

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 556 of the Regular Session

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

A Bill

HOUSE BILL 2312

5 By: Representative E. Brown
6 By: Senator Glover
7

For An Act To Be Entitled

10 AN ACT TO AMEND THE PROCESS FOR ABSENTEE VOTING
11 AND EARLY VOTING; AND FOR OTHER PURPOSES.
12

Subtitle

14 TO AMEND THE PROCESS FOR ABSENTEE VOTING
15 AND EARLY VOTING.
16

17
18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
19

20 SECTION 1. Arkansas Code § 7-5-202(a), concerning the public notice
21 for preferential and general elections, is amended to read as follows:

22 7-5-202. Public notice of elections.

23 (a) It shall be the duty of the county board of election commissioners
24 at least twenty (20) days before each preferential primary and general
25 election and at least ten (10) days before the holding of each general
26 primary, general runoff, or special election to give public notice in a
27 newspaper of general circulation in the county of:

28 (1) The date of the election;

29 (2) The hours of voting on election day;

30 (3) The places and times for early voting;

31 ~~(3)~~(4) Polling sites for holding the elections in the county;

32 ~~(4)~~(5) The candidates and offices to be elected at that time;

33 and

34 ~~(5)~~(6) The time and location of the opening, processing,
35 canvassing, and counting of ~~absentee~~ ballots.



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SECTION 2. Arkansas Code § 7-5-401 is amended to read as follows:

7-5-401. Duties of county clerk.

(a) The county clerk shall be the custodian of the absentee ballots and early voting ballots for any early voting conducted by the county clerk ~~at the courthouse.~~

(b) The county clerk shall be furnished a suitable room at the county courthouse or other location designated for the purpose of ~~and shall exercise~~ exercising all the powers and duties concerning the application for, the issuance of, and the voting of absentee and early voting ballots required by law of the county clerk.

(c) In counties with more than one county seat, the county clerk shall conduct:

(1) Absentee voting in the courthouse or other room provided by the county; and

(2) Early voting at the county clerk's designated early voting location in each county seat if the county clerk conducts early voting under Arkansas Code § 7-5-418.

SECTION 3. Arkansas Code § 7-5-403 is amended to read as follows:

7-5-403. Applications for ballots.

(a)(1) Applications for absentee ballots must be signed by the applicant and verified by the county clerk by checking the voter's name, address, date of birth and signature from the registration records or, if sent by facsimile machine transmitted over telephone lines, the application must bear a verifiable facsimile of the applicant's signature.

(2) Delivery of the request for an absentee ballot to the county clerk may be made in one (1) of the following ways, and in no other manner:

(A) For applications submitted using the form prescribed in § 7-5-405:

(i) In person at the office of the county clerk of the county of residence of the voter no later than the time the county clerk's office regularly closes on the day before election day;

(ii) Applications by mail must be received in the office of the county clerk of the county of residence of the voter not later than seven (7) days before the election for which the application was made;

1 (iii) A designated bearer may deliver the completed
 2 application to the office of the county clerk of the county of residence of
 3 the applicant not later than the time the county clerk's office regularly
 4 closes on the day before the day of the election;

5 (iv)~~(a)~~ A person declared as the authorized agent of
 6 the applicant may deliver the application to the office of the county clerk
 7 of the county of residence of the applicant not later than 1:30 p.m. on the
 8 day of the election~~;~~ or

9 ~~(b) An authorized agent must submit to the~~
 10 ~~county clerk an affidavit of the administrative head of a hospital or nursing~~
 11 ~~home located in this state that the applicant is a patient of the hospital or~~
 12 ~~nursing home and is thereby unable to vote on the election day at his or her~~
 13 ~~regular polling site.~~

14 ~~(c) A copy of the affidavit shall be retained~~
 15 ~~by the county clerk as an attachment to the application for an absentee~~
 16 ~~ballot; or~~

17 (v)(a) ~~An application for an absentee ballot may be~~
 18 ~~requested by facsimile machine transmission or other available electronic~~
 19 ~~medium in the county clerk's office, and the clerk's office may transmit the~~
 20 ~~application form by facsimile machine transmission or other available~~
 21 ~~electronic medium over the telephone lines to applicants when the clerk's~~
 22 ~~office is so equipped. The completed facsimile transmitted application must~~
 23 ~~be received in the office of the county clerk Delivery by facsimile machine~~
 24 ~~transmission to the county clerk's office of the county of residence of the~~
 25 ~~voter not later than seven (7) days before the election for which the~~
 26 ~~application was made.~~

27 ~~(2)(b)~~ The completed facsimile-transmitted application will be
 28 accepted only upon verification of the facsimile signature of the applicant
 29 by the county clerk.

