



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 28, 2021
SUBJECT: 2021 Election Related Legislation Summaries

The following acts were passed by the 93rd General Assembly and relate to Arkansas election law, the operation of the county board of election commissioners (CBECs), or the operation of the State Board of Election Commissioners (SBEC). Unless otherwise noted, these laws will go into effect as of July 28, 2021.

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.

CHANGES FOR THE VOTERS

[ACT 249](#) / House Bill 1112:

Requires All Voters to Provide a Photo ID

This Act removes the “Optional Identity Affirmation” option when casting a provisional or absentee ballot. This second affirmation on the provisional ballot envelope and absentee voter’s statement allowed a voter to have their ballot counted without providing the required photo ID. Act 249 will require all voters to provide a qualifying document in order to cast a ballot in person. Absentee voters will be required to provide a copy of their ID when they return their absentee ballot. If the required ID is not provided, the absentee voter will have until noon on the Monday following the election to present the required ID in person to the county clerk or the county board of election commissioners.

ACT 980 / House Bill 1777:

Allows Domestic Violence Victims to Conceal their Address in Voter Rolls

This Act establishes “secure voters” as voters who are the victims of domestic violence. The Act prohibits the county clerk from releasing the address of a secured voter for any reason not explicitly provided for in law and provides the address of a secured voter is exempt from disclosure under the Freedom of Information Act.

In order to become classified as a “secured voter,” a person must first have been found by a court to be a victim of domestic violence or be the beneficiary of an order of protection granted under the Domestic Abuse Act of 1991. The person must then request the county clerk to classify the voter as a secured voter.

Once designated, the address of that voter will be removed from the voter registration database and will not be reproduced in the Precinct Voter Registration List. A secured voter will still be required to state their name, address, and date of birth when being processed into the poll to vote.

The Secretary of State’s Office will be responsible for promulgating rules related to this Act.

ACT 728 / Senate Bill 486:

**Restricts Loitering in the Electioneering Exclusion Zone
Outside of a Polling Location**

This Act prohibits any person from remaining in the 100-foot area outside the primary entrance of a polling site. Any person may pass through this area to enter or leave the building being used as a polling site including standing in line to vote. The Act is understood to prohibit a person from establishing an ongoing presence in the electioneering exclusion zone without actively seeking to enter the poll or exit beyond the 100-foot perimeter.

ACT 736 / House Bill 1715:

Absentee Voting

The Act makes the following modifications to the law governing Absentee Voting:

- The maximum number of absentee ballots which a person may possess without being subject to an intent to defraud is reduced from ten to four. Under existing law this presumption does not apply to postal workers, common or contract carriers (i.e. FedEx or UPS), or residential care facility administrators.

- When reviewing an absentee ballot application, a county clerk is required to utilize signatures submitted pursuant to the process of registering to vote or updating the voter's registration.
- Requires the State Board of Election Commissioners to develop a uniform absentee voter statement. This statement is required to have separate blanks for the voter's residential address and mailing address.
- Prohibits the county clerk or other "designated election officials" from sending absentee ballot applications directly to voters without having first received a request. This provision does not prevent the clerk or any other person from making the application generally available online or in paper form.
- Clarifies that, when canvassing absentee ballots prior to the day of the election, the inner envelope cannot be opened for any reason. If a ballot is missing required documents, it should be set aside until 8:30am on election day after which time election officials are required to inspect the ballot secrecy envelope to see whether the missing documents are inside that envelope.
- Requires the county clerk to maintain a daily count of the number of absentee ballot applications and the number of absentee ballots received by the clerk's office. These daily counts must be reported to the CBEC on a weekly basis and upon request of the CBEC.
- Provides that the county clerk and the clerk's staff are not permitted to access absentee ballots or documents from inside the absentee ballot envelope once the outer envelope has been opened. The CBEC may grant access to the clerk's office by a majority vote.
- Further clarifies current law which provides that voters must use their "residential address" when entering their address on the absentee ballot application and the absentee voter statement. Failure of a voter to state their "residential address" will cause the ballot not to be counted.
- Establishes a new layer of review for absentee ballots delivered or returned by a designated bearer. The Act requires the election official reviewing an absentee ballot to compare the name of a bearer on an absentee ballot application to the name of a bearer on the absentee voter statement. If the bearer's names do not compare (or one document has no bearer's name) then the absentee ballot is made provisional.
- Establishes timing requirements when absentee ballot voter statements are made available for public inspection and provides that they can be copied. Voter statements must be made available at 8:30am on the day following the day during which reporting of unofficial election results and outstanding absentee and provisional ballots to the Secretary of State is completed. This should, in almost every case, be the day after the election.

