions to select nominees,
35 if applicable;

36 (E) The deadline for parties to issue certificates of



1 nomination, if applicable;

2 (F) The deadline for candidates to file certificates of
3 nomination, if applicable, and political practices pledges with the county
4 clerk or Secretary of State, as the case may be;

5 (G) The deadline for filing as an independent candidate
6 and the period in which petitions for independent candidacy may be
7 circulated;

8 (H) The deadline for filing as a write-in candidate, if
9 applicable;

10 (I) The deadline for drawing for ballot position by the
11 appropriate committee or election commission, as the case may be; and

12 (J) The date the election shall be certified by the county
13 board of election commissioners in each county in which the election takes
14 place and, if applicable, by the Secretary of State.

15 (3)(A) All special elections to fill vacancies in office shall
16 be held on the second Tuesday of any month.

17 (B)(i) Special elections under this section in which a
18 ~~presidential preferential primary election~~, preferential primary election,
19 general primary election, or general election is scheduled to occur shall be
20 held on the date of the ~~presidential preferential primary election~~,
21 preferential primary election, general primary election, or general election.

22 (ii) If a special election to fill a vacancy in
23 office is held on the date of the ~~presidential preferential primary election~~,
24 preferential primary election, or general primary election, the names of the
25 candidates in the special election shall be included on the ballot of each
26 political party, and the portion of the ballot on which the special election
27 appears shall be labeled with a heading stating "SPECIAL ELECTION FOR
28 _____" with the name of the office set out
29 in the heading.

30 (iii) However, separate ballots containing the names
31 of the candidates to be voted on at the special election, nonpartisan
32 judicial elections, if applicable, and any other measures or questions that
33 may be presented for a vote shall be prepared and made available to voters
34 requesting a separate ballot.

35 (iv) No voter shall be required to vote in a
36 political party's ~~presidential preferential primary~~, preferential primary, or

1 general primary in order to be able to vote in the special election.

2 (C)(i) If the special election is held at the same time as
3 the general election, the names of the candidates in the special election
4 shall be included on the general election ballot, and the portion of the
5 ballot on which the special election appears shall be labeled with a heading
6 stating "SPECIAL ELECTION FOR _____" with
7 the name of the office set out in the heading.

8 (ii) The county board of election commissioners may
9 include the special election on a separate ballot if the special election is
10 held at the same time as the general election and if the ~~commission~~ county
11 board determines that a separate ballot is necessary to avoid voter
12 confusion.

13 (D) A special election to fill a vacancy in office shall
14 be held not less than sixty-five (65) days following the date in the
15 proclamation, ordinance, resolution, or order for drawing for ballot position
16 when the special election is to be held on the date of the ~~presidential~~
17 ~~preferential primary election~~, preferential primary election, general primary
18 election, or general election.

19 (4) If the special election is not held at the same time as a
20 ~~presidential preferential primary election~~, preferential primary election,
21 general primary election, or general election, the special election shall be
22 held not less than fifty (50) days following the date in the proclamation,
23 ordinance, resolution, or order for drawing for ballot position.

24 (5)(A) All special primary elections required for an election to
25 fill a vacancy in office shall be held on the second Tuesday of any month,
26 and special primary elections held under this section in months in which a
27 ~~presidential preferential primary election~~, preferential primary election,
28 general primary election, or general election is scheduled to occur shall be
29 held on the date of the ~~presidential preferential primary election~~,
30 preferential primary election, general primary election, or general election.

31 (B) If a special primary election in conjunction with an
32 election to fill a vacancy in office is held on the date of the ~~presidential~~
33 ~~preferential primary election~~, preferential primary election, general primary
34 election, or general election, the candidates to be voted upon at the special
35 election shall be included on the ballot of each political party or the
36 general election ballot, as the case may be, and the portion of the ballot on

1 which the special primary election appears shall be labeled with a heading
2 stating "SPECIAL PRIMARY ELECTION FOR _____"
3 with the name of the party for which nomination is sought and the office set
4 out in the heading.

