

Justin Clay

From: Karan Skarda
Sent: Tuesday, April 16, 2013 12:49 PM
To: Justin Clay; Humphries Sbec
Subject: Phone Message

A poll worker requests that we include in our Rules that Concealed Carry Permits are a form of acceptable ID at polls.

Also, she thinks it would be a good idea for us to provide a "No Weapons Allowed in Polling Site" sign.

Karan Skarda
501 Woodlane, Suite 401 N
Little Rock, AR 72201
(501) 682-1856
(800) 411-6996
www.arkansas.gov/sbec

From: Stu Soffer [mailto:stusoffer@sacglobal.net]
Sent: Friday, June 21, 2013 3:22 PM
To: Humphries Sbec
Subject: My Input On the Rules

Rules for Poll Worker Training

§202 Required Training in item

1) include a provision that those selected to be certified as a trainer be able to provide effective training to a diverse audience.

Rules for Appointment of Certified Election Monitors.

If an election monitor is approved for a partisan election, two monitors – one from each political

§ 1001 Remove “notarized” and make the corresponding change on the form.

§ 1002 Add an additional paragraph,

“If the election to be monitored is between candidates of two different political parties, two monitors will be dispatched, one from each political party. If the election to be monitored is between candidates of the same political party, the monitor dispatched will be from the other political party.”

§ 1005 Duties of Election Monitors change the last bullet to read,

“Complete a state board provided checklist for each polling site or counting location visited.

the monitor should prepare “a checklist” for each polling site visited, spending a minimum of 30 minutes observing at each location.

Rules on Poll Watchers, Vote Challenges and Provisional Voting.

§ 906 Notice to Provisional Voters

(a) line 4 change to read words to the effect, “That the provisional voter will be notified if his or her vote was not counted and the reason why by first class mail. If a provisional voter DOES NOT receive a notice, their vote was counted.

Provisional voter envelope statement above the signature line be removed and information incorporated into the voter notice addressed in § 906. If HAVA precludes this, then insert a block requiring the voter to initial to request being notified in both accounts. The way this statement is currently worded leaves a voter no option to opt-out of being notified because they are required to sign the envelope regardless of their preference thereby triggering notification by mail. Notification by mail for disallowed provisional ballots and affording the voter a hearing opportunity is already a mandatory action covered elsewhere.

Rules for Voter Identification.

§800 Definitions in (b) Proof of Identity,

(1) and (3)(i) are duplicates and (i) should be deleted.

(b)(1) add a semi-colon after 2013;

(2) (c) has “the Untitled (sic) States rather than the federal government. That is the language in Act 595. Insert the caveat (federal government) after “States.”

(3) Insert “all of” in the first line between “the” and “above” and “(i.e. (2) (a), (b), (c) and (d))” after above so the sentence reads, so it reads “all of the above (i.e. (2) (a), (b), (c) and (d))”

§802 Poll Worker Assessment of Validity of Proof of Identity remove (7) because the Act does not contain any provision for a poll judge to make a call in the event there is a dispute whether the photo identification presented is that of the voter or not. The Act is clear if there is doubt, the individual is voted on a provisional ballot and the county board makes the determination.

The alternative is asking the voter to provide a second form of identification to substantiate who they are. Not necessarily a photo ID but perhaps a credit card, and this can be covered in training.

Justin Clay

From: larry crabtree [REDACTED]
Sent: Sunday, June 23, 2013 9:51 AM
To: Justin Clay
Subject: Re: SBEC Proposed Rules for Public Comment & Public Hearing Date

Justin, I would only like to add that as for our county (Cleburne) we are happy with the rules for voter identification just as they are with no changes. Thank you,.

On Fri, Jun 21, 2013 at 1:03 PM, Justin Clay <clay.sbec@sos.arkansas.gov> wrote:

Dear County Commissioners, Clerks, and Coordinators,

The attached proposed rules were approved for public comment by the State Board at its meeting held on June 19th. The notice of rulemaking is also attached and will be published in the 6/22 - 6/24 editions of the Arkansas Democrat Gazette. The proposed rules may also be viewed on our website at www.arkansas.gov/sbec.

