

REPORT OF REIMBURSEMENT STUDY GROUP

In the State Board of Election Commissioners meeting held on April 13, 2011, Chairman Mark Martin appointed Commissioner Susan Inman to create a group to study the rules and guidelines for reimbursing counties for the expenses of state-funded elections with the purpose of improving the process of reimbursement. Those participating in the study group were Phylis McMoran, Perry County Election Coordinator; Bobby Bowen, Woodruff County Election Commissioner; Barbara Smith, Columbia County Deputy Clerk; and Saline County Deputy Clerks Darlene Westbrook and Linda Montalvo.

The Study Group's Task

A summary of the group's task, set out below, was provided to each member.

REIMBURSEMENT FOR STATE-FUNDED ELECTIONS

SUMMARY

In 1995 a federal appeals court found unconstitutional Arkansas' requirement that political parties pay for and conduct their own mandatory primary elections. The legislature then amended the Arkansas Code to provide for the state to pay the cost of primary elections through an appropriation to the State Board of Election Commissioners. See Code Section 7-7-201(a). Reimbursement is available for the preferential and general primaries, as well as special primaries and special elections called on statewide measures.

The State Board has propounded rules and guidelines for reimbursing counties for their election expenses. Those rules are found in the Election Commissioners Procedure Manual at pp. 115-126 and the guidelines, including forms and instructions tailored to each kind of state-funded election, are found at pp. 161-228.

The rules, guidelines and appropriations by the legislature for reimbursement of election expenses are based on the requirements for the administration of elections in the Arkansas Election Code. Covered costs include personnel, goods and other expenses required by the code, including:

- 1. Poll workers, up to six per poll (7-4-107; 7-4-112);*
- 2. Part-time help for early and absentee voting in the clerk's office (7-5-415);*
- 3. Part-time help for delivering election materials to the polls (7-5-211);*
- 4. Additional pay to poll workers as part-time help designated to deliver election materials to the cbec after the election (7-5-317);*
- 5. Part-time help for processing absentee ballots and tabulating the vote (7-5-416; 7-5-507; 7-5-529; 7-5-615);*
- 6. Training (7-4-109);*

7. Mileage for personnel to deliver election materials to and from the polls (7-4-112);
8. Election commission meetings as required by law (7-4-111);
9. Disposable supplies used during a covered election (see p. 122 of CBEC Procedures Manual);
10. Programming, testing and technical support (7-5-301; 7-5-515; 7-5-611);
11. Ballot printing (7-5-602; 7-10-102; 7-11-105 and 205; 7-5-406);
12. Advertising (7-5-202; 7-5-515; 7-5-611; 7-11-103 and 104); and
13. Polling places (7-5-101).

See generally pp. 120-126 in the commissioners manual.

It should also be noted that a combination of federal and state funds were used to purchase voting systems and the voter registration system (hardware and software) for each county. Additionally, the legislature recently created a grant program expected to provide about \$700,000 annually beginning in 2013 to provide funds for counties to purchase election equipment, maintenance contracts, programming, etc.

ISSUES WITH REIMBURSEMENT

After each covered election, the counties submit requests for reimbursement to the SBEC pursuant to its rules and instructions. The process of filling out forms and gathering receipts, invoices, payroll records and other materials to verify payment and receive reimbursement is complicated and time-consuming. When SBEC staff receives requests, it then pores through each submission to assure that each expenditure is actually a covered expense and is properly documented. This, too, is a laborious and time-consuming process. There is a great deal of correspondence back and forth between SBEC staff and the counties to work out issues regarding submissions, adding to the time required to process them.

A number of problems with the reimbursement process have been noted, and this study group is being asked to look at those problems with an eye toward determining whether an easier, fairer, quicker process can be developed. The issues identified so far include the following:

1. *Complicated procedures.* *The rules, forms and guidelines established by the board are more complicated than they need to be. Although SBEC staff is flexible regarding the format in which documentation is received, there is still some uncertainty among the counties regarding how to get fully reimbursed. It is rare for any county to submit a "correct" reimbursement request (one that contains no exceptions) on the first try, and counties often ask for reimbursement for items that cannot be paid or which they cannot properly document.*
2. *Reluctance to ask.* *Counties are reluctant to ask questions or submit supplemental requests for items that have been denied.*