30 ~~(3)(c)~~ Once verified as a reasonable likeness of the voter's
 31 signature, the signature appearing on a facsimile copy of an application
 32 shall be presumed to be authentic until proven otherwise;

33 (B) If the applicant does not use the form prescribed in §
 34 7-5-405, he may make an application for an absentee ballot as follows:

35 (i) A letter or postcard must be received in the
 36 office of the county clerk not later than seven (7) days before the date of

1 the election. The letter or postcard shall contain information sufficient for
 2 the county board of election commissioners and the county clerk to accept the
 3 letter or postcard in lieu of the application form; or

4 (ii) An applicant may transmit a written request for
 5 an absentee ballot over the telephone lines, which shall contain the voter's
 6 signature and other information sufficient for acceptance in lieu of the
 7 application form.

8 (b)(1) Any person eligible to vote by absentee ballot may request the
 9 county clerk to mail to an address within the continental United States an
 10 application for an absentee ballot.

11 (2)(A) For those persons voting by absentee ballot who reside
 12 outside the county in which they are registered to vote, the application
 13 shall remain in effect for one (1) year unless revoked by the voter, and the
 14 county clerk shall thereafter automatically mail, no later than twenty-five
 15 (25) days prior to each election, an absentee ballot for each election.

16 (B) Except for persons of long-term care or residential
 17 facilities licensed by the state or other persons who are voters with
 18 disabilities as defined in § 7-5-311(d), for those persons voting by absentee
 19 ballot who reside within the county in which they are registered to vote, the
 20 application shall be valid for only one (1) election cycle. The election
 21 cycle shall include any one (1) election and the corresponding runoff
 22 election.

23 (c) Citizens of the United States temporarily residing outside the
 24 territorial limits of the United States ~~and the District of Columbia, and~~
 25 ~~their spouses and dependents when residing with or accompanying them,~~ may
 26 request the absentee ballot for any one (1) or more elections through the
 27 next two (2) regularly scheduled general elections for federal office,
 28 including any runoff elections which may occur as a result of the outcome of
 29 the general elections, by submitting only one (1) application during that
 30 period of time in the manner prescribed by subsection (a) of this section.

31
 32 SECTION 4. Arkansas Code § 7-5-405 is amended to read as follows:
 33 7-5-405. Application form.

34 (a)(1) Applications for absentee ballots may be made on a form or
 35 forms prescribed by the Secretary of State and furnished by the county clerk
 36 at least sixty (60) days before the election.

1 (2) The form or forms shall contain the following information:

2 (A) The following statement:

3 "IF YOU PROVIDE FALSE INFORMATION ON THIS FORM, YOU MAY BE GUILTY OF
4 PERJURY AND SUBJECT TO A FINE OF UP TO \$10,000 OR IMPRISONMENT FOR UP TO 10
5 YEARS.";

6 (B) A statement in which the voter must indicate that he
7 or she is requesting an absentee ballot because he or she will be:

8 (i) Unavoidably absent from the polling site on
9 election day;

10 (ii) Unable to attend the polls on election day
11 because of illness or physical disability; or

12 (iii) Unable to attend the polls on election day
13 because of residence in a long-term care or residential facility licensed by
14 the state;

15 (C) A statement by the voter indicating whether he or she
16 resides outside the county;

17 (D) A statement indicating whether the voter is a United
18 States citizen ~~or spouse or dependent~~ residing outside the territorial limits
19 of the United States ~~or District of Columbia~~;

20 (E) A statement indicating whether the voter is in active
21 service as a member of the uniformed services of the United States;

22 ~~(E)~~(F) Mailing information for the ballot or the name and
23 signature of a designated bearer, administrator, or authorized agent;

24 ~~(F)~~(G) The voter's political party;

25 ~~(G)~~(H) The date, the voter's printed or typed name, voting
26 residence address, date of birth, and the voter's signature attesting to the
27 correctness of the information provided under penalty of perjury; and

28 ~~(H)~~(I) The election in which the voter wishes to cast a
29 ballot.

30 (b) The Secretary of State may prescribe separate absentee ballot
31 application forms for:

32 (1)(A) Persons who reside within the county in which they are
33 registered to vote and will be unavoidably absent from the polls on the date
34 of the election.

35 (B) The application shall be valid for one (1) election
36 cycle, which includes any one (1) election and the corresponding runoff

1 election;

2 (2)(A) Persons whose application would be valid for one (1)
3 calendar year.

4 (B) This includes the following:

5 (i) Persons who reside outside the county in which
6 they are registered to vote;

7 (ii) Persons in long-term care or residential
8 facilities licensed by the state; and

9 (iii) Voters with disabilities; and

10 (3)(A) Persons whose application would be valid through the next
11 two (2) regularly scheduled general elections for federal office, including
12 any resulting runoff elections, ~~if requested by the voter.~~

13 (B) This shall include citizens of the United States
14 temporarily residing outside the territorial limits of the United States ~~and~~
15 ~~the District of Columbia and their spouses and dependents when residing with~~
16 ~~or accompanying them.~~

17 (c) Any person may distribute blank applications for absentee ballots.

