

QUESTIONNAIRE FOR FILING PROPOSED RULES AND REGULATIONS
WITH THE ARKANSAS LEGISLATIVE COUNCIL

DEPARTMENT/AGENCY State Board of Election Commissioners
DIVISION _____
DIVISION DIRECTOR Daniel Shults
CONTACT PERSON Chris Madison
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NAME OF PRESENTER AT COMMITTEE MEETING Chris Madison
PRESENTER E-MAIL SAA

INSTRUCTIONS

- A. Please make copies of this form for future use.
- B. Please answer each question completely using layman terms. You may use additional sheets, if necessary.
- C. If you have a method of indexing your rules, please give the proposed citation after "Short Title of this Rule" below.
- D. Submit two (2) copies of this questionnaire and financial impact statement attached to the front of two (2) copies of the proposed rule and required documents. Mail or deliver to:

Jessica C. Sutton
Administrative Rules Review Section
Arkansas Legislative Council
Bureau of Legislative Research
One Capitol Mall, 5th Floor
Little Rock, AR 72201

1. What is the short title of this rule? Rules for County Election Commissioners Training

Comply with changes in Law, and clarification of
Advanced Training terminology and limitations on
reimbursement by State Board for county election

2. What is the subject of the proposed rule? commissioners

3. Is this rule required to comply with a federal statute, rule, or regulation? Yes No

If yes, please provide the federal rule, regulation, and/or statute citation. _____

4. Was this rule filed under the emergency provisions of the Administrative Procedure Act?

Yes No

If yes, what is the effective date of the emergency rule?

When does the emergency rule expire? _____

Will this emergency rule be promulgated under the permanent provisions of the Administrative Procedure Act?

Yes No

5. Is this a new rule? Yes No
If yes, please provide a brief summary explaining the regulation. _____

Does this repeal an existing rule? Yes No

If yes, a copy of the repealed rule is to be included with your completed questionnaire. If it is being replaced with a new rule, please provide a summary of the rule giving an explanation of what the rule does. _____

Is this an amendment to an existing rule? Yes No

If yes, please attach a mark-up showing the changes in the existing rule and a summary of the substantive changes. **Note: The summary should explain what the amendment does, and the mark-up copy should be clearly labeled "mark-up."**

6. Cite the state law that grants the authority for this proposed rule? If codified, please give the Arkansas Code citation.

§ 7-4-101(f)(3) & (f)(11).

7. What is the purpose of this proposed rule? Why is it necessary?

The SBEC is proposing this amendment in order to bring this existing rule in to line with statutory changes made by the 2019 General Assembly. The amendment also clarifies the application of existing law and makes some minor policy changes.

First, the amendment incorporates changes in law regarding the qualifications of a county election commissioner into the rule. Under Act 258 of 2019, any person has the power to disqualify a commissioner who is the spouse of another county board of election commission member or is a chairman or spouse of the chairman of a county political party if that person files an objection within 10 days of the posting of the required notice identifying election officials. Given the unique problems created by the possibility of two spouses serving on the CBEC under this law, the rule also clarifies that if one spouse were to be disqualified, the second spouse is not subject to disqualification.

Second, the amendment incorporates changes in law which prohibit a person serving as a county election commissioner if they are the chairman or secretary of a county political party. See, Act 966 of 2019.

Third, the amendment provides a definition for the Advanced Training Program and sets limitations on when a county election commissioner is able to satisfy his or her obligation to receive SBEC training remotely while preserving this concept for experienced personnel under limited circumstances. This concept is ill-defined under the existing rule and the amendment more clearly establishes when and how the State Board may provide advanced training, and who is eligible to participate in such a program.

Lastly, the amendment addresses compensation to county election commissioners who attend State Board training sessions. The amendment requires commissioners seeking compensation for state

training to remain in office through the certification of the preferential primary before being eligible for the \$100 compensation by the State Board. Previously, the State Board has paid commissioners for state required training, only to have that commissioner resign from office before their first election. Thus, the payment was going to pay for training that neither the County nor the State were benefiting from and the process had to be repeated with a new commissioner. This rule amendment limits payments to election officials who receive the required training and work as a commissioner through the certification of the preferential primary election.

8. Please provide the address where this rule is publicly accessible in electronic form via the Internet as required by Arkansas Code § 25-19-108(b).
www.arkansas.gov/sbec/rules

9. Will a public hearing be held on this proposed rule? Yes No
If yes, please complete the following:

Unless 25 people, governmental agency or subdivision, or an association with at least 25 members requests an oral hearing. If so, then:

Date: If requested, May 27, 2020
Time: 1:30 p.m.
Place: 501 Woodlane St., Ste. 122S Little Rock, AR 72201

10. When does the public comment period expire for permanent promulgation? (Must provide a date.)
May 18, 2020

11. What is the proposed effective date of this proposed rule? (Must provide a date.)
August 1, 2020

12. Please provide a copy of the notice required under Ark. Code Ann. § 25-15-204(a), and proof of the publication of said notice.