5 (C) The county board of election commissioners may include
6 the special primary election on a separate ballot if the special primary
7 election is held at the same time as a ~~presidential preferential primary~~
8 ~~election~~, preferential primary election, general primary election, or general
9 election and if the ~~commission~~ county board determines that a separate ballot
10 is necessary to avoid voter confusion.

11 (6) A special primary election shall be held not less than
12 sixty-five (65) days following the date in the proclamation, ordinance,
13 resolution, or order for drawing for ballot position when the special
14 election is to be held on the date of the ~~presidential preferential primary~~
15 ~~election~~, preferential primary election, general primary election, or general
16 election.

17 (7)(A) If the special primary election is not held at the same
18 time as a ~~presidential preferential primary election~~, preferential primary
19 election, general primary election, or general election, the special election
20 shall be held not less than fifty (50) days following the date in the
21 proclamation, ordinance, resolution, or order for drawing for ballot
22 position.

23 (B) When a special primary election is called to select
24 nominees for a special election to fill a vacancy in office, the nominee
25 shall be the person who receives the highest number of votes in the special
26 primary election. There shall be no runoff after a special primary election.

27 (8) In addition to the publication of the proclamation,
28 ordinance, resolution, or order required by the provisions of this section,
29 notice of special elections to fill vacancies called under this section shall
30 be published and posted under §§ 7-5-202 and 7-5-206.

31 (b)(1) Except for special school elections held under § 6-14-102(d),
32 all special elections on measures or questions referred to the voters shall
33 be called by proclamation, ordinance, resolution, or order of the properly
34 constituted authority.

35 (2) The proclamation, ordinance, resolution, or order shall set
36 forth:

- 1 (A) The date of the special election;
- 2 (B) The full text of any measure or question for which the
3 election is called;
- 4 (C) Any ballot title for the measure or question for which
5 the election is called; and
- 6 (D) Any other information ~~as may be~~ required by law.
- 7 (3) All special elections on measures or questions shall be held
8 on the second Tuesday of any month, except special elections held under this
9 section in a month in which a ~~presidential preferential primary election,~~
10 preferential primary election, general primary election, or general election
11 is scheduled to occur shall be held on the date of the ~~presidential~~
12 ~~preferential primary election,~~ preferential primary election, general primary
13 election, or general election. Special elections scheduled to occur in a
14 month in which the second Tuesday is a legal holiday shall be held on the
15 third Tuesday of the month.
- 16 (4)(A) If a special election is held on the date of the
17 ~~presidential preferential primary election,~~ preferential primary election, or
18 general primary election, the issue or issues to be voted upon at the special
19 election shall be included on the ballot of each political party. The portion
20 of the ballot containing the special election shall be labeled with a heading
21 stating "SPECIAL ELECTION ON _____" with a
22 brief description of the measure or question to be decided in the election.
- 23 (B) However, separate ballots containing the issue or
24 issues or candidates to be voted on at the special election and candidates
25 for nonpartisan judicial office shall be prepared and made available to
26 voters requesting a separate ballot.
- 27 (C) No voter shall be required to vote in a political
28 party's ~~presidential preferential primary,~~ preferential primary, or general
29 primary in order to be able to vote in the special election.
- 30 (5) A special election shall be held not less than sixty-five
31 (65) days following the date that the ordinance or resolution is adopted or
32 the date the proclamation or order is issued when the special election is to
33 be held on the date of the ~~presidential preferential primary election,~~
34 preferential primary election, general primary election, or general election.
- 35 (6) If the special election is not held at the same time as a
36 ~~presidential preferential primary election,~~ preferential primary election,

1 general primary election, or general election, the special election shall be
2 held not less than fifty (50) days following the date that the proclamation,
3 ordinance, resolution, or order is published.

4 (7) Notice of the election shall be published and posted in
5 accordance with § 7-5-202, § 7-5-206, or as may be otherwise provided by
6 Arkansas law.