18

19 SECTION 5. The catchline of Arkansas Code § 7-5-406 is amended to read
20 as follows:

21 7-5-406. Members of uniformed services ~~and merchant marine~~ and other
22 citizens residing outside the United States.

23

24 SECTION 6. Arkansas Code § 7-5-406(a), concerning the eligibility of a
25 members of the uniformed services to obtain an absentee ballot, is amended to
26 read as follows:

27 (a) Any qualified elector of this state in any of the following
28 categories who is absent from the place of his or her voting residence may
29 make a request for an absentee ballot by submission of a federal postal card
30 application as provided for in the Uniformed and Overseas Citizens Absentee
31 Voting Act or may use the federal Write-in Absentee Ballot and may vote by
32 absentee ballot, without registering, in any primary, special, run-off, or
33 general election held in his or her election precinct if he or she is
34 otherwise eligible to vote in that election:

35 (1) Members of the uniformed services of the United States ~~while~~
36 in active service ~~and their spouses and dependents;~~and

1 ~~(2) Members of the merchant marine of the United States and~~
2 ~~their spouses and dependents; and~~

3 ~~(3)(2) Citizens of the United States temporarily residing~~
4 ~~outside the territorial limits of the United States and the District of~~
5 ~~Columbia and their spouses and dependents when residing with or accompanying~~
6 ~~them.~~

7
8 SECTION 7. Arkansas Code § 7-5-409 is amended to read as follows:
9 7-5-409. Materials furnished to qualified voters.

10 (a)(1)(A) The county clerk must satisfy himself or herself that the
11 applicant for an absentee ballot is a qualified registered elector in the
12 ward, precinct, or township in which he or she claims to be a resident or
13 that the applicant is exempted from registration under § 7-5-406.

14 (B) The county clerk shall verify that the application has
15 been properly signed by the applicant and, if necessary, the designated
16 bearer, administrator, or authorized agent. If the application is not
17 properly signed, the application shall be rejected by the county clerk.

18 (C) The county clerk shall notify the applicant of the
19 reason for the rejection.

20 (2) If the county clerk is unable to contact the applicant to
21 cure the deficiency, the county clerk shall forward the application with the
22 reason for the rejection to the county board of election commissioners. The
23 board shall determine whether the applicant is a qualified elector.

24 (b) If the applicant is registered or is otherwise eligible to vote
25 absentee, the county clerk, prior to mailing or delivering the ballot, shall
26 detach the ballot stub and deposit the ballot stub into a sealed box
27 designated as "Absentee Stub Box" and deliver ~~or mail~~ to the applicant or to
28 the applicant's designated bearer, authorized agent, or administrator for
29 delivery to the applicant ~~or deliver pursuant to subsections (d)-(f) of this~~
30 ~~section to the person who delivers the application to the office of the~~
31 ~~county clerk pursuant to § 7-5-403~~ the following materials:

32 (1) An official ballot for each election named in the
33 application;

34 (2) Instructions for voting and returning the ballot to the
35 county clerk;

36 (3) A ballot secrecy envelope on which there shall be written or

1 printed the words: "Ballot Only";

2 (4)(A) A voter statement, ~~containing the following information:~~

3 "I reside at the address indicated on my application. I have enclosed
4 in the return envelope;

5 (i) ~~My completed voter statement;~~ The voter
6 statement shall include the following heading in bold, capitalized letters:
7 "THIS VOTER STATEMENT MUST BE COMPLETED AND RETURNED IN THE MAILING ENVELOPE
8 OR THE ABSENTEE BALLOT WILL NOT BE COUNTED."

9 (ii) ~~A copy of a current and valid photo~~
10 ~~identification card or current utility bill, bank statement, government~~
11 ~~check, paycheck, or other government document that shows my name and address,~~
12 ~~if I registered to vote for the first time by mail; and~~ The voter statement
13 shall include the following statement in bold capitalized letters at the
14 bottom of the page: "THE INFORMATION I HAVE PROVIDED IS TRUE TO THE BEST OF
15 MY KNOWLEDGE UNDER PENALTY OF PERJURY. IF I HAVE PROVIDED FALSE INFORMATION,
16 I MAY BE SUBJECT TO A FINE OF UP TO TEN THOUSAND DOLLARS (\$10,000) OR
17 IMPRISONMENT FOR UP TO TEN (10) YEARS, OR BOTH, UNDER FEDERAL OR STATE LAWS."

