

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.

Act 1020 of the Regular Session

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

As Engrossed: H3/15/07

A Bill

HOUSE BILL 2763

5 By: Representative Saunders
6
7

For An Act To Be Entitled

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

Subtitle

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

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

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

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

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

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

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

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



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;

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

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

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

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

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

36 (14) "Marking device" means any approved device for marking a

1 paper ballot with ink or other substances which will enable the votes to be
2 tabulated by means of an electronic vote tabulating device;

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

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

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

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

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

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

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

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

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

1 (22) "Sample ballot" means a ballot for distribution to the
2 public or the press marked with the word "SAMPLE" so as to prevent the
3 production of counterfeit ballots;

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

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

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

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

24 ~~(25)~~(26) "Voting machine" means either:

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

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

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

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

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

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

1 ~~(26)~~(27) "Voter-verified paper audit trail" means a
2 contemporaneous paper record of a ballot printed for the voter to confirm his
3 or her votes before the voter casts his or her ballot that:

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

6 (B) Is not retained by the voter;

7 (C) Does not contain individual voter information;

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

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

13 ~~(27)~~(28) "Voting system" means:

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

18 (i) To define ballots;

19 (ii) To cast and count votes;

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

21 (iv) To maintain and produce any audit trail
22 information; and

23 (B) The practices and documentation used to:

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

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

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

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

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

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

36 7-5-206. Publication requirements.

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

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

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

13 7-5-210. Ballots - Number - Official.

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

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

30
31 SECTION 4. Arkansas Code § 7-5-211 is amended to read as follows:

32 7-5-211. Delivery of election supplies.

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

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

1 (B) The person shall not be an elected official, ~~the~~an
2 elected official's deputy, or a candidate for office;

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

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

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

10 (C) A precinct voter registration list;

11 (D) Sufficient tally sheets;

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

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

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

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

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

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

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

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

1 (1) Guarantee the machines in writing for a period of one (1)
2 year; and

3 (2) Provide, if deemed necessary by the county, personnel for
4 the supervision and training of county personnel for at least two (2)
5 elections, one (1) primary and one (1) general.
6

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

8 7-5-304. Opening and closing polls - Time.

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

11 (b) In all counties, when the polls close, all persons who have
12 presented themselves for voting and who are then in line at the polling site
13 shall be permitted to cast their votes.
14

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

16 7-5-310. Privacy - Assistance to voters with disabilities. ~~Effective~~
17 ~~January 1, 2006.~~

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

22 (b)(1) A voter shall inform the ~~election officials~~ poll workers at the
23 time that the voter presents himself or herself to vote that he or she is
24 unable to mark or cast the ballot because he or she cannot read or write or
25 because of physical, sensory, or other disability or other legal cause
26 without help and needs assistance in casting his or her ballot.

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

32 (A) Two (2) ~~election officials~~ poll workers; or

33 (B) A person named by the voter.

34 (3) If the voter is assisted by two (2) ~~election officials~~ poll
35 workers, one (1) of the ~~election officials~~ poll workers shall observe the
36 voting process and one (1) may assist the voter in marking and casting the

1 ballot according to the wishes of the voter without comment or
2 interpretation.

3 (4) If the voter is assisted by one (1) person named by the
4 voter, he or she may assist the voter in marking and casting the ballot
5 according to the wishes of the voter without any comment or interpretation.

6 (5) It shall be the duty of the ~~election officials~~ poll workers
7 at the polling site to make and maintain a list of the names and addresses of
8 all persons assisting voters.

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

15

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

17 7-5-305. Requirements.

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

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

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

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

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

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

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

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

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

3 (ii) ~~Go~~ Instruct the voter to go to the polling site
4 serving that precinct in order for his or her vote to be counted;

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

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

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

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

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

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

31 (iv) The prosecuting attorney may investigate
32 possible voter fraud;

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

35 ~~(9)~~(10) Follow the procedures under §§ 7-5-310, 7-5-311, and 7-
36 5-523, if the person is a voter with a disability and presents himself or

1 herself to vote; and

2 ~~(10)~~(11) Permit the person to cast a provisional ballot if the
3 person received an absentee ballot according to the precinct voter
4 registration list.

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

7

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

9 7-5-311. Voters with disabilities - Special procedures.

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

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

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

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

28 (2)~~(A)~~ *The state board shall provide mail to the chair of each*
29 *county board and the chair of each county political party a copy of this*
30 *section and of Pub. L. No. 98-435.*

31 ~~(B) The state board shall send the copies by certified~~
32 ~~mail.~~

33

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

35 7-5-314. Duties of election officials - Voter lists ~~—Voters in line at~~
36 ~~closing time.~~

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

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

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

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

12
13 SECTION 11. Arkansas Code § 7-5-315 is amended to read as follows:

14 7-5-315. Counting paper ballots at the polling site.