A public hearing on these proposed rules will be held on July 17, 2013, at 10:00 a.m. in the Board's Conference Room located at 501 Woodlane, Suite 401N, Little Rock, Arkansas.

Written comments regarding these proposed rules must be received no later than 4:30 p.m. on July 23, 2013. Comments should be sent by email to info.sbec@sos.arkansas.gov or by mail to:

Arkansas State Board of Election Commissioners, 501 Woodlane, Suite 401N, Little Rock, AR 72201.

Please feel free to contact us if you have any questions or if we can provide you with any additional information.

Thank you,

Justin Clay

Director, State Board of Election Commissioners

**501 Woodlane, Suite 401 N
Little Rock, Arkansas 72201
(501) 682-1013**

(800) 411-6996

www.arkansas.gov/sbec

Justin Clay

From: Shannon Carroll [REDACTED]
Sent: Tuesday, June 25, 2013 10:02 AM
To: INFO.SBEC
Subject: voter id

I am wishing to state my approval of the proposed new voter identification laws. I am proud to show my id when I vote.

Is this the correct address to send my comment? please advise.

Shannon carroll

[REDACTED]
[REDACTED]

RECEIVED

JUL 17 2013

S.B.E.C.

Ginna Watson, Chair
Garland County Election Commission
June 24, 2013

Written Comments for Public Hearing, July 17, 2013 State Board of Election Commissioners.

1. Delineation between "precinct" and "polling location/site" needs to be listed in definitions. (See comment for § 204; paragraph 2; Page 5.

RULES FOR POLL WORKER TRAINING

§ 201 (4) Page 3. If the person is listed on the Precinct Voter Registration List, and is not a felon, how is the poll worker to know whether or not they have been found guilty or pled guilty or nolo contendere to the violation of any election law of this state unless election violations are all felons? If so, why not say, "Found or pled or nolo contendere of guilt of a felon?" If they are a felon they are usually identified, except when a felon in another state.

§ 204; paragraph 2; Page 5 Compensation for Poll Worker Training Attendance
A county is eligible...up to a maximum of six (6) eligible poll workers **per precinct per polling site**". In this case, one polling location in Garland County serves eighteen precincts. Therefore, $6 \times 18 = 108$ poll workers at one polling site would be eligible for pay. Another polling site serves sixteen (16) precincts. That's my point.

RULES ON POLL WATCHERS, VOTE CHALLENGES, AND PROVISIONAL VOTING

§ 900(A) Absentee Ballot Processing Site - a place designated by the county board of election commissioners ~~in the courthouse~~ where election clerks... Garland County processes Absentee Ballots at the Commissioner's office/building.

§ 903 (a) Paragraph 3; Page 11. Poll Watcher Challenges

A candidate may be present in person at early voting locations ~~only for the purpose of observing or~~ during the counting and tabulation of ballots and processing..." The presence of candidates during voting, except for the candidate voting and leaving, opens electioneering at its worst. The presence of a candidate at a polling location is disruption enough because people look at the candidate as a celebrity and draw attention to him or her. The candidate does not have to speak to the voter. Shaking hands, smiling at individuals, certain movement, even innocent on the part of the candidate, is electioneering because of the celebrity of the candidate. During the last General Election a candidate walked in to vote and a voter announced to the room, "I promised I would vote for you but they would not let me." His response was, "Of course you couldn't, honey. You aren't in my District". Another incident occurred when a relative of a candidate began introducing him to the poll workers

while people were voting. Exchanges such as this will increase, even subtly, electioneering if a candidate is allowed to be present in polling locations, "...for the purpose of observing..." He or she observes right into electioneering. The candidate has Poll Watchers to observe. It should not be the candidate.

§ 906 (a) Next to last sentence. Page 14 Notice to Provisional Voters
~~"An explanation of the provisional voting process"~~ is to be given to the provisional voter. We have already given them a written statement that a letter that will be sent regarding whether or not their vote counted and information about a public hearing to be held. To go into detail about what constitutes a Provisional Ballot will be lengthy and only serves to confuse the voter².

§ 910 Prosecuting Attorney

Have the attorneys been advised of this? One incident of voter fraud was presented to the local prosecuting attorney who told the election official that it had to be turned into the police and the police then had to refer it to the prosecuting attorney, if warranted.

