

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

A Bill

HOUSE BILL 1980

5 By: Representative Saunders
6
7

For An Act To Be Entitled

8
9 AN ACT TO AMEND ARKANSAS LAW CONCERNING THE
10 POWERS AND DUTIES OF ELECTION OFFICIALS AND
11 ELECTION OFFICERS; AND FOR OTHER PURPOSES.
12

Subtitle

13
14 AN ACT TO AMEND ARKANSAS LAW CONCERNING
15 THE POWERS AND DUTIES OF ELECTION
16 OFFICIALS AND ELECTION OFFICERS.
17
18

19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
20

21 SECTION 1. Arkansas Code § 7-1-101 is amended to read as follows:
22 7-1-101. Definitions.

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

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

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

34 (3) "Authorized agent" means a person who is identified and
35 authorized to deliver the application, obtain a ballot, and deliver the
36 ballot on the day of the election to the county clerk by an applicant who is



1 medically unable to cast a ballot at a polling site due to unforeseen medical
 2 necessity as set forth in an affidavit from the administrative head of a
 3 hospital or long-term or residential care facility;

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

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

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

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

15 (8) "Election official" or "election officer" means ~~a person who~~
 16 ~~is a member of the county board of election commissioners or a person who is~~
 17 ~~a poll worker designated by a county board of election commissioners to be an~~
 18 ~~election clerk, election judge, or election sheriff~~ the Secretary of State,
 19 the members of the State Board of Election Commissioners, the county clerk,
 20 the members of each county board of election commissioners and poll workers;

21 (9) "Electronic vote tabulating device" means a device used to
 22 electronically scan a marked paper ballot for the purpose of tabulation;

23 (10) "Fail-safe voting" means the mechanism established under
 24 the National Voter Registration Act of 1993 that allows ~~voters who have a~~
 25 voter who has moved within the same county to vote at ~~their~~ his or her new
 26 precinct without having updated ~~their~~ his or her voter registration records;

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

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

35 (13) "Majority party" means that political party in the State of
 36 Arkansas whose candidates were elected to a majority of the constitutional

1 offices of this state in the last preceding general election;

2 (14) "Marking device" means any approved device for marking a
 3 paper ballot with ink or other substance that will enable the votes to be
 4 tabulated by means of an electronic vote tabulating device;

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

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

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

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

25 (C) When any political party fails to obtain three percent
 26 (3%) of the total votes cast at an election for the office of Governor or
 27 nominees for presidential electors, it shall cease to be a political party;

28 ~~(19)~~(18) "Poll worker" means an election judge, election
 29 sheriff, and election clerk;

30 ~~(18)~~(19) "Polling site" means a location selected by the county
 31 board of election commissioners where votes are cast;

32 (20) "Precinct" means the geographical boundary lines dividing a
 33 county, municipality, township, or school district for voting purposes;

34 ~~(20)~~(21) "Primary election" means any election held by a
 35 political party in the manner provided by law for the purpose of selecting
 36 nominees of the political party for certification as candidates for election

1 at any general or special election in this state;

2 ~~(21)~~(22) “Provisional ballot” means a ballot:

3 (A) Cast by special procedures to record a vote when there
4 is some question concerning a voter’s eligibility; and

5 (B) Counted contingent upon the verification of the
6 voter’s eligibility;

7 ~~(22)~~(23) “Qualified elector” means a person who holds the
8 qualifications of an elector and who is registered pursuant to Arkansas
9 Constitution, Amendment 51;

10 ~~(23)~~(24) “Sample ballot” means a ballot for distribution to the
11 public or the press marked with the word “SAMPLE” so as to prevent the
12 production of counterfeit ballots;

13 ~~(24)~~(25) “Vacancy in election” means the vacancy in an elective
14 office created by death, resignation, or other good and legal cause, arising
15 prior to election to the office at a general or special election but arising
16 subsequent to the certification of the ballot;

17 ~~(25)~~(26) “Vacancy in nomination” means the circumstances in
18 which the person who received the majority of votes at the preferential
19 primary election or general primary election cannot accept the nomination due
20 to death or notifies the party that he or she will not accept the nomination
21 due to serious illness, moving out of the area from which the person was
22 elected as the party’s nominee, or filing for another office preceding the
23 final date for certification of nominations;

24 ~~(26)~~(27)(A) “Vacancy in office” means the vacancy in an elective
25 office created by death, resignation, or other good and legal cause arising
26 subsequent to election to the office at a general or special election or
27 arising subsequent to taking office and prior to the expiration of the term
28 of office in those circumstances wherein the vacancy must be filled by a
29 special election rather than by appointment.

30 (B) The phrase “vacancy in office” shall not apply to the
31 election of a person at a general election to fill an unexpired portion of a
32 term of office;

33 ~~(27)~~(28) “Voter-verified paper audit trail” means a
34 contemporaneous paper record of a ballot printed for the voter to confirm his
35 or her votes before the voter casts his or her ballot that:

36 (A) Allows the voter to verify the voter-verified paper

1 audit trail before the casting of the voter's ballot;

2 (B) Is not retained by the voter;

3 (C) Does not contain individual voter information;

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

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

8 ~~(28)~~(29) "Voting machine" means either:

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

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

13 (ii) Processes the data by means of a computer
14 program;

15 (iii) Records voting data and ballot images in
16 internal and external memory components; and

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

19 (B) An electronic device for marking a paper ballot to be
20 electronically scanned; and

21 ~~(29)~~(30) "Voting system" means:

22 (A) The total combination of mechanical,
23 electromechanical, or electronic equipment, including the software, firmware,
24 and documentation required to program, control, and support the equipment
25 that is used to:

26 (i) ~~To define~~ Define ballots;

27 (ii) ~~To cast~~ Cast and count votes;

28 (iii) ~~To report~~ Report or display election results;

29 and

30 (iv) ~~To maintain~~ Maintain and produce any audit
31 trail information; and

32 (B) The practices and documentation used to:

33 (i) Identify system components and versions of
34 components;

35 (ii) Test the system during its development and
36 maintenance;

- 1 (iii) Maintain records of system errors and defects;
- 2 (iv) Determine specific system changes to be made to
- 3 a system after the initial qualification of the system; and
- 4 (v) Make available any materials to the voter,
- 5 including, but not limited to, notices, instructions, forms, or paper
- 6 ballots.

7

8 SECTION 2. Arkansas Code Title 7, Chapter 4, Subchapter 1 is amended

9 to read as follows:

10 ~~7-4-101. State Board of Election Commissioners—Members—Officers—~~

11 ~~Meetings.~~

12 ~~(a) The State Board of Election Commissioners shall be composed of the~~

13 ~~following seven (7) persons, with at least one (1) from each congressional~~

14 ~~district:~~

15 ~~(1) The Secretary of State;~~

16 ~~(2) One (1) person designated by the chair of the state~~

17 ~~Democratic Party;~~

18 ~~(3) One (1) person designated by the chair of the state~~

19 ~~Republican Party;~~

20 ~~(4) One (1) person to be chosen by the President Pro Tempore of~~

21 ~~the Senate;~~

22 ~~(5) One (1) person to be chosen by the Speaker of the House of~~

23 ~~Representatives; and~~

24 ~~(6) Two (2) persons to be chosen by the Governor, one (1) of~~

25 ~~whom shall be a county clerk and one (1) of whom shall have served for at~~

26 ~~least three (3) years as a county election commissioner.~~

27 ~~(b) The Secretary of State shall serve as chair and secretary of the~~

28 ~~board.~~

29 ~~(c) Except for the Secretary of State and the county clerk, no member~~

30 ~~of the board shall be an elected public official.~~

31 ~~(d)(1) The term on the board of the elected state official shall be~~

32 ~~concurrent with the term of the public elected official.~~

33 ~~(2) The county clerk shall hold the office of county clerk when~~

34 ~~appointed to the board and shall be removed as a member of the board if not~~

35 ~~in office.~~

36 ~~(3)(A) Members of the board appointed by the President Pro~~

1 ~~Tempore of the Senate and the Speaker of the House of Representatives shall~~
 2 ~~be appointed for terms of two (2) years and shall continue to serve until~~
 3 ~~successors have been appointed and taken the official oath.~~

4 ~~(B) All other appointive members shall be appointed for~~
 5 ~~terms of four (4) years and shall continue to serve until successors have~~
 6 ~~been appointed and taken the official oath.~~

7 ~~(4) No appointive member shall be appointed to serve more than~~
 8 ~~two (2) consecutive full terms.~~

9 ~~(5)(A) If a vacancy on the board occurs, a successor shall be~~
 10 ~~appointed within thirty (30) days to serve the remainder of the unexpired~~
 11 ~~term.~~

12 ~~(B) The appointment shall be made by the official holding~~
 13 ~~the office responsible for appointing the predecessor.~~

14 ~~(c)(1) The board shall meet as needed upon call of the chair or upon~~
 15 ~~written request to the chair of any four (4) members.~~

16 ~~(2) A majority of the membership of the board shall constitute a~~
 17 ~~quorum for conducting business.~~