See attached Notice and Email with Arkansas Democrat Gazette.

13. Please provide proof of filing the rule with the Secretary of State as required pursuant to Ark. Code Ann. § 25-15-204(e).

See attached Email and Form of submittal to Secretary of State

14. Please give the names of persons, groups, or organizations that you expect to comment on these rules? Please provide their position (for or against) if known.

State board is unaware of any groups or associations that may comment on this rule amendment.

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY

DEPARTMENT State Board of Election Commissioners

DIVISION _____

PERSON COMPLETING THIS STATEMENT Chris Madison

TELEPHONE 501-682-1447 **FAX** 501-682-1782 **EMAIL:** Chris.madison@arkansas.gov

To comply with Ark. Code Ann. § 25-15-204(e), please complete the following Financial Impact Statement and file two copies with the questionnaire and proposed rules.

SHORT TITLE OF THIS RULE Rules for County Election Commissioners Training

- 1. Does this proposed, amended, or repealed rule have a financial impact? Yes No
- 2. Is the rule based on the best reasonably obtainable scientific, technical, economic, or other evidence and information available concerning the need for, consequences of, and alternatives to the rule? Yes No
- 3. In consideration of the alternatives to this rule, was this rule determined by the agency to be the least costly rule considered? Yes No

If an agency is proposing a more costly rule, please state the following:

- (a) How the additional benefits of the more costly rule justify its additional cost;

- (b) The reason for adoption of the more costly rule;

- (c) Whether the more costly rule is based on the interests of public health, safety, or welfare, and if so, please explain; and;

- (d) Whether the reason is within the scope of the agency's statutory authority; and if so, please explain.

4. If the purpose of this rule is to implement a federal rule or regulation, please state the following:

- (a) What is the cost to implement the federal rule or regulation?

<u>Current Fiscal Year</u>		<u>Next Fiscal Year</u>	
General Revenue	_____	General Revenue	_____
Federal Funds	_____	Federal Funds	_____
Cash Funds	_____	Cash Funds	_____
Special Revenue	_____	Special Revenue	_____
Other (Identify)	_____	Other (Identify)	_____
Total	_____	Total	_____

(b) What is the additional cost of the state rule?

Current Fiscal Year

General Revenue _____
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other (Identify) _____

Total _____

Next Fiscal Year

General Revenue _____
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other (Identify) _____

Total _____

5. What is the total estimated cost by fiscal year to any private individual, entity and business subject to the proposed, amended, or repealed rule? Identify the entity(ies) subject to the proposed rule and explain how they are affected.

Current Fiscal Year

\$ \$0

Next Fiscal Year

\$ \$0

6. What is the total estimated cost by fiscal year to state, county, and municipal government to implement this rule? Is this the cost of the program or grant? Please explain how the government is affected.

Current Fiscal Year

\$ -\$500 to -\$1000

Next Fiscal Year

\$ \$0

The change will ensure that a county election commissioner who is trained for the Preferential Primary but resigns prior to the Primary will not be given a stipend for attending training. This will save the State of Arkansas \$100 for each commissioner who leaves office between training and serving as a commissioner. Based on past elections, it is anticipated that between five and ten commissioners fall into this category every election cycle.

7. With respect to the agency's answers to Questions #5 and #6 above, is there a new or increased cost or obligation of at least one hundred thousand dollars (\$100,000) per year to a private individual, private entity, private business, state government, county government, municipal government, or to two (2) or more of those entities combined?

Yes No

If YES, the agency is required by Ark. Code Ann. § 25-15-204(e)(4) to file written findings at the time of filing the financial impact statement. The written findings shall be filed simultaneously with the financial impact statement and shall include, without limitation, the following:

- (1) a statement of the rule's basis and purpose;
- (2) the problem the agency seeks to address with the proposed rule, including a statement of whether a rule is required by statute;
- (3) a description of the factual evidence that:
 - (a) justifies the agency's need for the proposed rule; and
 - (b) describes how the benefits of the rule meet the relevant statutory objectives and justify the rule's costs;

- (4) a list of less costly alternatives to the proposed rule and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (5) a list of alternatives to the proposed rule that were suggested as a result of public comment and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (6) a statement of whether existing rules have created or contributed to the problem the agency seeks to address with the proposed rule and, if existing rules have created or contributed to the problem, an explanation of why amendment or repeal of the rule creating or contributing to the problem is not a sufficient response; and
- (7) an agency plan for review of the rule no less than every ten (10) years to determine whether, based upon the evidence, there remains a need for the rule including, without limitation, whether:
 - (a) the rule is achieving the statutory objectives;
 - (b) the benefits of the rule continue to justify its costs; and
 - (c) the rule can be amended or repealed to reduce costs while continuing to achieve the statutory objectives.