

Arkansas Code of 1987

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Title 7

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Elections

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Chapter 1 General Provisions

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7-1-101. Definitions.

As used in this title, unless the context or chapter otherwise requires:

(1) “Administrator” means the administrative head of a long-term care or residential care facility licensed by the state who is authorized in writing by a patient of the long-term care or residential care facility to deliver the application for an absentee ballot and to obtain or deliver the absentee ballot to the county clerk;

(2) “Affidavit of eligibility” means an affidavit signed by a candidate for elective office stating that the candidate is eligible to serve in the office he or she seeks;

(3) “Audit log” means an electronically stored record of events and ballot images from which election officials may produce a permanent paper record with a manual audit capacity for a voting system using voting machines;

(4) “Authorized agent” means a person who is identified and authorized to deliver the

application, obtain a ballot, and deliver the ballot on the day of the election to the county clerk for an applicant who is medically unable to cast a ballot at a polling site due to an unforeseen medical necessity as set forth in an affidavit from the administrator of a hospital or long-term care or residential care facility;

(5) “Canvassing” means examining and counting the returns of votes cast at a public election to determine authenticity;

(6) “Certificate of choice” means a certificate, signed by an executive officer of a political group that submits a petition to place its candidates for President and Vice-President on the ballot, designating the names of its candidates to appear on the ballot;

(7) “Constitutional officers of this state” means the offices of the Governor, Lieutenant Governor, Secretary of State, Attorney General, Auditor of State, Treasurer of State, and Commissioner of State Lands;

(8) “Counting location” means a location selected by the county board of election commissioners with respect to all elections for the automatic processing or counting, or both, of votes;

(9) “Designated bearer” means any person who is identified and authorized by the applicant to obtain from the county clerk or to deliver to the county clerk the applicant's ballot;

(10) “Election official” or “election officer” means a person who is a member of the county board of election commissioners or a person who is a poll worker designated by a county board of election commissioners to be an election clerk, election judge, or election sheriff;

(11) “Electronic vote tabulating device” means a device used to electronically scan a marked paper ballot for the purpose of tabulation;

(12) “Fail-safe voting” means the mechanism established under the National Voter Registration Act of 1993 that allows a voters who has moved within the same county to vote at his or her new precinct without having updated his or her voter registration records;

(13) “First-time voter” means any registered voter who has not previously voted in a federal election in the state;

(14) “General or special election” means the regular biennial or annual elections for election of United States, state, district, county, township, and municipal officials and the special elections to fill vacancies therein and special elections to approve any measure. The term as used in this act shall not apply to school elections for officials of school districts;

(15) “Majority party” means that political party in the State of Arkansas whose candidates were elected to a majority of the constitutional offices of this state in the last preceding general election;

(16) “Marking device” means any approved device for marking a paper ballot with ink or other substance that will enable the votes to be tabulated by means of an electronic vote tabulating device;

(17) “Member of the merchant marine” means:

(A) An individual employed as an officer or crew member of:

(i) A vessel documented under the laws of the United States;

(ii) A vessel owned by the United States; or

(iii) A vessel of foreign-flag registry under charter or control of the United States;

(B) An individual enrolled with the United States for employment or training for employment or maintained by the United States for emergency relief service as an officer or crew member of any such vessel; or

(C) As defined in the federal Uniformed and Overseas Citizens Absentee Voting Act if different from the definition stated in this subdivision (17);

(18) “Minority party” means that political party whose candidates were elected to less than a majority of the constitutional offices of this state in the last preceding general election or the political party that polled the second greatest number of votes for the office of Governor in the last preceding general election if all of the elected constitutional officers of this state are from a single political party;

(19) “Party certificate” means a written statement or receipt signed by the secretary or chair of the county committee or of the state committee, as the case may be, of the political party evidencing the name and title proposed to be used by the candidate on the ballot, the position the candidate seeks, payment of the fees, and filing of the party pledge, if any, required by the political party;

(20) “Party filing period” means the period of time established by law for the candidate for a political party's nomination to file his or her party certificate with the Secretary of State or county clerk, as the case may be;

(21) **(A)** “Political party” means any group of voters that at the last preceding general election polled for its candidate for Governor in the state or nominees for presidential electors at least three percent (3%) of the entire vote cast for the office.

(B) A group of electors shall not assume a name or designation that is so similar in the opinion of the Secretary of State to that of an existing political party as to confuse or mislead the voters at an election.

(C) When any political party fails to obtain three percent (3%) of the total votes cast at an election for the office of Governor or nominees for presidential electors, it shall cease to be a political party;

(22) “Polling site” means a location selected by the county board of election commissioners where votes are cast;

(23) “Precinct” means the geographical boundary lines dividing a county, municipality, township, or school district for voting purposes;

(24) “Primary election” means any election held by a political party in the manner provided by law for the purpose of selecting nominees of the political party for certification as candidates for election at any general or special election in this state;

(25) “Provisional ballot” means a ballot:

(A) Cast by special procedures to record a vote when there is some question concerning a voter's eligibility; and

(B) Counted contingent upon the verification of the voter's eligibility;

(26) “Qualified elector” means a person who holds the qualifications of an elector and who is registered pursuant to Arkansas Constitution, Amendment 51;

(27) “Sample ballot” means a ballot for distribution to the public or the press marked with the word “SAMPLE” so as to prevent the production of counterfeit ballots;

(28) “Uniformed services” means the United States Army, United States Navy, United States Air Force, United States Marine Corps, and United States Coast Guard, the commissioned corps of the United States Public Health Service, and the commissioned corps of the National Oceanic and Atmospheric Administration, or as defined in the federal Uniformed and Overseas Citizens Absentee Voting Act if different from the definition stated in this subdivision (28);

(29) “Vacancy in election” means the vacancy in an elective office created by death, resignation, or other good and legal cause arising prior to election to the office at a general or special election but arising subsequent to the certification of the ballot;

(30) “Vacancy in nomination” means the circumstances in which the person who received the majority of votes at the preferential primary election or general primary election cannot accept the nomination due to death or notifies the party that he or she will not accept the nomination due to serious illness, moving out of the area from which the person was elected as the party's nominee, or filing for another office preceding the final date for certification of nominations;

(31) **(A)** “Vacancy in office” means the vacancy in an elective office created by death, resignation, or other good and legal cause arising subsequent to election to the office at a general or special election or arising subsequent to taking office and before the expiration of the term of office in those circumstances wherein the vacancy must be filled by a special election rather than by appointment.

(B) The phrase “vacancy in office” shall not apply to the election of a person at a general election to fill an unexpired portion of a term of office;

(32) “Voter-verified paper audit trail” means a contemporaneous paper record of a ballot printed for the voter to confirm his or her votes before the voter casts his or her ballot that:

(A) Allows the voter to verify the voter-verified paper audit trail before the casting of the voter's ballot;

(B) Is not retained by the voter;

(C) Does not contain individual voter information;

(D) Is produced on paper that is sturdy, clean, and resistant to degradation; and

(E) Is readable in a manner that makes the voter's ballot choices obvious to the voter without the use of computer or electronic code;

(33) "Voting machine" means either:

(A) A direct-recording electronic voting machine that:

(i) Records votes by means of a ballot display provided with mechanical or electro-optical components that may be actuated by the voter;

(ii) Processes the data by means of a computer program;

(iii) Records voting data and ballot images in internal and external memory components; and

(iv) Produces a tabulation of the voting data stored in a removable memory component and on a printed copy; or

(B) An electronic device for marking a paper ballot to be electronically scanned; and

(34) "Voting system" means:

(A) The total combination of mechanical, electromechanical, or electronic equipment, including the software, firmware, and documentation required to program, control, and support the equipment that is used to

(i) Define ballots;

(ii) Cast and count votes;

(iii) Report or display election results; and

(iv) Maintain and produce any audit trail information; and

(B) The practices and documentation used to:

(i) Identify system components and versions of components;

(ii) Test the system during its development and maintenance;

(iii) Maintain records of system errors and defects;

(iv) Determine specific system changes to be made to a system after the initial qualification of the system; and

(v) Make available any materials to the voter, including without limitation notices, instructions, forms, or paper ballots.

History. Acts 1969, No. 465, Art. 1, § 1; 1971, No. 261, § 1; 1977, No. 888, § 3; A.S.A. 1947, § 3-101; Acts 1987, No. 123, § 12; 1991, No. 241, § 1; 1995, No. 946, § 1; 1995, No. 963, § 1; 1997, No. 445, § 1; 1997, No. 1082, § 1; 1999, No. 1342, § 1; 2003, No. 994, § 1; 2003, No. 1731, § 1; 2005, No. 2233, § 2; 2007, No. 224, § 1; 2007, No. 1020, § 1; 2009, No. 250, § 1; 2009, No. 659, § 5; 2009, No. 959, § 2; 2009, No. 1480, § 14.

7-1-102. Work time to be scheduled for voting — Penalty.

Each employer in the state shall schedule the work hours of employees on election days so that each employee will have an opportunity to exercise the right of franchise. Any employer who fails or refuses to comply with the provisions of this section shall upon conviction be subject to a fine of not less than twenty-five dollars (\$25.00) nor more than two hundred fifty dollars (\$250).

History. Acts 1989, No. 545, § 1.

7-1-103. Miscellaneous misdemeanor offenses — Penalties.

(a) The violation of any of the following shall be deemed misdemeanors punishable as provided in this section:

(1) It shall be unlawful for any person to appoint or offer to appoint anyone to any office or position of trust or for any person to influence, attempt to influence, or offer to influence the appointment, nomination, or election of any person to office in consideration of the support or assistance of the person for any candidate in any election in this state;

(2) (A) (i) It shall be unlawful for any public servant, as defined in § 21-8-402, to devote any time or labor during usual office hours toward the campaign of any other candidate for office or for the nomination to any office.

(ii) Devoting any time or labor during usual office hours toward the campaign of any other candidate for office or for the nomination to any office includes without limitation the gathering of signatures for a nominating petition.

(B) It shall be unlawful for any public servant, as defined in § 21-8-402, to circulate an initiative or referendum petition or to solicit signatures on an initiative or referendum petition in any public office of the state, county, or municipal governments of Arkansas or during the usual office hours or while on duty for any state agency or any county or municipal government in Arkansas.

(C) It shall be unlawful for any public servant, as defined in § 21-8-402, to

coerce, by threats or otherwise, any public employee into devoting time or labor toward the campaign of any candidate for office or for the nomination to any office;

(3) (A) It shall be unlawful for any public servant, as defined in § 21-8-402, to use any office or room furnished at public expense to distribute any letters, circulars, or other campaign materials unless such office or room is regularly used by members of the public for such purposes without regard to political affiliation. It shall further be unlawful for any public servant to use for campaign purposes any item of personal property provided with public funds.

(B) As used in subdivision (a)(3)(A) of this section, “campaign materials” and “campaign purposes” refer to the campaign of a candidate for public office and not efforts to support or oppose a ballot measure;

(4) It shall be unlawful for any person to assess any public employee, as defined in § 21-8-402, for any political purpose whatever or to coerce, by threats or otherwise, any public employee into making a subscription or contribution for any political purpose;

(5) It shall be unlawful for any person employed in any capacity in any department of the State of Arkansas to have membership in any political party or organization that advocates the overthrow of our constitutional form of government;

(6) It shall be unlawful for any campaign banners, campaign signs, or other campaign literature to be placed on any cars, trucks, tractors, or other vehicles belonging to the State of Arkansas or any municipality, county, or school district in the state;

(7) (A) (i) All articles, statements, or communications appearing in any newspaper printed or circulated in this state intended or calculated to influence the vote of any elector in any election and for the publication of which a consideration is paid or to be paid shall clearly contain the words “Paid Political Advertisement” or “Paid Political Ad”.

(ii) Both the persons placing and the persons publishing the articles, statements, or communications shall be responsible for including the required disclaimer.

(B) (i) All articles, statements, or communications appearing in any radio, television, or any other electronic medium intended or calculated to influence the vote of any elector in any election and for the publication of which a consideration is paid or to be paid shall clearly contain the words:

(a) “Paid political advertisement” or “paid political ad”; or

(b) “Paid for by”, “sponsored by”, or “furnished by” the true sponsor of the advertisement.

(ii) Both the persons placing and the persons publishing the articles, statements, or communications shall be responsible for including the required disclaimer;

(8) [Repealed.]

(9) (A) No election official acting in his or her official capacity shall do any

electioneering on any election day or any day on which early voting is allowed. Except as provided in subdivisions (a)(9)(B) and (C) of this section, no person shall hand out or distribute or offer to hand out or distribute any campaign literature or any literature regarding any candidate or issue on the ballot, solicit signatures on any petition, solicit contributions for any charitable or other purpose, or do any electioneering of any kind whatsoever in the building or within one hundred feet (100') of the primary exterior entrance used by voters to the building containing the polling place on election day.

(B) During early voting days, no person shall hand out or distribute or offer to hand out or distribute any campaign literature or any literature regarding any candidate or issue on the ballot, solicit signatures on any petition, solicit contributions for any charitable or other purpose, or do any electioneering of any kind whatsoever during early voting hours in the building or within one hundred feet (100') of the primary exterior entrance used by voters to the building containing the early voting site nor engage in those activities with persons standing in line to vote whether within or without the courthouse.

(C) When the early voting occurs at a facility other than the county clerk's office, no person shall hand out or distribute or offer to hand out or distribute any campaign literature or any literature regarding any candidate or issue on the ballot, solicit signatures on any petition, solicit contributions for any charitable or other purpose, or do any electioneering of any kind whatsoever in the building or within one hundred feet (100') of the primary exterior entrance used by voters to the building containing the polling place;

(10) No election official shall perform any of the duties of the position before taking and subscribing to the oath provided for in § 7-4-110;

(11) No person applying for a ballot shall swear falsely to any oath administered by the election officials with reference to his or her qualifications to vote;

(12) No person shall willfully cause or attempt to cause his or her own name to be registered in any other election precinct than that in which he or she is or will be before the next ensuing election qualified as an elector;

(13) During any election, no person shall remove, tear down, or destroy any booths or supplies or other conveniences placed in any booth or polling site for the purpose of enabling the voter to prepare his or her ballot;

(14) No person shall take or carry any ballot obtained from any election official outside of the polling room or have in his or her possession outside of the polling room before the closing of the polls any ballot provided by any county election commissioner;

(15) No person shall furnish a ballot to any elector who cannot read informing him or her that it contains a name or names different from those that are written or printed thereon or shall change or mark the ballot of any elector who cannot read so as to prevent the elector from voting for any candidate, act, section, or constitutional amendment as the elector intended;

(16) No election official or other person shall unfold a ballot or without the express consent of the voter ascertain or attempt to ascertain any vote on a ballot before it is placed in the

ballot box;

(17) No person shall print or cause to be printed any ballot for any election held under this act with the names of the candidates appearing thereon in any other or different order or manner than provided by this act;

(18) No election official shall permit the vote of any person to be cast in any election precinct in this state in any election legally held in this state when the person does not appear in person at the election precinct and actually cast the vote. This subdivision (a)(18) shall not apply to persons entitled to cast absentee ballots;

(19) (A) No person shall vote or offer to vote more than one (1) time in any election held in this state, either in person or by absentee ballot, or shall vote in more than one (1) election precinct in any election held in this state.

(B) No person shall cast a ballot or vote in the preferential primary of one (1) political party and then cast a ballot or vote in the general primary of another political party in this state;

(20) No person shall:

(A) Vote, knowing himself or herself not to be entitled to vote;

(B) Vote more than once at any election or knowingly cast more than one (1) ballot or attempt to do so;

(C) Provide assistance to a voter in marking and casting the voter's ballot except as provided in § 7-5-310;

(D) Alter or attempt to alter any ballot after it has been cast;

(E) Add or attempt to add any ballot to those legally polled at any election either by fraudulently introducing it into the ballot box before or after the ballots have been counted or at any other time or in any other manner with the intent or effect of affecting the count or recount of the ballots;

(F) Withdraw or attempt to withdraw any ballot lawfully polled with the intent or effect of affecting the count or recount of the ballots; or

(G) In any manner interfere with the officials lawfully conducting the election or the canvass or with the voters lawfully exercising their right to vote at the election;

(21) No person shall make any bet or wager upon the result of any election in this state;

(22) No election official, poll watcher, or any other person in or out of this state in any primary, general, or special election in this state shall divulge to any person the results of any votes cast for any candidate or on any issue in the election until after the closing of the polls on the day of the election. The provisions of this subdivision (a)(22) shall not apply to any township or precinct in this state in which all of the registered voters therein have voted prior to the

closing of the polls in those instances in which there are fifteen (15) or fewer registered voters in the precinct or township; and

(23) Any person, election official, county clerk, or deputy clerk who violates any provisions of the absentee voting laws, § 7-5-401 et seq., shall be punished as provided in this section.