18 ~~(3) No sanctions shall be imposed without the affirmative vote~~
 19 ~~of at least four (4) members of the board.~~

20 ~~(4) Meetings of the board may be chaired and conducted by either~~
 21 ~~the chair or a member of the board designated by the chair as acting chair~~
 22 ~~for the meeting.~~

23 ~~(f) The board shall have the authority to:~~

24 ~~(1) Publish a candidate's election handbook, in conjunction with~~
 25 ~~the office of the Secretary of State and the Arkansas Ethics Commission,~~
 26 ~~which outlines in a readable and understandable format the legal obligations~~
 27 ~~of a candidate and any other suggestions that might be helpful to a candidate~~
 28 ~~in complying with state election law;~~

29 ~~(2) Conduct statewide training for election officers and county~~
 30 ~~election commissioners;~~

31 ~~(3) Adopt all necessary rules regarding training referred to in~~
 32 ~~subdivision (f)(2) of this section and develop procedures for monitoring~~
 33 ~~attendance;~~

34 ~~(4) Monitor all election law related legislation;~~

35 ~~(5) Formulate, adopt, and promulgate all necessary rules to~~
 36 ~~assure even and consistent application of voter registration laws and fair~~

1 ~~and orderly election procedures;~~

2 ~~(6)(A) Appoint certified election monitors to any county upon a~~
 3 ~~signed, written request under oath filed with the board and a determination~~
 4 ~~by the board that appointing a monitor is necessary.~~

5 ~~(B) Certified election monitors shall serve as observers~~
 6 ~~for the purpose of reporting to the board on the conduct of the election.~~

7 ~~(C) The board may allow for reasonable compensation for~~
 8 ~~election monitors;~~

9 ~~(7) Assist the county board of election commissioners in the~~
 10 ~~performance of administrative duties of the election process if the board~~
 11 ~~determines that assistance is necessary and appropriate;~~

12 ~~(8)(A) Formulate, adopt, and promulgate all necessary rules to~~
 13 ~~establish uniform and nondiscriminatory administrative complaint procedures~~
 14 ~~consistent with the requirements of Title IV of the federal Help America Vote~~
 15 ~~Act.~~

16 ~~(B) The cost of compliance with Title IV of the federal~~
 17 ~~Help America Vote Act shall be paid from the fund established to comply with~~
 18 ~~the federal Help America Vote Act;~~

19 ~~(9) Investigate alleged violations, render findings, and impose~~
 20 ~~disciplinary action according to § 7-4-118 for violations of election and~~
 21 ~~voter registration laws, except as to § 7-1-103(a)(1)-(4), (6), and (7), and~~
 22 ~~except for any matters relating to campaign finance and disclosure laws which~~
 23 ~~the Arkansas Ethics Commission shall have the power and authority to enforce~~
 24 ~~according to §§ 7-6-217 and 7-6-218;~~

25 ~~(10) Examine and approve in accordance with §§ 7-5-503 and 7-5-~~
 26 ~~606 the types of voting machines and electronic vote tabulating devices used~~
 27 ~~in any election; and~~

28 ~~(11) Administer reimbursement of election expenses to counties~~
 29 ~~in accordance with § 7-7-201(a) for primary elections, statewide special~~
 30 ~~elections, and nonpartisan judicial general elections.~~

31 ~~(g) The Attorney General shall provide legal assistance to the board~~
 32 ~~in answering questions regarding election laws.~~

33 ~~(h)(1) The board may appoint a Director of the State Board of Election~~
 34 ~~Commissioners, who may hire a staff.~~

35 ~~(2) The director shall serve at the pleasure of the board.~~

36 ~~(3) The board shall set the personnel policies in accordance~~

1 with the Regular Salary Procedures and Restrictions Act, § 21-5-101 et seq.,
 2 and the Uniform Classification and Compensation Act, § 21-5-201 et seq.

3
 4 ~~7-4-102. County boards of election commissioners—Election of members~~
 5 ~~—Oath.~~

6 ~~(a)(1) The county chair of the county committee of the majority party~~
 7 ~~and the county chair of the county committee of the minority party shall be~~
 8 ~~members of the county board of election commissioners together with one (1)~~
 9 ~~additional or third member selected by the county committee of the majority~~
 10 ~~party at the same time as the election of party officers.~~

11 ~~(2) Provided, however, if the county chair of a county committee~~
 12 ~~of the majority party or the minority party is an elected official or is~~
 13 ~~otherwise ineligible to serve as a member of the county board of election~~
 14 ~~commissioners, he or she shall not serve as a member of the county board, but~~
 15 ~~the county committee shall select a resident of the county qualified to serve~~
 16 ~~in his or her stead.~~

17 ~~(3) Any county chair of a county committee of the majority party~~
 18 ~~or the minority party may elect not to serve as a member of the county board,~~
 19 ~~and the county committee shall select a resident of the county qualified to~~
 20 ~~serve in his or her stead.~~

21 ~~(b)(1) Within ten (10) days of the date of selection to the county~~
 22 ~~board of election commissions, the chair or secretary of each county~~
 23 ~~committee shall notify the county clerk in writing of the names and addresses~~
 24 ~~of those selected to serve on the county board.~~

25 ~~(2) Upon receipt of the notice, the county clerk shall send to~~
 26 ~~each of the county election commissioners, by registered mail, notice to~~
 27 ~~appear before the clerk within thirty (30) days of selection as a county~~
 28 ~~election commissioner to take and subscribe to the oath prescribed by the~~
 29 ~~Arkansas Constitution.~~

30 ~~(3) The oath shall be filed in the office of the county clerk~~
 31 ~~and a duplicate forwarded to the Secretary of State.~~

32 ~~(c) Between January 1 and January 31 of each year, the chair of the~~
 33 ~~majority party of the county shall file with the county clerk and the~~
 34 ~~Secretary of State a notice setting forth the names of the majority party's~~
 35 ~~designated members of the county board and the chair of the minority party~~
 36 ~~shall file with the county clerk and the Secretary of State a notice setting~~

1 ~~forth the name of the minority party's member of the county board.~~

2 ~~(d) The county board is deemed to consist of county officials, and its~~
 3 ~~members shall be immune from tort liability pursuant to § 21-9-301.~~

4 ~~(e)(1) Members of the county board shall serve for a term of three (3)~~
 5 ~~years.~~

6 ~~(2) As of July 31, 2007, members of the county board shall draw~~
 7 ~~lots for terms so that one (1) member shall serve for a term of one (1) year,~~
 8 ~~one (1) member shall serve for a term of two (2) years, and one (1) member~~
 9 ~~shall serve for a term of three (3) years.~~

10 ~~(3) Thereafter, all appointments shall be for terms of three (3)~~
 11 ~~years, staggered so that one (1) term expires on January 15 of every year.~~

12
 13 ~~7-4-103. Vacancies on state and county boards.~~

14 ~~(a) In the event of a vacancy or disqualification on the part of any~~
 15 ~~state or county chair for either the majority or minority parties, the state~~
 16 ~~vice chair or county vice chair of the party in which the vacancy occurs~~
 17 ~~shall act as county chair or state chair as the case may be for all of the~~
 18 ~~purposes set out in §§ 7-4-101, 7-4-102, and this section until a new county~~
 19 ~~chair or state chair is selected by the parties.~~

20 ~~(b) In the event that no county chair or county vice chair has been~~
 21 ~~elected in any of the several counties of Arkansas for either the majority~~
 22 ~~party or minority party by the fiftieth calendar day before any general~~
 23 ~~election, then and in that event, the State Board of Election Commissioners~~
 24 ~~shall have authority to elect by majority vote qualified persons from the~~
 25 ~~county committee of the majority or minority party so affected to fill the~~
 26 ~~vacancies whether or not the vacancies are caused by failure to elect or by~~
 27 ~~death, resignation, or disqualification. However, all appointments to fill~~
 28 ~~the vacancies of the county boards of election commissioners shall be~~
 29 ~~terminated immediately upon the election of a county chair or county vice~~
 30 ~~chair qualified to serve upon the county board of election commissioners as~~
 31 ~~provided in this section.~~

32 ~~(c) In the event of a vacancy or disqualification of any third member~~
 33 ~~of a county board who was duly elected by the state board, the chair of the~~
 34 ~~county committee of the majority party shall immediately notify the Chair of~~
 35 ~~the State Board of Election Commissioners of the vacancy or disqualification.~~
 36 ~~Upon receipt of the notification, the chair shall call a meeting of the state~~

1 board, which shall fill the vacancy from the list of remaining nominees
 2 originally submitted by the county committee at any time prior to a general
 3 election, except that when the county committee did not submit the list of
 4 nominees at least sixty (60) calendar days before a general election, the
 5 state board shall nominate and elect by majority vote any resident of the
 6 county as the third member at any time prior to a general election.