18 (iii) ~~The ballot only envelope containing my marked~~
19 ~~ballot; and~~

20 "THE INFORMATION I HAVE PROVIDED IS TRUE TO THE BEST OF MY KNOWLEDGE
21 UNDER PENALTY OF PERJURY. IF I HAVE PROVIDED FALSE INFORMATION, I MAY BE
22 SUBJECT TO A FINE OF UP TO TEN THOUSAND DOLLARS (\$10,000) OR IMPRISONMENT FOR
23 UP TO TEN (10) YEARS, OR BOTH, UNDER FEDERAL OR STATE LAWS." The voter
24 statement shall include a statement that the voter resides at the address on
25 his or her application.

26 (iv) The voter statement shall include a statement
27 for a first-time voter who registers by mail: "If I am a newly registered
28 voter of this county and this is the first time I am voting in this county, I
29 am enclosing a copy of a current and valid photo identification card or a
30 current utility bill, bank statement, government check, paycheck, or other
31 government document that shows my name and address."

32 (B) Blanks shall be provided for the voter to provide his
33 or her printed name, signature, address, date of birth, signature of
34 administrator, authorized agent, or designated bearer, and address of the
35 administrator, authorized agent, or designated bearer;

36 (5) A sealable envelope upon which shall be printed or written

1 the words: "Return Envelope", the address of the county clerk, the precinct
2 of the voter, and the words: "ABSENTEE BALLOT,,,
3 ELECTION"; and

4 (6) An authorized agent authorization form, as follows:

5 "AGENT AUTHORIZATION FORM

6 If applicable, fill out and sign this form and place it in the Return
7 Envelope

8 I hereby authorize (insert his or her name) as my
9 authorized agent, to deliver this ballot as I am medically unable to vote on
10 election day. An affidavit verifying my medical status as unable to deliver
11 the application or to vote on the day of the election is attached or has been
12 provided with my application.

13

14 signature of voter

15

16 printed name of voter

17

18 address of voter

19

20 date of birth of voter"

21 (c)(1) Except for absentee ballots mailed to an address outside the
22 county in which the applicant is registered, an absentee ballot shall be
23 mailed to the address that appears on the applicant's registration record or
24 absentee ballot application if the voter is temporarily at a different
25 address.

26 (2) The county clerk shall not mail more than two (2) absentee
27 ballots to the same address unless:

28 (A) The address is outside the territorial limits of the
29 United States ~~and the District of Columbia;~~

30 (B) The address is for a long-term care or residential
31 care facility licensed by the state; or

32 (C) There are more than two (2) persons lawfully
33 registered at the same address.

34 (d) The county clerk shall not deliver absentee ballots to any person
35 other than the absentee voter unless the person picking up the ballots
36 provides satisfactory photo identification to the county clerk that he or she

1 is the person authorized by the absentee voter to pick up the ballots.

2 (e) The county clerk shall require the person picking up absentee
 3 ballots for another person to sign a register under oath to be maintained by
 4 the county clerk. The designated bearer register shall contain the following
 5 information: printed name of designated bearer, address of designated bearer,
 6 printed name of voter, and signature of designated bearer. The register shall
 7 contain the following oath on each page: "IF YOU PROVIDE FALSE INFORMATION ON
 8 THIS FORM, YOU MAY BE GUILTY OF PERJURY AND SUBJECT TO A FINE OF UP TO TEN
 9 THOUSAND DOLLARS (\$10,000) OR IMPRISONMENT FOR UP TO TEN YEARS, OR BOTH,
 10 UNDER FEDERAL AND STATE LAWS".

11 (f) The county clerk shall not provide more than two (2) absentee
 12 ballots per election to any designated bearer, nor shall the county clerk
 13 accept delivery of more than two (2) absentee ballots per election from any
 14 designated bearer.

15 (g) The county clerk shall not deliver in person or by any other means
 16 of transmittal more than two (2) absentee ballots per election to the
 17 individual authorized to receive the absentee ballots unless there are more
 18 than two (2) persons lawfully registered at the same address as the
 19 individual obtaining the absentee ballots, in which case the individual may
 20 receive only the same number of absentee ballots as persons lawfully
 21 registered at the same address.

22 (h) A designated bearer shall be allowed to pick up only two (2)
 23 absentee ballots from the county clerk per election and shall be allowed to
 24 do so only during the fifteen (15) days prior to a school election, special
 25 election, preferential primary election, or general election and seven (7)
 26 days prior to a a runoff general primary election, including a general
 27 primary election.

28 (i) Upon delivery of an absentee ballot to an individual authorized to
 29 receive an absentee ballot, the county clerk shall mark the precinct voter
 30 registration list to indicate that ~~the individual has received~~ an absentee
 31 ballot has been delivered to the voter.

32
 33 SECTION 8. Arkansas Code § 7-5-411 is amended to read as follows:
 34 7-5-411. Methods of voting absentee.

