

**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 Poll Worker & County Clerk Training
- 2. What is the subject of the proposed rule?
Describes the process for poll worker and county clerk training.
- 3. Is this rule required to comply with a federal statute, rule, or regulation?
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?
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?

N/A

5. Is this a new rule?

NO

If yes, please provide a brief summary explaining the regulation.

N/A

Does this repeal an existing rule?

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If yes, a copy of the repealed rule is to be included with your completed questionnaire.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.

N/A

Is this an amendment to an existing rule?

YES

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.”**

See attached Mark-up and Clean Copies of Amended Rule

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 poll workers into the rule. Under Act 258 of 2019, any person has the power to disqualify an election official who is the spouse of a 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.

Second, the amendment incorporates changes in law regarding all poll workers to have been trained within 12 months of an election in which they are serving. See, Act 966 of 2019.

Third, the amendment clarifies the language which governs the residency requirement placed on poll workers. Under existing law, a poll worker must be a resident of the precinct in which he or she serves unless this requirement is waived by a unanimous vote of the election commission. The amendment clarifies the existing language to make clear that when more than one precinct is assigned to vote at a single polling site or vote center, a

poll worker is qualified to serve if they reside in one of the multiple precincts eligible to vote in that poll. This change is a clarification, not a substantive change, and is intended to update the language of the rule to reflect modern voting practices and current law. Fourth, the amendment provides a legal mechanism for a county to be reimbursed for its certified trainers conducting more than two (2) trainings. The current rule caps the county's reimbursement at two trainings per certified trainer. The current law allows a county to request a waiver to be reimbursed for more than two certified trainers but not the number of trainings a single trainer can be compensated for.

This amendment is principally designed to apply in large counties that cannot logistically provide all the poll workers required training in only two or four sessions. Effective training requires a county to limit the number of poll workers present and is most effective when both trainers work as a team. In counties with over 500 poll workers, the county is required to conduct substantially more training sessions than it is currently reimbursed. In addition, the larger counties often have individuals who have experts in this area making it better policy for the county to have the two experienced trainers conduct all the county's sessions rather than have the county appoint more than two trainers under the current rule. The amendment will require that counties file a written request in advance which explains why the county needs to conduct more than the default number of trainings or certified training personnel. This change comes at the request of larger counties which currently conduct these trainings out of necessity at their own expense. The language is designed to allow the SBEC to remedy this inequity while maintaining discretion to ensure only counties who legitimately need additional trainings are able to access additional state funds.

Fifth, the amendment provides a definition for the Advanced Training Program and sets limitations on when an election official 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 clarifies that the existing requirement that certified trainers use State Board prepared materials for local poll worker training sessions a requirement that the county use the multi-media provided by the State Board.

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?

NO, unless 25 people, a governmental agency or subdivision or an association with at least 25 members request an oral hearing.

If yes, please complete the following:

If so, then:

Date: If Requested, End of May, May 27, 2020

Time: 1:30 p.m.

Place: 501 Woodlane St., Ste. 401 N., 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 Proof of Publication

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.

(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?

<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:	_____

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.

<u>Current Fiscal Year</u>	<u>Next Fiscal Year</u>
\$ \$0	\$ \$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.

<u>Current Fiscal Year</u>	<u>Next Fiscal Year</u>
\$ 3,300	\$0

The SBEC is legally required to coordinate the training of poll workers in Arkansas. It does this by certifying at least two certified poll worker trainers in each county, which are then responsible for conducting training for their county's poll workers. By rule, the trainers are entitled to a 50-dollar payment for each training they conduct. A training is generally around 4 hours in length. The current rule caps the number of training sessions which a trainer can be compensated for at two sessions. A county can apply for a waiver to certify additional trainers but there is no provision under the current rule to allow a trainer to be paid for more than two training sessions. The result is, in a large county that uses their most experienced certified trainers, they will have to make up the cost difference or the trainers will not be compensated for the additional training sessions.

Under this proposed revision to the rule, the SBEC would have the discretion to allow certified trainers in a large county to be compensated for more than two training sessions, if the county files a written request explaining why the additional training sessions are justified. The SBEC calculates that, based on poll workers in the 2018 primary, if every county with more than 110 poll workers were to request additional funding pursuant to this amendment, the additional cost would be no more than \$3,300 every two years.

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?

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:

N/A

- (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.