7
 8 ~~7-4-104. Lists of county chairs—Notification of vacancies.~~

9 ~~(a)(1) It shall be the duty of the majority and minority parties to~~
 10 ~~keep on file with their respective state chair a complete list of all of~~
 11 ~~their respective county chairs.~~

12 ~~(2) It shall be the duty of the respective county chairs of both~~
 13 ~~the majority and minority parties to keep on file with the Secretary of State~~
 14 ~~a letter stating the name of the county chairs and to notify promptly the~~
 15 ~~Secretary of State of the death, resignation, disqualification, or vacancy in~~
 16 ~~the office of any county chair and of the election of a new chair to fill the~~
 17 ~~vacancy thus created.~~

18 ~~(b) It shall be the duty of the Secretary of State to keep the letters~~
 19 ~~containing the names of the county chairs of the majority and minority~~
 20 ~~parties as public records open at all times to public inspection.~~

21
 22 ~~7-4-105. County board of election commissioners—Officers—Meetings.~~

23 ~~(a) The county board of election commissioners shall hold office until~~
 24 ~~their successors are appointed and qualified. The commissioners shall meet at~~
 25 ~~the courthouse at least thirty (30) days prior to the general election and~~
 26 ~~shall organize themselves into a county board of election commissioners by~~
 27 ~~electing one (1) member chair. Each commissioner shall have one (1) vote. Two~~
 28 ~~(2) commissioners shall constitute a quorum, and the concurring votes of any~~
 29 ~~two (2) shall decide questions before them unless 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~~
 32 ~~commissioners when official business is conducted shall be public and held~~
 33 ~~pursuant to the Freedom of Information Act of 1967, § 25-19-101 et seq. The~~
 34 ~~county board shall keep minutes of all meetings when official business is~~
 35 ~~conducted, and the minutes shall be filed of record with the county clerk.~~

~~7-4-106. Assistance of prosecuting attorney.~~

~~(a) The county board of election commissioners, as created by this subchapter, may call upon the prosecuting attorney or his or her deputy for legal opinions, advice, or assistance in defending, commencing, or appealing civil actions at law and equity.~~

~~(b) The county or prosecuting attorney shall defend any civil lawsuit brought against the county board or its members if they are sued in regard to acts or omissions made during the course of their official duties.~~

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

~~(a) The county board of election commissioners shall proceed to establish and allocate a sufficient number of ballot boxes in each precinct or polling site. The county board shall appoint the requisite number of election officials at each site where voters present themselves to vote to ensure that there is a sufficient number of election officials at each site, based upon the votes in the immediately preceding comparable election.~~

~~(b)(1) It shall be the duty of the county board to select and appoint a sufficient number of election officials for each polling site as provided by subsection (a) of this section and to perform the other duties prescribed not less than twenty (20) days preceding an election.~~

~~(2) Each polling site shall have a minimum of two (2) election clerks, one (1) election judge, and one (1) election sheriff. For all regularly scheduled elections, at least one (1) election official at each polling site shall have attended election training coordinated by the State Board of Election Commissioners within twelve (12) months prior to the election. The minority party election commissioner shall have the option to designate a number of election officials equal to one (1) less than the majority of election officials at each polling site, with a minimum of two (2) election officials at each polling site. In the event that the county party representatives on the county board fail to agree upon any election official to fill any election post allotted to the respective party twenty (20) days before the election, the county board shall appoint the remaining election officials.~~

~~(c) The county board shall certify to the county court the per diem of election officials and the mileage of the election official carrying the~~

1 ~~returns to the county election commissioners' office for allowance.~~

2 ~~(d) The county board may permit election officials to work half-day or~~
 3 ~~split shifts at the polls at any election so long as the requisite number of~~
 4 ~~election officials is always present.~~

5
 6 ~~7-4-108. Absence of election officials — Filling vacancy.~~

7 ~~If any election official shall be absent at the time fixed for the~~
 8 ~~opening of the polls, then the other election officials shall appoint some~~
 9 ~~person or persons having the qualifications prescribed by this act for~~
 10 ~~election officials to supply the vacancy; and if all of the officials shall~~
 11 ~~be absent, then the voters present shall elect as election officials persons~~
 12 ~~having the required qualifications. The county board of election~~
 13 ~~commissioners shall be notified of any vacancies and substitutions of~~
 14 ~~election officials.~~

15
 16 ~~7-4-109. Qualifications of state and county commissioners and other~~
 17 ~~election officials.~~

18 ~~(a)(1) The members of the State Board of Election Commissioners, the~~
 19 ~~members of each county board of election commissioners, and election~~
 20 ~~officials shall be qualified electors of this state, able to read and write~~
 21 ~~the English language, and shall not have been found guilty or pleaded guilty~~
 22 ~~or nolo contendere to the violation of any election law of this state.~~

23 ~~(2) No election official, as defined in § 7-1-101, shall be a~~
 24 ~~candidate for any office to be filled at any election while serving as an~~
 25 ~~election official.~~

26 ~~(3) A member of the county board of election commissioners shall~~
 27 ~~not be disqualified from serving as a member of the county board by the~~
 28 ~~appearance on the ballot as a candidate for a position in his or her~~
 29 ~~political party.~~

30 ~~(b) Furthermore, all members of each county board shall be residents~~
 31 ~~of the county in which they serve at the time of their appointment or~~
 32 ~~election. All election officials shall be residents of the precincts in which~~
 33 ~~they serve at the time of their appointment. However, if at the time of~~
 34 ~~posting election officials, the county board by unanimous vote shall find~~
 35 ~~that it is impossible to obtain qualified election officials from any~~
 36 ~~precinct or precincts and shall make certification of that finding to the~~

1 county clerk, then other qualified citizens of the county may be designated
 2 to serve in the precinct or precincts.

3 (c)(1) ~~No person who is a paid employee of any political party or of~~
 4 ~~any person running for any office on that county's ballot shall be eligible~~
 5 ~~to be a member of a county board or an election official.~~

6 (2)(A) ~~No person serving on the county board shall participate~~
 7 ~~in any person's campaign listed on that county's ballot.~~

8 (B) ~~The making of a financial contribution to a candidate~~
 9 ~~shall not be considered participating in a candidate's campaign.~~

10 (3) ~~No person employed with a company that has any business~~
 11 ~~dealings, contracts, or pending contracts before a county board to which he~~
 12 ~~or she would seek appointment shall be eligible to be a candidate for the~~
 13 ~~county board.~~

14 (d) ~~No person may serve as an election official if married to or~~
 15 ~~related within the second degree of consanguinity to any candidate running~~
 16 ~~for office in the current election if objection to his or her service is made~~
 17 ~~to the county board within ten (10) calendar days after posting the list of~~
 18 ~~officials.~~

19 (e)(1) ~~Prior to the regularly scheduled preferential primary election,~~
 20 ~~each member of the county board of election commissioners for each county and~~
 21 ~~at least two (2) election officials per polling site designated by the county~~
 22 ~~board for each county shall attend election training coordinated by the state~~
 23 ~~board.~~

24 (2) ~~The state board shall determine the method and amount of~~
 25 ~~compensation for attending the training.~~

26
 27 7-4-110. ~~Oath of election officers.~~

28 (a) ~~The election officials, before entering on their duties, shall~~
 29 ~~take, before some person authorized by law to administer oaths, the following~~
 30 ~~oath:~~

31 "I, _____, do swear that I will perform the duties of an
 32 election official of this election according to law and to the best of my
 33 abilities, and that I will studiously endeavor to prevent fraud, deceit, and
 34 abuse in conducting the same, and that I will not disclose how any voter
 35 shall have voted, unless required to do so as a witness in a judicial
 36 proceeding or a proceeding to contest an election."

1 ~~(b) In case there shall be no person present at the opening of any~~
 2 ~~election authorized to administer oaths, it shall be lawful for the election~~
 3 ~~officials to administer the oath to each other, and the election officials~~
 4 ~~shall have full power and authority to administer all oaths that may be~~
 5 ~~necessary in conducting any election.~~

6
 7 ~~7-4-111. Compensation of board members.~~

8 ~~(a) The State Board of Election Commissioners may receive expense~~
 9 ~~reimbursement and stipends in accordance with § 25-16-901 et seq.~~

10 ~~(b) Each member of the county board of election commissioners shall~~
 11 ~~receive for services the sum of not less than twenty five dollars (\$25.00)~~
 12 ~~per public meeting when official business is conducted.~~

13
 14 ~~7-4-112. Compensation of election officials.~~

15 ~~(a) The election officials shall receive a minimum of the prevailing~~
 16 ~~federal minimum wage for holding an election, or such greater amount as may~~
 17 ~~be appropriated.~~

18 ~~(b) In addition, each election official carrying election materials to~~
 19 ~~and from the polling sites shall be allowed mileage at such rate as may be~~
 20 ~~appropriated but not to exceed the rate prescribed for state employees in~~
 21 ~~state travel regulations.~~

22
 23 ~~7-4-113. Record of funds and expenditures.~~

24 ~~The county board of election commissioners of each county shall~~
 25 ~~maintain a record of all funds the county board receives and all expenditures~~
 26 ~~of the county board. These records shall be open to the public under the~~
 27 ~~provisions of the Freedom of Information Act of 1967, § 25-19-101 et seq.~~

28
 29 ~~7-4-114. Filling vacancy of an elected office — Effect.~~

30 ~~Any member of a county board of election commissioners may be appointed~~
 31 ~~to fill a vacancy in an elected office without vacating his or her seat on~~
 32 ~~the county board. The member shall not be eligible for reelection to the~~
 33 ~~office when the term expires.~~

34
 35 ~~7-4-115. Legislative intent.~~

36 ~~Due to the recent United States Eighth Circuit Court of Appeals ruling~~

1 in Jones v. Conway County, Arkansas, 143 F.3d 417 (8th Cir. 1998), the status
 2 of county election commissioners as either county officials or state
 3 officials has become unclear. Because of this lack of clarity, there has been
 4 much confusion as to whether or not county election commissioners should have
 5 been or currently are immune from suit under the state's policy of tort
 6 immunity. It is the intent of the General Assembly to clarify the official
 7 status of county election commissioners. Prior to July 30, 1999, county
 8 election commissioners were state officials and, as such, were immune from
 9 suit pursuant to Arkansas Constitution, Article 5, § 20, and § 19-10-305.
 10 Upon July 30, 1999, county election commissioners are hereby deemed to be
 11 county officials and are immune from suit pursuant to § 21-9-301.