Attachment "B" LIST OF PROVISIONAL VOTERS

~~Precinct #(s)~~ _____ Page 20 of 20

Garland is a small county when compared with others and we have 73 precincts. For this form we would need 73 forms at each of the 26 polling sites. We suggest that you include a **Column Pct. #** and we can use this one page for 20 voters and more pages of 20 voters per page if necessary.

RULES FOR REIMBURSEMENT OF EXPENSES FOR STATE-FUNDED ELECTIONS

§ 500 Definitions Page 3

(g) Last sentence, "...Justice of the Supreme Court, Judge of the court of appeals, circuit judge, and district judge.⁵" Does this include the office of Prosecuting Attorney now?

§ 506 (A) Eligible State-funded Election Expenses fourth paragraph

This addresses the minimum wage to be paid to poll workers. It is our belief that Chief Judges should be paid more than regular poll workers. The Chief Judge has a lot more duties that carry more responsibility than the other Poll Workers. Poll Workers turn to the Chief Judge when voter problems arise, the Chief Judge is responsible for end of Election Day reporting and seeing that the site is properly set-

up in accordance with election laws, etc. Chief Judge also has the responsibility of securing the election site and delivering voted and not-voted ballots back to election headquarters. Chief Judges should receive more than minimum wage.

Last Paragraph: Again, counties are eligible to have six poll workers per precinct. Garland County has 173 precincts. We are eligible to bill for four hundred and thirty-eight (438) poll workers the way this is written. Actually we need 6 poll workers at some sites and 12 at other sites. Of the six, four are voter intake, one is Chief Judge and one is Sheriff. We have one site that processes between 1,200 and 1,400 voters per day. At that site, we need twelve (12) poll workers.

The county board should be allowed to hire the number of poll workers it takes to provide excellence in service to the voters. Hiring six at a site that processes only 400 voters a day and six for a site that processes 1,300 per day just does not work. We know how many poll workers to hire based on years of experience.

§ 506 J. Facility Fees

It is difficult to retain polling sites for \$40 per day. With the cost of utilities, sites are complaining and some have cancelled because they find that holding elections at their facility is actually costing money. Rental for facilities should be raised to at least \$60 per day if not \$65. After all, we are using the facility up to thirteen (13) hours on Election Day, using their refrigerator, microwave oven, climate control, electricity and they have to pay someone to open and close the site. Also, sites must meet Federal regulations for the handicapped.

PROPOSED RULES FOR VOTER IDENTIFICATION

§ 800 Definitions

- 3 (b) A photo identification card with current name;
- (c) A concealed handgun carry license with photograph;
- (e) An employee badge or identification document with photograph;
- (g) A student identification card with photograph issued by an accredited postsecondary educational institution in the State of Arkansas.

We think voters will attempt to check-in with documents that meet the criteria of employee badge, school card, handgun license, and identification card that does not have a photograph unless this is spelled out for the general public. Sometimes when we work in a particular profession, we are not aware that we assume the general public grasps the requirement of "Documents or Identification cards that comply with the above requirements...."

§ 802 POLL WORKER ASSESSMENT OF VALIDITY OF PROOF OF IDENTITY

(5) If the voter's name is different from the name in the Precinct Voter Registration List or the name as stated by the voter but the poll worker is satisfied that the voter is the person depicted in the photograph, issue the person a regular ballot **after** the voter completes a voter registration application form...

It has been our experience, especially when the polls are very busy, if we wait until the voter has voted, they easily walk out and we do not get the change. If we require them to make the change prior to voting, it is a positive action to keep voter records updated.

§ 810 IDENTIFICATION REQUIRED WHEN VOTING ABSENTEE

...voter must submit with the ballot a copy of current and valid photo identification, ~~or a copy of current utility bill, bank statement, government check, paycheck or other government document that shows the name and address of the voter.~~ Why reduce requirements for absentee voter? If they can obtain a copy of their utility bill, etc., surely they can copy a current photo identification card.

We are promoting voter fraud by reducing requirements to absentee voters. Also, we are giving preference to particular group of voters. We are discriminating against voters who come to the poll and are required to have a photo identification card. We are promoting increased absentee voting for people who just do not want to show a photograph identification card. We are allowing one particular group of people to circumvent the law. Absentee voters should be required to include a copy of a photo identification card just like all other voters except those confined to a long-term care facility, where the administration provides the proof of identification.