7
8 SECTION 2. Arkansas Code § 7-5-409(f), concerning materials furnished
9 to qualified voters, is amended to read as follows:

10 (f) A designated bearer shall be allowed to pick up only two (2)
11 absentee ballots from the county clerk only during the fifteen (15) days
12 prior to a school election, special election, preferential primary election,
13 ~~presidential preferential primary election~~, or general election and seven (7)
14 days prior to a runoff election, including a general primary election.

15
16 SECTION 3. Arkansas Code § 7-8-101 is amended to read as follows:

17 7-8-101. Primaries – General law governs.

18 ~~(a)~~ All primaries, preferential and general, for the selection of
19 nominees for federal offices, including those of the United States Senators
20 and Representatives, shall be held on the same date and in the same manner as
21 the preferential and general primaries for state, district, county, and
22 township offices and shall be governed by the same procedure prescribed by
23 this act.

24 ~~(b) Unless otherwise provided by Arkansas law, the presidential~~
25 ~~preferential primary election shall be on the date established by the General~~
26 ~~Assembly and shall be governed in accordance with the laws for primary~~
27 ~~elections in this state.~~

28
29 SECTION 4. Arkansas Code § 7-8-201 is amended to read as follows:

30 7-8-201. Preferential elections required – Apportionment of delegates.

31 ~~(a)(1)~~ Each political party in the state desiring to select delegates
32 to attend a quadrennial national nominating convention of the party to select
33 a nominee for the office of President of the United States shall hold a
34 ~~presidential~~ preferential primary election in the state, and the delegates to
35 the national party convention shall be apportioned to the presidential
36 candidates whose names were on the ballot at the ~~presidential~~ preferential

1 primary or to "uncommitted" in the proportion that the votes cast for each
2 candidate or for "uncommitted" bear to the total votes cast at the election,
3 rounded to the closest whole number.

4 ~~(2) Presidential preferential primary elections shall be held on~~
5 ~~the first Tuesday in February of the year in which the convention is held.~~

6 ~~(3)(A)(i) Any person desiring to have his or her name printed on~~
7 ~~the presidential preferential primary ballot as a candidate for his or her~~
8 ~~party's nomination shall file a party certificate with the Secretary of State~~
9 ~~during regular office hours in the period beginning at 12:00 noon on the~~
10 ~~first Monday in November and ending at 12:00 noon on the fourteenth day~~
11 ~~thereafter before the presidential preferential primary election.~~

12 ~~(ii) The name to be printed on the ballot shall be~~
13 ~~the name on the party certificate.~~

14 ~~(iii) The Secretary of State shall not accept for~~
15 ~~filing a party certificate that contains a name that does not conform to the~~
16 ~~requirements of § 7-7-305(e).~~

17 ~~(B) Each political party shall:~~

18 ~~(i) Be responsible for determining the~~
19 ~~qualifications of candidates seeking to appear on the presidential~~
20 ~~preferential primary ballot of each political party;~~

21 ~~(ii) Provide necessary applications for candidacy;~~
22 ~~and~~

23 ~~(iii) Accept and process the applications.~~

24 ~~(C) The Secretary of State shall transmit to each county~~
25 ~~board of election commissioners no later than sixty five (65) days before the~~
26 ~~presidential preferential primary election a certified list of the names of~~
27 ~~the candidates of each political party as they are to be printed on the~~
28 ~~ballot.~~

29 ~~(D)(i) Not later than sixty (60) days before the~~
30 ~~presidential preferential primary election, the county board of election~~
31 ~~commissioners of each county shall hold a public meeting to determine by lot~~
32 ~~the order in which the names of the candidates for the respective party~~
33 ~~primaries are to appear on the ballot.~~

34 ~~(ii) The county board of election commissioners~~
35 ~~shall publish notice of the meeting at least three (3) days before the~~
36 ~~meeting in a newspaper of general circulation in the county.~~

1 ~~(4) The cost of the presidential preferential primary election~~
2 ~~shall be borne by the State of Arkansas and shall be paid from an~~
3 ~~appropriation made to the State Board of Election Commissioners for that~~
4 ~~purpose.~~