12
 13 ~~7-4-116. Election poll workers program for high school students.~~

14 ~~(a)(1) The county board of election commissioners may conduct a~~
 15 ~~special election day program for high school students in one (1) or more~~
 16 ~~polling places designated by the county board.~~

17 ~~(2) The high school students shall be selected by the county~~
 18 ~~board in cooperation with the local high school principal, the local 4-H~~
 19 ~~club, the local Boy Scout club, the local Girl Scout club, or any other local~~
 20 ~~organization for youth designated by the county board.~~

21 ~~(3)(A) A high school student selected for this program who has~~
 22 ~~not reached his or her eighteenth birthday by the election day in which he or~~
 23 ~~she is participating shall be called an election page.~~

24 ~~(B) A high school student selected for this program who~~
 25 ~~has reached his or her eighteenth birthday by the election day in which he or~~
 26 ~~she is participating and meets the qualifications in § 7-4-109 may be an~~
 27 ~~election official.~~

28 ~~(b) The program shall:~~

29 ~~(1) Be designed to stimulate the students' interest in elections~~
 30 ~~and registering to vote;~~

31 ~~(2) Provide assistance to the officers of election; and~~

32 ~~(3) Assist in the safe entry and exit of elderly voters and~~
 33 ~~voters with disabilities from the polling place.~~

34 ~~(c)(1) Each student selected as an election page shall:~~

35 ~~(A) Be excused from school while working as an election~~
 36 ~~page;~~

1 ~~(B) — Serve under the direct supervision of the election~~
 2 ~~officials at his or her assigned polling place; and~~

3 ~~(C) — Observe strict impartiality at all times.~~

4 ~~(2) — An election page may observe the electoral process and seek~~
 5 ~~information from the election officers but shall not handle or touch ballots,~~
 6 ~~voting machines, or any other official election materials or enter any voting~~
 7 ~~booth.~~

8 ~~(3) — An election page shall be in a volunteer position and shall~~
 9 ~~not receive any compensation for performing his or her duties.~~

10 ~~(4) — Before beginning any duties, an election page shall take,~~
 11 ~~before an election official, the following oath:~~

12 ~~“I, _____, do swear that I will perform the duties of an election page~~
 13 ~~of this election according to law and to the best of my abilities, and that I~~
 14 ~~will studiously endeavor to prevent fraud, deceit, and abuse, and that I will~~
 15 ~~not disclose how any voter shall have voted, unless required to do so as a~~
 16 ~~witness in a judicial proceeding or a proceeding to contest an election.”~~

17 ~~(d)(1) — Each student selected to be an election official shall:~~

18 ~~(A) — Take the oath of the election officials in § 7-4-110;~~

19 ~~(B) — Serve under the supervision of the appropriate county~~
 20 ~~board of election commissioners;~~

21 ~~(C) — Observe strict impartiality at all times; and~~

22 ~~(D) — Be excused from school while working as an election~~
 23 ~~official.~~

24 ~~(2) — A high school student selected to be an election official~~
 25 ~~may be compensated according to § 7-4-112 if the county board of election~~
 26 ~~commissioners determines that the high school students selected to be~~
 27 ~~election officials should be compensated.~~

28
 29 ~~7-4-117. — Election poll workers program for college students.~~

30 ~~(a)(1) — The county board of election commissioners may conduct an~~
 31 ~~election day program for college students in one (1) or more polling places~~
 32 ~~designated by the county board.~~

33 ~~(2)(A) — The college students shall be selected by the county~~
 34 ~~board from any two-year or four-year college or university in the state.~~

35 ~~(B) — The county board shall work in cooperation with the~~
 36 ~~student government associations of the colleges and universities in selecting~~

~~the students for the program and conducting seminars concerning election procedures for students interested in the program.~~

~~(3)(A) A college student selected for this program who has not reached his or her eighteenth birthday by the election day in which he or she is participating shall be called an election page.~~

~~(B) A college student selected for this program who has reached his or her eighteenth birthday by the election day in which he or she is participating and meets the qualifications in § 7-4-109 shall be an election official.~~

~~(b) The program shall:~~

~~(1) Be designed to stimulate the students' interest in elections and in registering to vote;~~

~~(2) Provide assistance to the officers of the election; and~~

~~(3) Assist in the safe entry and exit of elderly voters and voters with disabilities from the polling place.~~

~~(c)(1) Each student selected as an election page shall:~~

~~(A) Serve under the direct supervision of the election officials at his or her assigned polling place; and~~

~~(B) Observe strict impartiality at all times.~~

~~(2) An election page may observe the electoral process and seek information from the election officers but shall not handle or touch ballots, voting machines, or any other official election materials or enter any voting booth.~~

~~(3) An election page shall be in a volunteer position and shall not receive any compensation for performing his or her duties.~~

~~(4) Before beginning any duties, an election page shall take, before an election official, the following oath:~~

~~"I, _____, do swear that I will perform the duties of an election page of this election according to law and to the best of my abilities, and that I will studiously endeavor to prevent fraud, deceit, and abuse, and that I will not disclose how any voter shall have voted unless required to do so as a witness in a judicial proceeding or a proceeding to contest an election."~~

~~(d)(1) Each student selected to be an election official shall:~~

~~(A) Take the oath of the election officials in § 7-4-110;~~

~~(B) Serve under the supervision of the appropriate county board of election commissioners; and~~

1 ~~(C) Observe strict impartiality at all times.~~

2 ~~(2) A college student selected to be an election official shall~~
3 ~~be compensated according to § 7-4-112.~~

4
5 ~~7-4-118. Complaints of election law violations.~~

6 ~~(a)(1) The State Board of Election Commissioners may investigate~~
7 ~~alleged violations, render findings, and impose disciplinary action according~~
8 ~~to this subchapter for violations of election and voter registration laws,~~
9 ~~except:~~

10 ~~(A) For the provisions in § 7-1-103(a)(1) (4), (6), and~~
11 ~~(7); and~~

12 ~~(B) For any matters relating to campaign finance and~~
13 ~~disclosure laws that the Arkansas Ethics Commission shall have the power and~~
14 ~~authority to enforce according to §§ 7-6-217 and 7-6-218.~~

15 ~~(2) For purposes of subdivision (a)(1) of this section, the~~
16 ~~board may file a complaint.~~

17 ~~(3) A complaint must be filed with the board in writing within~~
18 ~~thirty (30) days of an alleged voter registration violation or the election~~
19 ~~associated with the complaint.~~

20 ~~(4) A complaint must clearly state the alleged election~~
21 ~~irregularity or illegality, when and where the alleged activity occurred, the~~
22 ~~supporting facts surrounding the allegations, and the desired resolution.~~

23 ~~(5) A complaint must be signed by the complainant under penalty~~
24 ~~of perjury.~~

25 ~~(6)(A) Filing a frivolous complaint is considered a violation of~~
26 ~~this subchapter.~~

27 ~~(B) For purposes of this section, "frivolous" means~~
28 ~~clearly lacking any basis in fact or law.~~

29 ~~(b)(1) Upon receipt by the board of a written complaint signed under~~
30 ~~penalty of perjury stating facts constituting an alleged violation of~~
31 ~~election or voter registration laws under its jurisdiction, the board shall~~
32 ~~proceed to investigate the alleged violation.~~

33 ~~(2) The board may determine that:~~

34 ~~(A) The complaint can be disposed of through documentary~~
35 ~~submissions; or~~

36 ~~(B) Further investigation is necessary.~~

1 ~~(3) The board may forward the complaint, along with the~~
 2 ~~information and documentation as deemed appropriate, to the proper authority.~~

3 ~~(4)(A) If the board determines that an investigation is~~
 4 ~~necessary, the board shall provide a copy of the complaint with instructions~~
 5 ~~regarding the opportunity to respond to the complaint to the party against~~
 6 ~~whom the complaint is lodged.~~

