



STATE BOARD OF ELECTION COMMISSIONERS

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M E M O R A N D U M

TO: County Election Officials
FROM: SBEC Staff
DATE: Effective July 24, 2019
SUBJECT: 2019 Legislative Summaries

The following acts were passed by the 92nd General Assembly and relate to Arkansas Election law or the operation of the County Board of Election Commissioners (CBECs) across the state. Unless otherwise noted, these laws will go in to effect as of July 24, 2019.

Please note that this information is provided for informational and training purposes and does not reflect a legal interpretation of any law nor an official policy position or Declaratory Order of the SBEC. These acts are categorized for your convenience, but please also note that some acts make changes which may fall into multiple categories.

ELECTION DATES AND DEADLINES

[ACT 68](#) / House Bill 1152:

Change in Independent Candidate Petition Filing Deadlines

The purpose of this act is to change current law so that the person filing to run for any federal, state, county, township, or district office as an independent candidate will no longer be required to file their nominating petition during the party filing period. Independent candidates will now have until 12 noon on May 1st to file their petition with the county clerk or Secretary of State.

Note that this change does not affect nominating petitions for nonpartisan offices, which include judicial offices and school boards, nor does it affect filing for a municipal office regardless of whether that municipality participates in the partisan primary elections.

ACT 545 / Senate Bill 445:

Change in the Dates for the Preferential Primary

This act establishes that, in years in which the President of the United States is elected, the primary will be held on the first Tuesday after the first Monday in March. In years when the Governor is elected, the primary election will be held on the third Tuesday in May. In the year 2020, the preferential primary will fall on March 3rd. Runoff elections (the general primary) will follow four weeks after the preferential primary regardless of the year.

In presidential years, the filing period will be the one-week period beginning at 12:00 noon on the first Monday of November and ending at 12:00 noon seven days later. In 2019, the filing period will actually run one additional day due to Veterans' Day and candidates will have until 12:00 noon on Tuesday, November 12th to file. In Gubernatorial years, the filing period will be the seven-day period ending at 12:00 noon on the first day of March.

In presidential years, the deadline to certify the names of candidates to the CBEC is increased to 92 days before the general election and the time period to conduct the ballot draw is increased to 89 days before the general election. In gubernatorial years, these deadlines are left unchanged at 75 days and 72 days respectively.

This act also sets the date of a spring annual school election as the third Tuesday in May in every odd-numbered year.

Other changes made by this act include establishing a new deadline of not less than 60 days prior to the first day of the party filing period in presidential election cycles for municipal governments to enact or repeal a resolution that will establish a partisan primary for city municipal offices. In gubernatorial years, this deadline is left unchanged at January 1st of the year in which the election is held. The act also shifts the dates for the fiscal session of the General Assembly depending on the election cycle.

ACT 207 / House Bill 1246:

Date of the Runoff Election for a County Office

The purpose of this act is to clarify that the runoff election for any county office is four weeks after the date of the general election.

[ACT 642](#) / House Bill 1444:

Date of the Runoff Election for Certain Municipal Elections

The purpose of this act is to clarify that the runoff election for mayor in a city manager form of government is four weeks after the date of the general election.

POLL WORKERS AND ELECTION COMMISSIONERS

[ACT 258](#) / House Bill 1426:

Additional Categories of Election Officials Subject to Disqualification

The purpose of this act is to add two new categories of election officials who can be disqualified to serve as an election official if an objection is filed to their service within 10 days of the posting of their names in the county clerk's office. The additional basis for an objection applies to officials who are the spouse of a CBEC member or officials who are the chairman, or the spouse of a chairman, of a county political party.

[ACT 328](#) / House Bill 1492:

Allowing High School Election Pages to Act as Election Officials

The purpose of this act is to permit high school students who have been selected to serve as election pages to check voters into the poll, to assist voters in the operation of voting machines, and other election-related duties. This change eliminates a provision that restricted pages from touching election materials or entering the voting area.

This act also requires the page be trained prior to acting as an election official and establishes this as a volunteer-only position.

[ACT 539](#) / House Bill 1571:

Allowing Election Officials to Work as Volunteers

The purpose of this act is to permit election officials to work as volunteers. If the official signs an affidavit prescribed by the SBEC, the county will not be required to pay that official his or her hourly wage, reimburse mileage, or both.

ACT 553 / Senate Bill 235:

Eliminates Special Restriction on School Employees

The purpose of this act is to eliminate the provision of state law that prohibited the employee of a school district from acting as an election official in his or her district's annual school election. This act ensures otherwise qualified individuals are able to work in a primary or general election regardless of whether a school election for their district is held at the same time as a major election.

ACT 966 / House Bill 1666:

Defines the Duties of Certain Election Officials and Prohibits Certain Individuals from Acting as Election Officials

This is an act that addresses several issues but primarily relates to the qualifications and duties of county election officials.