Often we receive absentee ballots with another person signing the voter's name. Sometimes we receive, "John Doe, signed by Jane Smith" - on the signature line. We cannot count that vote. We must have the voter's mark or signature. If some one can bring the ballot to the voter, sign it and turn it in, then they could surely help the voter obtain a voter identification card.

When people tell me that we are disenfranchising voters, my reply is that if they are really concerned they will work through one of the major political parties and provide transportation for the voter to have a photo identification card made at the County Clerk's office. There may be a few cases where someone must help the frail and elderly to obtain a photo identification card but the majority of the Absentee Voters are on vacation or prefer the comfort of staying home instead of driving to the poll.

Comments of AARP on “Proposed Rules for Voter Identification,
Arkansas State Board of Election Commissioners, July 2013

To Arkansas State Board of Election Commissioners:

Thank you for the opportunity to comment on the proposed rules setting forth the procedures for processing and administering the voter identification requirements of Act 595 of 2013. AARP is a nonprofit, nonpartisan organization with a membership that helps people turn their dreams into real possibilities, strengthens communities and fights for issues that matter most to families. AARP is dedicated to addressing the needs and interests of older persons, including the right to vote and participate in our political system. AARP has over 318,000 members in Arkansas, dedicated to making life better for people age 50 and over. We provide information and resources and engage in legislative, regulatory and legal advocacy.

AARP opposed SB 2, now Act 595, because the right to vote is the most basic of all political rights. Older individuals, including persons with views all across the political spectrum, vote in disproportionately high numbers. AARP has long advocated for adoption of fair and simple procedures that would facilitate and even enhance this high level of participation. **Overall, AARP is concerned that the proposed rules implementing the voter ID requirements will create more voter and poll worker confusion and delays. Nothing in the proposed rules addresses how voters and poll workers will learn about the new identification requirements, exemptions to the law, and extensive provisional ballot requirements before the next election.** Moreover, the new requirements for voter identification are different for different types of voters – certain first time voters, residents of long-term care and residential facility voters and absentee voters – making it even more likely that both voters and poll workers will face

confusion on Election Day. As was seen across the country in the 2012 elections, long lines and delays at the polls resulted in lost votes. AARP believes that the impact of the new voter identification requirements will have particularly negative impacts on older voters who are less likely to have the required “proof of identity,” less able to stand in long lines while waiting to cast a ballot, and less inclined to return in-person to prove their identity before a provisional ballot will be counted.

Specifically, we have the following concerns with the proposed rules:

1) Section 800(c) permits an exception to “proof of identity” requirements for voters who reside at a long-term care or residential care facility. In general, AARP applauds this provision for affording a largely vulnerable and disproportionately frail (and older) population flexibility in regard to voter ID requirements likely to greatly enhance their ability to vote. AARP is confident that such flexibility will come without producing any material risk of undermining objectives of the voter ID law. That said, however, the proposed rules would drastically limit the flexibility the statute grants to administrators of such facilities to issue “proof of identity” for residents prior to voting. While the statute imposes no restrictions on the date of issuance of such “proof of identity” by administrators of such facilities, the proposed rules would require that “proof of identity” documentation be “signed by the administrator of the facility and dated no earlier than one day before the date early voting begins” (Proposed Rules, p. 4) (Emphasis added).

AARP is concerned that this may not permit sufficient time for such documentation to be distributed to voters in time for early voting. Moreover, it would require the administrator of a long-term care or residential care facility to know when early voting begins, and thus, will likely add confusion and delay for those who otherwise could benefit from this exemption.

Under current Arkansas voting law, early voting can begin either 7 or 15 days before the election, depending on the type of election being conducted. (A.C.A. Sections 7-5-418 (a) (1) (A) and (a) (2)). Long-term care and residential facility administrators may be unaware of when early voting is permitted and which length of time applies. **AARP urges the Commission to authorize a much more flexible regime for issuance of long-term care and residential facility documentation prior to the start of early voting: perhaps as much as a week to ten days in advance.** The goal should be to provide residents a robust opportunity to vote early, not merely a theoretical opportunity, and indeed to encourage early voting, a practice supported by AARP. Among the benefits of early voting is its effect in easing the challenges and burdens of election-day voting on all concerned. Additional time (seven to ten days at least) would help assure timely notice to residents of early voting times, locations and procedures, and thus, allow residents to make necessary arrangements to allow them vote early.