7 ~~(B) The board may administer oaths for the purpose of~~
 8 ~~taking sworn statements from any person thought to have knowledge of any~~
 9 ~~facts pertaining to the complaint.~~

10 ~~(C) The board may request the party against whom the~~
 11 ~~complaint is lodged to answer allegations in writing, produce relevant~~
 12 ~~evidence, or appear in person before the board.~~

13 ~~(D) The board may subpoena any person or the books,~~
 14 ~~records, or other documents relevant to an inquiry by the board that are~~
 15 ~~being held by any person and take sworn statements.~~

16 ~~(E) The board shall provide the subject of the subpoena~~
 17 ~~with reasonable notice of the subpoena and an opportunity to respond.~~

18 ~~(F) The board shall advise in writing the complainant and~~
 19 ~~the party against whom the complaint is lodged of the final action taken.~~

20 ~~(c) If the board finds that probable cause exists for finding a~~
 21 ~~violation of election or voter registration laws under its jurisdiction, the~~
 22 ~~board may determine that a full public hearing be called.~~

23 ~~(d) If the board finds a violation of election or voter registration~~
 24 ~~laws under its jurisdiction, then the board may do one (1) or more of the~~
 25 ~~following:~~

26 ~~(1) Issue a public letter of caution, warning, or reprimand;~~

27 ~~(2) Impose a fine of not less than twenty five dollars (\$25.00)~~
 28 ~~nor more than one thousand dollars (\$1,000) for each negligent or intentional~~
 29 ~~violation;~~

30 ~~(3) Report its findings, along with the information and~~
 31 ~~documents as it deems appropriate, and make recommendations to the proper law~~
 32 ~~enforcement authorities; or~~

33 ~~(4) Assess costs for the investigation and hearing.~~

34 ~~(e)(1) The board shall adopt rules governing the imposition of the~~
 35 ~~fines in accordance with the provisions of the Arkansas Administrative~~
 36 ~~Procedure Act, § 25-15-201 et seq.~~

1 ~~(2)(A) The board may file suit in the Pulaski County Circuit~~
2 ~~Court or in the circuit court of the county in which the debtor resides or,~~
3 ~~according to the Small Claims Procedure Act, § 16-17-601 et seq. [repealed],~~
4 ~~in the small claims division of any district court in the State of Arkansas~~
5 ~~to obtain a judgment for the amount of any fine imposed according to its~~
6 ~~authority.~~

7 ~~(B) The action by the court shall not involve further~~
8 ~~judicial review of the board's actions.~~

9 ~~(C) The fee normally charged for the filing of a suit in~~
10 ~~any of the circuit or district courts in the State of Arkansas shall be~~
11 ~~waived on behalf of the board.~~

12 ~~(3) All moneys received by the board in payment of fines shall~~
13 ~~be deposited into the State Treasury as general revenues.~~

14 ~~(f)(1) The board shall complete its investigation of a complaint filed~~
15 ~~according to this section and take final action within one hundred eighty~~
16 ~~(180) days of the filing of the complaint.~~

17 ~~(2) However, if a hearing under subsection (c) of this section~~
18 ~~is conducted, all action on the complaint by the board shall be completed~~
19 ~~within two hundred forty (240) days.~~

20 ~~(3) Any final action of the board under this section shall~~
21 ~~constitute an adjudication for purposes of judicial review under § 25-15-212.~~

22 ~~(g)(1) The board shall keep a record of all inquiries, investigations,~~
23 ~~and proceedings.~~

24 ~~(2) Records relating to investigations by the board are exempt~~
25 ~~from the Freedom of Information Act of 1967, § 25-19-101 et seq., until a~~
26 ~~hearing is set or the investigation by the Director of the Board of Election~~
27 ~~Commissioners is closed.~~

28 ~~(3) The board may disclose, through its members or staff,~~
29 ~~otherwise confidential information to proper law enforcement officials,~~
30 ~~agencies, and bodies as may be required to conduct its investigation.~~

31
32 7-4-101. State Board of Election Commissioners.

33 (a) The State Board of Election Commissioners shall be composed of the
34 following seven (7) persons, with at least one (1) from each congressional
35 district:

- 36 (1) The Secretary of State;

1 (2) One (1) person to be chosen by the chair of the state
 2 Democratic Party;

3 (3) One (1) person to be chosen by the chair of the state
 4 Republican Party;

5 (4) One (1) person to be chosen by the President Pro Tempore of
 6 the Senate;

7 (5) One (1) person to be chosen by the Speaker of the House of
 8 Representatives; and

9 (6) Two (2) persons to be chosen by the Governor, one (1) of
 10 whom shall be a county clerk and one (1) of whom shall have served for at
 11 least three (3) years as a county election commissioner.

12 (b) The Secretary of State shall serve as chair and secretary of the
 13 board.

14 (c) Except for the Secretary of State and the county clerk, a member
 15 of the board shall not be an elected public official.

16 (d)(1) The term on the board of the elected state official shall be
 17 concurrent with the term of the public elected official.

18 (2) The county clerk shall hold the office of county clerk when
 19 appointed to the board and shall be removed as a member of the board if not
 20 in office.

21 (3)(A) Members of the board appointed by the President Pro
 22 Tempore of the Senate and the Speaker of the House of Representatives shall
 23 be appointed for terms of two (2) years and shall continue to serve until
 24 successors have been appointed and taken the official oath.

25 (B) All other appointed members shall be appointed for
 26 terms of four (4) years and shall continue to serve until successors have
 27 been appointed and taken the official oath.

28 (4) An appointed member shall not be appointed to serve more
 29 than two (2) consecutive full terms.

30 (5)(A) If a vacancy on the board occurs, a successor shall be
 31 appointed within thirty (30) days to serve the remainder of the unexpired
 32 term.

33 (B) The appointment shall be made by the official holding
 34 the office responsible for appointing the predecessor.

35 (e)(1) The board shall meet as needed upon call of the chair or upon
 36 written request to the chair of any four (4) members.

1 (2) A majority of the membership of the board shall constitute a
 2 quorum for conducting business.

3 (3) A sanction shall not be imposed without the affirmative vote
 4 of at least four (4) members of the board.

5 (4) Meetings of the board may be chaired and conducted by either
 6 the chair or a member of the board designated by the chair as acting chair
 7 for the meeting.

8 (f) The board may receive expense reimbursement and stipends in
 9 accordance with § 25-16-901 et seq.

10
 11 7-4-102. Election duties of the Secretary of State.

12 The Secretary of State as chief election official of the State shall:

13 (1) Administer the statewide voter registration system;

14 (2) Prepare and disseminate instructions for the conduct of
 15 elections to the counties;

16 (3) Designate at least one (1) member of his or her staff to
 17 become knowledgeable of the election laws as they pertain to elections in the
 18 State of Arkansas for the purpose of answering procedural questions and to
 19 aid the candidates in filing for election;

20 (4) Prescribe the form of voter registration records;

21 (5) Publish and keep up to date an election laws manual and such
 22 other material as the Secretary of State may determine to be useful to
 23 persons administering the election laws;

24 (6) Report to each General Assembly any recommendations for
 25 improvements in the election laws or their application;

26 (7) Receive initiative and referendum petitions on state
 27 measures as required by law and determine and certify the sufficiency of
 28 those petitions;

29 (8) Accept filings of candidates and certify their names to the
 30 county boards of election commissioners for inclusion on the ballot as
 31 required by law;

32 (9) Require reports from the several counties as provided by
 33 law, or as the Secretary of State considers necessary;

34 (10)(A) Conduct an annual forum to allow election officials from
 35 the counties to exchange ideas on the administration of elections, including
 36 issues related to cost savings and efficiency in the conduct of elections.

1 (B) The election officials shall be given the opportunity
2 at the forum to make recommendations on proposed changes in the election
3 laws;

4 (11) Develop, implement, and provide a continuing program to
5 educate voters on election processes; and

6 (12) Perform other duties required by law.

7
8 7-4-103. County board of election commissioners-Members-Vacancies-
9 Oath.

10 (a) The following shall be members of the county board of election
11 commissioners:

12 (1) The chair of the county committee of the majority party or a
13 qualified person designated by the county committee if the chair is
14 ineligible or declines to serve on the board;

15 (2) The chair of the county committee of the minority party or a
16 qualified person designated by the county committee if the chair is
17 ineligible or declines to serve on the board; and

18 (3) A third member selected by the county committee of the
19 majority party.

20 (b) Between January 1 and January 31 of each year:

21 (1) The chair of the majority party for the county shall file
22 with the county clerk and the Secretary of State a notice stating the names,
23 addresses, and telephone numbers of the majority party's designated members
24 of the county board of election commissioners; and

25 (2) The chair of the minority party for the county shall file
26 with the county clerk and the Secretary of State a notice stating the name,
27 address, and telephone number of the minority party's designated member of
28 the county board of election commissioners.