The Act also provides one provision relating to in-person voting which requires every polling site to have a stamp with the text "cancelled" on its face which must be used in the event a ballot is spoiled.

ELECTION DATES AND DEADLINES

ACT 85 / House Bill 1104:

Eliminates the Sec. of Education's approval of School Special Election Dates

This Act eliminates the provision of law which requires the Secretary of Education to approve the date of special school elections. The result of this change is that a school district is now the final authority regarding when a special election can be held subject to statutory limitations.

ACT 349 / House Bill 1175:

Alignment of Filing Periods and Elimination of De Minimis Filing Fees

The primary purpose of this Act is to align the filing period for school board elections in the fall of an even-numbered year with the municipal filing period. Under the Act, the filing period for all fall school elections will be the one-week period ending 90 days before the general election date.

The Act also eliminated a 3-dollar fee which was required of candidates filing a petition to run for the board of a community college.

ACT 448 / House Bill 1332:

Streamlining of Processes and Modification of Deadlines

NOTICE OF ELECTIONS: The deadline to publish the first notice of election is now 8 days prior to the first day of early voting for all elections. The existing requirement that a second notice be published for all elections no less than 5 days before the date of the election remains in place.

LISTS OF OFFICIALS: Current law required the list of election officials be posted but left some ambiguity regarding this process. The Act provides that the list of early voting election officials will be posted no less than 8 days prior to the first day of early voting. Similarly, election day election officials shall be posted no less than 8 days prior to election day. The Act restructures the deadlines so that the notice of election, which contains a statement regarding when and where the list of election officials is posted, will be published before the list is posted. This is important because, once the list is posted, a seven day deadline begins to run after which no objection can be made. The Act also clarifies that the objection must be made in writing.

PETITIONS AND CITY CLERKS: For any petition requirement which was calculated by the votes cast for city clerk, the Act transfers this calculation to the votes cast for Mayor. This allows the Act to eliminate city clerk from the list of offices whose vote totals must be separately listed, calculated, and certified when the candidate for city clerk is running unopposed.

MUNICIPAL FILINGS WITH THE COUNTY CLERK: The Act requires city clerks to file a copy of a resolution calling for, or eliminating, a partisan primary election for that municipality under A.C.A. §14-42-206. Similarly, the Act requires the city clerk to file with the county clerk any ordinance which requires independent municipal candidates to file their petitions with the county clerk under this same section.

SCHOOL ELECTIONS: When an odd-year school election is held with no contested races and no change in the millage, the Act will now allow the CBEC to hold an election by candidate in which no polls are opened and absentee voting is not conducted. This procedure will also allow the CBEC to avoid the programming costs for the election equipment.

NOTE: Section 2 of this Act which addresses the deadlines to draw ballot positions for school elections is superseded by Act 610 and will not be codified.

ACT 610 / Senate Bill 496:

Limitations of the Dates a Special Election Can be Called

GENERAL RULE: Unless otherwise provided, a special election may only be called on four dates of a calendar year. On the year in which a presidential primary election is held, these dates are the second Tuesday of March, May, August, and November. In the three following years, the dates are the second Tuesday of February, May, August, and November. However, if a special election is called in the month of a preferential primary election or general election, the special election will be held on the date of the major election rather than the second Tuesday of that month.

EXCEPTIONS: If necessary, to comply with the timing requirements of Article 5 §1 of the Arkansas Constitution, a special election can be held on the second Tuesday of a month other than the months listed above. In addition, the Governor may call a special election to fill a vacancy on the second Tuesday of any month. Furthermore, certain elections for alcohol related local option referendums are not included in this requirement.