15 In counting the paper ballots at the polling site, the following
16 procedures shall be followed:

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

24 (2) No write-in vote in any election in this state may be
25 counted unless the name of the write-in candidate shall have been ~~written on~~
26 handwritten on the ballot.

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

32 (4) When two (2) or more ballots are found folded together, it
33 shall be considered as conclusive evidence of their being fraudulent, and
34 *neither of them shall be counted. If a ballot shall be found to contain a*
35 ~~greater number of names for any one (1) office than the number of persons~~
36 ~~required to fill the office, it shall be considered fraudulent as to the~~

1 ~~whole of the names designated to fill the office, but no further marks for~~
2 ~~more than the maximum allowable number of candidates in any one contest, the~~
3 ~~contest shall be considered overvoted, and it shall be the responsibility of~~
4 ~~the election officials to determine the voter's intent;~~

5 (5) Upon the close of the polls, the election officials shall
6 immediately certify and attest the list of voters and continue the count to
7 completion. If any of the election officials become sick or incapacitated
8 from any other cause, the remaining election officials shall continue the
9 count until it is completed;

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

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

16 (B)(i) If the person received enough votes to win
17 nomination or election, a vacancy in the nomination or election shall be
18 declared.

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

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

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

30
31 SECTION 12. Arkansas Code § 7-5-413(c), concerning voting machine
32 duties, is amended to read as follows:

33 (c)(1) At the time designated ~~by law for the closing of the polls on~~
34 ~~election day~~ in the notice of election, a set of election officials for the
35 machines used for early voting shall canvass the vote in the manner provided
36 for regular polling sites. After the canvass has been made, the machines

1 shall be secured and shall remain inaccessible to voting.

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

5
6
7 SECTION 13. Arkansas Code § 7-7-103(b), concerning filing as an
8 independent candidate, is amended to read as follows:

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

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

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

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

28 (4) In determining the number of qualified electors in any
29 county, township, or district or in the state, the total number of votes cast
30 therein for all candidates in the preceding general election for the office
31 of Governor shall be conclusive of the number of qualified electors therein
32 for the purposes of this section.

33
34 SECTION 14. Arkansas Code § 7-7-203 is amended to read as follows:
35 7-7-203. Dates.

36 (a) The general primary election shall be held on the second Tuesday

1 in June preceding the general election.

2 (b) The preferential primary election shall be held on the Tuesday
3 three (3) weeks prior to the general primary election.

4 (c)(1) Party pledges, if any, shall be filed and any filing fees of a
5 political party, if any, shall be paid during regular office hours in the
6 period beginning at 12:00 noon on the third Tuesday in March and ending at
7 12:00 noon on the fourteenth day thereafter before the preferential primary
8 election.

9 (2) A party certificate and the political practice pledge for
10 primary elections shall be filed with the county clerk or the Secretary of
11 State, as the case may be, during regular office hours in the period
12 beginning at 12:00 noon on the third Tuesday in March and ending at 12:00
13 noon on the fourteenth day thereafter before the preferential primary
14 election.

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

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

22 ~~(5) Pledges and filing fees of the political party for a new~~
23 ~~political party shall be filed and paid as provided in subsection (f) of this~~
24 ~~section.~~

25 (d) No later than forty (40) days before the preferential primary
26 election, the chairman and secretary of the state committee of the political
27 party shall certify the ballot to the various county committees and to the
28 various county boards of election commissioners with the names of all
29 candidates who have qualified with the state committee for election by filing
30 the party pledge and paying the filing fees of the political party within the
31 time required by law.

32 ~~(e) Election officials of primary elections shall be selected by the~~
33 ~~county board of election commissioners in the same manner as in the general~~
34 ~~election.~~

35 ~~(f)~~(e) Any group of voters desiring to form a new political party may
36 do so by filing a petition with the Secretary of State in accordance with §

1 7-7-205.

2 ~~(g)(1)(f)(1)~~ The county board shall convene, at the time specified in
3 the notice to the members given by the chair of the board, no later than the
4 tenth day after each primary election for the purpose of canvassing the
5 returns and certifying the election results.

6 (2) If no time is specified for the meeting of the county board,
7 the meeting shall be at 5:00 p.m.

8 ~~(h)(g)~~ The county convention of a political party holding a primary
9 election shall be held on the first Monday following the date of the general
10 primary.

11 ~~(i)(1)(h)(1)~~ The county board of election commissioners shall certify
12 to the county clerk and the county committee a list of all nominated
13 candidates for county, township, and municipal offices, and the political
14 parties' county committee members and delegates.

15 (2) At the same time, the county board of election commissioners
16 shall certify to the Secretary of State and the secretary of the state
17 committee the results of the contests for all United States, state, and
18 district offices. Immediately after ascertaining the results for all United
19 States, state, and district offices, the Secretary of State shall certify to
20 the state committee a list of all nominated candidates for the offices.