29 (c) Whenever there is a vacancy in a position on the county board, the
30 chair of the county committee of the appropriate party shall immediately
31 notify the chair of the state committee of the party of the vacancy, and the
32 vacancy shall be filled as follows:

33 (1) By appointment of a qualified resident of the county by the
34 county chair of the affected party; or

35 (2)(A) By appointment of a qualified resident of the county by
36 the state chair of the affected party if the position is not filled within

1 thirty (30) days before any election.

2 (B) The appointee shall serve until the county chair fills
3 the vacancy.

4 (d)(1) As soon as practicable after a vacancy on the county
5 board of election commissioners is filled, the chair of the county
6 committee or state committee, as the case may be, of the party that fills the
7 vacancy shall file with the county clerk and Secretary of State a notice
8 stating the name, address, and telephone number of the new member of the
9 county board of election commissioners.

10 (2) Upon receipt of the notice, the county clerk shall send a
11 letter by registered mail to the commissioner named in the notice to appear
12 before the clerk within thirty (30) days to take and subscribe to the oath
13 prescribed by Arkansas Constitution, Article 19, §20, said oath to be filed
14 with the county clerk and a duplicate thereof forwarded to the Secretary of
15 State.

16 (e) The prosecuting attorney shall bring an action in an appropriate
17 court to remove from office any member of the county board of election
18 commissioners who is not qualified to hold his or her position on the county
19 board of election commissioners.

20 (f) The county board of election commissioners is deemed to consist of
21 county officials, and its members shall be immune from tort liability
22 pursuant to § 21-9-301.

23
24 7-4-104. Appointment of election judges, election sheriffs, and
25 election clerks.

26 (a)(1) The chair of the county committee of the majority party and the
27 chair of the county committee of the minority party may recommend qualified
28 residents of the various precincts of the county to serve as poll workers by
29 submitting a list of such persons to the county board of election
30 commissioners.

31 (2) The county board of election commissioners shall appoint at
32 least one (1) person recommended by each county chair for each polling site,
33 if the persons to be appointed meet the qualifications of a poll worker.

34 (b)(1) The county board of election commissioners shall appoint one
35 (1) election judge and one (1) election sheriff for each polling site, and as
36 many additional election clerks as are necessary for the efficient

1 administration of elections at each polling site.

2 (2) The position of election judge and election
 3 sheriff may be combined and held by one (1) poll worker.

4 (3) There shall be at least three (3) poll workers at each
 5 polling site.

6 (c) Appointments of election judges, election sheriffs, and election
 7 clerks shall be made at a public meeting of the county board of election
 8 commissioners at least twenty (20) days before the election.

9 (d) If a poll worker fails to appear at his or her designated polling
 10 place at the time designated by the county board of election commissioners on
 11 election day, the county board of election commissioners may appoint a
 12 qualified person to replace the absent poll worker.

13 (e) One (1) of the election clerks at the polling site may be
 14 designated to replace an election judge or election sheriff who fails to
 15 appear at his or her polling site at the time designated by the county board
 16 of election commissioners on election day.

17 (f) An election clerk may work half-day or split shifts at the polls
 18 at any election so long as a sufficient number of poll workers are always
 19 present.

20
 21 7-4-105. Appointment of personnel for processing absentee ballots and
 22 counting and tabulating votes.

23 (a)(1) The county board of election commissioners may appoint as many
 24 election clerks as it deems necessary to assist it in the administration of
 25 its duties relating to processing absentee ballots and canvassing, counting,
 26 tabulating, and certifying the vote.

27 (2) The minority party representative on the county board
 28 of election commissioners may appoint at least one (1) election clerk for
 29 this purpose.

30 (b) The county clerk and any deputy county clerk may assist the county
 31 board of election commissioners in canvassing, counting, tabulating, and
 32 certifying the vote, if requested by the county board of election
 33 commissioners and approved by the county clerk.

34
 35 7-4-106. Duties of the State Board of Election Commissioners.

36 (a) The State Board of Election Commissioners shall:

1 (1) Publish a candidate’s election handbook, in conjunction with
 2 the Secretary of State and the Arkansas Ethics Commission, that outlines in a
 3 readable and understandable format the legal obligations of a candidate and
 4 any other suggestions that might be helpful to a candidate in complying with
 5 state election law;

6 (2) Conduct training for county election commissioners and poll
 7 workers;

8 (3) Adopt all necessary rules regarding training conducted by
 9 the State Board of Election Commissioners and develop procedures for
 10 monitoring attendance;

11 (4) Monitor all legislation related to election laws;

12 (5) Formulate, adopt, and promulgate all necessary rules to
 13 assure even and consistent application of voter registration laws and fair
 14 and orderly election procedures;

15 (6)(A) Appoint certified election monitors to any county upon a
 16 signed, written request under oath filed with the State Board of Election
 17 Commissioners and a determination by the State Board of Election
 18 Commissioners that appointing a monitor is necessary.

19 (B) Certified election monitors shall serve as observers
 20 for the purpose of reporting to the State Board of Election Commissioners on
 21 the conduct of the election.

22 (C) The State Board of Election Commissioners may allow
 23 for reasonable compensation for election monitors;

24 (7) Assist the county boards of election commissioners in the
 25 performance of administrative duties of the election process if the State
 26 Board of Election Commissioners determines that assistance is necessary and
 27 appropriate;

28 (8)(A) Formulate, adopt, and promulgate all necessary rules to
 29 establish uniform and nondiscriminatory administrative complaint procedures
 30 consistent with the requirements of Title IV of the federal Help America Vote
 31 Act, Pub.L.No. 107-252.

32 (B) The cost of compliance with Title IV of the federal
 33 Help America Vote Act, Pub.L.No. 107-252 shall be paid from the fund
 34 established to comply with the federal Help America Vote Act, Pub.L.No. 107-
 35 252;

36 (9) Investigate alleged violations, render findings, and impose

1 disciplinary action for violations by election officials of laws relating to
 2 voter registration and the administration of elections and violations by poll
 3 watchers of laws relating to poll watchers;

4 (10) Examine and approve the types of voting machines and
 5 electronic vote tabulating devices used in any election; and

6 (11) Administer reimbursement of election expenses to counties
 7 as provided by law.

8 (b) The Attorney General shall provide legal assistance to the board
 9 in answering questions regarding election laws.

10 (c)(1) The board may appoint a director who may hire a staff.

11 (2) The director shall serve at the pleasure of the board.

12 (3) The board shall set the personnel policies in accordance
 13 with the Regular Salary Procedures and Restrictions Act, § 21-5-101 et seq.,
 14 and the Uniform Classification and Compensation Act, § 21-5-201 et seq.

15
 16 7-4-107. Election duties of the county clerk.

17 The county clerk shall:

18 (1) Register qualified individuals to vote;

19 (2) Maintain the voter registration list for his or her county
 20 pursuant to instructions from the Secretary of State;

21 (3) Conduct early voting as provided by law;

22 (4) Conduct absentee voting as provided by law;

23 (5) Provide the Secretary of State with reports as required by law;

24 and

25 (6) Perform other election duties as required by law.

26
 27 7-4-108. Duties of county board of election commissioners.

28 The county board of election commissioners shall:

29 (1) Establish policies and procedures for the administration of
 30 elections in their counties;

31 (2) Conduct elections as required by law; and

32 (3) Perform other duties as required by law.

33
 34 7-4-109. Duties of election judges.

35 Each election judge shall:

36 (1) Be present at the polling place from the opening of the poll to

1 the close of the poll and during the time the voting machines, electronic
2 tabulating devices, if any, ballots, returns, and materials are secured for
3 transportation to the central counting location;

4 (2) Be responsible for the management and conduct of the election at
5 the polling place under the direction of the county board of election
6 commissioners; and

7 (3) Perform other duties as assigned or as required by law.

8
9 7-4-110. Duties of election sheriffs.

10 Each election sheriff shall:

11 (1) Be present at the polling place from the opening of the poll to
12 the close of the poll and during the time the voting machines, electronic
13 tabulating devices, if any, ballots, returns, and materials are secured for
14 transportation to the central counting location;

15 (2) Maintain order and ensure enforcement of the election laws under
16 the direction of the county board of election commissioners; and

17 (3) Perform other duties as assigned or as required by law.

18
19 7-4-111. Duties of election clerks.

20 Each election clerk shall:

21 (1) Be present at the polling place during the hours assigned by the
22 county board of election commissioners;

23 (2) Process voters and facilitate voting as required by law;

24 (3) Process absentee ballots canvass, count, and tabulate votes as
25 required by law, if so assigned by the county board of election
26 commissioners; and

27 (4) Perform other duties as assigned or as required by law.

28
29 7-4-112. County board of election commissioners – Officers – Meetings.

30 (a) The county board of election commissioners shall meet as required
31 by law.

32 (b) At the first meeting in each calendar year, the county board of
33 election commissioners shall elect one (1) member chair.

34 (c)(1) Each county election commissioner shall have one (1) vote.

35 (2) Two (2) county election commissioners shall constitute a
36 quorum.

1 (3) The concurring votes of any two (2) members shall decide
 2 questions before them, unless otherwise provided by law.

