

1 State of Arkansas
2 92nd General Assembly
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4

A Bill

HOUSE BILL 1666

5 By: Representative Brown
6

For An Act To Be Entitled

8 AN ACT TO AMEND THE LAW CONCERNING ELECTION
9 ADMINISTRATION AND PROCEDURES; TO AMEND THE LAW
10 CONCERNING DUAL OFFICE HOLDING; AND FOR OTHER
11 PURPOSES.
12
13

Subtitle

14 TO AMEND THE LAW CONCERNING ELECTION
15 ADMINISTRATION AND PROCEDURES; AND TO
16 AMEND THE LAW CONCERNING DUAL OFFICE
17 HOLDING.
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21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
22

23 SECTION 1. Arkansas Code § 7-4-102(a)(1), concerning the dates for
24 election of county boards of election commissioners, is amended to read as
25 follows:

26 (a)(1)(A) In January of each odd-numbered year following the election
27 of county committee officers, members of the county board of election
28 commissioners shall be elected by their respective county committees.

29 (B) The office of election commissioner shall not be
30 combined with any other county political party committee office.
31

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

33 7-4-107. Duties of county board of election commissioners —~~Ballot~~
34 ~~boxes~~ — ~~Voting booths~~ — ~~Appointment of election officers.~~

35 (a)(1) The county board of election commissioners shall ~~proceed:~~

36 (A) Operate independently without interference from county



1 electd officials; and

2 (B) Ensure compliance with all statutory requirements for
 3 conducting elections and deadlines as outlined in the State Board of Election
 4 Commissioners procedures manual for county board of election commissioners.

5 (2) If a county employs an election coordinator, a person shall
 6 not be hired, contracted with, or otherwise selected to fill that position
 7 without the prior approval of the county board of election commissioners for
 8 that county.

9 (3) The county board of election commissioners shall:

10 (A) Proceed to establish and allocate a sufficient number
 11 of ballot boxes in voting equipment, poll tablets, printers, and secure
 12 ballot boxes for each precinct or polling site. The county board of election
 13 commissioners shall appoint to be calculated based upon the number of votes
 14 served by that precinct or polling site in the immediately preceding
 15 election; and

16 (B) Appoint the requisite number of election officials at
 17 each site where voters present themselves to vote to ensure that there is a
 18 sufficient number of election officials at each site, based upon the votes in
 19 the immediately preceding comparable election.

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

25 (2)(A) Each polling site shall have a minimum of two (2)
 26 election clerks, one (1) election judge, and one (1) election sheriff. ~~For a~~
 27 ~~regularly scheduled election, all~~

28 (B) The election judge shall serve as the poll supervisor.

29 (C)(i) All election officials at a polling site shall have
 30 completed training under § 7-4-109, ~~and at least one (1) election official at~~
 31 ~~a polling site shall have attended election training coordinated by the State~~
 32 ~~Board of Election Commissioners within twelve (12) months prior to the~~
 33 ~~election.~~

34 (ii) If the election is a special election or an
 35 election held in an odd numbered year, the election judge, election sheriff,
 36 and any election official who did not receive required training under § 7-4-

1 109, shall attend a training conducted by a certified poll worker trainer
2 before serving in the special election or election held in the odd numbered
3 year.

4 (iii) The minority party election commissioner shall
5 have the option to designate a number of election officials equal to one (1)
6 less than the majority of election officials at each polling site, with a
7 minimum of two (2) election officials at each polling site.

8 (iv) In the event that the county party
9 representatives on the county board of election commissioners fail to agree
10 upon any election official to fill an election post allotted to the
11 respective party twenty (20) days before the election, the county board of
12 election commissioners shall appoint the remaining election officials.

13 ~~(c) The county board of election commissioners shall certify to the~~
14 ~~county court the per diem of election officials and the mileage of the~~
15 ~~election official carrying the returns to the county election commissioners'~~
16 ~~office for allowance.~~

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

20
21 SECTION 3. Arkansas Code § 7-4-108 is amended to read as follows:

22 7-4-108. Absence of election officials – Filling vacancy.