The first section of this act prohibits the chair or secretary of a county political party from sitting on the CBEC.

The second section establishes an itemized list of responsibilities for the CBEC including a requirement that the CBEC: ensure the election complies with relevant legal requirements; Act consistently with training and materials provided by the SBEC; Allocate sufficient election equipment and *secure* ballot boxes if voting uses pre-printed paper ballots; and, Appoint the required number of election officials at each polling site.

The act contains four substantive changes to election law. Counties are now required to provide ballot boxes that are "secured" while voting is being conducted using pre-printed paper ballots. Counties are required to appoint one poll worker to act as a poll supervisor at each polling site. All poll workers are required to have been trained within 12 months prior to the election in which they are working. CBECs are also explicitly required to proof the electronic ballots.

The act also updates the provision governing what happens when a poll worker does not report to the poll on election day. This provision requires the vacancy to be reported to the CBEC and empowers the election judge to temporarily appoint a poll worker if only one or two poll workers are present. The provision also establishes a requirement that the CBEC members step in to fill vacancies until new election officials can be appointed.

[ACT 1028](#) / House Bill 1928:

Requires CBEC Meetings to be Recorded

The purpose of this act is to require any public meeting, including CBEC meetings, to be recorded and that this recording be maintained by the CBEC for a minimum of one year.

The CBEC is required to make this recording available pursuant to the Freedom of Information Act.

[ACT 949](#) / House Bill 1306:

Number of Polling Sites in a City of the First Class

The purpose of this act is to permit the CBEC to establish a single polling site in a city of the first class with a population of less than 5,000 in the most recent Federal Census. A CBEC may only avoid the general rule that one polling site be established in each ward if the city in that county has established vote centers and the CBEC votes to reduce the number of polling sites by a unanimous vote.

SCHOOL ELECTIONS

[ACT 473](#) / Senate Bill 233:

Notice of the School Election

The purpose of this act is to require the CBEC to publish notice of the school election in the same manner as any other election in the State of Arkansas. The act eliminates any notice requirements unique to the school election and requires the CBEC to include information relating to the school election in the ordinary notice of election.

When the school election is held in the odd-numbered years, a CBEC holding a school election for a district that is domiciled in that county but which has territory in other counties must publish the notice of election in a newspaper or newspapers in general circulation in each county in which the district has territory.

[ACT 597](#) / House Bill 1420:

Selection of the Date of the Annual School Election

The purpose of this act is to require a school district to notify the county of the district's desire to change the date of the annual school election no later than 100 days before the first day of the filing period for the spring school election. If a school

district fails to provide a copy of its policy changing the date of its annual school election before the 100-day deadline, the district will be required to hold its annual school election at the same time period as the previous calendar year.

This act also modifies the language addressing the dates of the annual school election's filing periods. The filing period for even-year spring elections is the filing period for the preferential primary. The filing period for the fall elections is the one-week period ending at 12:00 noon on August 1st. The act establishes the filing period for the odd-year spring school elections as the date that the filing period would have been if the primary and general elections were held that year. The passage of Act 545 of 2019 creates some ambiguity in this area; however, it is the opinion of the SBEC Staff that, when read together with Act 545, the filing period for odd-year spring school elections will be the one-week period ending at 12:00 noon on March 1st of the year in question.

Additionally, this act establishes a 90-day period in which candidates for school board may circulate their nominating petitions. The act also clarifies that the name of an unopposed school board member is not required to appear on the ballot in even-numbered years.

Additional provisions of this act establish a uniform 90-day period in which independent candidates for offices elected in the general election may circulate their petitions.

[This act has an effective date of **July 1, 2019.**]

[ACT 552](#) / Senate Bill 158:

Administrative Procedure Relating to the School Election

The primary purpose of this act is to establish a procedural mechanism in state law to accommodate the annual school election being held with the preferential primary or general election. The act establishes the statutory authority for non-domicile counties of a school district to conduct the school election for their voters in even-numbered years. A procedure is established for the verification of petitions across county lines and domicile county clerks who receive candidate filings and ballot title information are required to submit that information to each CBEC whose county contains part of the district.

Once the election is concluded, the CBEC certifies the results of the election normally and, for any school district which is domiciled in a neighboring county, the CBEC is required to file a certified copy of the results to the county clerk of the domicile county. The domicile county clerk will then add the certified results from each county together, declare a winner, and deliver a certificate of election to the winning candidate.

The second major purpose of this act is to ensure no voter is ever required to vote in more than one location on a single day. To this end, if a special school election or an odd year annual school election is being held and a portion of the district intersects with another special election being held in a non-domicile county, each county in which the county has territory will be required to conduct the school election for its own electors.