3 (d)(1) The chair shall notify the county election commissioners of
 4 meetings.

5 (2) Any meeting of two (2) or more county election commissioners
 6 when official business is conducted shall be public and held pursuant to the
 7 Arkansas Freedom of Information Act, § 25-19-101 et seq.

8 (3) The county board of election commissioners shall keep
 9 minutes of all meetings when official business is conducted, and the minutes
 10 shall be filed of record with the county clerk.

11 (e)(1) The county board of election commissioners of each county shall
 12 maintain a record of all funds the county board of election commissioners
 13 receives and all expenditures of the county board of election commissioners.

14 (2) These records shall be open to the public under the Arkansas
 15 Freedom of Information Act, § 25-19-101 et seq.

16
 17 7-4-113. Qualifications of members of the State Board of Election
 18 Commissioners, county boards of election commissioners, election sheriffs,
 19 election judges, and election clerks.

20 (a) A member of the State Board of Election Commissioners shall:

21 (1) Be a resident of the state;

22 (2) Be a registered voter in the county where he or she resides;

23 (3) Be able to read and write the English language;

24 (4) Except for the Secretary of State and the county clerk, not
 25 be a candidate for a civil office to be filled at any election while serving
 26 as an election official;

27 (5) Not be a paid employee of any political party or of any
 28 person running for any civil office;

29 (6) Except for the Secretary of State and county clerk, not hold
 30 an elective civil office; and

31 (7) Not have had a judgment of conviction filed as to the
 32 violation of any election law of this state.

33 (b) A member of the county board of election commissioners shall:

34 (1) Be a resident and registered voter in the county;

35 (2) Be able to read and write the English language;

36 (3) Not be a candidate for a civil office to be filled at

1 any election while serving as an election official;

2 (4) Not be a paid employee of any political party or any
 3 person running for any civil office on the county ballot;

4 (5) Not hold an elective civil office; and

5 (6) Not have had a judgment of conviction filed as to the
 6 violation of any election law of this state.

7 (c) An election judge, election sheriff, and election clerk shall:

8 (1) Be a resident and registered voter in the county;

9 (2) Be a resident of the precinct served by the polling site
 10 where he or she is assigned by the county board of election commissioners,
 11 unless the county board of election commissioners finds by unanimous vote
 12 that the efficient administration of the election requires the use of
 13 nonresidents in any polling site and certifies that finding to the county
 14 clerk in which case other qualified residents of the county may serve;

15 (3) Be able to read and write the English language;

16 (4) Not be a candidate for a civil office to be filled at
 17 any election while serving as an election official;

18 (5) Not be a paid employee of any political party or any
 19 person running on the county ballot for any civil office;

20 (6) Not hold an elective civil office; and

21 (7) Not have had a judgment of conviction filed as to the
 22 violation of any election law of this state.

23
 24 7-4-114. Disqualification.

25 (a)(1) An election judge, election sheriff, election clerk, or member
 26 of a county board of election commissioners who is the spouse, parent,
 27 father-in-law, mother-in-law, child, son-in-law, daughter-in-law,
 28 grandparent, grandchild, brother, sister, brother-in-law, sister-in-law,
 29 uncle, aunt, nephew, or niece of a candidate to be voted for at the election
 30 shall be disqualified if challenged by any registered voter of the county.

31 (2)(A) No later than fifteen (15) days before the election, the
 32 county board of election commissioners shall file with the county clerk, and
 33 the county clerk shall post in a public place in the county clerk's office
 34 the list containing the names of the election judges, election sheriffs,
 35 election clerks, and members of the county board of election commissioners.

36 (B) The document containing the list shall also include

1 notice of the procedure for challenging the qualifications of the election
 2 officials included on the list.

3 (3) The challenge of an election judge, election sheriff, or
 4 election clerk shall be delivered in writing to the county board of election
 5 commissioners no later than the close of business of the clerk's office five
 6 (5) days after the list of election officials is posted at the county clerk's
 7 office.

8 (4) If the county board of election commissioners determines
 9 that the challenged election judge, sheriff, or clerk is disqualified, the
 10 county board of election commissioners shall revoke the appointment of the
 11 disqualified poll worker and, if necessary, appoint an additional qualified
 12 poll worker if needed for the efficient administration of the election.

13 (5)(A) The challenge of a member of the county board of election
 14 commissioners shall be delivered in writing to the county clerk, no later
 15 than the close of business of the county clerk's office five (5) days after
 16 the list of election officials is posted at the county clerk's office.

17 (B) The county clerk shall immediately notify the
 18 challenged election official and the prosecuting attorney of the challenge.

19 (C) The challenged member of the county board of election
 20 commissioners shall resign his or her respective position during the time of
 21 the relevant election if the challenge is true and proper.

22 (D) The prosecuting attorney shall remove from office for
 23 the duration of the relevant election any properly challenged election
 24 official who does not resign his or her position as required by this section.

25 (b) This section does not disqualify a person if the candidate to whom
 26 the person is related is an unopposed candidate.

27
 28 7-4-115. Training of election officials.

29 (a) The State Board of Election Commissioners shall establish programs
 30 to train county election commissioners, and election judges, election
 31 sheriffs, and election clerks in the administration of elections in this
 32 state.

33 (b) At least one (1) poll worker at each polling place shall have
 34 attended training coordinated by the State Board of Election Commissioners.

35
 36 7-4-116. Complaints of election law violations.

1 (a)(1) The State Board of Election Commissioners may investigate
2 alleged violations, render findings, and impose disciplinary action according
3 to this subchapter for violations by election officials of laws regarding the
4 administration of elections and voter registration and violations by poll
5 watchers of laws regarding poll watchers.

6 (2) For purposes of subdivision (a)(1) of this section, the
7 board may file a complaint.

8 (3) A complaint shall be filed with the board in writing within
9 thirty (30) days of an alleged voter registration violation or the election
10 associated with the complaint.

11 (4) A complaint shall clearly state:

12 (A) The alleged election administration or
13 registration irregularity or illegality;

14 (B) When and where the alleged activity occurred;

15 (C) The supporting facts surrounding the
16 allegations; and

17 (D) The desired resolution.

18 (5) A complaint shall be signed by the complainant under penalty
19 of perjury.

20 (6)(A) Filing a frivolous complaint is considered a violation of
21 this subchapter.

22 (B) As used in this section, "frivolous" means clearly
23 lacking any basis in fact or law.

24 (b)(1) Upon receipt by the board of a written complaint signed under
25 penalty of perjury stating facts constituting a violation of election
26 administration or voter registration laws under its jurisdiction, the board
27 shall proceed to investigate the alleged violation.

28 (2) The board may determine that:

29 (A) The complaint can be disposed of through documentary
30 submissions; or

31 (B) Further investigation is necessary.

32 (3) The board may forward the complaint, along with the
33 information and documentation as deemed appropriate, to the proper
34 authority.

35 (4)(A) If the board determines that an investigation is
36 necessary, the board shall provide the election official or poll watcher

1 against whom the complaint is lodged, a copy of the complaint with
 2 instructions regarding the opportunity to respond to the complaint.

3 (B) The board may administer oaths for the purpose of
 4 taking sworn statements from any person thought to have knowledge of any
 5 facts pertaining to the complaint.

6 (C) The board may request the election official or poll
 7 watcher against whom the complaint is lodged to:

8 (i) Answer allegations in writing;

9 (ii) Produce relevant evidence; or

10 (iii) Appear in person before the board.

11 (D) The board may subpoena any person or the books,
 12 records, or other documents relevant to an inquiry by the board that are
 13 being held by any person and take sworn statements.

14 (E) The board shall provide the subject of the subpoena
 15 with reasonable notice of the subpoena and an opportunity to respond.

16 (F) The board shall advise in writing the complainant and
 17 the election official or poll watcher against whom the complaint is lodged of
 18 the final action taken.

19 (c) If the board finds that probable cause exists for finding a
 20 violation of election laws or voter registration laws under its jurisdiction,
 21 the board may determine that a full public hearing be called.

22 (d) If the board finds a violation of election laws or voter
 23 registration laws under its jurisdiction, then the board may do one (1) or
 24 more of the following:

25 (1) Issue a public letter of caution, warning, or reprimand;

26 (2) Impose a fine of not less than twenty-five dollars (\$25.00)
 27 nor more than one thousand dollars (\$1,000) for each negligent or intentional
 28 violation;

29 (3) Report its findings, along with the information and
 30 documents as it deems appropriate, and make recommendations to the proper law
 31 enforcement authorities;

32 (4) Remove a member of the county board of election
 33 commissioners from office if the State Board of Election Commissioners finds
 34 a violation and determines that the member is unwilling to fulfill or is
 35 incapable of fulfilling his or her responsibilities as an election
 36 commissioner; and

1 (5) Assess costs for the investigation and hearing.

2 (e)(1) The board shall adopt rules governing the imposition of fines
 3 and other sanctions in accordance with the provisions of the Arkansas
 4 Administrative Procedure Act, § 25-15-201 et seq.