35 (a) Absentee voting may be accomplished in one (1) of the following
 36 methods and in no other manner:

1 (1)(A) By ~~ballot cast~~ delivery of the ballot by mail which must
 2 be received in the office of the county clerk of the county of residence of
 3 the voter not later than 7:30 p.m. on election day.

4 (B)(i) However, except as provided in subdivision
 5 (a)(1)(B)(ii) of this section, by ballot applied for not later than thirty
 6 (30) days before the election by a qualified electors elector outside the
 7 United States on election day which are signed, dated, postmarked, and mailed
 8 by the voters no later than the day of the election and received by the
 9 county clerk no later than 5:00 p.m. ten (10) calendar days after the date of
 10 the election.

11 (ii) The absentee ~~Absentee ballots~~ ballot of
 12 uniformed services personnel serving in active status shall be counted if
 13 received by the county clerk no later than 5:00 p.m. ten (10) calendar days
 14 after the date of the election and if the absentee ballot was executed no
 15 later than the date of the election.

16 (C) Each absentee ballot shall be mailed separately by the
 17 voter and shall not be included with any other absentee ballot in a bulk
 18 mailing, except that an administrative head of a long-term care or
 19 residential care facility licensed by the State of Arkansas or hospital may
 20 mail the absentee ballots of the residents and patients by bulk mail.
 21 Absentee ballots in any bulk mailing not otherwise permitted in this
 22 subsection shall not be counted;

23 (2)(A) By delivery of the ballot to the county clerk of the
 24 county of residence of the voter not later than 7:30 p.m. on election day by
 25 the designated bearer, administrator, or the authorized agent of the absentee
 26 voter who is medically unable to vote at the regular polling site, upon
 27 proper verification of the signature of the voter by the county clerk and
 28 validation of the identity of the authorized agent.

29 (B)(i) The designated bearer, administrator, or authorized
 30 agent shall sign documentation upon delivery of absentee ballots to the
 31 county clerk.

32 (ii) However, no person may deliver absentee ballots
 33 to the clerk's office for more than two (2) persons; or

34 (3) The voter may deliver the ballot to the county clerk of the
 35 county of his or her residence not later than the close of regular business
 36 hours on the day before the election.

1 (b) Any person who knowingly makes a false statement on an affidavit
 2 required by this section shall be guilty of perjury and subject to a fine of
 3 up to ten thousand dollars (\$10,000) or imprisonment for up to ten (10)
 4 years.

5 (c) Any person ~~who receives~~ to whom an absentee ballot is delivered
 6 according to the precinct voter registration list but who elects to vote by
 7 early voting or to vote at his or her polling site on election day shall be
 8 permitted to cast a provisional ballot.

9
 10 SECTION 9. Arkansas Code § 7-5-412 is amended to read as follows:

11 7-5-412. Marking and return of ballots - Delivery of mailed ballots.

12 (a) Upon receiving the blank ballot, statement, and envelopes, whether
 13 in the office of the county clerk or elsewhere, the voter shall mark the
 14 ballot and place the ballot in the provided envelope. He or she shall then
 15 seal the envelope containing the ballot and place it in the other, provided
 16 outer envelope with the following:

17 (1) The executed voter statement; and

18 (2) A copy of a current and valid photo identification or a copy
 19 of a current utility bill, bank statement, government check, paycheck, or
 20 other government document that shows the name and address of the first-time
 21 voter, for first-time voters who registered by mail. However, this
 22 requirement does not apply if:

23 (A) The voter registered to vote by mail and provided the
 24 identification at that time; or

25 (B) The first-time voter registered to vote by mail and
 26 submitted his or her driver's license number or at least the last four (4)
 27 digits of his or her social security number at the time and this information
 28 matches the information in an existing state identification record bearing
 29 the same number, name, and date of birth as provided in the registration.

30 ~~(b) The envelope containing the ballot, identification, if applicable,~~
 31 ~~and voter's statement must be received in the office of the county clerk not~~
 32 ~~later than 7:30 p.m. on the day of the election.~~

33 ~~(e)~~(b) An individual who desires to cast an absentee ballot but who
 34 does not meet the identification requirements of subdivision (a)(2) of this
 35 section may cast a his or her ballot by mail, and the ballot shall be
 36 considered as a provisional ballot.

1 ~~(d)(c) Ballots by mail shall be counted if received no later than the~~
 2 ~~time the polls close on election day.~~ Ballots received by mail on election
 3 day before the polls close shall be delivered promptly by the county clerk to
 4 the election officials designated to canvass and count absentee ballots.

5
 6 SECTION 10. Arkansas Code § 7-5-413 is amended to read as follows:

7 7-5-413. Voting machines - Related duties. ~~[Effective January 1, 2006.]~~

8 (a)(1) At least one (1) voting machine equipped for use by individuals
 9 with disabilities shall be placed in the county clerk's designated location
 10 for early voting for the election in accordance with this subchapter and at
 11 any off-site polling locations established by the county board.