There is also provisions for an emergency special election in which one may be called under the following circumstances: The governing entity calling the election finds, by a two-thirds majority, that (1) an event has occurred which constitutes a substantial change in circumstances and, (2) because of this change, waiting until the

next special election date would cause substantial and undue hardship on the governing entity. A qualified elector may challenge this determination in court up to 30 days after the emergency special election is called.

UNIFORM DEADLINE TO CALL A SPECIAL ELECTION: The Act also provides for a uniform deadline of 70-days prior to the date of the election for the governing entity to call a special election. Once inside of the 70-day window till the next special election date, any special election must be called for the following special election date under this Act.

ALIGNS ODD-YEAR SCHOOL ELECTIONS: Prior to this Act, the annual school elections were generally held in the third week of May or the first week of November. This Act aligns the date of the annual school election to the same date as the special election ensuring counties and voters do not have an election day in two consecutive weeks. The Act also requires school districts to file calling documents with the county clerk when a special school election is called using the same procedures as cities and counties.

SCHOOL ELECTION BALLOT DRAW DEADLINES: To adjust for the changes in the dates of annual school elections, the Act also modifies the statutory language regarding the deadline to conduct ballot draw for the annual school election. For even-numbered years, the deadline for ballot draw for the school election is the same as the ballot draw deadline for the primary or general election. For odd-numbered years, the spring deadline is the seventh day of March and the fall deadline is 72 days prior to the date of the annual school election.

Effective Date: January 1, 2022

[ACT 973](#) / Senate Bill 643:

Modification of the Deadline to Hand Deliver Absentee Ballots

This Act moves the deadline to hand deliver a voter's own absentee ballot from the time the county clerk's office regularly closes on the day before the election to the Friday before the election. Similarly, the Act moves the deadline for a designated bearer or an administrator to hand deliver absentee ballots from 7:30pm on election day to the time the county clerk's office regularly closes on the Friday before the election.

The resulting rule is that, with the exception of authorized agents obtaining and returning ballots for patients of a hospital or long term care facility, all hand delivered absentee ballots must be returned no later than the close of business on the Friday prior to the election. Ballots returned by mail may still be received up to 7:30pm on election day.

COUNTY ELECTION COMMISSIONS AND RUNNING ELECTIONS

ACT 128 / House Bill 1202:

Publishing Sample Ballots on Voter View

This Act requires the county board of election commissioners to submit their sample ballots to be uploaded to Voter View. Voter View is a tool maintained by the Secretary of State's website which will allow any registered voter to look up their sample ballot and other important information regarding an upcoming election.

The CBEC will be required to submit the sample ballots no later than 20 days before a preferential primary or general election and no less than 10 days before all other elections.

ACT 1063 / House Bill 1615:

Closure of Polls / Qualifications of Poll Workers / Voting Procedures

APPEAL OF POLLING SITE CLOSURE: Most of this Act addresses the ability of a county board of election commissioners to reduce the number of polls for a preferential primary or general election. For these elections, the deadline to change a polling site is extended from 30 days to 60 days. If the total number of polls for the county is reduced for a major election, a qualified elector who is adversely affected may appeal the closure to the State Board of Election Commissioners. This appeal must be made in writing within 7 days of the vote to close the poll(s).

The SBEC is required to rule on the appeal no less than 30 days prior to the date of the election. If the SBEC prohibits the poll closure, that order will remain in effect for the remainder of the 2-year term for the CBEC members whose actions were reviewed.

POLL WORKER QUALIFICATIONS: The Act also removes the ability of a voter to object and disqualify an appointed poll worker who is the spouse or blood relation of an unopposed candidate so long as the poll worker in question is assigned to a polling site serving fewer than 1,000 qualified electors.

IN-PERSON VOTING PROCEDURES: The Act also adds language to the affirmation required to be included on the PVR List / Poll Tablet. The new language requires the voter to affirm they have not "submitted an absentee ballot" for that election. The Act also adds new language which underscores, but does not modify, the current statutory requirement that poll workers require a voter which has been sent an absentee ballot by the county clerk only be allowed to vote a provisional ballot.