21 ~~(j)(1)(A)(i)(1)(A)~~ The Secretary of State shall at least seventy (70)
22 days prior to the date of the general election notify by registered mail the
23 chairman and secretary of the state committee of the respective political
24 parties that a certificate of nomination is due for all nominated candidates
25 for United States, state, and district offices in order that the candidates'
26 names be placed on the ballot of the general election.

27 (B)(i) The state committee shall issue certificates of
28 nomination to all nominated candidates for United States, state, and district
29 offices, who shall file the certificates with the Secretary of State at least
30 sixty (60) days prior to the general election.

31 (ii) However, if the chairman and secretary of the
32 state committee of the respective political parties are not properly notified
33 as directed by subdivision ~~(j)(1)(A)(i)(1)(A)~~ of this section, the failure of
34 a candidate to file a certificate of nomination shall not prevent that
35 candidate's name from being placed on the ballot of the general election.

36 (2)(A) Each county clerk shall at least sixty (60) days prior to

1 the date of the general election notify by registered mail the chairmen and
2 secretaries of the county committees of the respective political parties that
3 a certified list of all nominated candidates for county, township, and
4 municipal offices is due and shall be filed with the county board of election
5 commissioners and the county clerk in order that the candidates' names be
6 placed on the ballot for the general election.

7 (B)(i) Each county committee shall issue the certified
8 list on behalf of those nominated candidates and submit the certified list to
9 the county board of election commissioners and the county clerk at least
10 forty-five (45) days but not more than fifty-five (55) days prior to the
11 general election.

12 (ii) However, if the chairmen and secretaries of the
13 county committees of the respective political parties are not properly
14 notified as directed by subdivision ~~(j)(2)(A)(i)(1)(A)~~ of this section, the
15 failure of a certified list to be filed shall not prevent any candidate's
16 name from being placed on the ballot of the general election.

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

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

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

36 (d) Where there are two (2) or more nominees to be selected for the

1 same office, such as Associate Justice of the Supreme Court, state senator,
2 state representative, justice of the peace, alderman, or for any other office
3 ~~or place~~, the proper committee shall require the candidates to designate in
4 writing a particular position, i.e., Position Number 1, Position Number 2,
5 Position Number 3, etc., at the time that a party pledge is required to be
6 filed with the secretary of the committee. An independent candidate shall
7 designate his or her position prior to circulation of his or her petition.
8 When a candidate has once filed and designated for a certain position, that
9 candidate shall not be permitted to thereafter change the position.

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

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

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

29
30 SECTION 17. Arkansas Code § 7-7-308 is amended to read as follows:

31 7-7-308. Determination of right to vote - Precinct registration lists.

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

33 (1) Request the voter to identify himself in order to verify the
34 existence of his name on the precinct voter registration list;

35 (2) Request the voter, in the presence of the election official,
36 to state his date of birth and address;

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

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

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

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

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

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

17 (ii) Instruct the voter to go to the polling site
18 servicing that precinct in order for his or her vote to be counted;

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

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

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

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

1 voter chooses to vote.

2 (c) If a voter's name does not appear on the precinct voter
3 registration list, the election official shall permit the voter to vote only
4 under the following conditions:

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

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

12 (3) The voter completes an updated voter registration
13 application form; and

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

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

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

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

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

26

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

28 7-7-309. Canvass and certification of returns.

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

35

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

1 7-9-305. Election and certification of delegates.

2 (a) The county board of election commissioners shall include on the
3 general election ballots the names of all candidates for delegate to the
4 constitutional convention as certified by the Secretary of State.

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

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

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

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

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

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

33
34 SECTION 21. Arkansas Code § 14-42-206 is amended to read as follows:

35 14-42-206. Municipal ~~primary~~ elections - Nominating petitions.

36 (a)(1) The city or town council of any city or town with the mayor-

1 council form of government, by resolution passed before January 1 of the year
2 of the election, may request the county party committees of recognized
3 political parties under the laws of the state to conduct party primaries for
4 municipal offices for the forthcoming year.

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

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

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

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

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

21
22
23

24 "PETITION OF NOMINATION

25

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

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34 Printed Signature Street Address Date of
35 Date of

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Name Birth Signing

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(B) For candidates for alderman elected by ward in cities of the first class and cities of the second class, the nominating petitions shall be signed only by qualified electors of the ward in the following manner:

"PETITION OF NOMINATION

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

Printed Signature Street Address Date of Date of

Name Birth Signing

.....

(C) For at-large candidates for alderman of a ward in cities of the first class and cities of the second class, the nominating petitions shall be signed by any qualified elector of the city in the following manner:

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"PETITION OF NOMINATION

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

Printed Signature Street Address Date of
Date of

Name Birth Signing

.....

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

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

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

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

1 election ballot for the office.

2 (2) If the office of mayor is unopposed, then the candidate for
3 mayor shall be printed on the general election ballot and the votes for mayor
4 shall be tabulated as in all contested races.

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

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

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

14 (ii) No later than noon on the day before the
15 preferential primary election.

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

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

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

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

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

28

29 /s/ Saunders

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APPROVED: 4/3/2007

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