12 (2) Those persons entitled under the law to vote early by
 13 personal appearance shall cast their votes on voting systems under the laws
 14 applicable to early voting, and the clerk or election official shall enter
 15 the name of each voter on a list at the time he or she votes.

16 (b) After regular business hours, the clerk at the clerk's designated
 17 early voting location or the election official at any off-site polling place
 18 shall secure the machines against further voting at the close of each day's
 19 voting in the presence of authorized poll watchers, if any. When early voting
 20 is concluded, the clerk or the election official shall secure the machines
 21 against further voting.

22 (c)(1) At the time designated by law for the closing of the polls on
 23 election day or at the time designated for counting absentee and early voting
 24 ballots in the notice provided for in the public notice of election, a set of
 25 election officials for the machines used for early voting shall canvass the
 26 vote in the manner provided for regular polling sites. After the canvass has
 27 been made, the machines shall be secured and shall remain inaccessible to
 28 voting.

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

32 (d) Any candidate or political party may be present in person or by a
 33 representative designated in writing during the progress of early voting and
 34 at the canvass of the results in any election for the purpose of determining
 35 whether or not the votes in any election are fairly and accurately cast and
 36 counted.

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SECTION 11. Arkansas Code § 7-5-414 is amended to read as follows:

7-5-414. Appointment of special election officials - Qualifications - Compensation.

(a) The county board of election commissioners shall appoint election officials to count and canvass the absentee voters' ballots in all elections.

(b)(1) The election officials who are to canvass the absentee ballots shall be appointed in the same manner and at the same time the election officials are selected to serve at the regular voting precincts.

(2) The election officials shall possess the same qualifications ~~and have the same powers and duties~~ as the election officials who serve at the regular voting precincts.

SECTION 12. Arkansas Code § 7-5-415 is amended to read as follows:

7-5-415. Compensation of county clerk for extra deputy.

The county clerk's budget shall be paid not less than minimum wage for a period not to exceed ~~twenty (20)~~ thirty-five (35) days, for hiring one (1) extra deputy for the purpose of carrying out the requirements of this act. The fee for this one (1) extra deputy shall be established and paid by the county, city, or other political subdivision, the representatives of which call the election, or in the case of a ~~primary~~ state-funded election, by the State Board of Election Commissioners. Any additional deputies beyond the one (1) extra deputy may be hired as necessary to carry out the purposes of early voting and absentee voting, if approved and paid by the Quorum Court of the county. In the regular general election, the fee for the one (1) extra deputy or additional deputies shall be paid by the county.

SECTION 13. Arkansas Code § 7-5-416 is amended to read as follows:

7-5-416. Counting of absentee ballots.

(a)(1) The election officials for absentee ballots shall meet in the courthouse in a place designated by the county board of election commissioners on election day for the purpose of processing absentee ballots.

(2) The county board shall give public notice of the time and location of the opening, processing, canvassing, and counting of absentee ballots and early voting ballots as provided in § 7-5-202.

(3) The county clerk shall forward the absentee ballot

1 applications sorted alphabetically or by precinct to the election officials
 2 for absentee ballots.

3 (4) The counting of absentee ballots shall be open to the
 4 public, and candidates and political parties may be present in person or by a
 5 representative designated in writing pursuant to § 7-5-312 during the
 6 opening, processing, canvassing, and counting of the absentee ballots as
 7 provided in this subchapter.

8 (5) Absentee or early votes may be counted prior to the closing
 9 of the polls on election day.

10 (b)(1) The opening, processing, counting, and canvassing of absentee
 11 ballots shall be conducted as follows:

12 (A) One (1) of the election officials shall open outer
 13 absentee ballot envelopes one (1) by one (1) and verify the contents;

14 (B) If the required materials are properly placed in the
 15 outer absentee ballot envelope, the election official shall proceed to read
 16 aloud from the voter statement the name of the voter and the voting precinct
 17 in which the voter claims to be a legal voter;

18 (C) If the required materials are not properly placed in
 19 the outer absentee ballot envelope, a second election official shall open the
 20 inner absentee ballot envelope to verify the contents;

21 (D) If all required materials are present within one (1)
 22 or the other envelopes, the election officials shall put the materials in the
 23 proper envelopes while preserving the secrecy of the voter's ballot and shall
 24 proceed to read aloud from the voter statement the name of the voter and the
 25 voting precinct in which the voter claims to be a legal voter;

26 (E) As each outer envelope is opened and the name of the
 27 voter is read, the election officials for the absentee box shall list in
 28 duplicate the name and voting precinct of the voter;

29 (F)(i) After the election official reads aloud from the
 30 statement, the election officials shall compare the name, address, date of
 31 birth, and signature of the voter's absentee application with the voter's
 32 statement and, for first-time voters who registered by mail, the first-time
 33 voter's identification document unless the voter previously provided
 34 identification at the time of mailing the voter registration application.

