

1 State of Arkansas
2 94th General Assembly
3 Regular Session, 2023
4

A Bill

HOUSE BILL 1687

5 By: Representative Long
6 By: Senator K. Hammer
7

For An Act To Be Entitled

9 AN ACT CONCERNING PAPER BALLOTS; TO AMEND THE LAW
10 CONCERNING PAPER BALLOTS AND THE MARKING AND COUNTING
11 PAPER BALLOTS; TO AMEND THE LAW CONCERNING THE
12 DECLARATION OF ELECTION RESULTS; TO DECLARE AN
13 EMERGENCY; AND FOR OTHER PURPOSES.
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Subtitle

16 CONCERNING PAPER BALLOTS; TO AMEND THE
17 LAW CONCERNING PAPER BALLOTS AND THE
18 MARKING AND COUNTING PAPER BALLOTS; TO
19 AMEND THE LAW CONCERNING THE DECLARATION
20 OF ELECTION RESULTS; AND TO DECLARE AN
21 EMERGENCY.
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25 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
26

27 SECTION 1. Arkansas Code § 7-5-601, concerning paper ballots, is
28 amended to add additional subsections to read as follows:

29 (f) Each paper ballot shall be compatible with the electronic vote
30 tabulation devices selected by the Secretary of State under § 7-5-301.

31 (g)(1) A county that chooses to use a hand count of paper ballots in
32 place of approved voting machines shall be responsible for:

33 (A) The cost of the hand-counted paper ballots and any
34 devices or machines required for the printing of the hand-counted paper
35 ballots under this subchapter; and

36 (B) The labor costs associated with the performance of the



1 hand count of paper ballots.

2 (2) A county that chooses to hand-count paper ballots shall be
3 eligible to receive the amount of reimbursement as if the county performed a
4 machine tabulation of the votes.

5 (h) The county board of election commissioners of any county that
6 chooses to use hand count paper ballots instead of approved voting machines
7 shall be responsible for compliance with § 7-5-311 and with the Equal Access
8 to Voting Rights Act, Pub. L. No. 98-435, the Americans with Disabilities
9 Act, Title II of Pub. L. No. 101-336, and the Help America Vote Act of 2002,
10 Pub. L. No. 107-252 regarding the accessibility of voting locations for
11 voters with disabilities.

12 (i) Each paper ballot to be hand counted shall contain a watermark on
13 the ballot with a unique placement of the watermark for each election cycle.

14
15 SECTION 2. Arkansas Code § 7-5-602(b) and (c), concerning ballots,
16 number of ballots, marking devices, spoiled ballots, and official ballots,
17 are amended to read as follows:

18 (b) A ballot shall not be received or counted in any election to which
19 this subchapter applies unless it is approved and provided by the county
20 board of election commissioners under this section.

21 (c) At all elections in counties that use paper ballots and in which
22 those ballots are counted by hand, the ballots shall:

23 (1) First be marked using permanent ink; and

24 (2)(A) Be run through an electronic vote tabulation device
25 before a hand count is conducted.

26 (B)(i) The requirement under subdivision (c)(2)(A) of this
27 section shall be required in the general election and the preferential
28 primary election.

29 (ii) If an election, other than the general election
30 or the preferential primary election, involves less than five thousand
31 (5,000) registered voters, the requirement under subdivision (c)(2)(A) of
32 this section is optional.

33
34 SECTION 3. Arkansas Code § 7-5-603 is amended to read as follows:

35 7-5-603. Counting paper ballots ~~at the polling site.~~

36 When paper ballots are to be counted ~~at the polling site,~~ the following

1 procedures shall be followed:

2 (1)(A) In counting the paper ballots, the ballot box shall be
3 opened and each paper ballot shall be counted in turn or by counting by
4 offices and issues by first being run through a tabulation device before any
5 hand count is conducted.

6 (B) The poll workers shall witness the counting of the
7 paper ballots and shall keep separate tally lists of the votes cast for each
8 candidate or issue on the paper ballot by precinct.

9 (C) The tabulated results shall be posted at each polling
10 site prior to the completion of the hand count of the paper ballots;

11 (2)(A) After being run through a tabulation device, the paper
12 ballots shall be placed in a sealed double-locking hard shell ballot box for
13 transport to the designated hand count location.

14 (B) Each county board of election commissioners shall
15 designate the hand count location thirty (30) days before an election.

16 (C) A minimum of two (2) election officials shall
17 transport the paper ballots to the hand count location.

18 (D) All results from voting machines used for compliance
19 with the Equal Access to Voting Rights Act, Pub. L. No. 98-435, the Americans
20 with Disabilities Act, Title II of Pub. L. No. 101-336, and the Help America
21 Vote Act of 2002, Pub. L. No. 107-252 shall be counted with the hand-counted
22 paper ballots.

23 (E) All paper ballots shall be stored in a secure location
24 approved by the county board of election commissioners when not in use by a
25 poll worker performing the hand count of the paper ballots;

26 (3)(A) When two (2) or more paper ballots are found folded
27 together, it shall be considered as conclusive evidence the paper ballots are
28 fraudulent and neither of the paper ballots shall be counted.

29 (B) If a paper ballot is found to contain marks for more
30 than the maximum allowable number of candidates in any one (1) contest, the
31 contest shall be considered overvoted, and it shall be the responsibility of
32 the poll workers to determine the voter's intent;

33 ~~(3)(A)~~(4)(A) Upon the close of the polls, the poll workers
34 immediately shall certify and attest the list of voters and continue the
35 count to completion.