[ACT 729](#) / Senate Bill 487:

Establishment of Vote Centers

Removes language from existing law which provided that the county clerk had certain responsibilities regarding the establishment of vote centers and transferred all duties related to this process to the county election commission.

[ACT 727](#) / Senate Bill 488:

FOIA Exemption for Ballot

This Act includes ballots in the list of documents exempt from disclosure under the Freedom of Information Act. State law already provides that the ballots could not be accessed by any person, but this provision was not included in FOIA. The Act also clarifies that this does not limit the rights of Poll Watchers and provides that the SBEC may proscribe “reasonable restrictions” relating to the exercise of poll watchers’ rights in viewing ballots.

[ACT 950](#) / Senate Bill 557:

Supervision of Election Officials

This Act provides that a county employee “detailed” as an election official is required to comply with the directives of the CBEC in election related matters. The Act also provides that the CBEC may delegate the supervision of election officials to other election officials.

PETITIONS AND FILING

[ACT 273](#) / House Bill 1338:

Presidential Elector Ballot Access Petitions

Arkansas law permits “political groups” who wish to have a candidate for President and Vice President appear on the ballot but which are not a political party or new political party under Arkansas law to file a petition to have their candidates placed on the ballot. This Act raises the number of signatures needed for political groups to achieve ballot access for their presidential candidates from 1,000 signatures to 5,000 signatures.

ACT 416 / House Bill 1522:

Misdemeanor for False Statement in Filing

This Act makes it a Class A Misdemeanor for a person applying to be placed on the ballot for a public office to knowingly provide false information regarding the person's qualifications. Because this provision is placed in A.C.A. §7-1-103, a person convicted of violating this provision is also prohibited from holding public office or public employment in the State of Arkansas. If the offending person holds a public office at the time of conviction, the official shall be deemed to have committed misfeasance and malfeasance in office and will be subject to impeachment.

ACT 511 / House Bill 1540:

Redistricting and Restructuring of School Boards

This Act increases the deadline for a school district to publish a resolution changing the structure of the board from 30-days prior to the filing deadline for the next annual school election to 90-days prior to the filing deadline. This has the effect of increasing the time period to collect candidate petition signatures from 30 days to 90 days if a district waited until the deadline to make a change.

The Act also increases the deadline to complete tasks related to redistricting from 90-days prior to the filing deadline for the next annual school election to 120-days prior to the filing deadline.

In addition, the Act modifies the wording of the code to clarify that redistricting applies only in the calendar year following the redistricting process. This clarification was needed because there are two annual school election dates under current law and the sections governing redistricting only contemplate a single annual school election date.

SBEC / POST ELECTION

ACT 756 / House Bill 1803:

Modifications to the SBEC Complaint Process

This Act makes the following modifications to the law governing the SBEC's Complaint Process:

- Adds "institute corrective actions" as a measure which the SBEC has the authority to take in response to a complaint. The resolution of the complaint may also be conditional on the implementation of the corrective actions prescribed.

- Expands the time frame to file a complaint to 46 days before an election and 30 days after the election is certified by the CBEC. The effect of this change is to increase the current period to file a complaint from 60 days to a maximum of 91 days if the CBEC uses the total allotted time to certify an election.
- Redefines the jurisdiction of the SBEC in the broadest possible terms to include any law of general applicability (state or federal) which governs an election in the State of Arkansas.
- Makes the SBEC's current obligation to obtain a recommended resolution from the complainant discretionary.
- Requires the SBEC to notify a complainant who fails to meet the sufficiency requirements and allows the complainant 10 days to cure a complaint which omits a required element.
- Allows the SBEC to utilize local law enforcement to enforce a subpoena for any public record that is withheld.
- Requires the SBEC to provide additional information to a respondent against whom final action has been taken.
- Requires the SBEC to announce its final action resolving a complaint.

FUNDING OF ELECTIONS: The Act also clarifies existing policy that counties are responsible for funding the runoff for a general election unless otherwise provided by law. The Act also imposes a new requirement the CBEC to prepare and submit an estimated elections budget to the county judge and any other person(s) designated by the county judge. The Act allows the CBEC to accept in-kind support from other components of the county government.