To further advance the voter ID law’s goal of affording residents of long-term care or residential care facilities licensed by the State a chance to vote without voter ID, AARP also recommends that the State Board amend its proposed rules to add provisions: (i) requiring all operators of such facilities to produce “documentation” that “may be used by any resident named” at the polls in lieu of proof of identity,” (ii) requiring all such operators to timely provide to all such residents a copy of such documentation; and (iii) requiring State licensing authorities to notify operators of these duties no later than two months prior to the start of any early voting period prior to an election, or prior to the election, if no early voting period is set.

2. AARP also recommends adding to Section 800 a definition of “public assistance” to clarify what constitutes a federal or state “public assistance identification card” that complies with new Arkansas Code Section 7-1-101 25 (B)(viii). **AARP urges the State Board to broadly define the term “public assistance” so as to encompass any form of cash or non-cash assistance provided to individuals by a**

federal or state entity or by an agent of such an entity, for which a card is used by or provided to individuals in connection with their receipt of such assistance.

3. Section 802 requires poll workers to make a series of subjective judgment calls as to whether or not the voter's required "proof of identity" is consistent with the name and appearance of the voter. AARP is concerned that this process will place a heavy burden on poll workers, afford opportunities for arbitrary denials and cause delays in voting. The potential for worker confusion and selective (i.e., arbitrary and/or discriminatory) enforcement are great. Poll workers must be adequately trained to resist arbitrary judgments, to ignore partisan or otherwise discriminatory influences, and to grasp all the nuances of the photo identification requirements. The latter include the challenge to determine which documents and photo IDs are acceptable, who should ask for the IDs, what is the protocol for attending to persons lacking proper ID and providing voter access to a provisional ballot. **At present, nothing in the proposed rules addresses how poll workers will be trained to carry out with fairness and consistency the task of comparing photographic identification of each voter to the physical characteristics of the voter standing before them on early voting days or Election Day. AARP recommends that the proposed rules be amended to address this.**

4. Sections 804-809 create an extensive provisional ballot process that will likely lead to uncounted votes that would otherwise have been valid. Provisional ballots are valid only when counted and many provisional ballots are not. Under the law and proposed regulations, a provisional ballot will not be counted in the election results unless the voter brings to the county clerk or board of election commissioners the approved "proof of identity" or an affidavit of indigence or religious objection by 12:00pm noon on the Monday following the election. Disenfranchisement concerns are especially acute

for individuals forced to file provisional ballots, as they are often counted after candidates concede or declare victory.

AARP recommends that the proposed regulations be amended to include procedures to encourage voting officials to minimize the number of persons required to vote with provisional ballots instead of regular ballots, and further, to fully account for and explain any discrepancies between that number of provisional ballots that are submitted on Election Day and the number initially counted by 12:00pm noon on the Monday following the Election.

If you have any questions or need additional information, please contact Herb Sanderson at

██████████ or ██████████

Sincerely,



AARP Arkansas, State Director

Washington County Election Commission Comments:

RULES ON POLL WATCHERS, VOTE CHALLENGES AND PROVISIONAL VOTING

Page 4

900 Definitions

(b) Include proof of insurance, if it has voters' physical address or vehicle registration (Most of these voters will not realize that they will need two forms of ID to vote, in the past only one would have been needed) If we can use proof of insurance or vehicle registration then there is a chance that the voter might have the second form with them, otherwise most of these voters will have to vote provisional) (I know that the list is not a complete list of all acceptable ID's however adding this to the list given out to trainers and poll workers will let them know to use it)

In the Rules for Voter Id additional identification is not needed for first time voters if "a flagged voter who presents a valid proof of identity that is also current (not expired) may vote without presenting an additional identification document. So does this apply to the above?