(b) (1) Except as otherwise provided, the violation of any provision of this section shall be a Class A misdemeanor.

(2) (A) Any person convicted under the provisions of this section shall thereafter be ineligible to hold any office or employment in any of the departments in this state.

(B) (i) If any person is convicted under the provisions of this section while employed by any of the departments of this state, he or she shall be removed from employment immediately.

(ii) If any person is convicted under the provisions of this section while holding public office, the conviction shall be deemed a misfeasance and malfeasance in office and shall subject the person to impeachment.

(c) Any violation of this act not covered by this section and § 7-1-104 shall be considered a Class A misdemeanor and shall be punishable as such.

History. Acts 1969, No. 465, Art. 11, § 4; 1970 (Ex. Sess.), No. 3, § 1; 1971, No. 261, § 24; 1981, No. 327, § 1; A.S.A. 1947, § 3-1104; Acts 1987, No. 395, § 1; 1989, No. 505, § 2; 1991, No. 241, § 2; 1991, No. 786, § 4; 1995, No. 497, § 1; 1995, No. 1085, § 1; 1997, No. 445, § 2; 1997, No. 1121, § 1; 1999, No. 553, § 1; 1999, No. 1525, § 1; 2001, No. 795, § 1; 2001, No. 926, § 1; 2001, No. 1839, § 1; 2005, No. 1284, § 1; 2007, No. 221, § 1; 2009, No. 310, § 1; 2009, No. 473, § 1; 2009, No. 658, § 1.

7-1-104. Miscellaneous felonies — Penalties.

(a) The following offenses shall be deemed felonies punishable as provided in this section:

(1) No person shall falsely make or fraudulently destroy any certificate of nominations or any part thereof, file any certificate of nominations knowing the certificate or any part thereof to be false, suppress any nomination or any part thereof which has been filed, or forge or falsely write the name or initials of any election official on any ballot;

(2) No public official or other person shall in any manner willfully or corruptly permit any person not entitled to register for the purpose of voting to register, nor shall a public official or other person forge or attempt to forge a registration;

(3) No person shall vote in any election in the state unless the person is a qualified elector of this state and has registered to vote in the manner provided by law;

(4) It shall be unlawful for any person to offer, accept, receive, or pay any person any

money, goods, wares, or merchandise or solicit any money, goods, wares, or merchandise for the purpose of influencing his or her vote during the progress of any election in this state;

(5) It shall be unlawful for any person to make any threat or attempt to intimidate any elector or the family, business, or profession of the elector;

(6) It shall be unlawful for any person to interfere with or to prevent any qualified elector from voting at any election or to attempt to interfere with or to prevent any qualified elector from voting at any election, provided that this subdivision (a)(6) shall not prohibit good faith challenges of ballots or voters according to law by candidates, authorized representatives of candidates, political parties, or ballot issues;

(7) It shall be unlawful for any person to attend any polling site on election day and hand out or give away any campaign cards, placards, or other articles for the purpose of influencing the electors to vote for any candidate, except in the manner now provided by law;

(8) (A) It shall be unlawful for a person with the intent to defraud a voter or an election official to possess an absentee ballot issued to another.

(B) The possession by a person of more than ten (10) absentee ballots creates a rebuttable presumption of intent to defraud.

(C) The presumption under subdivision (a)(8)(B) of this section does not apply to:

(i) An employee of the United States Postal Service performing the normal course of the employee's authorized duties;

(ii) A common or contract carrier performing the normal course of the carrier's authorized duties;

(iii) The administrative head of a long-term care or residential care facility licensed by the state authorized by a voter under Arkansas law; or

(iv) An election official acting in his or her official capacity;

(9) No person shall tamper with a voting machine or fraudulently affect or attempt to affect its results;

(10) No person may cast a ballot in more than one (1) party primary election on the same day in this state or for candidates for more than one (1) political party;

(11) No person shall vote in any election more than one (1) vote;

(12) No person shall vote or attempt to vote other than his or her legal ballot;

(13) No election official shall knowingly permit any person to vote other than his or her legal ballot in any election;

(14) No election official or other person shall fraudulently permit any person to vote

illegally, refuse the vote of any qualified elector, or cast up or make a false return of any election;

(15) No election official or other person shall willfully make a false count of any election ballots or falsely or fraudulently certify the returns of any election;

(16) No person shall fraudulently change, alter, or obliterate the poll books or books of any election or break any seals upon any ballot box, voting machine, or stub box, except as authorized by law;

(17) No person shall contrive, alter, forge, counterfeit, detain, mutilate, steal, secrete, or destroy any election returns or election materials for the purpose of hindering or preventing or falsely reporting a tabulation or check of the returns; and

(18) Any person who violates the provisions of § 7-5-702 or who shall disclose how any voter may have voted unless compelled to do so in a judicial proceeding shall be deemed guilty of a Class D felony and punished as provided in this section.

(b) (1) Any person convicted of a felony as defined in this section shall be guilty of a Class D felony.

(2) (A) Any person convicted of a felony as defined in this section shall be barred from holding public office or employment in any of the departments of the state from the date of his or her conviction.

(B) (i) If the person is employed by any of the departments of this state at the time of his or her conviction, he or she shall be removed from employment immediately.

(ii) If any person is convicted under the provisions of this section while holding public office, the conviction shall be deemed a misfeasance and malfeasance in office and shall subject the person to impeachment.

History. Acts 1969, No. 465, Art. 11, § 5; A.S.A. 1947, § 3-1105; Acts 1995, No. 497, § 1; 1995, No. 1085, § 1; 1997, No. 445, § 3; 1999, No. 655, § 1; 2001, No. 1553, § 17; 2003, No. 1458, § 1; 2005, No. 1677, § 1; 2009, No. 658, § 2.

7-1-105. Majority of qualified electors.

Whenever any law of this state shall require that a proposition or question shall be adopted by a majority of the qualified electors of this state, of a city, or of a county based on the total number of electors of the state, city, or county, appearing on the certified list of all qualified electors thereof, the majority required for the adoption of the proposition or question hereafter shall be deemed to be the majority of the qualified electors of the state, city, or county voting on the proposition or question at the election.

History. Acts 1969, No. 465, Art. 13, § 3; A.S.A. 1947, § 3-1303; Acts 1997, No. 445, § 4.

7-1-106. Election laws expert.

The Secretary of State shall designate at least one (1) member of his or her staff to become knowledgeable of the election laws as they pertain to elections in the State of Arkansas for the purpose of answering procedural questions concerning elections and to aid the candidates and their agents in filing for election.

History. Acts 1977, No. 312, § 8; A.S.A. 1947, § 3-1314.

7-1-107. [Repealed.]

7-1-108. Election law deadlines.

If an election law deadline occurs on a Saturday, Sunday, or legal holiday, the deadline shall be the next day which is not a Saturday, Sunday, or legal holiday.

History. Acts 1999, No. 653, § 1.

7-1-109. Enforcement of election laws.

Following a written complaint concerning any election law violation or irregularity to the county board of election commissioners, the written complaint shall be sent by the county board to the appropriate county clerk and appropriate prosecuting attorney for evaluation.

History. Acts 2003, No. 270, § 1.

7-1-110. Voting information on Internet website.

The Secretary of State shall provide on his or her Internet website a mechanism to allow a person to enter his or her home address and retrieve information concerning the person's polling location, precinct, state representative, and state senator.

History. Acts 2003, No. 1167, § 1.

Chapter 2

Congressional Districts

7-2-101. Number of congressional districts.

7-2-102. First Congressional District.

7-2-103. Second Congressional District.

7-2-104. Third Congressional District.

7-2-105. Fourth Congressional District.

7-2-101. Number of congressional districts.

The State of Arkansas is hereby divided into four (4) congressional districts, provided that the members of the House of Representatives of the United States Congress presently serving from each of the existing congressional districts of this state shall continue to serve until the

expiration of their current terms, and successor congressmen shall be elected from the congressional districts as established in this subchapter. It is the intention of this subchapter to provide for congressional districts of substantially equal population in order to comply with the Equal Protection Clause of the Fourteenth Amendment to the Constitution of the United States.

History. Acts 1991, No. 1220, § 1; 2001, No. 1840, § 1.

7-2-102. First Congressional District.

The First Congressional District shall be composed of the counties of: Arkansas, Baxter, Clay, Cleburne, Craighead, Crittenden, Cross, Fulton, Greene, Independence, Izard, Jackson, Lawrence, Lee, Lonoke, Mississippi, Monroe, Phillips, Prairie, Poinsett, Randolph, St. Francis, Searcy, Sharp, Stone, and Woodruff; and the qualified electors residing therein shall elect one (1) member of the House of Representatives of the United States.

History. Acts 1991, No. 1220, § 2; 2001, No. 1840, § 2.

7-2-103. Second Congressional District.

The Second Congressional District shall be composed of the counties of: Conway, Faulkner, Perry, Pulaski, Saline, Van Buren, White, and Yell; and the qualified electors residing therein shall elect one (1) member of the House of Representatives of the United States.

History. Acts 1991, No. 1220, § 3; 2001, No. 1840, § 3.

7-2-104. Third Congressional District.

The Third Congressional District shall be composed of the counties of: Benton, Boone, Carroll, Crawford, Franklin, Johnson, Madison, Marion, Newton, Pope, Sebastian, and Washington; and the qualified electors residing therein shall elect one (1) member of the House of Representatives of the United States.

History. Acts 1991, No. 1220, § 4; 2001, No. 1840, § 4.

7-2-105. Fourth Congressional District.

The Fourth Congressional District shall be composed of the counties of: Ashley, Bradley, Calhoun, Chicot, Clark, Cleveland, Columbia, Dallas, Desha, Drew, Garland, Grant, Hempstead, Hot Spring, Howard, Jefferson, Lafayette, Little River, Lincoln, Logan, Miller, Montgomery, Nevada, Ouachita, Pike, Polk, Scott, Sevier, and Union; and the qualified electors residing therein shall elect one (1) member of the House of Representatives of the United States.

History. Acts 1991, No. 1220, § 5; 2001, No. 1840, § 5.

Chapter 3 Political Parties

- 7-3-101. Duties and powers.
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- 7-3-108. Subversive parties — New parties — Affidavit required — Penalty.

7-3-101. Duties and powers.

Subject to the provisions of this act and other applicable laws of this state, organized political parties shall:

- (1) Have the right to prescribe the qualifications of their own membership;
- (2) Prescribe the qualifications for voting in their party primaries; and
- (3) Establish rules and procedures for their own organization.

History. Acts 1969, No. 465, Art. 1, § 2; 1971, No. 261, § 2; A.S.A. 1947, § 3-102; Acts 1995, No. 901, § 1.

7-3-102. National committee members.

The national committeeman and national committeewoman of political parties of this state shall be selected in the manner provided in the party rules of the respective political parties in this state.

History. Acts 1969, No. 465, Art. 1, § 2; A.S.A. 1947, § 3-102.

7-3-103. State committee members.

(a) The members of the state committee of political parties in this state shall be elected by the respective state conventions.

(b) Caucuses by delegates to the state conventions for the purpose of recommending members of the state committee shall be held at a definite time and place to be announced publicly by the temporary chair of the state convention convened at the first session of the convention. The temporary chair shall appoint some delegate to convene each caucus. If any delegation from a county shall notify the chair of the convention that a caucus has been held and a recommendation made without a county delegation having had timely notice of and an opportunity to be present at the caucus, the chair of the convention shall at once order a new caucus.

(c) The term of office of the members of a state committee shall begin from their election,

and they shall hold office until the next convention and until their successors are elected and qualified.

History. Acts 1969, No. 465, Art. 1, § 2; 1971, No. 261, § 2; A.S.A. 1947, § 3-102.

7-3-104. County committee members.

(a) (1) The members of the county committee of political parties from each election precinct, township, or city ward shall be elected by a majority vote of those votes cast for each membership position at the primary elections held by the political party.

(2) (A) Except as provided in subdivision (a)(2)(B) of this section, the county board of election commissioners shall place on the ballot of the primary election the names of all persons seeking election as members of the county committee who have filed a written pledge to abide by the results of the primary, if any is required by the rules of the political party, and who have paid the filing fee, if any, assessed therefor.

(B) When only one (1) candidate qualifies for a particular position on the county committee, the candidate's name shall be omitted from the ballot and the candidate shall be selected to serve in the particular position in the same manner as if the position had been voted upon at the primary election.

(3) If candidates for any county committee membership positions have not qualified as provided in this section within the time required for candidates to qualify, the county committee shall select candidates for committee members at any public meeting of the county committee held after the ticket has closed and prior to the time the primary election ballots are printed.

(4) Vacancies in the county committee shall be filled by the county committee.

(b) (1) Each person elected or appointed the county chair of the county committee of a political party shall notify the state chair of the respective party in writing within ten (10) days after his or her election or appointment.

(2) (A) It shall be the duty of the state party chair to keep on file with the Secretary of State a complete list of the county chairs and to notify promptly the Secretary of State of any death, resignation, disqualification, or vacancy in the office of any county chair and of the election of a new chair to fill vacancies thus created.

(B) Upon receipt of that information, the Secretary of State shall record the information, which shall be a public record.

History. Acts 1969, No. 465, Art. 1, § 3; A.S.A. 1947, § 3-103; Acts 1997, No. 444, § 1; 2005, No. 67, § 1; 2007, No. 222, § 2.

7-3-105. County convention delegates — Selection — Vacancy.

(a) Delegates from each election precinct, township, or city ward to the county convention of political parties shall be selected at the primary election held by each party.

(b) The county committee shall place on the ballot of the primary election the names of all persons seeking election as a county convention delegate who shall have filed a written pledge to abide by the results of the primary, if any is required by the rules of the political party, and shall have paid the ballot fee, if any, assessed therefor.

(c) If candidates for county convention delegates have not qualified as herein provided within the time required for candidates to qualify, the county committee shall select candidates or delegates to the county convention at any public meeting of the committee held after the ticket has closed and prior to the time the primary election ballots are printed.

(d) Any vacancies existing or occurring in any of the positions of delegates after the primary election or elections have been held may be filled by the county committee.

History. Acts 1969, No. 465, Art. 1, § 4; A.S.A. 1947, § 3-104.

7-3-106. County convention — Primary election results — Selection of state and national delegates — Vacancies.

(a) Each political party holding a primary election shall at the time required in § 7-7-203(f) hold a county convention composed of delegates elected at the primary election in each township and ward.

(b) (1) The county convention shall receive from the county board of election commissioners a list of all nominated candidates for county, township, and municipal offices and the political party's county committee members and delegates and select delegates and alternates to all conventions held by the political party.

(2) However, the state committee of the political party may make rules for the election of delegates to the national convention of the political party, and the delegates may be elected before the primary elections.

(c) (1) Vacancies in the delegation to a convention arising from death, absence, resignation, or ineligibility shall be filled by the alternates in the order of their selection.

(2) In the absence of alternates, vacancies shall be filled by the remaining members of the delegation.

History. Acts 1969, No. 465, Art. 1, § 4; A.S.A. 1947, § 3-104; Acts 1997, No. 444, § 2.

7-3-107. State convention — Declaration of election results and nominees — Certificates.

After a primary election for the selection of nominees for United States, state, or district offices, each political party shall hold a state convention following the biennial general primary election for the purpose of:

(1) Receiving from the Secretary of State the certification of the election results for all

United States, state, and district offices. Each party shall furnish to each successful nominee a certificate of nomination; and

(2) Performing other duties as may be required by party rules or by law.

History. Acts 1969, No. 465, Art. 1, § 2; 1971, No. 261, § 2; A.S.A. 1947, § 3-102; Acts 1997, No. 444, § 3.

7-3-108. Subversive parties — New parties — Affidavit required — Penalty.

(a) No political party shall be recognized, qualified to participate, or permitted to have the names of its candidates printed on the ballot in any election in this state that:

(1) Either directly or indirectly advocates, teaches, justifies, aids, or abets the overthrow by force or violence, or by any unlawful means, of the government of the United States or this state, or an act of terrorism as defined by § 5-54-205; or

(2) Directly or indirectly carries on, advocates, teaches, justifies, aids, or abets a program of sabotage, force and violence, sedition, or treason against the government of the United States or this state.

(b) (1) No newly organized political party shall be recognized, qualified to participate, or permitted to have the names of its candidates printed on the ballot in any election in this state until it has filed an affidavit, by the officers of the party in this state under oath, that:

(A) It does not either directly or indirectly advocate, teach, justify, aid, or abet the overthrow by force or violence or by any unlawful means of the government of the United States or this state, or an act of terrorism as defined by § 5-54-205; or

(B) It does not directly or indirectly carry on, advocate, teach, justify, aid, or abet a program of sabotage, force and violence, sedition, or treason against the government of the United States or this state.