23 (a) If any election official ~~shall be~~ is absent at the time fixed for
24 the opening of the polls, ~~then the other election officials shall appoint~~
25 ~~some person or persons having the qualifications prescribed by this act for~~
26 ~~election officials to supply the vacancy; and if all of the officials shall~~
27 ~~be absent, then the voters present shall elect as election officials persons~~
28 ~~having the required qualifications. The county board of election~~
29 ~~commissioners shall be notified of any vacancies and substitutions of~~
30 ~~election officials.~~ the election judge shall immediately notify the county
31 board of election commissioners of the vacancy.

32 (b) If the county board of election commissioners does not timely
33 appoint a new election official, and less than three (3) election officials
34 are present at the opening of the polls, the election judge present shall
35 appoint one (1) or more qualified persons to act as an election official
36 until the county board of election commissioners appoints a new election

1 official.

2 (c) Upon notification of the absent election official, at least one
 3 (1) member of the county board of election commissioners shall respond to the
 4 polling place and assist with the election until the new election official is
 5 appointed.

6
 7 SECTION 4. Arkansas Code § 7-4-109 is amended to read as follows:

8 7-4-109. Qualifications of state and county commissioners, election
 9 officials, poll workers, and certified election monitors.

10 (a)(1) A member of the State Board of Election Commissioners, a county
 11 election commissioner, and an election official shall be a qualified elector
 12 of this state, able to read and write the English language, and shall not
 13 have been found guilty or pleaded guilty or nolo contendere to the violation
 14 of an election law of this state.

15 (2) An election official, as defined in § 7-1-101, shall not be
 16 a:

17 (A) A candidate for an office to be filled at an election
 18 while serving as an election official;

19 ~~(3) A member of the county board of election commissioners shall~~
 20 ~~not be disqualified~~

21 (B) Married to or related within the second degree of
 22 consanguinity to a candidate in the election in which the election official
 23 will be working;

24 (C) A paid employee of a political party;

25 (D) A candidate for office on the ballot for that county;

26 or

27 (E) Disqualified from serving as a member of the county
 28 board of election commissioners an election official by the appearance on the
 29 ballot as a candidate for a position in his or her political ~~party~~ party's
 30 county committee.

31 (b)(1) A member of a county board of election commissioners shall be a
 32 resident of the county in which he or she serves at the time of his or her
 33 appointment or election.

34 (2)(A) ~~An~~ Except as provided in subdivision (b)(2)(B) of this
 35 section, an election official shall be a resident of the precinct in which he
 36 or she serves at the time of his or her appointment.

1 (B) ~~However, if~~ If at the time of ~~posting~~ appointing
 2 election officials the county board of election commissioners ~~votes~~
 3 ~~unanimously and certifies to the county clerk~~ documents in its meeting
 4 minutes that it is impossible to obtain a qualified election official from
 5 any precinct in the county, another qualified citizen of the county may be
 6 designated to serve in the precinct.

7 (C)(i) ~~An~~ Except as provided in subdivision (b)(2)(C)(ii)
 8 of this section, an election coordinator, deputy clerk, or person assigned by
 9 a county clerk to conduct early voting ~~does~~;

10 (a) Is not have required to be a resident of
 11 the precinct ~~or county~~ in which he or she serves; and

12 (b) Shall be a resident and an elector in the
 13 county in which he or she serves.

14 (ii) An election coordinator who is employed by a
 15 county and serving as an election coordinator on the effective date of this
 16 Act is exempt from the provisions of subdivision (b)(2)(C)(i) of this
 17 section.

18 (c)(1) ~~A person who is a paid employee of a political party or of a~~
 19 ~~candidate for office on that county's ballot shall not be a member of a~~
 20 ~~county board of election commissioners or an election official.~~

21 ~~(2)~~(A) Except as provided in subdivision (c)(2)(B) of this
 22 section, a person serving on the county board of election commissioners shall
 23 not participate in the campaign of any candidate listed on a ballot or of a
 24 write-in candidate seeking election in that county that falls under the
 25 county board of election commissioners' jurisdiction or authority.