Page 13

Absentee ballots considered provisional ballots: in the past we have marked on the outer envelope that the absentee ballot was sent back in, the reason for not counting. This extra step is not necessary of placing each individual in their own individual envelope. We keep the ballots separate and a tally sheet with all the reasons for not counting the absentee ballots is included with those ballots. Our canvassers worked from 9:00 until 6:00 election day canvassing ballots and this extra step, along with the new regulations for ID for counting absentee ballots will only slow the process down more. It would be a good idea to have a step by step guide to canvassing ballots, with easy to understand instructions.

Page 14

906 Notices to Voters

Only the address, telephone number and regular office hours of the county clerk need to be printed. Any of the deputies would be able to handle their questions. This would be for reprinting purposes, a generic form is better. Washington County is looking at having provisional ballots made with a tear off sheet to give to the voter; this would allow us to continue to use the same sheet even if the County Clerk changes. The office hours and phone number won't change.

The date, time, and address of the hearing should not be included: This information is included in the letter that the Election Commission mails to the voters concerning the hearing for the provisional ballot. The date, time, and address (or room) may not be known on Election Day, and will change for every election. This would require new forms to be printed every election. Events that occur on Election Day, the number of provisional ballots voted (it takes time to go thru all the ballots and mail letters to get to the voters in a timely manner) all determine the meeting schedules of the Election Commission after an election

RULES FOR POLL WORKER TRAINING

Page 4

One poll worker at each site attend election training within 12 months prior to any regularly scheduled election: In an odd number year, then this only applies to a School Election, correct? and can training be conducted by the trainers certified from the previous year? Also the state should pay for this training since it will now be required by law.

PROPOSED RULES FOR VOTER IDENTIFICATION

Page 4

(2) Comparison of the numbers: if the card came from the county clerk's office, then the numbers should be the same as what is in the precinct voter registration list

Page 5

805 Submission of Proof of Identity

The language is clear that the voter has until Monday at noon to present their id to the County Clerk's office, however it also needs to be made clear that the voter after casting a provisional ballot for failure to present ID that they cannot come back to the Polls on Election Day to show ID or to the County Clerk's office on Election Day to show ID. At the County Clerk's office the information will not be there until Wed. Also during Early Vote, if a voter decides to vote a provisional ballot because of failure to have ID, they should not be allowed to come back until Wednesday after Election Day.



Rockefeller Republican Center • [REDACTED] • Little Rock, AR 72201 • [REDACTED] • [REDACTED] • www.arkansasgop.org

State Board of Election Commissioners
501 Woodlane, Suite 401 N
Little Rock, AR 72201

July 19, 2013

RE: PUBLIC COMMENTS REGARDING PROPOSED RULES FOR VOTER IDENTIFICATION AND RULES ON POLL WATCHERS, VOTE CHALLENGERS AND PROVISIONAL VOTING

Dear State Board of Election Commissioners Staff:

The Republican Party of Arkansas has concerns regarding the following sections of the proposed rules.

Definitions

1) Section 800 (c) Documentation from the Administrator

This proposed rule definition is inconsistent with the Rules promulgated by the Secretary of State (See Secretary of State Proposed Rules 3.0 Definitions section 3.03).

Voter Identification

1) Section 801 Proof of Identity required when voting at the polls

There needs to be a section addressing absentee voting for voters who live in long-term or residential care facilities. They may be voting absentee instead of early or on Election Day. They could be visiting family or in the hospital or want to vote absentee because they would be out of the precinct during the election for any number of reasons.

Was it the intent of the Author of the implementing legislation to leave absentee voters out of this section? That should be clarified.

2) Section 802 (5)

If the voter's name is different than the name in the precinct voter registration list there is a specific procedure to follow in Section 7-5-321 of the Act. If these rules do not follow and include that procedure they are outside the Scope of the enabling legislation.

3) **Section 803** Federal law must be followed for this section and it appears that it has been but this should be confirmed.

4) **Section 810** Identification required when voting absentee

Should address absentee voters from nursing homes and add letter from administrator of nursing home as a form of identification.

This section should include clarification to address what procedure will be followed should voters send in original identification documents such as Drivers license or student identification. Will those documents be returned and by whom and in what time frame. How will the submitted information be protected?