[ACT 961](#) / House Bill 1866:

Private Funding of Elections

This Act prohibits the county board of election commissioners and the State Board of Election Commissioners from accepting private funds or any funding outside of governmental sources in the State of Arkansas or from the United States.

[ACT 952](#) / Senate Bill 498:

Reporting Written Complaints

The Act requires that the county board of election commissioners file all written complaints “concerning any election law violations or irregularities” with the State Board of Election Commissioners. The Act eliminates the requirement that these complaints be filed with the county clerk and the prosecuting attorney.

[ACT 1022](#) / Senate Bill 549:

Reporting the Disposition of Ballots

The Act requires the county election commission for each county to create and submit a report to the State Board of Election Commissioners for statewide aggregation and publication which provides the following information:

- The total number of Provisional Ballots
- The total number of Absentee Ballots
- The number of In-Person provisional ballots from early voting
- The number of In-Person provisional ballots from election day
- The total number of rejected ballots
- The reasons each ballot was made provisional or were rejected
- The number of provisional ballots which were counted
- The number of provisional ballots rejected and the reason those ballots were rejected
- A breakdown of the reasons rejected provisional ballots were cast by the type of ballot made provisional and the time it was cast
- The number of rejected ballots (other than provisional ballots)

[ACT 1051](#) / Senate Bill 582:

Training Requirements and Oath Taking

ELECTION OFFICIAL TRAINING: The Act provides that the SBEC will conduct a new type of training for county election coordinators. The CBEC shall designate one person from each county to attend the coordinator training. If the county does not have a person designated as a coordinator, the CBEC may select one of its own members or another appropriate person to attend the training.

In addition, the Act requires that all persons required to receive training coordinated by the SBEC must pass an examination of essential skills in order to receive compensation. This examination and the rules governing the examination process will be developed by the SBEC.

CBEC OATH TAKING: The Act clarifies that county election commissioners may take their oath of office from a judge, county clerk, city clerk, or justice of peace.

[ACT 974](#) / Senate Bill 644:

Legislative Review and Direct Administration of Elections by the SBEC

The Act requires the Attorney General to set up a complaint hotline to receive citizen complaints regarding violations of election law. The AG may conduct a preliminary review of the complaints to assess their validity and is required to

forward all complaints to the Joint Performance Review Committee of the General Assembly within 45 days of the certification of the election. The AG may also refer complaints to the prosecuting attorney's office and prosecutors may deputize the AG to prosecute matters in which the local prosecutor has a conflict. The Act provides that knowingly filing a false claim through the AG's hotline is a misdemeanor.

JPR may review the complaints and take steps to investigate the allegations which it receives. JPR may also report those findings to the State Board of Election Commissioners and is permitted to file a complaint with the SBEC after the general deadline to file a complaint has passed.

The Act also adds two new actions which the SBEC may take to resolve a complaint. The SBEC may decertify a county election official and the SBEC may "take over and conduct elections in the county in question." In order to directly administer an election, the SBEC must also find that the violation was "severe" and that the violation would threaten either the county's ability to conduct "an equal, free, and impartial election" or would threaten the appearance of the county's ability to conduct "an equal, free, and impartial election."

NOTICE IN THE POLL: The Act also adds a new requirement that information regarding the Attorney General's election law violation hotline must be posted in the polling site during voting hours.

ADDITIONAL ELECTION RELATED LEGISLATION

[ACT 421](#) / House Bill 1568:

Study of New Technology in Elections

The purpose of this Act is to require the House and Senate State Agencies Committees to conduct a joint study regarding election technology. This study is primarily designed to assess the feasibility of using biometric data and systems for tracking ballots. The study is to include, but is not limited to, the following areas:

- Use of facial recognition and fingerprint technology in voting;
- Assessing the feasibility and required changes to permit the voluntary use of ballot numbers to track a voter's ballot;
- Assessing the feasibility of mobile polling sites; and
- Any other technology that may "increase election transparency and security."

[ACT 735](#) / House Bill 1595:

Requirements for Electronic Voting Equipment

This Act articulates a requirement in statute which prohibits any connectivity or networking of voting machines or vote tabulators. All voting equipment currently in operation in the State of Arkansas already complies with the requirements of this Act.