(2) The affidavit shall be filed with the Secretary of State.

(c) Any person who violates any provision of this section shall be guilty of a Class A misdemeanor.

History. Acts 1969, No. 465, Art. 11, § 7; A.S.A. 1947, § 3-1107; Acts 1997, No. 444, § 4; 2001, No. 1553, § 18; 2005, No. 1994, § 484.

Chapter 4

Boards of Election Commissioners and Other Election Officers

Subchapter 1 — General Provisions

Subchapter 2 — Volunteer Deputy Voter Registrars

Subchapter 1

— General Provisions

- 7-4-101. State Board of Election Commissioners — Members — Officers — Meetings.
- 7-4-102. County boards of election commissioners — Election of members — Oath.
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7-4-101. State Board of Election Commissioners — Members — Officers — Meetings.

(a) The State Board of Election Commissioners shall be composed of the following seven (7) persons, with at least one (1) from each congressional district:

- (1) The Secretary of State;
- (2) One (1) person designated by the chair of the state Democratic Party;
- (3) One (1) person designated by the chair of the state Republican Party;
- (4) One (1) person to be chosen by the President Pro Tempore of the Senate;
- (5) One (1) person to be chosen by the Speaker of the House of Representatives; and
- (6) Two (2) persons to be chosen by the Governor, one (1) of whom shall be a county clerk and one (1) of whom shall have served for at least three (3) years as a county election commissioner.

(b) The Secretary of State shall serve as chair and secretary of the board.

(c) Except for the Secretary of State and the county clerk, no member of the board shall be an elected public official.

(d) (1) The term on the board of the Secretary of State shall be concurrent with his or her term in office.

(2) The county clerk shall hold the office of county clerk when appointed to the board and shall be removed as a member of the board if not in office.

(3) (A) Members of the board appointed by the President Pro Tempore of the Senate and the Speaker of the House of Representatives shall be appointed for terms of two (2) years and shall continue to serve until successors have been appointed and taken the official oath.

(B) All other appointive members shall be appointed for terms of four (4) years and shall continue to serve until successors have been appointed and taken the official oath.

(4) No appointive member shall be appointed to serve more than two (2) consecutive full terms.

(5) (A) If a vacancy on the board occurs, a successor shall be appointed within thirty (30) days to serve the remainder of the unexpired term.

(B) The appointment shall be made by the official holding the office responsible for appointing the predecessor.

(e) (1) The board shall meet as needed upon call of the chair or upon written request to the chair of any four (4) members.

(2) A majority of the membership of the board shall constitute a quorum for conducting business.

(3) No sanctions shall be imposed without the affirmative vote of at least four (4) members of the board.

(4) Meetings of the board may be chaired and conducted by either the chair or a member of the board designated by the chair as acting chair for the meeting.

(f) The board shall have the authority to:

(1) Publish a candidate's election handbook, in conjunction with the office of the Secretary of State and the Arkansas Ethics Commission, which outlines in a readable and understandable format the legal obligations of a candidate and any other suggestions that might be helpful to a candidate in complying with state election law;

(2) Conduct statewide training for election officers and county election commissioners;

(3) Adopt all necessary rules regarding training referred to in subdivision (f)(2) of this section and develop procedures for monitoring attendance;

(4) Monitor all election law-related legislation;

(5) Formulate, adopt, and promulgate all necessary rules to assure even and consistent application of voter registration laws and fair and orderly election procedures;

(6) (A) Appoint certified election monitors to any county upon a signed, written request under oath filed with the board and a determination by the board that appointing a monitor is

necessary.

(B) Certified election monitors shall serve as observers for the purpose of reporting to the board on the conduct of the election.

(C) The board may allow for reasonable compensation for election monitors;

(7) Assist the county board of election commissioners in the performance of administrative duties of the election process if the board determines that assistance is necessary and appropriate;

(8) (A) Formulate, adopt, and promulgate all necessary rules to establish uniform and nondiscriminatory administrative complaint procedures consistent with the requirements of Title IV of the federal Help America Vote Act.

(B) The cost of compliance with Title IV of the federal Help America Vote Act shall be paid from the fund established to comply with the federal Help America Vote Act;

(9) Investigate alleged violations, render findings, and impose disciplinary action according to § 7-4-118 for violations of election and voter registration laws, except as to § 7-1-103(a)(1)-(4), (6), and (7), and except for any matters relating to campaign finance and disclosure laws which the Arkansas Ethics Commission shall have the power and authority to enforce according to §§ 7-6-217 and 7-6-218;

(10) Examine and approve in accordance with §§ 7-5-503 and 7-5-606 the types of voting machines and electronic vote tabulating devices used in any election; and

(11) Administer reimbursement of election expenses to counties in accordance with § 7-7-201(a) for primary elections, statewide special elections, and nonpartisan judicial general elections.

(g) The Attorney General shall provide legal assistance to the board in answering questions regarding election laws.

(h) (1) The board may appoint a Director of the State Board of Election Commissioners, who may hire a staff.

(2) The director shall serve at the pleasure of the board.

(3) The board shall set the personnel policies in accordance with the Regular Salary Procedures and Restrictions Act, § 21-5-101 et seq., and the Uniform Classification and Compensation Act, § 21-5-201 et seq.

History. Acts 1969, No. 465, Art. 5, §§ 2, 3; 1977, No. 783, § 1; A.S.A. 1947, §§ 3-502, 3-503; Acts 1993, No. 1092, § 1; 1995, No. 349, § 3; 1995, No. 352, § 3; 1995, No. 741, § 1; 1995, No. 929, § 1; 1995, No. 940, § 1; 1995, No. 1217, § 5; 1997, No. 647, § 1; 1999, No. 997, § 1; 2001, No. 1174, § 1; 2003, No. 994, § 14; 2003, No. 1161, § 1; 2005, No. 1827, § 1; 2007, No. 559, § 1; 2009, No. 250, § 2.

7-4-102. County boards of election commissioners — Election of members — Oath.

(a) (1) The county chair of the county committee of the majority party and the county chair of the county committee of the minority party shall be members of the county board of election commissioners together with one (1) additional or third member selected by the county committee of the majority party at the same time as the election of party officers.

(2) Provided, however, if the county chair of a county committee of the majority party or the minority party is an elected official or is otherwise ineligible to serve as a member of the county board of election commissioners, he or she shall not serve as a member of the county board, but the county committee shall select a resident of the county qualified to serve in his or her stead.

(3) Any county chair of a county committee of the majority party or the minority party may elect not to serve as a member of the county board, and the county committee shall select a resident of the county qualified to serve in his or her stead.

(b) (1) Within ten (10) days of the date of selection to the county board of election commissions, the chair or secretary of each county committee shall notify the county clerk in writing of the names and addresses of those selected to serve on the county board.

(2) Upon receipt of the notice, the county clerk shall send to each of the county election commissioners, by registered mail, notice to appear before the clerk within thirty (30) days of selection as a county election commissioner to take and subscribe to the oath prescribed by the Arkansas Constitution.

(3) The oath shall be filed in the office of the county clerk and a duplicate forwarded to the Secretary of State.

(c) Between January 1 and January 31 of each year, the chair of the majority party of the county shall file with the county clerk and the Secretary of State a notice setting forth the names of the majority party's designated members of the county board and the chair of the minority party shall file with the county clerk and the Secretary of State a notice setting forth the name of the minority party's member of the county board.

(d) The county board is deemed to consist of county officials, and its members shall be immune from tort liability pursuant to § 21-9-301.

(e) (1) Members of the county board shall serve for a term of three (3) years.

(2) As of July 31, 2007, members of the county board shall draw lots for terms so that one (1) member shall serve for a term of one (1) year, one (1) member shall serve for a term of two (2) years, and one (1) member shall serve for a term of three (3) years.

(3) Thereafter, all appointments shall be for terms of three (3) years, staggered so that one (1) term expires on January 15 of every year.

History. Acts 1969, No. 465, Art. 5, § 2; A.S.A. 1947, § 3-502; Acts 1987, No. 248, § 4; 1989, No. 522, § 1; 1989 (3rd Ex. Sess.), No. 73, § 1; 1993, No. 843, § 1; 1995, No. 1014, § 1; 1997, No. 647, § 2; 1999, No. 1422, § 2; 2007, No. 489, § 1; 2007, No. 559, § 2.

7-4-103. Vacancies on state and county boards.

(a) In the event of a vacancy or disqualification on the part of any state or county chair for either the majority or minority parties, the state vice chair or county vice chair of the party in which the vacancy occurs shall act as county chair or state chair as the case may be for all of the purposes set out in §§ 7-4-101, 7-4-102, and this section until a new county chair or state chair is selected by the parties.

(b) In the event that no county chair or county vice chair has been elected in any of the several counties of Arkansas for either the majority party or minority party by the fiftieth calendar day before any general election, then and in that event, the State Board of Election Commissioners shall have authority to elect by majority vote qualified persons from the county committee of the majority or minority party so affected to fill the vacancies whether or not the vacancies are caused by failure to elect or by death, resignation, or disqualification. However, all appointments to fill the vacancies of the county boards of election commissioners shall be terminated immediately upon the election of a county chair or county vice chair qualified to serve upon the county board of election commissioners as provided in this section.

(c) In the event of a vacancy or disqualification of any third member of a county board who was duly elected by the state board, the chair of the county committee of the majority party shall immediately notify the Chair of the State Board of Election Commissioners of the vacancy or disqualification. Upon receipt of the notification, the chair shall call a meeting of the state board, which shall fill the vacancy from the list of remaining nominees originally submitted by the county committee at any time prior to a general election, except that when the county committee did not submit the list of nominees at least sixty (60) calendar days before a general election, the state board shall nominate and elect by majority vote any resident of the county as the third member at any time prior to a general election.

History. Acts 1969, No. 465, Art. 5, §§ 2, 5; A.S.A. 1947, §§ 3-502, 3-505; Acts 1987, No. 248, § 6; 1995, No. 1014, § 2; 2001, No. 794, § 1.

7-4-104. Lists of county chairs — Notification of vacancies.

(a) (1) It shall be the duty of the majority and minority parties to keep on file with their respective state chair a complete list of all of their respective county chairs.

(2) It shall be the duty of the respective county chairs of both the majority and minority parties to keep on file with the Secretary of State a letter stating the name of the county chairs and to notify promptly the Secretary of State of the death, resignation, disqualification, or vacancy in the office of any county chair and of the election of a new chair to fill the vacancy thus created.

(b) It shall be the duty of the Secretary of State to keep the letters containing the names of the county chairs of the majority and minority parties as public records open at all times to public inspection.

History. Acts 1969, No. 465, Art. 5, § 5; A.S.A. 1947, § 3-505; Acts 1997, No. 647, § 3; 2001, No. 475, § 1.

7-4-105. County board of election commissioners — Officers — Meetings.

(a) The county board of election commissioners shall hold office until their successors are appointed and qualified. The commissioners shall meet at the courthouse at least thirty (30) days prior to the general election and shall organize themselves into a county board of election commissioners by electing one (1) member chair. Each commissioner shall have one (1) vote. Two (2) commissioners shall constitute a quorum, and the concurring votes of any two (2) shall decide questions before them unless otherwise provided by law.

(b) The chair of a county board of election commissioners shall notify all commissioners of all meetings. Any meeting of two (2) or more commissioners when official business is conducted shall be public and held pursuant to the Freedom of Information Act of 1967, § 25-19-101 et seq. The county board shall keep minutes of all meetings when official business is conducted, and the minutes shall be filed of record with the county clerk.

History. Acts 1969, No. 465, Art. 5, § 6; 1971, No. 261, § 9; A.S.A. 1947, § 3-506; Acts 1997, No. 647, § 4.

7-4-106. Assistance of prosecuting attorney.

(a) The county board of election commissioners, as created by this subchapter, may call upon the prosecuting attorney or his or her deputy for legal opinions, advice, or assistance in defending, commencing, or appealing civil actions at law and equity.

(b) The county or prosecuting attorney shall defend any civil lawsuit brought against the county board or its members if they are sued in regard to acts or omissions made during the course of their official duties.

History. Acts 1977, No. 527, § 1; A.S.A. 1947, § 3-506.1; Acts 1993, No. 780, § 1.

7-4-107. Duties of county board of election commissioners — Ballot boxes — Voting booths — Appointment of election officers.

(a) The county board of election commissioners shall proceed to establish and allocate a sufficient number of ballot boxes in each precinct or polling site. The county board shall appoint the requisite number of election officials at each site where voters present themselves to vote to ensure that there is a sufficient number of election officials at each site, based upon the votes in the immediately preceding comparable election.

(b) (1) It shall be the duty of the county board to select and appoint a sufficient number of election officials for each polling site as provided by subsection (a) of this section and to perform the other duties prescribed not less than twenty (20) days preceding an election.

(2) Each polling site shall have a minimum of two (2) election clerks, one (1) election judge, and one (1) election sheriff. For all regularly scheduled elections, at least one (1) election official at each polling site shall have attended election training coordinated by the State Board of Election Commissioners within twelve (12) months prior to the election. The minority party election commissioner shall have the option to designate a number of election officials equal to one (1) less than the majority of election officials at each polling site, with a minimum of two (2) election officials at each polling site. In the event that the county party representatives on the county board fail to agree upon any election official to fill any election post allotted to the respective party twenty (20) days before the election, the county board shall appoint the remaining election officials.

(c) The county board shall certify to the county court the per diem of election officials and the mileage of the election official carrying the returns to the county election commissioners' office for allowance.

(d) The county board may permit election officials to work half-day or split shifts at the polls at any election so long as the requisite number of election officials is always present.

History. Acts 1969, No. 465, Art. 5, § 6 and Art. 7, § 3; 1971, No. 261, § 9; 1973, No. 157, § 6; A.S.A. 1947, §§ 3-506, 3-703; Acts 1993, No. 511, §§ 1, 2; 1997, No. 647, § 5; 1999, No. 1490, § 2; 2001, No. 562, § 1; 2001, No. 1822, § 2; 2005, No. 894, § 1; 2005, No. 1827, § 2; 2007, No. 222, § 3; 2007, No. 559, § 3.

7-4-108. Absence of election officials — Filling vacancy.

If any election official shall be absent at the time fixed for the opening of the polls, then the other election officials shall appoint some person or persons having the qualifications prescribed by this act for election officials to supply the vacancy; and if all of the officials shall be absent, then the voters present shall elect as election officials persons having the required qualifications. The county board of election commissioners shall be notified of any vacancies and substitutions of election officials.

History. Acts 1969, No. 465, Art. 7, § 3; A.S.A. 1947, § 3-703; Acts 1997, No. 647, § 6.

7-4-109. Qualifications of state and county commissioners and other election officials.

(a) (1) The members of the State Board of Election Commissioners, the members of each county board of election commissioners, and election officials shall be qualified electors of this state, able to read and write the English language, and shall not have been found guilty or pleaded guilty or nolo contendere to the violation of any election law of this state.

(2) No election official, as defined in § 7-1-101, shall be a candidate for any office to be

filled at any election while serving as an election official.

(3) A member of the county board of election commissioners shall not be disqualified from serving as a member of the county board by the appearance on the ballot as a candidate for a position in his or her political party.

(b) Furthermore, all members of each county board shall be residents of the county in which they serve at the time of their appointment or election. All election officials shall be residents of the precincts in which they serve at the time of their appointment. However, if at the time of posting election officials, the county board by unanimous vote shall find that it is impossible to obtain qualified election officials from any precinct or precincts and shall make certification of that finding to the county clerk, then other qualified citizens of the county may be designated to serve in the precinct or precincts.

(c) (1) No person who is a paid employee of any political party or of any person running for any office on that county's ballot shall be eligible to be a member of a county board or an election official.

(2) (A) No person serving on the county board shall participate in any person's campaign listed on that county's ballot.

(B) The making of a financial contribution to a candidate shall not be considered participating in a candidate's campaign.

(3) No person employed with a company that has any business dealings, contracts, or pending contracts before a county board to which he or she would seek appointment shall be eligible to be a candidate for the county board.

(d) No person may serve as an election official if married to or related within the second degree of consanguinity to any candidate running for office in the current election if objection to his or her service is made to the county board within ten (10) calendar days after posting the list of officials.

(e) (1) Prior to the regularly scheduled preferential primary election, each member of the county board of election commissioners for each county and at least two (2) election officials per polling site designated by the county board for each county shall attend election training coordinated by the state board.

(2) The state board shall determine the method and amount of compensation for attending the training.

History. Acts 1969, No. 465, Art. 5, § 4, and Art. 13, § 5; 1971, No. 451, § 2; 1972 (Ex. Sess.), No. 41, § 2; A.S.A. 1947, §§ 3-504, 3-1305; Acts 1987, No. 248, § 5; 1993, No. 715, §§ 1, 2; 1997, No. 647, § 7; 2001, No. 796, § 1; 2001, No. 1822, § 1; 2005, No. 894, § 1; 2005, No. 1827, § 3; 2007, No. 489, § 2.