To ensure counties are aware when this situation is occurring, the county clerk of a domicile county is now required to forward a copy of the calling document for any special school election to each non-domicile county's clerk. If a non-domicile county clerk learns that there will be a special election on that same day, the domicile county clerk for the district must be informed. It is then the duty of the domicile county clerk to inform all non-domicile county clerks that their counties must conduct the special school election for their own county's electors.

In addition, the act requires the school district to provide the county clerk of the district's domicile county with the district's ballot language "as soon as that language becomes available" and not less than 60 days before the annual school election. The county clerk is also required to file a certified copy of the election results with the Department of Education and the text of the district's ballot language.

BALLOT SET UP

[ACT 254](#) / House Bill 254:

Requires the Inclusion of Unopposed City Clerks on the Ballot

The purpose of this act is to require the CBEC to include unopposed city clerks on the ballot in the general elections. This is necessary to ensure the number of votes cast for city clerk is known in order to be able to calculate the petition requirements under A.C.A. § 26-75-207.

[ACT 527](#) / House Bill 1364:

Requires the Inclusion of a Surname on the Ballot

The purpose of this act is to require a candidate for office to include a surname in the name that a candidate requests to be placed on the ballot. This requirement is designed to ensure a candidate may not deceive the voters by concealing his or her surname from the voters.

[ACT 1013](#) / House Bill 1364:

Requires some Unopposed Candidates to Appear on the Ballot

The purpose of this act is to place some unopposed candidates' names back on the ballot. In the primary election, all unopposed candidates in a party's primary are required to be included on the party's ballot.

In the general election, all non-judicial state elected offices are required to be listed on the ballot as a separate race regardless of the number of candidates who filed. If the race is unopposed, the CBEC is not required to count or certify the count for these offices. In addition, the CBEC is required to provide voters the option to vote for all unopposed candidates, however, no names need to be listed when this option appears on the ballot.

ELECTION DAY PROCEDURES

[ACT 109](#) / Senate Bill 159:

Ballot Stubs and Provisional Voting using a Marking Device

The purpose of this act is to clarify that, when a provisional vote is cast using an ExpressVote marking device, the provisional ballot is not required to contain a ballot stub.

[ACT 199](#) / Senate Bill 160:

Posting of Voluminous Numbers of Sample Ballots

The purpose of this act is to create an alternative method of posting sample ballots at a poll which requires 16 or more unique ballot styles to be available resulting in the required posting of at least 32 sample ballots.

When a polling site has 16 or more ballot styles available to voters in that poll, the county has the option of posting these ballots in two bound volumes which are organized so that voters can easily identify their ballot. If a county wishes to provide sample ballots in bound volumes, the county must also make sample ballots available on the internet prior to the first day of early voting. So long as such a county has at least one paper volume of sample ballots for the poll, the county also has the option to provide one or more additional copies of the sample ballots in an electronic format.

[ACT 533](#) / House Bill 1504:

Definition of Electioneering

The purpose of this act is to create a statutory definition of electioneering. Electioneering is defined as: distributing campaign literature or literature regarding a candidate issue or measures on the ballot; displaying a candidate's name, likeness, or logo; displaying a ballot measure's number, title, subject, or logo; displaying or disseminating buttons, hats, pencils, pens, shirts, signs, or stickers containing electioneering information; and disseminating audible electioneering information. Elements of existing law were also folded into the definition of electioneering which prohibit soliciting signatures on a petition and soliciting contributions for any purpose.

[ACT 534](#) / House Bill 1513:

Visual Inspection of the Ballot

The purpose of this act is to eliminate the authority of a poll worker to visually inspect the back of a ballot to ensure the ballot has been initialed prior to the voter casting that ballot.

The act does empower the CBEC to consider whether a ballot has been initialed by a poll worker in the event of a hand recount.

[ACT 664](#) / House Bill 1503:

Time Allowed to Cast a Ballot

The purpose of this act is to extend the amount of time a voter is permitted to cast his or her ballot from five minutes to ten minutes.

[ACT 684](#) / House Bill 1868:

Use of a Photo ID Issued in a Digital Form

The purpose of this act is to ensure a digital document or identification card may be used to satisfy the photo ID requirements of Amendment 51 if the entity issuing that ID does so in a digital format.

This does NOT permit a voter to photograph a physical ID and present the photo to the election official. The digital ID must satisfy all the same requirements under Amendment 51 as a physical ID.

[ACT 965](#) / House Bill 1665:

Access to a Polling Site and Assisting Voters

This act addresses multiple issues including placing further limitations on persons entering a polling site for business unrelated to the process of voting. The act clarifies that such a person may not enter the voting area or the area where voters are being processed except to pass through these areas with the purpose of conducting his or her business. While passing through these areas, the act explicitly prohibits the person from speaking to voters or election officials.