35 (ii) If the application and the voter's statement do
 36 not compare as to name, address, date of birth, and signature, the absentee

1 ballot shall not be counted.

2 (iii) If a first-time voter fails to provide the
 3 required identification with the ballot or at the time of mailing the voter
 4 registration application, then the absentee application, absentee ballot
 5 envelope, and voter's statement shall be placed in an envelope marked
 6 "provisional" and the ballot shall be considered a provisional ballot;

7 (G) If the absentee voter fails to return the ~~required~~
 8 ~~materials voter statement, the vote shall not be counted the contents of both~~
 9 ~~envelopes shall be placed in an envelope marked "provisional";~~

10 ~~(H)(i) The election official shall record the reason for~~
 11 ~~the challenge on the envelope, and it shall be referred to the county board.~~

12 ~~(ii) The county board shall determine whether the~~
 13 ~~voter is qualified and whether or not the vote shall be counted;~~

14 ~~(I)(H)~~ Failure of the voter to submit the required
 15 absentee materials in the proper envelopes shall not be grounds for
 16 ~~challenging~~ disqualifying the ~~ballot~~ voter;

17 ~~(J)(I)~~ If no challenge is made by a qualified poll
 18 watcher, the election official shall remove the inner envelope, without
 19 opening the inner envelope containing the ballot, and place it in the ballot
 20 box without marking it in any way;

21 ~~(K)(J)(i)~~ After all of the outer envelopes have been
 22 opened and a list has been made in duplicate of the name and voting precinct
 23 of the voters, as required in this section, the election officials of the
 24 absentee box shall preserve all the statements of voters and the voters'
 25 identification documents and deliver them to the county clerk, who shall file
 26 and keep them for the same length of time after the election as is required
 27 for retention of other ballots.

28 (ii) The voter statements shall be made available
 29 for public inspection during regular business hours.

30 (iii) The voters' identification documents shall not
 31 be subject to public inspection except as part of a judicial proceeding to
 32 contest the election;

33 ~~(L)(K)~~ When all of the inner envelopes containing the
 34 ballots have been placed in the ballot box, the ballot box shall be shaken
 35 thoroughly to mix the ballots; and

36 ~~(M)(L)~~ The ballot box shall be opened and the ballots

1 canvassed and counted.

2 (2) No election results shall be printed or released prior to
3 the closing of the polls.

4 (c) If any person casting an absentee ballot dies before the polls
5 open on election day, his or her vote shall not be counted.

6 (d) It is the intent of this section to permit the election officials
7 for absentee ballots to meet and process, canvass, and count absentee ballots
8 according to this section prior to the closing of the polls on election day.

9 (e)(1) Absentee votes ~~may~~ shall be cast on paper ballots ~~or ballot~~
10 ~~cards, or both methods may be used.~~

11 (2)(A) The ballots shall first be counted for write-in votes by
12 the election officials.

13 (B) Then, at the discretion of the county board, the
14 ballots may be either hand counted or ~~automatically~~ counted on an electronic
15 ~~system~~ vote tabulating device, whichever is more convenient.

16 ~~(3) Election officials may make a true copy of absentee paper~~
17 ~~ballots on ballot cards which, after being verified in the presence of~~
18 ~~witnesses, shall be counted in the same manner as other ballot cards.~~

19 (f)(1) Absentee ballots marked as "special runoff ballots" received
20 from a qualified voter ~~who meets~~ from one (1) of the categories in § 7-5-
21 406(a) shall be opened for general primary elections and general runoff
22 elections according to the procedures described in subsection (b) of this
23 section.

24 (2) However, in counting the special runoff ballot, one (1) of
25 the election officials shall open the envelope containing the special runoff
26 ballot and read the numbers indicated next to the names of the two (2)
27 candidates in the general primary election or in the general runoff election.

28 (3) The candidate with the highest ranking shall receive the
29 vote.

30 (4) A special runoff ballot received with the preferential
31 primary absentee ballot shall be counted in the general primary election, and
32 a special runoff ballot received with the general election absentee ballot
33 shall be counted in the general runoff election.

34 (5) The Secretary of State shall prepare instructions for
35 opening, counting, and canvassing special runoff ballots and provide the
36 instructions to each county board of election commissioners.

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SECTION 14. Arkansas Code § 7-5-417 is amended to read as follows:
7-5-417. Challenge of absentee votes.

(a) When the name and voting precinct of a voter is read by the election official, any candidate or qualified poll watcher pursuant to § 7-5-312 may challenge the vote in the manner provided by law for personal voting challenges, and the election officials shall consider the ballot as a provisional ballot.