36 (B)(i) A hand count of paper ballots shall be completed a

1 minimum of twenty-four (24) hours before the certification deadline.

2 (ii) If the hand count of paper ballots is not
3 completed a minimum of twenty-four (24) hours before the certification
4 deadline, the machine tabulated results under subdivision (1) of this section
5 shall be the certified results of the election.

6 (C)(i) If a poll worker becomes sick or incapacitated from
7 any other cause, the remaining poll workers shall continue the count until it
8 is completed.

9 (ii) The county board of election commissioners
10 shall ensure there is a minimum of four (4) poll workers available to
11 continue the count.

12 (D) All hand-count paper ballot totals shall be recorded
13 by race in each precinct, and posted at the designated hand-count location
14 upon the completion of the hand count of the paper ballots;

15 (5) A minimum of two (2) poll workers are required to verify the
16 vote on each hand-counted paper ballot;

17 ~~(4)~~(6) After the count is completed, the poll workers shall make
18 out the certificates of election in triplicate and immediately post one (1)
19 copy outside the polling site; and

20 ~~(5)(A)~~(7)(A)(i) The counting of paper ballots shall be open to
21 the public.

22 (ii) The public shall maintain a distance of three
23 (3) feet from the poll workers counting the paper ballots.

24 (iii) If sufficient room to maintain a distance of
25 three (3) feet from the poll workers counting the paper ballots may not be
26 achieved, the candidate, the candidate's designated or authorized
27 representative, and designated or authorized representatives of the political
28 parties shall be given priority viewing by the county board of election
29 commissioners.

30 (B) Any candidate or political party may be present in
31 person or by representative designated in writing under § 7-5-312 at the
32 count of the paper ballots in any election for the purpose of determining
33 whether or not the paper ballots in any election precinct are fairly and
34 accurately counted.

35 (C) The candidate in person or an authorized
36 representative of the candidate or political party shall be permitted, upon a

1 request's being made to a poll worker, to inspect any or all paper ballots
2 after the paper ballots have been counted.

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4 SECTION 4. Arkansas Code § 7-5-701(a)(3)(A), concerning the
5 declaration of results, and certification, delivery, and custody of returns,
6 is amended to read as follows:

7 (3)(A) As results are received and tabulated on election night
8 for all state and federal elections, the county board of election
9 commissioners shall declare preliminary and unofficial results of the
10 election ~~as soon as early voting, absentee, or individual precinct results~~
11 ~~are tabulated~~ within twenty-four (24) hours after polls close on election
12 night and immediately shall transmit the results by precinct to the Secretary
13 of State through the election night reporting interface provided by the
14 Secretary of State.

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16 SECTION 5. Arkansas Code § 7-5-701(a)(3)(C), concerning the
17 declaration of results, and certification, delivery, and custody of returns,
18 is amended to read as follows:

19 (C) On election night for all state and federal elections,
20 ~~immediately after the count of the vote is complete~~ within twenty-four (24)
21 hours after polls close on election night, the county board of election
22 commissioners shall:

23 (i) Declare preliminary and unofficial results of
24 the election, including a statement of the number of outstanding:

25 (a) Ballots of voters who requested ballots
26 under the Uniformed and Overseas Citizens Absentee Voting Act, 52 U.S.C. §
27 20301 et seq.; and

28 (b) Provisional ballots; and

29 (ii) Immediately transmit the results by precinct to
30 the Secretary of State through the election night reporting interface
31 provided by the Secretary of State.

32
33 SECTION 6. Arkansas Code § 7-5-702(a), concerning the preservation of
34 ballots, stubs, certificates, and other election material, is amended to read
35 as follows:

36 (a) After the election has been finally certified by the county board

1 of election commissioners, the county board of election commissioners shall
2 retain the custody of and safely keep in a sealed container appropriately
3 marked in a secure location in the county courthouse or other county storage
4 facility all ballots, ballot stubs, and certificates returned to it from the
5 several precincts for a period of twenty (20) days, after which time the
6 ballots and certificates shall be stored in a secure location in the county
7 courthouse or other county storage facility for a period of ~~two (2)~~ four (4)
8 years from the date of the election, unless the county board of election
9 commissioners shall be sooner notified in writing that:

10 (1) The election of some person voted for at the election and
11 declared to have been elected has been contested;

12 (2) Criminal prosecution has begun before a tribunal of competent
13 jurisdiction against any officer of election or person voting thereat for any
14 fraud in the election; or

15 (3) The results of the election will be audited by the State
16 Board of Election Commissioners under § 7-4-121.

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18 SECTION 7. EMERGENCY CLAUSE. It is found and determined by the General
19 Assembly of the State of Arkansas that sufficient laws to ensure the
20 integrity of paper ballot elections do not currently exist; that this act is
21 immediately necessary to establish adequate guidelines and requirements to
22 ensure that elections conducted by paper ballot are safe and secure and to
23 fortify the integrity of each and every election conducted within the State
24 of Arkansas; that adequate guidelines are required to ensure elections
25 conducted by paper ballots accommodate disabled Arkansas citizens and are in
26 compliance with the Americans with Disabilities Act; and that the
27 preservation of safe and secure elections is necessary to preserve the public
28 peace, health and safety. Therefore, an emergency is declared to exist, and
29 this act being immediately necessary to preserve the public peace, health and
30 safety shall become effective on:

31 (1) The date of its approval by the Governor;

32 (2) If the bill is neither approved nor vetoed by the Governor,
33 the expiration of the period of time during which the Governor may veto the
34 bill; or

35 (3) If the bill is vetoed by the Governor and the veto is
36 overridden, the date the last house overrides the veto.