The act also authorizes election officials to remove a person who is assisting a voter and comments or interprets the ballot to the voter. The act provides that candidates may only assist individuals who are a relation within the second degree of consanguinity. The final provision of this act adds a statement to the affidavit which an administrator of a residential or long-term care facility signs that the administration understands may not make comments or interpretations regarding the ballot when assisting his or her residents.

ADDITIONAL ELECTION RELATED LEGISLATION

[ACT 888](#) / Senate Bill 524:

Audit of Electronic Voting Equipment

The purpose of this act is to establish a post-election audit of the electronic voting equipment's count of the votes cast in the general election. This audit will be conducted by state officials and is designed to utilize the voter verified paper audit trail to ensure the paper record of votes cast supports the electronic records which form the basis of the certified election results. The ultimate goal of this audit is to produce a report which can be used to increase public confidence in the election process and its outcomes. However, if a problem ever did arise, the audit provides another tool to detect any issues in the equipment.

The act establishes that counties, and polling sites within those counties, will be randomly selected. If a county is to be audited, the county will be notified within 60 days following the date of the general election. At the conclusion of the audit, the SBEC will issue a written report detailing its findings.

Audits will begin following the 2020 general election with a five-county pilot program in which one county with a population of more than 100,000 will be randomly selected and 4 counties with a population under 100,000 will be randomly selected. This pilot program will be limited to counties utilizing the ExpressVote system.

ACT 462 / Senate Bill 1522:

National Guardsmen on State Active Duty

The purpose of the election-related provisions of this act are to clarify that members of the Arkansas National Guard who are on state active duty will be given the same protections as guardsmen on federal active duty relating to absentee voting.

The act clarifies that a member of the Arkansas National Guard is not required to provide photo ID with his or her absentee ballot when absent from the county due to state active duty. This ensures guardsmen are treated the same regarding absentee voting regardless of whether the National Guard has been federalized.

Members of the National Guard on state active duty will also be able to ask for absentee ballots over multiple election cycles to the same extent as members of the federal armed forces. Guardsmen on state active duty will also have the same privileges under the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) to cast a federal write-in absentee ballot or to request a state absentee ballot using a federal post card application.

Finally, the act ensures that the absentee ballot of members of the National Guard on state active duty who die after having mailed an absentee ballot, but prior to election day, will be counted so long as the voter statement and absentee ballot was completed prior to the servicemen's death.

ACT 290 / House Bill 1388:

Voter Registration Status of Non-Citizens

The purpose of this act is to establish a procedure for the removal of a registered voter who is found by a court to be "unfit and disqualified" to serve as a juror because that person is not a citizen of the United States.

In the event that a registered voter is disqualified from jury service because that person is not a citizen, then the circuit clerk is required to notify the county clerk of this occurrence. The statute then instructs the county clerk to "promptly cancel the dismissed juror's voter registration" and send notice to this person. The act further states that it is the duty of the person whose registration has been canceled to provide proof of their citizenship and, if the proof is provided, the clerk must allow the individual to re-register to vote.

[ACT 376](#) / Senate Bill 346:

Procedural Changes in Statewide Initiative and Referendum Petitions

The purpose of this act is to change the process by which a statewide petition for an initiative or referendum is collected, processed, and approved. The primary change in the certification process is that the ballot title and popular name for the proposed measure, along with the measure itself, must be filed with the Secretary of State prior to the collection of signatures but that there is no review of this language at this time and that the Attorney General's Office is no longer involved in the process.

When the petition is filed with the Secretary of State, in order to verify the sufficiency of the signatures on the petition, the ballot title and popular name will be filed with the SBEC. The SBEC will then determine, within 30 days, the sufficiency of the ballot title and popular name. A title and name are sufficient if it presents the measure in a manner that is not misleading and not designed in such a manner that a vote "for" the issue would be a vote against the matter or viewpoint that the voter believes himself or herself casting a vote for, or, conversely, that a vote "against" an issue would be a vote for a viewpoint that the voter is against.

If the Secretary of State finds the signatures to be sufficient and the SBEC finds the ballot title to be sufficient, the measure will be placed on the ballot. If either component of the petition is rejected, the Arkansas Supreme Court has original jurisdiction to hear any challenge to these sufficiency determinations. The act also addresses rules governing canvassers who collect signatures for these petitions.

[ACT 648](#) / House Bill 1740:

Changes in Laws Governing Political Parties

The purpose of this act is to remove antiquated provisions of law governing the political parties and make the rules governing membership in those parties and holding office in those parties subject to the rules of the party. The act also extends certain deadlines relating to filing a vacancy in nomination and makes other procedural rules subject to the rules of the party.

[ACT 649](#) / House Bill 1804:

Procedural Changes in Political Parties' Roll in the Primary

The purpose of this act is also to remove the requirement that a county political convention be held on a date certain, requiring instead that the convention be held no less than 100 days before the general election. The act also updates the deadline for the party to submit its list of nominees to county election officials.