The last two paragraphs of this proposed rule should be eliminated as they go beyond the authority of the State Board of Election Commissioners.

Arkansas ballot applications and voter statements are currently governed by the Arkansas Code (Arkansas Code Annotated sections 7-5-404, 7-5-409 and 7-5-410). Those code sections provide specific details concerning what should be included in both documents. The State Board of Election Commissioners may not add to what is specifically required by the Code, in our opinion. A rule or regulation may not go beyond the scope of the Arkansas Code. We do not find any language in the implementing legislation authorizing your agency to implement either the section on absentee ballot applications or voter statements.

The Legislature has clearly claimed this area and provided specific information as to what should be included. The State Board is not allowed to add to the requirements provided by the Legislature.

Arkansas Code provides that a voter or group may create their own absentee ballot application and states that the application will be accepted IF the application includes the information provided in statute.

It will be very confusing for voters, clerks and third party organizations that create their own absentee ballot applications if the requirements are "added" by Rule. This is especially true because the Legislature did not specifically authorize the State Board of Election Commissioners to promulgate rules concerning either of these areas. It provides the potential for litigation because there is no statutory authority for creating rules in these areas.

We also believe it is important to note that the 2013 Legislature considered a bill that would have changed the requirements on what should be included on a voter statement (See HB 2068). While this bill did pass the House, it did not pass in the Senate. The Legislature considered making a change here but chose not to act. The State Board of Election Commissioners certainly should not have the authority to take action the Legislature chose not to take.

The general rule-making authority granted to the State Board of Election Commissioners does not allow the Board to propose rules in substantive areas where the Legislature has provided specific detail as to how that substantive area of law should be handled.

The State Board of Election Commissioners has traditionally promulgated rules concerning election-day procedures, poll workers counting of votes, election monitors, filing fees for nonpartisan positions, election expenses and how counties may be reimbursed for their election expenses. For the Board to now attempt to expand its rules to govern new areas like absentee ballot applications and voter statements could look to some like an effort to assume roles granted to other areas of our government.

Rules on Poll Watchers, Vote Challenges and Provisional Voting

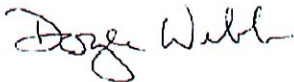
Section 900(g)

This section is apparently inconsistent with the Secretary of State Rule 16.01 and 16.02 and therefore should be changed to conform by deleting "dated no earlier than one day before early voting begins".

Most significantly this language, highlighted above, is beyond the scope of the statute and should be stricken. See A.C.A. section 7-5-201(g).

This concludes comments on the proposed rules.

Respectfully,

A handwritten signature in black ink that reads "Doyle Webb". The signature is written in a cursive style with a large, looped 'D' and 'W'.

Doyle Webb
Chairman



ARKANSAS SECRETARY OF STATE

MARK MARTIN

July 23, 2013

Sent via Hand Delivery

Mr. Justin Clay, Director
State Board of Election Commissioners
501 Woodlane Dr., Suite 401 N
Little Rock, AR 72201

RECEIVED

JUL 23 2013

S.B.E.C.

Re: Proposed Rules for Voter Identification

Dear Justin,

I write to confirm some of the issues that we discussed during our meeting yesterday on the Proposed Rules for Voter Identification.

First, the language in Section 800 (c) of the State Board's proposed rules concerning "Documentation from the Administrator" is inconsistent with the language in the rules proposed by the Secretary of State's Office. As we discussed, the inconsistencies can be easily resolved.

Second, the language in Section 810 concerning the absentee ballot application form causes problems. As you know, absentee ballot applications are generated by the electronic voter registration system. Due to the time that it takes to plan and implement the necessary coding, that change cannot be made in the voter registration system for the 2014 primary elections. It is possible that a change could be implemented for the 2014 general election, but it is not guaranteed. I question whether it is advisable to change the "rules" between a primary and general election.

Also, as you know, Act 595 of 2013 did not include this requirement and no funds were appropriated for the changes requested by the State Board.

The Secretary of State is committed to ensuring that the public is aware of the identity requirements included in Act 595. I hope that that we can work together to achieve this mutual goal.

I look forward to working with you to resolve these issues. Should you have any questions, please do not hesitate to contact me.

Sincerely,

Martha Adcock
General Counsel