5 ~~(5)(A) Within each county, the presidential preferential primary~~
6 ~~election shall be conducted by the county board of election commissioners.~~

7 ~~(B) The state board shall have authority to adopt rules~~
8 ~~for the administration of presidential preferential primary elections~~
9 ~~consistent with the election laws of this state.~~

10 ~~(C) The state board may withhold reimbursement of funds to~~
11 ~~counties for state funded presidential preferential primary elections for~~
12 ~~failure to comply with the rules developed by the state board for the~~
13 ~~administration of primary elections or applicable state election laws until~~
14 ~~all requirements are met to the satisfaction of the state board.~~

15 ~~(b)(1) Presidential preferential primary election procedures not~~
16 ~~addressed in this section shall be governed by the general election laws of~~
17 ~~this state, including, but not limited to, laws governing primary elections.~~

18 ~~(2) Party rules shall govern presidential preferential primary~~
19 ~~election procedures not addressed by the general election laws of this state.~~

20
21 SECTION 5. Arkansas Code § 7-8-204 is amended to read as follows:

22 7-8-204. Rules for selection of delegates and alternates.

23 Each political party holding a ~~presidential~~ preferential primary
24 election in the state shall adopt appropriate rules for the selection of
25 delegates and alternate delegates to the quadrennial national nominating
26 convention of the party and to otherwise carry out the intent and purposes of
27 this subchapter.

28
29 SECTION 6. Arkansas Code § 7-8-302 is amended to read as follows:

30 7-8-302. Election and certification of electors – Ballots – Contesting
31 conventions – Vacancy.

32 Choosing and election of electors of President and Vice President of
33 the United States shall be in the following manner:

34 (1)(A) In each year in which a President and Vice President of
35 the United States are chosen, each political party or group in the state
36 shall choose by its state convention electors of President and Vice President

1 of the United States. The state convention of the party or group shall also
2 choose electors at large if any are to be appointed for the state.

3 (B) The state convention of the party or group, by its
4 chair and secretary, shall certify to the Secretary of State the total list
5 of electors together with electors at large so chosen. The certificate shall
6 be filed no later than September 15 in the year of the election. The filing
7 of the certificate with the Secretary of State shall be deemed and taken to
8 be the choosing and selection of the electors of this state, if the party or
9 group is successful at the polls, as provided in this subchapter, in choosing
10 their candidates for President and Vice President of the United States.

11 (C) The certification by the respective political parties
12 or groups in this state of electors of President and Vice President shall be
13 made to the Secretary of State within two (2) days after the state
14 convention;

15 (2)(A) Should more than one (1) certificate of choice and
16 selection of electors of the same political party or group be filed by
17 contesting conventions or contesting groups, it shall be the duty of the
18 constitutional officers of this state within ten (10) days after the
19 adjournment of the last of the conventions to meet in the office of the
20 Governor and determine which set of nominees for electors of the party or
21 group was chosen and selected by the authorized convention of the party or
22 group.

23 (B) The Secretary of State shall notify the state officers
24 of the date, time, and place of the meeting.

25 (C)(i) At the meeting, a majority of the officers present,
26 after notice to the chair and secretaries or managers of the conventions or
27 groups and after a hearing, shall determine which set of electors was chosen
28 by the authorized convention and shall so announce and publish that fact.

29 (ii) The decision shall be final, and the set of
30 electors determined by the state officers to be chosen shall be the list or
31 set of electors to be deemed elected if that party ~~shall be~~ is successful at
32 the polls, as herein provided;

33 (3) Should a vacancy occur in the choice of an elector, the
34 vacancy may be filled by the state executive committee of the party or group,
35 to be certified by the committee to the Secretary of State;

36 (4)(A) The names of the candidates of the several political

1 parties or groups for electors of President and Vice President shall not be
2 printed on the official ballot to be voted on in the election to be held on
3 the day provided in § 7-8-301. In lieu of the names of the candidates for
4 electors, the name of the candidate for President and the name of the
5 candidate for Vice President with the particular political party designation
6 of each shall be printed on the ballot. Each voter in this state may choose
7 and elect one (1) list or set of electors from the several lists or sets of
8 electors chosen and selected by the respective political parties or groups,
9 by placing an appropriate mark on the ballot.