7-4-110. Oath of election officers.

(a) The election officials, before entering on their duties, shall take, before some person authorized by law to administer oaths, the following oath:

“I, _____, do swear that I will perform the duties of an election official of this election according to law and to the best of my abilities, and that I will studiously endeavor to prevent fraud, deceit, and abuse in conducting the same, and that I will not disclose how any voter shall have voted, unless required to do so as a witness in a judicial proceeding or a proceeding to contest an election.”

(b) In case there shall be no person present at the opening of any election authorized to administer oaths, it shall be lawful for the election officials to administer the oath to each other, and the election officials shall have full power and authority to administer all oaths that may be necessary in conducting any election.

History. Acts 1969, No. 465, Art. 7, § 4; A.S.A. 1947, § 3-704; Acts 1997, No. 647, § 8.

7-4-111. Compensation of board members.

(a) The State Board of Election Commissioners may receive expense reimbursement and stipends in accordance with § 25-16-901 et seq.

(b) Each member of the county board of election commissioners shall receive for services the sum of not less than twenty-five dollars (\$25.00) per public meeting when official business is conducted.

History. Acts 1969, No. 465, Art. 5, § 7; A.S.A. 1947, § 3-507; Acts 1987, No. 403, § 1; 1995, No. 709, § 13; 1997, No. 250, § 42; 1997, No. 647, § 9; 2005, No. 1677, § 2.

7-4-112. Compensation of election officials.

(a) The election officials shall receive a minimum of the prevailing federal minimum wage for holding an election, or such greater amount as may be appropriated.

(b) In addition, each election official carrying election materials to and from the polling sites shall be allowed mileage at such rate as may be appropriated but not to exceed the rate prescribed for state employees in state travel regulations.

History. Acts 1969, No. 465, Art. 7, § 20; 1970 (Ex. Sess.), No. 11, § 1; 1983, No. 169, § 1; A.S.A. 1947, § 3-720; Acts 1997, No. 647, § 10; 2005, No. 67, § 2.

7-4-113. Record of funds and expenditures.

The county board of election commissioners of each county shall maintain a record of all funds the county board receives and all expenditures of the county board. These records shall be open to the public under the provisions of the Freedom of Information Act of 1967, § 25-19-101 et seq.

History. Acts 1987, No. 795, § 1.

7-4-114. Filling vacancy of an elected office — Effect.

Any member of a county board of election commissioners may be appointed to fill a vacancy in an elected office without vacating his or her seat on the county board. The member shall not be eligible for reelection to the office when the term expires.

History. Acts 1993, No. 760, § 1.

7-4-115. Legislative intent.

Due to the recent United States Eighth Circuit Court of Appeals ruling in *Jones v. Conway County, Arkansas*, 143 F.3d 417 (8th Cir. 1998), the status of county election commissioners as either county officials or state officials has become unclear. Because of this lack of clarity, there has been much confusion as to whether or not county election commissioners should have been or currently are immune from suit under the state's policy of tort immunity. It is the intent of the General Assembly to clarify the official status of county election commissioners. Prior to July 30, 1999, county election commissioners were state officials and, as such, were immune from suit pursuant to Arkansas Constitution, Article 5, § 20, and § 19-10-305. Upon July 30, 1999, county election commissioners are hereby deemed to be county officials and are immune from suit pursuant to § 21-9-301.

History. Acts 1999, No. 1422, § 1.

7-4-116. Election poll workers program for high school students.

(a) (1) The county board of election commissioners may conduct a special election day program for high school students in one (1) or more polling places designated by the county board.

(2) The high school students shall be selected by the county board in cooperation with the local high school principal, the local 4-H club, the local Boy Scout club, the local Girl Scout club, or any other local organization for youth designated by the county board.

(3) (A) A high school student selected for this program who has not reached his or her eighteenth birthday by the election day in which he or she is participating shall be called an election page.

(B) A high school student selected for this program who has reached his or her eighteenth birthday by the election day in which he or she is participating and meets the qualifications in § 7-4-109 may be an election official.

(b) The program shall:

(1) Be designed to stimulate the students' interest in elections and registering to vote;

(2) Provide assistance to the officers of election; and

(3) Assist in the safe entry and exit of elderly voters and voters with disabilities from the polling place.

(c) (1) Each student selected as an election page shall:

(A) Be excused from school while working as an election page;

(B) Serve under the direct supervision of the election officials at his or her assigned polling place; and

(C) Observe strict impartiality at all times.

(2) An election page may observe the electoral process and seek information from the election officers but shall not handle or touch ballots, voting machines, or any other official election materials or enter any voting booth.

(3) An election page shall be in a volunteer position and shall not receive any compensation for performing his or her duties.

(4) Before beginning any duties, an election page shall take, before an election official, the following oath:

“I, _____, do swear that I will perform the duties of an election page of this election according to law and to the best of my abilities, and that I will studiously endeavor to prevent fraud, deceit, and abuse, and that I will not disclose how any voter shall have voted, unless required to do so as a witness in a judicial proceeding or a proceeding to contest an election.”

(d) (1) Each student selected to be an election official shall:

(A) Take the oath of the election officials in § 7-4-110;

(B) Serve under the supervision of the appropriate county board of election commissioners;

(C) Observe strict impartiality at all times; and

(D) Be excused from school while working as an election official.

(2) A high school student selected to be an election official may be compensated according to § 7-4-112 if the county board of election commissioners determines that the high school students selected to be election officials should be compensated.

History. Acts 2003, No. 242, § 1; 2005, No. 67, § 3.

7-4-117. Election poll workers program for college students.

(a) (1) The county board of election commissioners may conduct an election day program for college students in one (1) or more polling places designated by the county board.

(2) (A) The college students shall be selected by the county board from any two-year or four-year college or university in the state.

(B) The county board shall work in cooperation with the student government associations of the colleges and universities in selecting the students for the program and conducting seminars concerning election procedures for students interested in the program.

(3) (A) A college student selected for this program who has not reached his or her eighteenth birthday by the election day in which he or she is participating shall be called an election page.

(B) A college student selected for this program who has reached his or her eighteenth birthday by the election day in which he or she is participating and meets the qualifications in § 7-4-109 shall be an election official.

(b) The program shall:

(1) Be designed to stimulate the students' interest in elections and in registering to vote;

(2) Provide assistance to the officers of the election; and

(3) Assist in the safe entry and exit of elderly voters and voters with disabilities from the polling place.

(c) (1) Each student selected as an election page shall:

(A) Serve under the direct supervision of the election officials at his or her assigned polling place; and

(B) Observe strict impartiality at all times.

(2) An election page may observe the electoral process and seek information from the election officers but shall not handle or touch ballots, voting machines, or any other official election materials or enter any voting booth.

(3) An election page shall be in a volunteer position and shall not receive any compensation for performing his or her duties.

(4) Before beginning any duties, an election page shall take, before an election official, the following oath:

“I, _____, do swear that I will perform the duties of an election page of this election according to law and to the best of my abilities, and that I will studiously endeavor to prevent fraud, deceit, and abuse, and that I will not disclose how any voter shall have voted unless required to do so as a witness in a judicial proceeding or a proceeding to contest an election.”

(d) (1) Each student selected to be an election official shall:

(A) Take the oath of the election officials in § 7-4-110;

(B) Serve under the supervision of the appropriate county board of election commissioners; and

(C) Observe strict impartiality at all times.

(2) A college student selected to be an election official shall be compensated according to § 7-4-112.

History. Acts 2003, No. 1153, § 1; 2005, No. 67, § 4.

7-4-118. Complaints of election law violations.

(a) (1) The State Board of Election Commissioners may investigate alleged violations, render findings, and impose disciplinary action according to this subchapter for violations of election and voter registration laws, except:

(A) For the provisions in § 7-1-103(a)(1)-(4), (6), and (7); and

(B) For any matters relating to campaign finance and disclosure laws that the Arkansas Ethics Commission shall have the power and authority to enforce according to §§ 7-6-217 and 7-6-218.

(2) For purposes of subdivision (a)(1) of this section, the board may file a complaint.

(3) A complaint must be filed with the board in writing within thirty (30) days of an alleged voter registration violation or the election associated with the complaint.

(4) A complaint must clearly state the alleged election irregularity or illegality, when and where the alleged activity occurred, the supporting facts surrounding the allegations, and the desired resolution.

(5) A complaint must be signed by the complainant under penalty of perjury.

(6) (A) Filing a frivolous complaint is considered a violation of this subchapter.

(B) For purposes of this section, “frivolous” means clearly lacking any basis in fact or law.

(b) (1) Upon receipt by the board of a written complaint signed under penalty of perjury stating facts constituting an alleged violation of election or voter registration laws under its jurisdiction, the board shall proceed to investigate the alleged violation.

(2) The board may determine that:

(A) The complaint can be disposed of through documentary submissions; or

(B) Further investigation is necessary.

(3) The board may forward the complaint, along with the information and documentation as deemed appropriate, to the proper authority.

(4) (A) If the board determines that an investigation is necessary, the board shall provide a copy of the complaint with instructions regarding the opportunity to respond to the complaint to the party against whom the complaint is lodged.

(B) The board may administer oaths for the purpose of taking sworn statements from any person thought to have knowledge of any facts pertaining to the complaint.

(C) The board may request the party against whom the complaint is lodged to answer allegations in writing, produce relevant evidence, or appear in person before the board.

(D) The board may subpoena any person or the books, records, or other documents relevant to an inquiry by the board that are being held by any person and take sworn statements.

(E) The board shall provide the subject of the subpoena with reasonable notice of the subpoena and an opportunity to respond.

(F) The board shall advise in writing the complainant and the party against whom the complaint is lodged of the final action taken.

(c) If the board finds that probable cause exists for finding a violation of election or voter registration laws under its jurisdiction, the board may determine that a full public hearing be called.

(d) If the board finds a violation of election or voter registration laws under its jurisdiction, then the board may do one (1) or more of the following:

(1) Issue a public letter of caution, warning, or reprimand;

(2) Impose a fine of not less than twenty-five dollars (\$25.00) nor more than one thousand dollars (\$1,000) for each negligent or intentional violation;

(3) Report its findings, along with the information and documents as it deems appropriate, and make recommendations to the proper law enforcement authorities; or

(4) Assess costs for the investigation and hearing.

(e) (1) The board shall adopt rules governing the imposition of the fines in accordance with the provisions of the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

(2) (A) The board may file suit in the Pulaski County Circuit Court or in the circuit court of the county in which the debtor resides or, according to the Small Claims Procedure Act, § 16-17-601 et seq. [repealed], in the small claims division of any district court in the State of Arkansas to obtain a judgment for the amount of any fine imposed according to its authority.

(B) The action by the court shall not involve further judicial review of the board's actions.

(C) The fee normally charged for the filing of a suit in any of the circuit or

district courts in the State of Arkansas shall be waived on behalf of the board.

(3) All moneys received by the board in payment of fines shall be deposited into the State Treasury as general revenues.

(f) (1) The board shall complete its investigation of a complaint filed according to this section and take final action within one hundred eighty (180) days of the filing of the complaint.

(2) However, if a hearing under subsection (c) of this section is conducted, all action on the complaint by the board shall be completed within two hundred forty (240) days.

(3) Any final action of the board under this section shall constitute an adjudication for purposes of judicial review under § 25-15-212.

(g) (1) The board shall keep a record of all inquiries, investigations, and proceedings.

(2) Records relating to investigations by the board are exempt from the Freedom of Information Act of 1967, § 25-19-101 et seq., until a hearing is set or the investigation by the Director of the Board of Election Commissioners is closed.

(3) The board may disclose, through its members or staff, otherwise confidential information to proper law enforcement officials, agencies, and bodies as may be required to conduct its investigation.

History. Acts 2003, No. 1161, § 2; 2007, No. 559, § 4.

Subchapter 2 **— Volunteer Deputy Voter Registrars**

7-4-201 — 7-4-211. [Repealed.]

7-4-201 — 7-4-211. [Repealed.]

Chapter 5 **Election Procedure Generally**

Subchapter 1 — General Provisions

Subchapter 2 — Preelection Proceedings

Subchapter 3 — Conduct of Elections

Subchapter 4 — Absentee Voting

Subchapter 5 — Voting Machines

Subchapter 6 — Paper Ballots and Electronic Vote Tabulating Devices

Subchapter 7 — Returns and Canvass

Subchapter 8 — Election Contests

Subchapter 1 **— General Provisions**

- 7-5-101. Precinct boundaries and polling sites — Establishment and alteration.
- 7-5-102. Time of general election.
- 7-5-103. [Repealed.]
- 7-5-104. Election expenses — Allocation.
- 7-5-105. [Repealed.]
- 7-5-106. Runoff elections for county and municipal officers.
- 7-5-107. Use of voter registration lists by poll workers.
- 7-5-108. [Repealed.]
- 7-5-109. Computerized voter registration lists.
- 7-5-110. Registration lists for each ballot combination.

7-5-101. Precinct boundaries and polling sites — Establishment and alteration.

(a) (1) The county board of election commissioners shall:

(A) Establish election precincts; and

(B) (i) Designate a polling site for each precinct.

(ii) A polling site may serve two (2) or more precincts, including parts of precincts.

(2) Except as provided in § 6-14-106, the designation of polling sites shall be by a unanimous vote of the members of the county board present.

(b) (1) The county board by order may alter the boundaries of existing election precincts and establish new ones.

(2) A precinct shall not be altered and a new precinct shall not be created less than thirty (30) days before an election, except in the event of an emergency as determined by the county board.

(3) (A) An order to alter the boundaries of any precinct or establish any new one shall not be effective until it has been filed with the county clerk.

(B) The order shall contain a:

(i) Written description; and

(ii) Map of the boundaries of the precincts altered or established.

(c) (1) Within thirty (30) days after the boundaries of an election precinct are altered or a new election precinct is established, the county clerk shall submit five (5) copies of the changes in the form of a map and written descriptions to the Secretary of State.

(2) Upon receipt of the changes, the Secretary of State immediately shall forward a copy to the:

(A) Office of the Attorney General;

(B) Census State Data Center; and

(C) Cartography Section of the Arkansas State Highway and Transportation Department.

(d) (1) Except for school elections under § 6-14-106, the polling sites for each election shall be the same as those established for the immediately preceding general election unless changed by order of the county board.

(2) The county board shall not change a polling site for any precinct less than thirty (30) days before an election, except in the event of an emergency.

(3) Notice of any changes made in polling sites shall be provided by posting information at the polling sites used in the last election and, except for school elections and special elections, the notice shall be mailed by the county clerk to each affected registered voter at least fifteen (15) days before the election.

History. Acts 1969, No. 465, Art. 6, § 1; A.S.A. 1947, § 3-601; Acts 1993, No. 717, §§ 1, 3; 1995, No. 876, § 1; 1995 (1st Ex. Sess.), No. 7, § 1; 1997, No. 451, § 1; 1999, No. 455, § 1; 2003, No. 1165, § 2; 2003, No. 1295, § 2; 2007, No. 694, § 1; 2009, No. 250, § 3; 2009, No. 1480, § 15.

7-5-102. Time of general election.

On the Tuesday next after the first Monday in November in every even-numbered year, there shall be held an election in each precinct and ward in this state for the election of all elective state, county, and township officers whose term of office is fixed at two (2) years by the Arkansas Constitution or the General Assembly; for state senators in their respective districts when the terms for which the state senators have been elected expire before the next general election; for Representatives in the Congress of the United States for each congressional district in this state; for United States Senators when the term of office of any United States Senator expires before the next general election; and for prosecuting attorney in this state.

History. Acts 1969, No. 465, Art. 6, § 2; A.S.A. 1947, § 3-602; Acts 1993, No. 512, § 1; 2005, No. 67, § 5.

7-5-103. [Repealed.]

7-5-104. Election expenses — Allocation.

(a) (1) All expenses of general elections for presidential, congressional, state, district, county, township, or municipal offices in this state shall be paid by the counties in which they are held.

(2) However, any city or incorporated town shall reimburse the county board of election commissioners for the expenses of the elections in an amount equal to a figure derived by

multiplying fifty percent (50%) of the total cost of each election by a fraction, the numerator of which shall be the number of voters from the city or incorporated town casting ballots in each election prepared by the county board, and the denominator of which shall be the total number of voters casting ballots in each election.

(b) (1) Except for the expense of party primary elections under § 7-7-201 et seq., all expenses for special elections, including runoff elections as required by law, for congressional, state, district, county, and township offices shall be paid by the counties in which they are held.

(2) All expenses of special elections, including any runoff elections as required by law, for municipal offices shall be paid by the city or incorporated town calling for the elections.