26 (B)(i) A member of the county board of election
 27 commissioners shall not:

- 28 (a) Manage a campaign;
- 29 (b) Perform labor for a campaign;
- 30 (c) Solicit on behalf of a candidate or
- 31 campaign;
- 32 (d) Pass out or place handbills, signs, or
- 33 other literature concerning a candidate's campaign;
- 34 (e) Assist a candidate's campaign at a rally
- 35 or parade; or
- 36 (f) Display candidate placards or signs on an

1 automobile.

2 (ii) A member of the county board of election
3 commissioners may:

4 (a) Make a financial contribution to a
5 candidate;

6 (b) Attend a political party's state,
7 district, or county meeting where a candidate or issue advocate speaks as a
8 member of the audience; or

9 (c) Participate in a political party
10 convention.

11 ~~(3)~~(2) A person employed with a company that has a business
12 dealing, contract, or pending contract with a county board of election
13 commissioners to which he or she seeks appointment shall not be a candidate
14 for the county board of election commissioners.

15 ~~(d) A person shall not serve as an election official if:~~

16 ~~(1) The person is married to or related within the second degree~~
17 ~~of consanguinity to a candidate running for office in the election; and~~

18 ~~(2) Another person makes an objection to his or her service to~~
19 ~~the county board of election commissioners within ten (10) calendar days~~
20 ~~after posting the list of officials.~~

21 ~~(e)~~(1)(d)(1) Prior to the regularly scheduled preferential primary
22 election, each of the following shall attend election training coordinated by
23 the State Board of Election Commissioners:

24 (A) A member of the county board of election
25 commissioners;

26 (B) A county clerk or his or her designee;

27 (C) A ~~poll worker~~ county election official trainer who
28 shall be certified to conduct county-level election training; and

29 (D) A certified election monitor.

30 (2) The State Board of Election Commissioners shall determine
31 the method and amount of compensation for attending the training.

32 (3) A deputy county clerk, employee of the county clerk, or
33 other worker who will assist with early voting may be trained by the county
34 clerk or his or her designee.

35

36 SECTION 5. Arkansas Code § 7-4-115 is amended to read as follows:

1 7-4-115. Legislative intent.

2 Due to the ~~recent~~ United States Eighth Circuit Court of Appeals ruling
3 in Jones v. Conway County, Arkansas, 143 F.3d 417 (8th Cir. 1998), the status
4 of county election commissioners as either county officials or state
5 officials has become unclear. Because of this lack of clarity, there has been
6 much confusion as to whether or not county election commissioners should have
7 been or currently are immune from suit under the state's policy of tort
8 immunity. It is the intent of the General Assembly to clarify the official
9 status of county election commissioners. Prior to July 30, 1999, county
10 election commissioners were state officials and, as such, were immune from
11 suit pursuant to Arkansas Constitution, Article 5, § 20, and § 19-10-305.
12 Upon July 30, 1999, county election commissioners are hereby deemed to be
13 county officials and are immune from suit pursuant to § 21-9-301.
14

15 SECTION 6. Arkansas Code § 7-5-515(a) and (b), concerning preparation
16 of voting machines, are amended to read as follows:

17 (a) Immediately upon the proper certification of candidates and
18 questions, the county board of election commissioners shall oversee
19 programming of the election, proof the ballots, prepare the voting machines,
20 ~~oversee their programming,~~ and test and adjust the voting machines for the
21 election.

22 (b) In performing these functions, the county board of election
23 commissioners may be assisted by ~~experts~~ skilled persons appointed or
24 employed by the county board of election commissioners.
25

26 SECTION 7. Arkansas Code § 7-5-904 is amended to read as follows:

27 7-5-904. Election commissioners.

28 ~~(a)~~ A member of the State Board of Election Commissioners or a county
29 board of election commissioners shall not serve as a poll worker or a poll
30 watcher on behalf of an individual candidate, political party, or ballot
31 initiative.

32 ~~(b) A person shall not simultaneously serve on the State Board of~~
33 ~~Election Commissioners and a county board of election commissioners.~~
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