10 (B) Placing a cross within the square before the bracket
11 enclosing the names of President and Vice President shall not be deemed and
12 taken as a direct vote for the candidates for President and Vice President,
13 or either of them, but shall only be deemed and taken to be a vote for the
14 entire list or set of electors chosen by the political party or group so
15 certified to the Secretary of State as herein provided. Voting by means of
16 placing a cross in the appropriate place following the names of the
17 candidates for President and Vice President shall not be deemed or taken as a
18 direct vote for the candidates for President and Vice President, or either of
19 them, but instead, as to the ~~Presidential~~ presidential vote, as a vote for
20 the entire list or set of electors chosen by that political party or group so
21 certified to the Secretary of State as herein provided;

22 (5)(A)(i) In order to have the name of a political party's
23 candidates for President and Vice President printed on the ballot, a
24 political party shall hold a ~~presidential~~ preferential primary election.

25 (ii) A new political party formed pursuant to the
26 petition process may nominate by convention if the presidential election is
27 the first general election after certification as a party by the Secretary of
28 State.

29 (B) A political group desiring to have the names of its
30 candidates for President and Vice President printed on the ballot shall file
31 a petition with the Secretary of State by noon on the first Monday of August
32 of the year of the election. The petition shall contain at the time of filing
33 the names of one thousand (1,000) qualified electors of the state declaring
34 their desire to have printed on the ballot the names of their candidate for
35 President and Vice President. The Secretary of State shall verify the
36 sufficiency of the petition within ten (10) days from the filing of the

1 petition. If the petition is determined to be insufficient, the Secretary of
2 State shall notify in writing the political group through its designated
3 agent and shall set forth his or her reasons for so finding.

4 (C) Any challenges to the certification of the Secretary
5 of State shall be filed in the Pulaski County Circuit Court.

6 (D) By September 1 in the year of the election, a
7 political group that qualifies by petition to place its candidate on the
8 ballot shall submit a certificate of choice stating the names of its
9 candidates for President and Vice President, signed under oath by either the
10 chair, vice chair, or secretary of the political group's convention.

11 (E) By September 15 in the year of the election, a
12 political group which qualifies by petition to place its candidate on the
13 ballot shall submit a certificate of choice stating the names of its
14 candidates for President and Vice President, signed under oath by either the
15 chair, vice chair, or secretary of the political group's convention; and

16 (6)(A) Persons desiring to have their names printed on the
17 ballot as independent candidates for President and Vice President shall file
18 a petition with the Secretary of State by noon on the first Monday of August
19 of the year of the election. The petition shall contain at the time of filing
20 the names of one thousand (1,000) qualified electors of the state declaring
21 their desire to have printed on the ballot the names of the persons desiring
22 their names to be printed on the ballot as independent candidates for
23 President and Vice President. The Secretary of State shall verify the
24 sufficiency of the petition within ten (10) days from the filing of the
25 petition. If the petition is determined to be insufficient, the Secretary of
26 State shall notify in writing the persons desiring to have their names
27 printed on the ballot as independent candidates for President and Vice
28 President at the address or telephone number submitted with the petition and
29 shall set forth his or her reasons for so finding.

30 (B) Any challenges to the certification of the Secretary
31 of State shall be filed in the Pulaski County Circuit Court.

32 (C) By September 1 in the year of the election,
33 independent candidates who qualify by petition to be on the ballot shall
34 certify to the Secretary of State the total list of electors together with
35 electors at large. The filing of the certificate with the Secretary of State
36 shall be deemed and taken to be the choice and selection of the electors of

1 this state, if the independent candidate is successful at the polls, as
2 provided in this subchapter.

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/s/ Woods