(3) All expenses of special elections called by any county for the purpose of referring a question or measure to the voters of the county shall be paid by the county.

(4) All expenses of special elections called by any city or incorporated town for the purpose of referring a question or measure to the voters of the city or incorporated town shall be paid by the city or incorporated town.

History. Acts 1992 (1st Ex. Sess.), No. 67, § 2; 2005, No. 1205, § 1.

7-5-105. [Repealed.]

7-5-106. Runoff elections for county and municipal officers.

(a) Whenever there are more than two (2) candidates for election to any county elected office, including the office of justice of the peace, or for any municipal office at any general election held in this state and no candidate for the municipal or county office receives a majority of the votes cast for the office, there shall be a runoff general election held in that county or municipality three (3) weeks following the date of the general election at which the names of the two (2) candidates receiving the highest number of votes, but not a majority, shall be placed on the ballot to be voted upon by the qualified electors of the county or the municipality, as the case may be.

(b) In the event that two (2) candidates receive the highest number of votes and receive the same number of votes, a tie shall be deemed to exist and the names of the two (2) candidates shall be placed on the runoff general election ballot to be voted upon by the qualified electors of the county or the municipality, as the case may be.

(c) (1) If there is one (1) candidate who receives the highest number of votes, but not a majority of the votes, and two (2) other candidates receive the same number of votes for the next highest number of votes cast, a tie shall be deemed to exist between the two (2) candidates.

(2) The county board of election commissioners shall determine the runoff candidate by lot at a public meeting and in the presence of the two (2) candidates.

(d) If one (1) of the two (2) candidates who received the highest number of votes for an

office but not a majority in the general election withdraws prior to certification of the result of the general election, the remaining candidate who received the most votes at the general election shall be declared elected to the office and there shall be no general election runoff.

(e) (1) The person receiving the majority of the votes cast for the office at the runoff general election shall be declared elected.

(2) However, in the event that the two (2) candidates seeking election to the same county or municipal office shall receive the same number of votes in the runoff election, a tie shall be deemed to exist, and the county board shall determine the winner by lot at an open public meeting and in the presence of the two (2) candidates.

(f) (1) For the purposes of this section, the term “municipal officers” shall include officers of cities of the first class and cities of the second class and incorporated towns and shall include aldermen, members of boards of managers, or other elective municipal offices elected by the voters of the entire municipality or from wards or districts within a municipality.

(2) The term “municipal officers” shall not include officers of cities having a city manager form of government.

(3) The provisions of this section shall not be applicable to election of members of the boards of directors and other officials of cities having a city manager form of government.

(g) The provisions of this section are intended to be in addition to and supplemental to the laws of this state pertaining to the election of county and municipal officers at general elections.

History. Acts 1983, No. 909, §§ 1, 2; A.S.A. 1947, §§ 3-616, 3-617; Acts 1991, No. 53, § 1; 1997, No. 451, § 3; 1999, No. 554, § 1; 2003, No. 1165, § 3; 2007, No. 1049, § 14.

7-5-107. Use of voter registration lists by poll workers.

(a) In any election conducted in this state, precinct voter registration lists shall be used by poll workers in each polling place.

(b) Precinct voter registration lists shall contain the name, address including zip code, and date of birth of each registered voter within the precinct, including those who have been designated inactive, the precinct number and county wherein the precinct is located, the name and date of the election, and a space for the voter's signature.

(c) The following shall be printed at the top of each page of the precinct voter registration list:

“IF YOU SIGN THIS FORM AND YOU ARE NOT A LAWFULLY REGISTERED VOTER, YOU ARE MAKING A FALSE STATEMENT AND MAY BE COMMITTING PERJURY. PERJURY IS PUNISHABLE BY UP TO A \$10,000 FINE AND UP TO 10 YEARS IMPRISONMENT.”

History. Acts 1993, No. 487, § 1; 1995, No. 946, § 2; 1995, No. 963, § 2; 2009, No. 959, § 3.

7-5-108. [Repealed.]

7-5-109. Computerized voter registration lists.

(a) The county clerks of the several counties of the state may reproduce the registered voter list maintained by the county clerk in any format that the office of the county clerk is capable of providing.

(b) The county clerks shall be entitled to a fee in connection with the preparation of any registered voter list that shall reimburse the county clerk for reproduction expenses. The value of office equipment previously secured for the office of the county clerk shall not be considered when determining the amount of this fee.

(c) (1) (A) Upon request every county clerk who maintains on computer the list of registered voters within the county shall provide the list on computer disk or tape.

(B) The list shall include at least the names, addresses, and precinct numbers of the voters.

(2) (A) The fee for a list, on computer disk or tape, of one (1) to five thousand (5,000) registered voters may be up to ten dollars (\$10.00).

(B) The fee for a list, on computer disk or tape, of five thousand one (5,001) to twenty-five thousand (25,000) registered voters may be up to twenty-five dollars (\$25.00).

(C) The fee for a list, on computer disk or tape, of more than twenty-five thousand (25,000) registered voters may be up to fifty dollars (\$50.00).

(3) If a printed list is requested, the cost of the list may be no more than two cents (2¢) per name and address.

History. Acts 1993, No. 1161, § 1; 1995, No. 924, § 2; 1995, No. 937, § 2; 1997, No. 451, § 5; 1999, No. 651, § 1.

7-5-110. Registration lists for each ballot combination.

In any precinct with more than one (1) ballot combination, the county clerk shall prepare precinct voter registration lists that identify the district, subdistrict, county, municipality, ward, and school zone in which each voter is qualified to vote.

History. Acts 1995, No. 672, § 1; 1997, No. 451, § 6.

Subchapter 2
— Preelection Proceedings

7-5-201. Voter qualification.

7-5-202. Public notice of elections.

- 7-5-203. Certification of candidate lists.
- 7-5-204. Certification of measures and questions submitted to voters.
- 7-5-205. Write-in candidates' votes — When counted.
- 7-5-206. Publication requirements.
- 7-5-207. Ballots — Names included.
- 7-5-208. Ballots — Form.
- 7-5-209. Ballots — Correction of errors.
- 7-5-210. [Repealed.]
- 7-5-211. Delivery of election supplies.
- 7-5-212. [Repealed.]

7-5-201. Voter qualification.

(a) To be qualified to vote, a person shall have registered at least thirty (30) calendar days immediately prior to the election and in the manner set forth by Arkansas Constitution, Amendment 51.

(b) “Voting residence” shall be a voter's domicile and shall be governed by the following provisions:

(1) The domicile of a person is that place in which his or her habitation is fixed to which he or she has the intention to return whenever he or she is absent;

(2) A change of domicile is made only by the act of abandonment, joined with the intent to remain in another place. A person can have only one (1) domicile at any given time;

(3) A person does not lose his or her domicile if he or she temporarily leaves his or her home and goes to another country, state, or place in this state with the intent of returning;

(4) The place where a person's family resides is presumed to be his or her place of domicile, but a person may acquire a separate residence if he or she takes another abode with the intention of remaining there;

(5) A married person may be considered to have a domicile separate from that of his or her spouse for the purposes of voting or holding office. For those purposes, domicile is determined as if the person were single; and

(6) Persons who are temporarily living in a particular place because of a temporary work-related assignment or duty post or as a result of their performing duties in connection with their status as military personnel, students, or office holders shall be deemed residents of that place where they established their home prior to beginning such assignments or duties.

(c) No person may be qualified to vote in more than one (1) precinct of any county at any one (1) time.

(d) (1) Any person registering to vote by mail and who has not previously voted in a federal election in this state shall:

(A) Present to the election official a current and valid photo identification or copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the voter when appearing to vote in person either early or at the polls on election day; or

(B) When voting by mail, submit with the ballot a copy of a current and valid photo identification or a copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the voter.

(2) The provision of subdivision (d)(1) of this section does not include:

(A) Persons whose applications are transmitted by state or federal voter registration agencies;

(B) Persons who are covered by the Uniformed and Overseas Citizens Absentee Voting Act;

(C) Persons covered by the Voting Accessibility for the Elderly and Handicapped Act;

(D) Persons who are entitled to vote otherwise than in person under any other federal law;

(E) Persons who register to vote by mail and submit as part of the registration any of the identification documents listed in subdivision (d)(1) of this section; or

(F) Persons who register to vote by mail and submit with the registration either a driver's license number or at least the last four (4) digits of the individual's social security number and with respect to whom a state or local election official matches the license number or social security number with an existing state identification record bearing the same number, name, and date of birth as provided in the registration.

(e) Any person who receives an absentee ballot according to the precinct voter registration list but who elects to vote by early voting or to vote at his or her polling site on election day shall be permitted to cast a provisional ballot.

History. Acts 1969, No. 465, Art. 7, § 7; A.S.A. 1947, § 3-707; Acts 1987, No. 248, § 7; 1993, No. 716, § 1; 1995, No. 930, § 2; 1995, No. 941, § 2; 1999, No. 1462, § 1; 1999, No. 1471, § 1; 2003, No. 994, § 2; 2005, No. 2193, § 1; 2007, No. 560, § 2.

7-5-202. Public notice of elections.

(a) It shall be the duty of the county board of election commissioners at least twenty (20) days before each preferential primary and general election and at least ten (10) days before the holding of each general primary, general runoff, or special election to give public notice in a newspaper of general circulation in the county of:

(1) The date of the election;

- (2) The hours of voting on election day;
- (3) The places and times for early voting;
- (4) Polling sites for holding the elections in the county;
- (5) The candidates and offices to be elected at that time; and
- (6) The time and location of the opening, processing, canvassing, and counting of ballots.

(b) (1) At least five (5) days prior to a preferential primary, general primary, general election, general runoff, or special election, a copy of the public notice may be posted at each polling site fixed for holding the election and shall be published in a newspaper of general circulation in the county.

(2) At least fifteen (15) days prior to the election, each county board shall prepare and post in a public place in the county clerk's office its list of appointed election officials.

(c) On the day of any election, the following shall be posted at each polling site and remain posted continuously therein until the polls close:

- (1) The public notice required in subsection (a) of this section;
- (2) At least two (2) sample ballots, marked with the word "SAMPLE", of each ballot style that will be used at the polling site;
- (3) Two (2) copies of the full text of all measures on the ballot;
- (4) At least two (2) copies of instructions on how to vote, including how to cast a provisional ballot and instructions for fail-safe voting;
- (5) General information on voting rights under applicable federal and state laws, including information on the right of an individual to cast a provisional ballot and instructions on how to contact the appropriate officials if these rights are alleged to have been violated;
- (6) General information on federal and state laws regarding prohibitions on acts of fraud and misrepresentation;
- (7) (A) Double-sided signs containing the words "VOTE HERE".

(B) Each sign shall be at least two feet (2') by two feet (2') in size and shall contain an arrow pointing to the polling site.

(C) A sign shall be posted near each main driveway entrance to the polling site on each public street bordering the polling site so as to be visible to all traffic approaching the polling site.

(D) The sign shall be as close as possible to the public street without obstructing traffic; and

(8) One (1) printout from each voting machine showing whether the candidate and question counters register zero (0).

(d) The Secretary of State shall provide to each county board of election commissioners and each county clerk the information to be posted at each polling site according to subdivisions (c)(5) and (6) of this section.

History. Acts 1969, No. 465, Art. 6, §§ 4, 5; A.S.A. 1947, §§ 3-604, 3-605; Acts 1997, No. 451, § 7; 1999, No. 1490, § 3; 2001, No. 474, § 1; 2003, No. 994, § 3; 2005, No. 138, § 1; 2005, No. 1677, § 3; 2007, No. 222, § 4; 2007, No. 556, § 1.

7-5-203. Certification of candidate lists.

(a) (1) Not less than seventy (70) days before each general election day, the Secretary of State shall certify to all county boards of election commissioners full lists of all candidates to be voted for in their respective counties as the nominations have been certified or otherwise submitted to him or her.

(2) A name of a person shall not be certified and shall not be placed on the ballot if prior to the certification a candidate on the list:

(A) Notifies the Secretary of State in writing, signed by the candidate and acknowledged before an officer authorized to take acknowledgements, of his or her desire to withdraw as a candidate for the office or position; or

(B) Dies.

(b) (1) Not less than seventy (70) days before each general election day, the clerk of each county shall certify to the county board of his or her county a full list of all candidates to be voted for in the county as the nominations have been certified or otherwise submitted to him or her.

(2) A name of a person shall not be certified and shall not be placed on the ballot if prior to the certification a candidate on the list:

(A) Notifies the county clerk in writing, signed by the candidate and acknowledged before an officer authorized to take acknowledgements, of his or her desire to withdraw as a candidate for the office or position; or

(B) Dies.

(c) However, in special elections held to fill vacancies or to elect officers in case of a tie vote, the certification shall issue at the time specified in the writ of election issued by the appropriately constituted authority.

History. Acts 1969, No. 465, Art. 6, § 6; 1985, No. 1055, § 2; A.S.A. 1947, § 3-606; Acts 1997, No. 451, § 8; 1999, No. 1490, § 4; 2005, No. 67, § 6; 2007, No. 1049, § 18; 2009, No. 1480, § 17.

7-5-204. Certification of measures and questions submitted to voters.

(a) Whenever a proposed amendment to the Arkansas Constitution or other measure or question is to be submitted to a vote of the people, the Secretary of State shall not certify the amendment, measure, or question to the county board of election commissioners of each county in the state less than seventy (70) days before each general election day.

(b) The county board shall include the amendment, measure, or question in the posting that it is required to make under § 7-5-206.

(c) (1) If the Secretary of State has not determined the sufficiency of a petition for an amendment or a measure by the seventieth day before the general election or if an amendment or a measure has been challenged for any reason in a court of competent jurisdiction, the Secretary of State shall nonetheless transmit the amendment or measure and the ballot title of each amendment and measure to the county election commissions to make any required posting and to place the amendment or measure on the ballot.

(2) If the petition for the amendment or measure is subsequently declared insufficient by the Secretary of State or a court of competent jurisdiction or if held to be invalid for any other reason, no votes regarding the amendment or measure shall be counted or certified.

History. Acts 1969, No. 465, Art. 6, § 7; A.S.A. 1947, § 3-607; Acts 1997, No. 451, § 9; 1999, No. 1490, § 5; 2007, No. 222, § 5; 2007, No. 1049, § 19; 2009, No. 959, § 4.

7-5-205. Write-in candidates' votes — When counted.

No votes for write-in candidates shall be counted or tabulated unless:

(1) The candidate notifies in writing the county board of election commissioners of each county in which the candidate seeks election and files the notice with either:

(A) The Secretary of State, if a candidate for United States Senate, United States House of Representatives, or any state or district office; or

(B) The county clerk if a candidate for a county or township office;

(2) The candidate files with the county clerk or the Secretary of State, as required, a political practices pledge and an affidavit of eligibility for the office at the same time the candidate files his or her notice of write-in candidacy;

(3) The notice of write-in candidacy, the political practices pledge, and the affidavit of eligibility are filed no earlier than noon on the last day of the party filing period and not later than ninety (90) days before the election day; and

(4) The name written on the ballot is the same name listed on the write-in candidate's political practices pledge, except that any abbreviation, misspelling, or other minor variation in the form of the name of the candidate shall be disregarded if the intention of the voter may be

ascertained.

History. Acts 1969, No. 465, Art. 6, § 14; 1985, No. 1055, § 1; A.S.A. 1947, § 3-614; Acts 1987, No. 247, § 1; 1987, No. 933, § 1; 1989, No. 912, § 1; 1997, No. 451, § 10; 1999, No. 640, § 1; 2001, No. 955, § 1; 2001, No. 1789, § 4; 2003, No. 542, § 2; 2003, No. 1165, § 4; 2007, No. 222, § 6; 2009, No. 1480, § 18.

7-5-206. Publication requirements.

The county board of election commissioners shall make publication of all nominations, of all proposed amendments to the Arkansas Constitution, and of all other measures and questions required by law to be submitted to the electors at any election by posting a list thereof at the door of the courthouse at least ten (10) days before the day of the election.

History. Acts 1969, No. 465, Art. 6, § 8; A.S.A. 1947, § 3-608; Acts 1995, No. 497, § 2; 1995, No. 1085, § 2; 1997, No. 451, § 11; 2005, No. 67, § 7; 2007, No. 222, § 7; 2007, No. 1020, § 2; 2009, No. 959, § 5.

7-5-207. Ballots — Names included.

(a) (1) Except as provided in subdivisions (a)(2) and (3) of this section, all election ballots provided by the county board of election commissioners of any county in this state for any election shall contain in the proper place the name of every candidate whose nomination for any office to be filled at that election has been certified to the county board and shall not contain the name of any candidate or person who has not been certified.

(2) (A) Except as provided in subdivision (a)(2)(B) of this section, unopposed candidates for municipal offices shall be declared and certified elected without the necessity of including those names on the general election ballot.