(b) If the statement is not in proper form, or ~~if~~ for any other legal reason the vote should not be counted, the ballot shall not be counted and shall be preserved together with the statement and envelope for the same period of time that the statements are preserved.

(c) If the county board of election commissioners determines that the provisional voter is qualified and that the vote was properly cast, ~~and that the vote should~~ shall be counted, ~~it shall be handled in the same manner as provisional ballots in a regular voting precinct.~~

SECTION 15. Arkansas Code § 7-5-418 is amended to read as follows:
7-5-418. Early voting.

(a)(1)(A) Except as provided in subdivision (a)(1)(B) of this section, early voting shall be available to any qualified elector who applies to the county clerk's designated early voting location, beginning fifteen (15) days before a preferential primary or general election between the hours of 8:00 a.m. and 6:00 p.m. Monday through Friday and 10:00 a.m. and 4:00 p.m. Saturday and ending at 5:00 p.m. on the Monday before the election.

(B) Early voting shall not be available on state or county holidays.

(2) However, on all other elections, including, ~~but not limited to,~~ presidential preferential primary, general primary, and general runoff elections, early voting shall be available to any qualified elector who applies to the county clerk during regular office hours, beginning ~~fifteen~~ seven (7) days before ~~an~~ the election and ending on the day before the election day at the time the county clerk's office regularly closes.

(b)(1)(A) The county board of election commissioners may decide to hold early voting at additional polling sites outside the offices of the county clerk ~~and to include the additional voting locations for a maximum of fifteen (15) days~~ on any of the days and times provided for in subsection (a)

1 of this section, if it so chooses.

2 (B) The county board shall determine by unanimous vote the
3 location of additional polling sites for early voting.

4 ~~(C) The county clerk shall publish the location of~~
5 ~~additional early voting polling sites in a newspaper of general circulation~~
6 ~~at least five (5) days before early voting begins.~~

7 (2) The county board shall ~~select~~ appoint the ~~number of~~ election
8 officials ~~necessary to adequately staff for~~ for the additional early voting
9 polling site or sites ~~as in any other election~~ in the same manner as election
10 officials are appointed for election day.

11 (3)(A) The county board shall notify the county clerk of its
12 decision to hold early voting at additional polling sites outside the office
13 of the county clerk within ten (10) days of the decision.

14 (B)(i) If the county board decides to hold early voting at
15 additional polling sites outside the office of the county clerk, the county
16 clerk may choose not to hold early voting within the office of the county
17 clerk. The county clerk shall notify the county board within ten (10) days of
18 the receipt of notice from the county board regarding early voting at
19 additional polling sites.

20 (ii) If the county clerk decides not to hold early
21 voting within the office of the county clerk as provided in subdivision
22 (b)(3)(B)(i) of this section, the county board shall hold early voting ~~shall~~
23 ~~be held~~ at one (1) or more conveniently located polling sites on the days and
24 times provided in subsection (a) of this section.

25 (4) The early voting election official shall record the date on
26 all pages of the early voting roster or early voting request form and keep a
27 daily record of the number of early ballots cast.

28 ~~(5) The county clerk shall publish the additional hours for~~
29 ~~early voting with the location of additional early voting polling sites in a~~
30 ~~newspaper of general circulation at least five (5) days before early voting~~
31 ~~begins.~~

32 ~~(6)~~(5) All voted ballots and unvoted ballots and all related
33 election materials at each additional early voting polling site shall be
34 stored in a secure location in the county courthouse or in a secure location
35 as determined by the county board of election commissioners immediately after
36 the close of the additional polling sites each day that early voting is

1 conducted there.

2 (c) Before a person is permitted to cast an early vote, the county
3 clerk or election official shall:

4 (1) Request the voter to identify himself or herself by stating
5 his or her name, date of birth, and address in order to verify his or her
6 registration;

7 (2) If the voter's name or address is not the same as that in
8 the county voter registration record files, request the voter to complete an
9 updated voter registration application form;

10 (3) Request the voter to sign an early voting roster or early
11 voting request form which identifies his or her name, address, date of birth,
12 and the date on the roster or form; and

13 (4) Enter the voter's precinct number on the early voting roster
14 or early voting request form.

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

20 (e) The county clerk or county board shall furnish voting locations
21 that adequately allow the early voter to personally and secretly execute his
22 or her ballot.

23 (f) Upon casting his or her ballot, the voter shall then deposit the
24 ballot in the appropriate box in the same manner as for votes cast on the day
25 of the election.

26 ~~(g) Early votes shall be counted at the same time as absentee ballots.~~

27 ~~(h)~~(g) Except as provided in this section, early voting shall be
28 conducted in the same manner as voting on election day. Conduct that is
29 prohibited or restricted on election day shall be subject to the same
30 prohibitions and restrictions on the days on which early voting is conducted.

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APPROVED: 3/28/2007