3. Ineffective communication. *Who requests reimbursement? It has been suggested that information supplied by SBEC to the counties regarding reimbursement should go to the county judge, rather than to the cbec . It is the county itself that has paid the expense and is being reimbursed and it is, or should be, a person designated by the county administration rather than the cbec that should be in charge of requesting reimbursement.*
4. Non-covered expenditures. *Not all of the expenditures that counties make for covered elections are reimbursable under the rules and within the amount appropriated by the legislature. For instance election coordinators and other county employees or contractors who may be employed to assist the cbec in the performance of its duties cannot be reimbursed under the rules. Capital costs, costs for storing equipment and costs for re-usable supplies (like batteries for voting machines) are also not covered.*

THE STUDY GROUP'S TASK

Regarding the issues set out in #1 (procedures too complicated) it is hoped that this study group can examine the rules, guidelines and forms and propose recommendations for changes that will streamline the process. It should be noted that time is somewhat of the essence for rules changes. The rule-making process itself is somewhat long and complicated, and any changes in the rules must be made in time for the SBEC to prepare candidate handbooks and training manuals for the 2012 election cycle. The State Board plans to meet on May 25 to consider proposed rule changes so this group should plan its study to meet that deadline for any proposed rule changes.

Regarding issue #2 above (reluctance to ask), the group should explore interactions and relationships between SBEC and the counties and suggest ways in which those processes can be improved.

Regarding the concern expressed in issue #3 (ineffective communication), the group should study ways in which all communications can be improved, including especially the direction of communication regarding reimbursement.

Finally, the group should explore ways that more of the expenses directly related to covered elections can be reimbursed (see issue #4). It should be noted in this regard that counties will receive only the amounts appropriated by the legislature, and that it appears that additional appropriations may be difficult to obtain in the near future. Basically, under current practice all appropriated funds are sent to the counties every biennium. If coverage of additional expenses is recommended, those expenses can only be reimbursed if the legislature appropriates additional funds. It should also be noted that there were attempts made in the 2007 and 2009 legislative sessions to provide state funding for coordinators and that those attempts failed. Probably anything that can be done regarding this issue will have to be done legislatively in the 2012 fiscal session or the 2013 regular session.

The group is also encouraged to study and discuss any other issues regarding reimbursement and report any additional recommendations it may have.

Recommendations of the Study Group

The group met in the offices of the State Board of Election Commissioners on May 5, 2011, with Commissioner Inman chairing. All members attended as well as SBEC Director Suzie Stormes and Legal Counsel Tim Humphries. The group discussed a wide range of issues related to reimbursement, reviewed the rules, guidelines and forms and made the following conclusions and recommendations:

1. Online filing: SBEC staff will explore providing as an option the use of "fillable" forms that can be filled in by the county's preparer on a computer and the use of Excel workbook and/or a database that counties can use to file for reimbursement. It was understood that supporting documentation would continue to be submitted in hard copy.
2. Preparers: Provide that county election commission can choose the person who prepares the reimbursement forms, and the only necessary signature for submission of reimbursement requests should be that of the preparer, rather than that of each county election commissioner. It was understood that the election commission could continue to be as involved as it wants and can require review and sign-off by commission before submission.
3. Poll Worker Reimbursement Form: Change the instructions to "Attachment A" (the poll worker reimbursement form) to clarify that the preparer can attach any county-generated documentation that shows the required information, instead of manually filling out the form.
4. Rules: Change State Board Rules for Reimbursement to allow overtime pay for county clerk's extra help for absentee and early voting and for offsite early voting poll workers.
5. Research: SBEC staff was asked to research requirements related to payment of worker's compensation and FICA matching by the counties. That research is underway.
6. Communication about the process: It was noted that in some counties, local budget officials (county judges, treasurers, etc.) sometimes misunderstand the amount of effort and documentation involved in the reimbursement process and sometimes consider the SBEC's rejection of some claims as a sort of shortcoming of the preparer. In fact, some mistakes, especially on initial submissions, are unavoidable or otherwise completely understandable. The fact that a mistake is caught by staff in the review process is no reflection on the competence or intentions of the preparer. It was also mentioned that there is some confusion on the part of some local officials about varying rates of pay, for instance for poll workers, among the counties.

In order to address this problem, it was determined that election commissions should communicate directly and personally with local county officials, especially with justices of the peace and county judges, about the financial aspects of elections, including reimbursement by the state. Also, SBEC staff will study ways to provide information to county judges, treasurers, etc. about the reimbursement process and reinforce with them that absolute precision is not required in preparing reimbursement requests; that the important thing is that the county get fully reimbursed under the rules for all allowable election expenses, not that the preparer fills out the forms perfectly; and that some counties pay more than others (for poll workers, election commission meetings, etc) and, indeed that some counties pay more than they can be reimbursed under the rules, but that is the county's choice (in the appropriation process) and the state will only reimburse up to any maximum amount set in its rules.