(B) The names of all unopposed candidates for the office of mayor shall be separately placed on the general election ballot, and the votes for mayor shall be tabulated as in all contested races.

(3) (A) (i) Except as provided in subdivision (a)(3)(B) of this section, the names of all other unopposed candidates for all offices, including without limitation the names of all unopposed write-in candidates, shall be grouped together on the ballot indicating the office and the name of the unopposed candidate.

(ii) The phrase “Unopposed Candidates” shall appear at the top of the list of the names of all unopposed candidates.

(iii) Adjacent to the phrase “Unopposed Candidates” shall be a place in which the voter may cast a vote for all the candidates by placing an appropriate mark.

(B) The names of all unopposed candidates for the office of circuit clerk shall be separately placed on the general election ballot, and the votes for circuit clerk shall be tabulated

as in all contested races.

(b) No person's name shall be placed upon the ballot as a candidate for any public office in this state at any election unless the person is qualified and eligible at the time of filing, or as otherwise may be provided by law, as a candidate for the office to hold the public office for which he or she is a candidate, except if a person is not qualified to hold the office at the time of filing because of age alone, the name of the person shall be placed on the ballot as a candidate for the office if the person will qualify to hold the office at the time prescribed by law for taking office.

(c) (1) The order in which the names of the candidates shall appear on the ballot shall be determined by lot at a public meeting of the county board not less than sixty-five (65) days before the general election.

(2) Notice of the public meeting shall be given by publication in a newspaper of general circulation in the county at least three (3) days before the drawing.

(3) For runoff elections, the ballot order for eligible candidates shall be the same as for the previous election leading to the runoff.

(d) (1) Beside or adjacent to the name of each candidate in the general election shall be:

(A) His or her party designation; or

(B) The term "INDEPENDENT" if he or she represents no officially recognized party.

(2) Subdivision (d)(1) of this section shall not apply to a:

(A) Nonpartisan judicial election; or

(B) Nonpartisan municipal election.

History. Acts 1969, No. 465, Art. 6, § 13; 1971, No. 224, § 1; 1971, No. 261, §§ 20, 22; 1971, No. 355, §§ 1-3; 1971, No. 725, § 1; 1979, No. 389, § 1; A.S.A. 1947, §§ 3-613, 3-615; Acts 1997, No. 451, § 12; 2007, No. 1049, § 15; 2009, No. 959, § 6; 2009, No. 1480, § 19.

7-5-208. Ballots — Form.

(a) All election ballots provided by the county board of election commissioners of any county in this state for any election shall be alike and shall be in plain type.

(b) (1) The heading of each ballot shall be: "OFFICIAL BALLOT
_____ (description)
_____ ELECTION _____ (date) _____ ,
_____ (year) _____

Vote by placing an appropriate mark opposite the person for whom you wish to vote".

(2) If the ballot contains an initiated or referred amendment, act, or measure, the heading

shall also contain these words: “Vote on amendments, acts, and measures by placing an appropriate mark above the amendment (or act or measure) either FOR or AGAINST”.

(c) (1) Every ballot shall contain the name of each candidate who has been nominated or has qualified in accordance with law for each office. The names of the candidates shall be listed in a perpendicular column under the name of each office to be filled.

(2) In all elections in which votes for a write-in candidate may be counted, at the bottom of each list of names for each position or office appearing on the ballot, there shall be a blank line for a possible write-in vote for that position or office. However, the blank line shall not appear on the ballot with respect to those offices and candidates for positions in which no person has qualified as a write-in candidate by filing his or her notice of intention to be a write-in candidate within the time prescribed in § 7-5-205.

(d) Adjacent to the name of each candidate and on the same line there shall be a place for marking a vote for the candidate. Below each act, amendment, or measure to be voted on, there shall be the words “FOR” and “AGAINST” situated one above the other with a place for marking a vote for the act, amendment, or measure adjacent to each word and on the same line.

(e) Opposite the designation of each office, there shall appear these words: “VOTE FOR _____”. The number of persons required to fill the vacancy in office shall be placed in the blank space.

History. Acts 1969, No. 465, Art. 6, § 13; 1971, No. 224, § 1; 1971, No. 261, §§ 11, 20, 22; 1971, No. 355, §§ 1-3; 1979, No. 389, § 1; A.S.A. 1947, § 3-613; Acts 1987, No. 280, §§ 1, 2; 1993, No. 1011, § 1; 1995, No. 461, § 1; 1997, No. 451, § 13; 1999, No. 640, § 2; 2005, No. 1677, § 4; 2005, No. 2233, § 3; 2007, No. 705, § 1; 2007, No. 1049, § 16; 2009, No. 1480, § 20.

7-5-209. Ballots — Correction of errors.

Whenever it shall appear by affidavit that an error or omission has occurred in the publication of the names or description of candidates nominated for office or in the preparation of ballots, the county board of election commissioners shall in a public meeting announce the error or omission and immediately correct the error or omission or show cause why the correction should not be done.

History. Acts 1969, No. 465, Art. 6, § 12; A.S.A. 1947, § 3-612; Acts 1997, No. 451, § 14; 2009, No. 1480, § 21.

7-5-210. [Repealed.]

7-5-211. Delivery of election supplies.

(a) At least one (1) day before any election:

(1) (A) The county board of election commissioners shall designate a suitable person or persons and deliver to the person or persons the ballots.

(B) The person shall not be an elected official, an elected official's deputy, or a candidate for office; and

(2) For each set of poll workers in each polling place, the county board of election commissioners shall deliver to the designated person or persons the following additional election supplies if applicable:

(A) A good and sufficient ballot box with numbered seals;

(B) Sufficient list-of-voters forms adequate to record the names of all registered voters who appear to vote in the polling place;

(C) A precinct voter registration list;

(D) Sufficient tally sheets;

(E) Envelopes to seal the ballots and certificates;

(F) Separate sheets containing blank forms of certificates prepared to enable the poll workers to properly certify the paper ballot count at the polling site, upon which certificates shall be endorsed a blank form of oath to be taken by the poll workers before entering upon the discharge of their duties;

(G) Voter registration application forms for voters using fail-safe voting and other record-keeping supplies necessary to document fail-safe voting procedures; and

(H) In those counties in which an optical scanner is used to count paper ballots, the marking instrument recommended by the manufacturer of the optical scanner for proper marking on the ballots shall be provided.

(b) The county board of election commissioners shall be responsible for the security of the delivered election materials.

(c) The county board of election commissioners shall be responsible for providing ballots and election materials for absentee and early voting to the county clerk before the beginning day for absentee and early voting.

History. Acts 1969, No. 465, Art. 6, § 11; 1973, No. 157, § 8; A.S.A. 1947, § 3-611; Acts 1995, No. 601, § 2; 1995, No. 946, § 3; 1995, No. 963, § 3; 1997, No. 451, § 15; 1999, No. 920, § 1; 2001, No. 1178, § 1; 2007, No. 1020, § 4; 2009, No. 959, § 7; 2009, No. 1480, § 23.

7-5-212. [Repealed.]

Subchapter 3 **— Conduct of Elections**

7-5-301. Acquisition, use, and cost of voting systems.

7-5-302. [Repealed.]

- 7-5-303. [Repealed.]
- 7-5-304. Opening and closing polls — Time.
- 7-5-305. Requirements.
- 7-5-306. Procedure when voter's name is not on the precinct voter registration list.
- 7-5-307. [Repealed.]
- 7-5-308. Provisional ballot procedure.
- 7-5-309. Voting procedure.
- 7-5-310. Privacy — Assistance to disabled voters.
- 7-5-311. Voters with disabilities — Special procedures.
- 7-5-312. Challenge of voter's ballot by poll watchers, candidates, or designees.
- 7-5-313. [Repealed.]
- 7-5-314. Duties of election officials — Voter lists.
- 7-5-315. Counting votes for unopposed and deceased candidates.
- 7-5-316. Presence of candidate — Designation of representatives.
- 7-5-317. Processing and delivery of election materials.
- 7-5-318. Failure to deliver materials — Penalty — Messenger to obtain delinquent returns.
- 7-5-319. Recount.
- 7-5-320. [Repealed.]

7-5-301. Acquisition, use, and cost of voting systems.

(a) The casting and counting of votes in all elections shall be by:

- (1) Voting machines selected by the Secretary of State;
- (2) Electronic vote tabulating devices in combination with voting machines accessible to voters with disabilities to be selected by the Secretary of State; or
- (3) Paper ballots counted by hand in combination with voting machines accessible to voters with disabilities selected by the Secretary of State.

(b) (1) All direct recording electronic voting machines shall include a voter-verified paper audit trail, except that those direct recording electronic voting machines in use during the 2004 general election may include a voter-verified paper audit trail at the discretion of the county election commission.

(2) All direct recording electronic voting machines purchased on or after January 1, 2006, shall include a voter-verified paper audit trail.

(c) (1) The quorum court of each county shall choose by resolution a voting system containing voting machines or electronic vote tabulating devices, or both, or voting machines in combination with paper ballots counted by hand for use in all elections in the county.

(2) Any voting machine or electronic vote tabulating devices chosen by the quorum court shall be those selected by the Secretary of State.

(3) Any voting system used in elections for federal office shall comply with the

requirements of the federal Help America Vote Act of 2002.

(d) (1) Voting machines and electronic vote tabulating devices shall be purchased pursuant to a competitive bidding process with consideration given to:

(A) Price;

(B) Quality; and

(C) Adaptability to Arkansas ballot requirements.

(2) The Secretary of State shall use a portion of the funds provided by the federal government and the state for the purpose of complying with the requirements of the federal Help America Vote Act of 2002 to purchase and distribute voting machines and electronic vote tabulating devices and other equipment necessary to the administration of elections.

(3) Each county shall bear the cost of acquiring any additional voting machines or electronic vote tabulating devices or other equipment necessary to the administration of elections.

(e) The Secretary of State or the county shall not purchase or procure any voting machine or electronic vote tabulating device unless the party selling the machine or device shall:

(1) Guarantee the machines in writing for a period of one (1) year; and

(2) Provide, if deemed necessary by the county, personnel for the supervision and training of county personnel for at least two (2) elections, one (1) primary and one (1) general.

(f) Each county shall provide polling places that are adequate for the operation of the voting system, including, but not limited to, access, if necessary, to a sufficient number of electrical outlets and telephone lines.

(g) Each county shall provide or contract for adequate technical support for the installation, set up, and operation of the voting system for each election.

(h) The Secretary of State shall be responsible for the development, implementation, and provision of a continuing program to educate voters and election officials in the proper use of the voting system.

(i) Electronic vote tabulating devices and voting machines, authorized as provided under this subchapter, may be acquired and used in any election upon the adoption of an ordinance by the quorum court of the county.

(j) The costs of using electronic vote tabulating devices and voting machines at all general and special elections, including, but not limited to, costs of supplies, technical assistance, and transportation of the systems to and from the polling places, shall be paid in accordance with § 7-5-104.

(k) The county board of election commissioners shall have complete control and supervision of voting machines and electronic vote tabulating devices at all elections.

(l) The county clerk shall have supervision of voting machines and electronic vote tabulating devices used for early voting in the clerk's designated early voting location.

(m) (1) The county board of election commissioners shall have the care and custody of all voting machines and all electronic vote tabulating devices while not in use.

(2) The county board of election commissioners shall be responsible for the proper preparation, use, maintenance, and care of the voting machines and the electronic vote tabulating devices during the period of time required for that election.

History. Acts 1969, No. 465, Art. 7, § 2; 1971, No. 261, § 10; A.S.A. 1947, § 3-702; Acts 1995, No. 946, § 4; 1995, No. 963, § 4; 1997, No. 451, § 16; 2005, No. 2233, § 4; 2007, No. 1020, § 5; 2009, No. 959, §§ 8, 9.

7-5-302. [Repealed.]

7-5-303. [Repealed.]

7-5-304. Opening and closing polls — Time.

(a) The polls shall be opened at 7:30 a.m., and they shall remain open continuously until 7:30 p.m.

(b) In all counties, when the polls close, all persons who have presented themselves for voting and who are then in line at the polling site shall be permitted to cast their votes.

(c) (1) A person who votes in an election as a result of a federal or state court order or any other order extending the time established for closing the polls may vote in that election only by casting a provisional ballot.

(2) The ballot shall be separated and held apart from other provisional ballots cast by those not affected by the order.

History. Acts 1969, No. 465, Art. 7, § 1; 1981, No. 104, § 1; A.S.A. 1947, § 3-701; Acts 1993, No. 515, § 1; 2007, No. 1020, § 6; 2009, No. 959, § 10.

7-5-305. Requirements.

(a) Before a person is permitted to vote, the poll worker shall:

(1) Request the voter to identify himself or herself in order to verify the existence of his or her name on the precinct voter registration list;

(2) Request the voter, in the presence of the poll worker, to state his or her address and state his or her date of birth;

(3) Determine that the voter's date of birth and address are the same as those on the

precinct voter registration list;

(4) If the date of birth given by the voter is not the same as that on the precinct voter registration list, request the voter to provide identification as the poll worker deems appropriate;

(5) (A) If the voter's address is not the same as that on the precinct voter registration list, verify with the county clerk that the address is within the precinct.

(B) If the address is within the precinct, request the voter to complete a voter registration application form for the purpose of updating county voter registration record files.

(C) If the address is not within the precinct:

(i) Verify with the county clerk's office the proper precinct; and

(ii) Instruct the voter to go to the polling site serving that precinct in order for his or her vote to be counted;

(6) If the voter's name is not the same as that on the precinct voter registration list, request the voter to complete a voter registration application form for purposes of updating county voter registration record files;

(7) Request the voter, in the presence of the poll worker, to sign his or her name, including the given name, middle name or initial, if any, and last name in the space provided on the precinct voter registration list. If a person is unable to sign his or her signature or make his or her mark or cross, the poll worker shall enter his or her initials and the voter's date of birth in the space for the person's signature on the precinct voter registration list;

(8) (A) Request the voter for purposes of identification to provide a current and valid photo identification or a copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the voter.

(B) (i) If a voter is unable to provide this identification, the poll worker shall indicate on the precinct voter registration list that the voter did not provide identification.

(ii) A first-time voter who registers by mail without providing identification when registering and desires to vote in person but who does not meet the identification requirements of subdivision (a)(8)(A) of this section may cast a provisional ballot.

(iii) Following each election, the county board of election commissioners may review the precinct voter registration lists and may provide the information of the voters not providing identification at the polls to the prosecuting attorney.

(iv) The prosecuting attorney may investigate possible voter fraud;

(9) Record the voter's name or request the voter to print his or her name on the list-of-voters form;

(10) Follow the procedures under §§ 7-5-310 and 7-5-311 if the person is a voter with a disability and presents himself or herself to vote; and

(11) Permit the person to cast a provisional ballot if the person received an absentee ballot according to the precinct voter registration list.

(b) A person not listed on the precinct voter registration list may vote only in accordance with § 7-5-306.

History. Acts 1969, No. 465, Art. 7, § 8; A.S.A. 1947, § 3-708; Acts 1993, No. 487, § 2; 1995, No. 946, § 6; 1995, No. 963, § 6; 1997, No. 451, § 18; 1999, No. 1454, § 1; 2001, No. 471, § 1; 2003, No. 994, § 4; 2003, No. 1308, § 4; 2005, No. 238, § 1; 2005, No. 2193, § 2; 2007, No. 1020, § 8; 2009, No. 959, § 11.

7-5-306. Procedure when voter's name is not on the precinct voter registration list.

(a) If the voter's name is not on the precinct voter registration list, the poll worker shall permit the voter to vote only under the following conditions:

(1) The voter identifies himself or herself by stating his or her name and date of birth and is verified by the county clerk as a registered voter within the county and, if the county is divided into more than one (1) congressional district, within the same congressional district;

(2) The voter gives and affirms his or her current residence and the poll worker verifies with the county clerk that the voter's residence is within the precinct;

(3) The voter completes an updated voter registration application form; and

(4) The voter signs the precinct voter registration list.

(b) If the voter is not listed on the precinct voter registration list and the poll worker is unable to verify the voter's registration with the county clerk and the voter contends that he or she is a registered voter in the precinct in which he or she desires to vote and that he or she is eligible to vote, then the voter shall be permitted to cast a provisional ballot.

History. Acts 1969, No. 465, Art. 7, § 9; A.S.A. 1947, § 3-709; Acts 1995, No. 946, § 7; 1995, No. 963, § 7; 1997, No. 451, § 19; 2003, No. 994, § 5; 2005, No. 238, § 2; 2007, No. 224, § 2; 2009, No. 959, § 12.

7-5-307. [Repealed.]

7-5-308. Provisional ballot procedure.