5 (2)(A) The board may file suit in the Pulaski County Circuit
 6 Court or in the circuit court of the county in which the debtor resides or in
 7 the small claims division of any district court in the State of Arkansas to
 8 obtain a judgment for the amount of any fine imposed according to its
 9 authority.

10 (B) The action by the court shall not involve further
 11 judicial review of the board's actions.

12 (C) The fee normally charged for the filing of a suit in
 13 any of the circuit courts or district courts in the State of Arkansas shall
 14 be waived on behalf of the board.

15 (3) All moneys received by the board in payment of fines shall
 16 be deposited into the State Treasury as general revenues.

17 (f)(1) The board shall complete its investigation of a complaint filed
 18 under this section and take final action within one hundred eighty (180) days
 19 of the filing of the complaint.

20 (2) However, if a hearing under subsection (c) of this section
 21 is conducted, all action on the complaint by the board shall be completed
 22 within two hundred forty (240) days.

23 (3) Any final action of the board under this section shall
 24 constitute an adjudication for purposes of judicial review under § 25-15-212.

25 (g)(1) The board shall keep a record of all inquiries, investigations,
 26 and proceedings.

27 (2) Records relating to investigations by the board are exempt
 28 from the Arkansas Freedom of Information Act, § 25-19-101 et seq., until a
 29 hearing is set or the director's investigation is closed.

30 (3) The board may disclose, through its members or staff,
 31 otherwise confidential information to proper law enforcement officials,
 32 agencies, and bodies as may be required to conduct its investigation.

33

34 7-4-117. Assistance of prosecuting attorney.

35 (a) The county board of election commissioners may call upon the
 36 prosecuting attorney or his or her deputy or the county attorney for legal

1 opinions, advice, or assistance in defending, commencing, or appealing civil
2 actions at law and equity.

3 (b) The county attorney or prosecuting attorney shall defend any civil
4 lawsuit brought against the county board of election commissioners or its
5 members if they are sued in regard to acts or omissions made during the
6 course of their official duties.

7

8 7-4-118. Oath of poll workers.

9 (a) The poll workers, before entering on their duties, shall take,
10 before some person authorized by law to administer oaths, the following
11 oath:

12

13 "I, , do swear that I will perform the duties of an
14 election [judge, sheriff, or clerk, as the case may be] of this election
15 according to law and to the best of my abilities, and that I will studiously
16 endeavor to prevent fraud, deceit, and abuse in conducting the same, and that
17 I will not disclose how any voter has voted, unless required to do so as a
18 witness in a judicial proceeding or a proceeding to contest an election."

19 (b) In case there shall be no person present at the opening of an
20 election authorized to administer oaths, it shall be lawful for the poll
21 workers to administer the oath to each other, and the poll workers may
22 administer all oaths that are necessary in conducting any election.

23

24 7-4-119. Compensation of members of county boards of election
25 commissioners and poll workers – Reimbursement for delivery of election
26 materials and equipment.

27 (a) Each member of the county board of election commissioners shall
28 receive for his or her services the sum of not less than twenty-five dollars
29 (\$25.00) per public meeting when official business is conducted and for any
30 day while performing any proper business of the county board of election
31 commissioners relating to the administration of elections.

32 (b) Election judges, election sheriffs, and election clerks shall
33 receive at least the prevailing minimum wage for holding an election or such
34 greater amount as appropriated.

35 (c) A qualified person appointed by the county board of election
36 commissioners who carries election materials and equipment to and from the

1 polling sites shall be allowed compensation for services and mileage at such
 2 rate as may be appropriated but not to exceed the rate prescribed for state
 3 employees in state travel regulations.

4
 5 7-4-120. Election poll workers program for high school students.

6 (a)(1) The county board of election commissioners may conduct a
 7 special election day program for high school students in one (1) or more
 8 polling places designated by the county board of election commissioners.

9 (2) The high school students shall be selected by the county
 10 board of election commissioners in cooperation with the local high school
 11 principal, the local 4-H club, the local Boy Scouts of America troop, the
 12 local Girl Scouts of America troop, or any other local organization for young
 13 persons designated by the county board of election commissioners.

14 (3)(A) A high school student selected for this program who is
 15 not eighteen (18) years of age by the election day in which he or she is
 16 participating shall be called an election page.

17 (B) A high school student selected for this program who is
 18 eighteen (18) years of age by the election day in which he or she is
 19 participating and meets the qualifications of a poll worker may be a poll
 20 worker.

21 (b) The program shall be designed to:

22 (1) Stimulate the student's interest in elections and
 23 registering to vote;

24 (2) Provide assistance to the poll workers; and

25 (3) Assist elderly voters and voters with disabilities in
 26 entering and exiting the polling place.

27 (c)(1) Each student selected as an election page shall:

28 (A) Be excused from school while working as an election
 29 page;

30 (B) Serve under the direct supervision of the poll workers
 31 at his or her assigned polling place; and

32 (C) Observe strict impartiality at all times.

33 (2) An election page may observe the electoral process and seek
 34 information from the poll workers but shall not handle or touch ballots,
 35 voting machines, or any other official election materials or enter any voting
 36 booth.

1 (3) An election page shall be in a volunteer position and he or
2 she shall not receive any compensation for performing his or her duties.

3 (4) Before beginning any duties, an election page shall take,
4 before an election officer, the following oath:

5
6 "I, _____, do swear that I will perform the duties of an election page
7 of this election according to law and to the best of my abilities, and that I
8 will studiously endeavor to prevent fraud, deceit, and abuse, and that I will
9 not disclose how any voter has voted, unless required to do so as a witness
10 in a judicial proceeding or a proceeding to contest an election."

11 (d)(1) Each student selected to be a poll worker shall:

12 (A) Take the oath of poll workers;

13 (B) Serve under the supervision of the appropriate county
14 board of election commissioners;

15 (C) Observe strict impartiality at all times; and

16 (D) Be excused from school while working as a poll worker.

17 (2) A high school student selected to be a poll worker may be
18 compensated as a poll worker if the county board of election commissioners
19 determines that the high school student selected to be a poll worker should
20 be compensated.

21
22 7-4-121. Election poll workers program for college students.

23 (a)(1) The county board of election commissioners may conduct an
24 election day program for college students in one (1) or more polling places
25 designated by the county board of election commissioners.

26 (2)(A) The college students shall be selected by the county
27 board of election commissioners from any two-year or four-year college or
28 university in the state.

29 (B) The county board of election commissioners shall work
30 in cooperation with the student government associations of the colleges and
31 universities in selecting the students for the program and conducting
32 seminars concerning election procedures for students interested in the
33 program.

34 (3)(A) A college student selected for this program who is not
35 eighteen (18) years of age by the election day in which he or she is
36 participating shall be called an election page.

1 (B) A college student selected for this program who is
 2 eighteen (18) years of age by the election day in which he or she is
 3 participating and meets the qualifications of a poll worker shall be a poll
 4 worker.

5 (b) The program shall be designed to:

6 (1) Stimulate the student's interest in elections and in
 7 registering to vote;

8 (2) Provide assistance to the poll workers; and

9 (3) Assist elderly voters and voters with disabilities in
 10 entering and exiting the polling place.

11 (c)(1) Each student selected as an election page shall:

12 (A) Serve under the direct supervision of the poll workers
 13 at his or her assigned polling place; and

14 (B) Observe strict impartiality at all times.

15 (2) An election page may observe the electoral process and seek
 16 information from the poll workers but shall not handle or touch ballots,
 17 voting machines, or any other official election materials or enter any voting
 18 booth.

19 (3) An election page shall be in a volunteer position and he or
 20 she shall not receive any compensation for performing his or her duties.

21 (4) Before beginning any duties, an election page shall take,
 22 before an election officer, the following oath:

23
 24 "I, _____, do swear that I will perform the duties of an election page
 25 of this election according to law and to the best of my abilities, and that I
 26 will studiously endeavor to prevent fraud, deceit, and abuse, and that I will
 27 not disclose how any voter has voted unless required to do so as a witness in
 28 a judicial proceeding or a proceeding to contest an election."

29 (d)(1) Each student selected to be a poll worker shall:

30 (A) Take the oath of the poll workers;

31 (B) Serve under the supervision of the appropriate county
 32 board of election commissioners; and

33 (C) Observe strict impartiality at all times.

34 (2) A college student selected to be a poll worker shall be
 35 compensated as a poll worker.

36

1 7-4-122. Lists of county committee chairs – Notification of vacancies.

2 (a)(1) It shall be the duty of all recognized political parties to
3 keep on file with their respective state chair a complete list of all of
4 their county chairs.

5 (2) It shall be the duty of the county chair of each recognized
6 political party to keep on file with the Secretary of State a letter stating
7 the name of the county chair.

8 (3) It shall be the duty of the county secretary to notify
9 promptly the Secretary of State of the death, resignation, disqualification,
10 or vacancy in the office of any county chair and of the selection of a new
11 chair to fill the vacancy.

12 (b) It shall be the duty of the Secretary of State to keep the letters
13 containing the names of each county chair of each recognized political party
14 as public records open at all times to public inspection.

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