(a) When the voter is required by law to cast a provisional ballot, the ballot shall be cast pursuant to the following procedures:

(1) A poll worker shall notify the individual that the individual may cast a provisional ballot in that election;

(2) The voter shall execute a written eligibility affirmation in the presence of the poll

worker stating that he or she is a registered voter in the precinct in which he or she desires to vote and is eligible to vote;

(3) The poll worker shall initial the back of the ballot, remove the ballot stub from the provisional ballot, and place the stub in the stub box provided;

(4) The voter shall mark his or her provisional ballot;

(5) The voter shall place the voted provisional ballot in a ballot secrecy envelope marked “provisional ballot” and seal the envelope;

(6) The voter shall place the sealed provisional ballot envelope containing the voted provisional ballot in a voter envelope, seal the envelope, and give it to the poll worker;

(7) The poll worker shall provide the voter written information instructing him or her on how to determine whether his or her provisional ballot was counted, and if not, the reason the ballot was not counted; and

(8) The poll worker shall make a separate list of the names and addresses of all persons voting a provisional ballot.

(b) The poll worker shall preserve, secure, and separate all provisional ballots from the remaining ballots so that the right of any person to vote may be determined later by the county board of election commissioners or the court in which an election contest may be filed.

(c) (1) Whenever a person casts a provisional ballot, the poll worker shall provide the voter written information that states that the individual who casts a provisional ballot will be able to ascertain whether the vote was counted, and if not, the reason the vote was not counted.

(2) The Secretary of State shall establish a free access system to allow a provisional voter to ascertain whether his or her vote was counted, and if not, the reason his or her vote was not counted.

(3) Access to information about an individual provisional ballot shall be restricted to the individual who cast the ballot.

(d) (1) Before certification of the results of the election, the county board shall determine whether the provisional ballots are valid.

(2) Unless enjoined by a court of competent jurisdiction, a provisional ballot shall be counted if it is cast by a registered voter and is the correct ballot, according to the precinct listed on the voter's eligibility affirmation, for the precinct of the voter's residence.

(e) If, upon examination of any provisional ballots, the county board suspects that a violation of the election laws has occurred, the county board may refer the matter to the prosecuting attorney.

History. Acts 1969, No. 465, Art. 7, § 12; A.S.A. 1947, § 3-712; Acts 2007, No. 224, § 4; 2009, No. 1480, § 25.

7-5-309. Voting procedure.

(a) (1) At general, primary, special, and school elections in counties that use paper ballots, the county board of election commissioners shall provide in each polling site at least one (1) voting booth for each fifty (50) registered electors voting in the last-preceding comparable election.

(2) Each voting booth shall be situated so as to permit a voter to prepare his or her ballot screened from observation and shall be furnished with any supplies and conveniences as will enable the voter to prepare his or her ballot.

(3) The voting booths shall be situated in the polling site in plain view of the poll workers.

(4) A person other than the poll workers and those admitted for the purpose of voting shall not be permitted within the immediate voting area, which shall be considered as within six feet (6') of the voting booths, except by authority of the election judge and then only when necessary to keep order and enforce the law.

(b) Before giving the voter a ballot, a poll worker shall:

(1) Initial the back of the ballot;

(2) Remove the ballot stub; and

(3) Place the stub into the stub box provided.

(c) (1) (A) Upon receiving his or her ballot, the voter shall proceed to mark it by placing an appropriate mark.

(B) A voter shall not be allowed more than five (5) minutes to mark his or her ballot.

(2) The voter shall then personally deposit the ballot into the ballot box provided.

(d) (1) The voter shall not be required to sign, initial, or in any way identify himself or herself with the ballot, the ballot stub, or the list of voters other than in the manner set forth in this section.

(2) However, a poll worker may inspect the back of the ballot before the voter deposits it to see if it has been initialed by an election official.

(e) After having voted or having declined to do so, the voter shall immediately depart from the polling site.

(f) A person shall not be permitted to carry a ballot outside of the polling place.

(g) (1) If a paper ballot is left at a voting booth or anywhere else in the polling site without being inserted into the ballot box by the voter before departing the polling site, a poll worker

shall:

- (A) Write “Abandoned” on the face of the paper ballot;
- (B) Place the paper ballot into an envelope marked “Abandoned Ballot”;
- (C) Note in writing on the outside of the envelope all circumstances surrounding the abandoned ballot; and
- (D) Preserve the abandoned ballot separately.

(2) The county board of election commissioners shall not count the ballot.

(h) (1) If a paper ballot that is fed by a voter into an electronic vote tabulating device at the polling site is rejected by the device but is still in the receiving part of the counter and the voter has not reported to a poll worker his or her desire to cancel or replace the ballot before departing the polling site, two (2) poll workers shall take action to override warnings on the device and complete the process of casting the ballot.

(2) The poll workers shall document:

- (A) The time;
 - (B) The name of the voter;
 - (C) The names of the poll workers completing the process of casting the ballot;
- and
- (D) All other circumstances surrounding the abandoned ballot.

History. Acts 1969, No. 465, Art. 7, § 11; A.S.A. 1947, § 3-711; Acts 1997, No. 451, § 21; 2005, No. 880, § 2; 2007, No. 224, § 5; 2007, No. 834, § 1; 2009, No. 959, § 13.

7-5-310. Privacy — Assistance to disabled voters.

(a) Each voter shall be provided the privacy to mark his or her ballot. Privacy shall be provided by the poll workers at each polling site or by the county clerk, if the county clerk conducts early voting, to ensure that a voter desiring privacy is not singled out.

(b) (1) A voter shall inform the poll workers at the time that the voter presents himself or herself to vote that he or she is unable to mark or cast the ballot without help and needs assistance in casting his or her ballot.

(2) The voter shall be directed to a voting machine equipped for use by persons with disabilities by which he or she may elect to cast his or her ballot without assistance, or the voter may request assistance with either the paper ballot or the voting machine, depending on the voting system in use for the election, by:

- (A) Two (2) poll workers; or

(B) A person named by the voter.

(3) If the voter is assisted by two (2) poll workers, one (1) of the poll workers shall observe the voting process and one (1) may assist the voter in marking and casting the ballot according to the wishes of the voter without comment or interpretation.

(4) (A) If the voter is assisted by one (1) person named by the voter, he or she may assist the voter in marking and casting the ballot according to the wishes of the voter without any comment or interpretation.

(B) No person other than the following shall assist more than six (6) voters in marking and casting a ballot at an election:

(i) A poll worker;

(ii) The county clerk during early voting; or

(iii) A deputy county clerk during early voting.

(5) It shall be the duty of the poll workers at the polling site to make and maintain a list of the names and addresses of all persons assisting voters.

(c) Any voter who because of physical, sensory, or other disability who presents himself or herself for voting and who then informs a poll worker at the polling site that he or she is unable to stand in line for extended periods of time shall be entitled to and assisted by a poll worker to advance to the head of any line of voters then waiting in line to vote at the polling site.

History. Acts 1995, No. 908, § 1; 1995, No. 1296, § 39; 1997, No. 451, § 22; 2003, No. 1308, § 1; 2005, No. 2233, § 6; 2007, No. 1020, § 7; 2009, No. 658, § 3; 2009, No. 959, § 14.

7-5-311. Voters with disabilities — Special procedures.

(a) The county boards of election commissioners shall provide voting locations that are accessible to voters with disabilities and shall provide reasonable and adequate methods whereby voters with disabilities may personally and secretly execute their ballots at the polling places.

(b) After conferring with and obtaining the assistance of persons with disabilities or organizations of citizens with disabilities, the State Board of Election Commissioners shall offer to assist local election authorities with the implementation of Title II requirements of the Americans with Disabilities Act and with the Title III requirements of the Help America Vote Act of 2002 regarding accessibility for voters with disabilities.

(c) As used in this section, the term “disability” means any physical, mental, or sensory impairment.

(d) (1) The county board shall be responsible for compliance with this section and with Pub. L. No. 98-435, Title II of Pub. L. No. 101-336, the Americans with Disabilities Act, and the Help America Vote Act regarding the accessibility of voting locations for voters with disabilities.

(2) The state board shall mail to the chair of each county board and the chair of each county political party a copy of this section and of Pub. L. No. 98-435.

History. Acts 1979, No. 972, § 1; A.S.A. 1947, § 3-721; Acts 1989, No. 912, § 2; 1993, No. 1192, § 3; 1995, No. 1120, § 1; 1999, No. 643, §§ 1, 2; 2003, No. 1308, § 2; 2005, No. 1827, § 4; 2007, No. 1020, § 9.

7-5-312. Challenge of voter's ballot by poll watchers, candidates, or designees.

(a) Poll watchers shall include any:

(1) Candidate in person, but only during the counting and tabulation of ballots and the processing of absentee ballots;

(2) Authorized representative of a candidate;

(3) Authorized representative of a group seeking the passage or defeat of a measure on the ballot; and

(4) Authorized representative of a political party with a candidate on the ballot.

(b) Each candidate, group, or party may have at any given time during the election, including early voting:

(1) One (1) authorized representative present at any one (1) time at each location within a polling site where voters identify themselves to election officials, so as to observe and ascertain the identity of those persons presenting themselves to vote for the purpose of challenging voters; and

(2) One (1) authorized representative present at any one (1) time at each location within the absentee ballot processing site where absentee ballots are processed, so as to observe and ascertain the identity of absentee voters for the purpose of challenging any absentee vote.

(c) In accordance with §§ 7-5-316, 7-5-413, 7-5-416, 7-5-527, and 7-5-615, a candidate in person or an authorized representative of a candidate or political party may be present at a polling site, central counting location, and absentee ballot counting location for the purpose of witnessing the counting of ballots by election officials and determining whether ballots are fairly and accurately counted.

(d) The document designating and authorizing a representative of a candidate, a representative of a group seeking the passage or defeat of a measure on the ballot, and a representative of a political party with a candidate on the ballot shall be filed with the county clerk and a file-marked copy shall be presented by the poll watcher to the election official immediately upon entering the polling site, absentee ballot processing site, or counting location in the following form:

“POLL WATCHER AUTHORIZATION FORM

Representative of a Candidate

I,, state that I am a candidate for the office of in the election. I further state that I have designated as my authorized representative at the election polling sites and absentee ballot processing sites in County, Arkansas, to observe and ascertain the identity of persons presenting themselves to vote in person or by absentee for the purpose of challenging any voter in accordance with Arkansas Code §§ 7-5-312, 7-5-416, and 7-5-417. I further state that I have designated and authorized my representative named above to be present at the ballot counting locations at County, Arkansas, for the purpose of witnessing the counting of ballots by election officials and determining whether ballots are fairly and accurately counted in accordance with Arkansas Code §§ 7-5-312, 7-5-316, 7-5-413, 7-5-416, 7-5-527, and 7-5-615.

Representative of a Group

I,, state that I represent the group that is seeking passage/defeat (circle one) of the ballot measure entitled on the ballot in the election at polling sites and absentee ballot processing sites County, Arkansas, to observe and ascertain the identity of persons presenting themselves to vote in person or by absentee for the purpose of challenging any vote in accordance with Arkansas Code §§ 7-5-312, 7-5-416, and 7-5-417.

Representative of a Party

I,, state that I am the chair or secretary of the state/county (circle one) committee for the party with candidates on the ballot in the election. I further state that I have designated as an authorized party representative at the election at polling sites and absentee ballot processing sites in County, Arkansas, to observe and ascertain the identity of persons presenting themselves to vote in person or by absentee for the purpose of challenging any vote in accordance with Arkansas Code §§ 7-5-312, 7-5-416, and 7-5-417. I further state that I have designated and authorized my representative named above to be present at the ballot counting locations at in County, Arkansas, for the purpose of witnessing the counting of ballots by election officials and determining whether ballots are fairly and accurately counted in accordance with Arkansas Code §§ 7-5-312, 7-5-316, 7-5-413, 7-5-416, 7-5-527, and 7-5-615.

.....
Signature of Candidate, Group Representative, or Chair/Secretary of the State/County Committee

Acknowledged before me this day of, 20

Notary Public:My Commission Expires:

I do hereby state that I am familiar with the rights and responsibilities of a poll watcher as outli on the back of the poll watcher authorization form and will in good faith comply with the provision same.

.....
Signature of the Poll Watcher

Acknowledged before me thisday of, 20

Notary Public:My Commission Expires:
.....

I do hereby acknowledge the filing of this poll watcher authorization form with the county cle office.

.....
Signature of County Clerk”

(e) Poll watcher rights and responsibilities shall be printed on the back of the document in the following form:

“POLL WATCHER RIGHTS AND RESPONSIBILITIES

A poll watcher may be:

- (1) A candidate in person, but only during the counting and tabulation of ballots and the processing of absentee ballots;
- (2) An authorized representative of a candidate;
- (3) An authorized representative of a group seeking the passage or defeat of a measure on the ballot; or
- (4) An authorized representative of a party with a candidate on the ballot.

Official recognition of poll watchers:

- (1) Only one (1) authorized poll watcher per candidate, group, or party at any one (1) given time may be officially recognized as a poll watcher at each location within a polling site where voters identify themselves to election officials;
- (2) Only one (1) authorized poll watcher per candidate, group, or party at any one (1) given time may be officially recognized as a poll watcher at each location within the absentee ballot processing site where absentee ballots are processed; and

(3) Only one (1) authorized poll watcher per candidate or party at any one (1) given time may be officially recognized as a poll watcher at the counting of the ballots.

Poll watcher credentials:

(1) Except for candidates in person, poll watchers must present a valid affidavit in the form of a "Poll Watcher Authorization Form" to an election official immediately upon entering the polling or counting location; and

(2) Candidates in person attending a counting site or absentee ballot processing site are not required to present a "Poll Watcher Authorization Form" but must present some form of identification to an election official immediately upon entering the site for the purpose of confirming the poll watcher as a candidate on the ballot.

Poll watchers may:

(1) Observe the election officials;

(2) Stand close enough to the place where voters check in to vote so as to hear the voter's name;

(3) Compile lists of persons voting;

(4) Challenge ballots upon notification to an election official before the voter signs the precinct voter registration list and upon completing a "Challenged Ballot Form";

(5) Call to the attention of the election sheriff any occurrence believed to be an irregularity or violation of election law. The poll watcher may not discuss the occurrence unless the election sheriff invites the discussion; and

(6) Be present at the opening, processing, and canvassing of absentee ballots for the purpose of challenging absentee votes in the manner provided by law for personal voting challenges.

Poll watchers representing a candidate or political party may:

(1) Remain at the polling site after the poll closes if ballots are counted at the poll;

(2) Be present at the counting of votes by hand or by an electronic vote tabulating device at a central location;

(3) Be present at the counting of absentee ballots for the purpose of witnessing the counting of ballots by election officials and determining whether ballots are fairly and accurately counted; and

(4) Upon request made to an election official, inspect any or all ballots at the time the ballots are being counted.

Poll watchers may not:

(1) Be within six feet (6') of any voting machine or booth used by voters to cast their ballot;

(2) Speak to any voter or in any way attempt to influence a voter inside the polling site or within one hundred feet (100') of the primary exterior entrance used by voters to the building containing the polling site; or

(3) Disrupt the orderly conduct of the election.”

(f) Poll watcher rights and responsibilities shall be posted in plain view at each polling site, absentee ballot processing site, and counting site.

(g) A poll watcher may challenge a voter only on the grounds that the voter is not eligible to vote in the precinct or that the voter has previously voted at that election.

(h) (1) When the ballot of any voter is thus challenged, it shall be treated as a provisional ballot.

(2) The poll watcher shall notify an election official of the challenge before the voter signs the precinct voter registration list.

(3) The poll watcher shall complete a challenged ballot form.

(4) The election official shall inform the voter that his or her ballot is being challenged.

(5) The procedures for casting a provisional ballot under § 7-5-308 shall be followed.

History. Acts 1969, No. 465, Art. 7, § 14; 1977, No. 114, § 1; A.S.A. 1947, § 3-714; Acts 1987, No. 247, § 2; 1987, No. 905, § 1; 1991, No. 407, § 1; 1991, No. 529, § 1; 1997, No. 451, § 23; 2003, No. 994, § 6; 2003, No. 1154, § 1; 2005, No. 67, § 8; 2005, No. 880, § 3; 2007, No. 224, § 6; 2009, No. 1480, § 26.

7-5-313. [Repealed.]

7-5-314. Duties of election officials — Voter lists.

The election officials shall total the number of voters on the list of voters form, and the lists shall be certified and attested to by the election officials.

History. Acts 1969, No. 465, Art. 7, § 16; 1971, No. 261, § 13; 1973, No. 157, § 7; A.S.A. 1947, § 3-716; Acts 1987, No. 247, § 3; 1993, No. 512, § 2; 1995, No. 946, § 8; 1995, No. 963, § 8; 1997, No. 451, § 25; 2007, No. 1020, § 10.

7-5-315. Counting votes for unopposed and deceased candidates.

(a) The votes received by an unopposed candidate in any election held in this state shall not be counted or tabulated by the election officials. The word “UNOPPOSED” shall be sufficient to insert on the tally sheet to indicate that the candidate has received a majority of the votes cast in

the election. However, the votes received by an unopposed candidate for the office of mayor or circuit clerk shall be counted and tabulated by the election officials.

(b) (1) The votes received by any person whose name appeared on the ballot and who withdrew or died after the certification of the ballot shall be counted.

(2) (A) If the person received enough votes to win the election, a vacancy in election shall be declared.

(B) (i) If the person received enough votes to qualify for a runoff, the person's name shall appear on the runoff ballot.

(ii) If enough votes are cast for the person to win the runoff, then a vacancy in election shall exist.

History. Acts 1969, No. 465, Art. 7, § 17; A.S.A. 1947, § 3-717; Acts 1987, No. 248, § 8; 1991, No. 530, § 1; 1997, No. 451, § 26; 2003, No. 994, § 7; 2007, No. 1020, § 11; 2009, No. 1480, § 28.

7-5-316. Presence of candidate — Designation of representatives.

(a) After the polls have been closed, the counting of votes shall be open to the public, and any candidate or political party may be present in person or by representative designated in writing pursuant to § 7-5-312 at the count of the ballots in any election for the purpose of determining whether or not the ballots in any election precinct are fairly and accurately counted.

(b) The representatives of political parties may be designated and authorized by either the chair or the secretary of the state or county committee, and representatives of candidates may be designated and authorized by the candidate represented.

History. Acts 1969, No. 465, Art. 7, § 15; 1971, No. 261, § 12; A.S.A. 1947, § 3-715; Acts 1997, No. 451, § 27; 2003, No. 1154, § 2; 2009, No. 1480, § 29.

7-5-317. Processing and delivery of election materials.

(a) After the polls close, all of the election materials shall be processed and delivered in the following manner:

(1) The poll workers shall total the number of voters on the list-of-voters form and certify and attest the form;

(2) The list-of-voters form, precinct voter registration list, voter registration application forms, and other recordkeeping supplies shall be delivered to the county clerk;

(3) Certificates of election results and tally sheets:

(A) One (1) copy of the certificate of election results with one (1) copy of the tally sheets, if any, shall be delivered to the county clerk; and

(B) One (1) copy of the certificate of election results shall be returned with one (1) copy of the tally sheets, if any, and reports of challenges of voters, if any, to the county board of election commissioners;

(4) Ballots:

(A) The poll workers shall securely envelope any voted ballots separately from any unused ballots and place the ballots in a container with a numbered seal and then deliver the ballots with the tally sheets, if any, and other election materials to the county board of election commissioners; and

(B) All cancelled ballots shall be preserved separately from the other ballots and returned to the county board of election commissioners; and

(5) Sealed stub boxes shall be delivered to the county treasurer for storage.

(b) All of the election materials and returns shall be delivered to the county board of election commissioners by the poll workers immediately after the polls close.

History. Acts 1969, No. 465, Art. 7, § 18; A.S.A. 1947, § 3-718; 1995, No. 946, § 9; Acts 1995, No. 963, § 9; 1997, No. 451, § 28; 2001, No. 797, § 1; 2005, No. 67, § 9; 2009, No. 959, § 15; 2009, No. 1480, § 30.

7-5-318. Failure to deliver materials — Penalty — Messenger to obtain delinquent returns.

(a) If the poll workers fail to deliver the ballots, ballot stubs, certification of election, voter lists, and other election returns in the manner provided for in § 7-5-317, the poll workers shall forfeit the sum of two hundred dollars (\$200) to be recovered by action of debt in the name of the state for the use of the county.

(b) Upon failure of delivery of the election returns immediately after the polls close, the county board of election commissioners shall dispatch a peace officer to obtain the election returns, and all expenses incurred by sending the messenger shall be paid by the defaulting poll workers.

History. Acts 1969, No. 465, Art. 7, § 19; A.S.A. 1947, § 3-719; Acts 1997, No. 451, § 29; 2001, No. 798, § 1; 2009, No. 959, § 15.

7-5-319. Recount.

(a) (1) Any candidate voted for who may be dissatisfied with the returns from any precinct shall have a recount of the votes cast therein upon the candidate's presenting the county board of election commissioners with a petition requesting the recount.

(2) When the number of outstanding absentee ballots of overseas voters is not sufficient to change the results of the election, the candidate must present the petition no later than two (2)

days after the county board declares preliminary and unofficial results of the election, including a statement of the number of outstanding absentee ballots of overseas voters.

(3) When the number of outstanding absentee ballots of overseas voters is sufficient to potentially change the results of the election, the candidate must present the petition at any time before the county board finally completes the canvass of the returns of the election and certifies the result.

(b) At the time that the petition requesting the recount is presented, the county board shall provide to the candidate requesting the recount a copy of the test results on the voting machines and the electronic vote tabulating devices. Only one (1) recount per candidate per election shall be permitted. The county board shall certify the results of the last recount. The county board may upon its own motion conduct a recount of the returns from any or all precincts.

(c) (1) For any recount of an election in which ballots are cast using a direct recording electronic voting machine with a voter-verified paper audit trail, the voter-verified paper audit trail shall serve as the official ballot to be recounted.

(2) The county board of election commissioners either may:

(A) Manually sum the total votes for each candidate involved in the recount that is printed on the voter-verified paper audit trail; or

(B) Count by hand the votes for each candidate involved in the recount as shown on the voter-verified paper audit trail.

(3) If the voter-verified paper audit trail is damaged or for some other reason is incapable of being used for a recount, the paper record produced by the machine for manual audit shall be the official ballot to be recounted.

(4) If the voting machine is exempt from the requirement to have a voter-verified paper audit trail and does not have one, the paper record produced by the machine for manual audit shall be the official ballot to be recounted.

(d) For the recount of an election in which paper ballots are used, the county board shall open the package containing the ballots and recount the ballots in the manner prescribed by law for the count to be made by the election officials in the first instance, or if there is a determination by the county board that the voting machine or electronic vote tabulating device may be malfunctioning, it may recount the ballots by any manner prescribed by law.

(e) The result as found upon the recount, if it differs from that certified by the election officials, shall be included in the canvass as the vote for the particular precinct for which the recount was ordered and made.

(f) After the recount is completed, the ballots shall again be sealed and kept as provided by law.

(g) (1) The costs for any recount must be borne by the candidate petitioning for it, and payment of the costs must be made to the county board prior to the recount in an amount

determined by the county board.

(2) In the event that the outcome of the election is altered by recount, the costs of the recount shall be refunded to the candidate who petitioned for the recount.

(h) The costs of any recount shall be based on the actual costs incurred to conduct the recount, but in no instance shall the amount charged to conduct a recount exceed the rate of twenty-five cents (25¢) per vote cast in the precincts where the recount is requested or a total of two thousand five hundred dollars (\$2,500) for the entire county, whichever is less.

(i) Within forty-eight (48) hours after a petition for recount is filed, the county board of election commissioners shall notify all candidates whose election could be affected by the outcome of the recount.

History. Acts 1969, No. 465, Art. 5, § 8; A.S.A. 1947, § 3-508; Acts 1993, No. 430, § 1; 1997, No. 451, § 30; 1999, No. 1023, § 1; 2001, No. 1475, § 4; 2003, No. 1038, § 1; 2003, No. 1165, § 5; 2005, No. 2233, § 7; 2009, No. 1480, § 31.

7-5-320. [Repealed.]

Subchapter 4 **— Absentee Voting**

7-5-401. Duties of county clerk.

7-5-402. Voter qualification.

7-5-403. Designated bearers, authorized agents, and administrators.

7-5-404. Applications for ballots.

7-5-405. Application form.

7-5-406. Members of uniformed services and other citizens residing outside the United States.

7-5-407. Preparation and delivery of ballots.

7-5-408. List of applications — Preparation, preservation, and inspection.

7-5-409. Materials furnished to qualified voters.

7-5-410. Instructions and notice included with voting materials — Other enclosures prohibited.

7-5-411. Methods of voting absentee.

7-5-412. Marking and return of absentee ballots — Delivery of mailed absentee ballots.

7-5-413. Voting machines — Related duties.

7-5-414. Appointment of election clerks — Qualifications.

7-5-415. Compensation of county clerk for extra deputy.

7-5-416. Counting of absentee ballots.

7-5-417. Challenge of absentee votes.

7-5-418. Early voting.

7-5-419. [Transferred.]

7-5-401. Duties of county clerk.

(a) The county clerk shall be the custodian of the absentee ballots and early voting ballots for any early voting conducted by the county clerk .

(b) The county clerk shall be furnished a suitable room at the county courthouse or other location designated for the purpose of exercising all the powers and duties concerning the application for, the issuance of, and the voting of absentee and early voting ballots required by law of the county clerk.

(c) In counties with more than one (1) county seat, the county clerk shall conduct:

(1) Absentee voting in the courthouse or other room provided by the county; and

(2) Early voting at the county clerk's designated early voting location in each county seat if the county clerk conducts early voting under § 7-5-418.

History. Acts 1969, No. 465, Art. 9, § 1; A.S.A. 1947, § 3-901; Acts 1995, No. 686, § 1; 1995, No. 948, § 1; 2005, No. 67, § 10; 2007, No. 556, § 2.

7-5-402. Voter qualification.

The following persons, if possessing the qualifications of electors, may cast an absentee ballot in any election:

(1) Any person who will be unavoidably absent from his or her voting place on the day of the election; and

(2) Any person who will be unable to attend the polls on election day because of illness or physical disability.

History. Acts 1969, No. 465, Art. 9, § 3; A.S.A. 1947, § 3-903; Acts 1993, No. 593, § 1; 1995, No. 686, § 2; 1995, No. 948, § 2.

7-5-403. Designated bearers, authorized agents, and administrators.

(a) (1) A designated bearer may obtain absentee ballots from the county clerk for not more than two (2) voters.

(2) At no time shall a designated bearer have more than two (2) absentee ballots in his or her possession.

(3) (A) A designated bearer receiving an absentee ballot from the county clerk for a voter shall deliver the absentee ballot directly to the voter.

(B) A designated bearer receiving an absentee ballot from a voter shall deliver the absentee ballot directly to the county clerk.

(4) (A) A designated bearer may deliver to the county clerk the absentee ballots for not more than two (2) voters.

(B) The designated bearer shall be named on the voter statement accompanying the absentee ballot.

(5) In order to obtain an absentee ballot from the county clerk:

(A) The designated bearer shall show a form of current photographic identification to the county clerk;

(B) The county clerk shall print the designated bearer's name and address beside the voter's name on a register; and

(C) The designated bearer shall sign the register under oath indicating receipt of the voter's absentee ballot.

(6) Upon delivering an absentee ballot to the county clerk:

(A) The designated bearer shall present current and valid photographic identification to the county clerk;

(B) The county clerk shall print the designated bearer's name and address beside the voter's name on a register; and

(C) The designated bearer shall sign the register under oath indicating delivery of the voter's absentee ballot.

(b) (1) An authorized agent may deliver applications for absentee ballots to the county clerk and obtain absentee ballots from the county clerk for not more than two (2) voters who cannot cast a ballot at the appropriate polling place on election day because the voter is a patient in a hospital or long-term care or residential care facility licensed by the state.

(2) At no time shall an authorized agent have more than two (2) absentee ballots in his or her possession.

(3) (A) An authorized agent receiving an absentee ballot from the county clerk for a voter shall deliver the absentee ballot directly to the voter.

(B) An authorized agent receiving an absentee ballot from a voter shall deliver the absentee ballot directly to the county clerk.

(4) (A) In order for an authorized agent to obtain a ballot from the county clerk, the authorized agent shall submit to the county clerk an affidavit from the administrative head of a hospital or long-term care or residential care facility licensed by the state that the applicant is a patient of the hospital or long-term care or residential care facility licensed by the state and is thereby unable to vote on the election day at his or her regular polling site.

(B) A copy of the affidavit shall be retained by the county clerk as an attachment to the application for an absentee ballot.

(5) In order to obtain an absentee ballot from the county clerk, the:

(A) Authorized agent shall present current photographic identification to the clerk;

(B) Clerk shall print the authorized agent's name and address beside the voter's name on a register; and

(C) Authorized agent shall sign the register under oath indicating receipt of the voter's ballot.

(6) Upon delivering an absentee ballot to the county clerk, the:

(A) Authorized agent shall show some form of current photographic identification to the clerk;

(B) Clerk shall print the authorized agent's name and address beside the voter's name on a register; and

(C) Authorized agent shall sign the register under oath indicating delivery of the voter's ballot.

(c) (1) The county clerk shall keep a register of designated bearers and authorized agents.

(2) The designated bearer and authorized agent register shall contain the following oath on each page: "IF YOU PROVIDE FALSE INFORMATION ON THIS FORM, YOU MAY BE GUILTY OF PERJURY AND SUBJECT TO A FINE OF UP TO TEN THOUSAND DOLLARS (\$10,000) OR IMPRISONMENT FOR UP TO TEN (10) YEARS, OR BOTH, UNDER FEDERAL AND STATE LAWS."

(d) (1) An administrator may deliver to the county clerk an application for an absentee ballot for any voter who is a patient of a long-term care or residential care facility licensed by the state and who names the administrator on his or her application as the administrator of the facility where the voter resides.

(2) An administrator may receive absentee ballots for as many qualified residents of the facility as apply for absentee ballots upon presentation of photographic identification to the county clerk.

(3) (A) An administrator may deliver the absentee ballot to the county clerk for any voter who names the administrator on his or her application and voter statement.

(B) Absentee ballots may be delivered to the county clerk in person by the administrator or by mail.

(4) An administrator shall submit to the county clerk an affidavit, signed and dated by the administrator, stating:

(A) That he or she is the administrative head of a long-term care or residential care facility licensed by the state;

(B) The name and address of the facility; and

(C) That he or she has been authorized by the voters of his or her facility who named him or her in their applications for absentee ballot and voter statement to deliver their absentee ballots.

(e) Any person who knowingly makes a false statement on an affidavit required by this section shall be guilty of perjury and subject to a fine of up to ten thousand dollars (\$10,000) or imprisonment of up to ten (10) years.

History. Acts 2007, No. 543, § 2; 2009, No. 250, §§ 15–17; 2009, No. 959, §§ 16, 22.

7-5-404. Applications for ballots.

(a) (1) Applications for absentee ballots must be signed by the applicant and verified by the county clerk by checking the voter's name, address, date of birth, and signature from the registration records or, if sent by facsimile machine transmitted over telephone lines, the application must bear a verifiable facsimile of the applicant's signature.

(2) Delivery of the request for an absentee ballot to the county clerk may be made in one (1) of the following ways, and in no other manner:

(A) For applications submitted using the form prescribed in § 7-5-405:

(i) In person at the office of the county clerk of the county of residence of the voter no later than the time the county clerk's office regularly closes on the day before election day;

(ii) Applications by mail must be received in the office of the county clerk of the county of residence of the voter not later than seven (7) days before the election for which the application was made;

(iii) A designated bearer may deliver the completed application to the office of the county clerk of the county of residence of the applicant not later than the time the county clerk's office regularly closes on the day before the day of the election;

(iv) A person declared as the authorized agent of the applicant may deliver the application to the office of the county clerk of the county of residence of the applicant not later than 1:30 p.m. on the day of the election;

(v) An administrator may deliver the application in person at the office of the county clerk of the county of residence of the voter no later than the time the county clerk's office regularly closes on the day before election day; or

(vi) (a) Delivery by facsimile machine transmission to the county clerk's office of the county of residence of the voter not later than seven (7) days before the election for which the application was made.

(b) The completed facsimile-transmitted application will be accepted only upon verification of the facsimile signature of the applicant by the county clerk.

(c) Once verified as a reasonable likeness of the voter's signature, the signature appearing on a facsimile copy of an application shall be presumed to be authentic until proven otherwise; or

(B) If the applicant does not use the form prescribed in § 7-5-405, he or she may make an application for an absentee ballot as follows:

(i) A letter or postcard must be received in the office of the county clerk not later than seven (7) days before the date of the election. The letter or postcard shall contain information sufficient for the county board of election commissioners and the county clerk to accept the letter or postcard in lieu of the application form; or

(ii) An applicant may transmit a written request for an absentee ballot over the telephone lines that shall contain the voter's signature and other information sufficient for acceptance in lieu of the application form.

(b) (1) Any person eligible to vote by absentee ballot may request the county clerk to mail to an address within the continental United States an application for an absentee ballot.

(2) (A) For those persons voting by absentee ballot who reside outside the county in which they are registered to vote, the application shall remain in effect for one (1) year unless revoked by the voter, and the county clerk shall thereafter automatically mail, no later than twenty-five (25) before each election, an absentee ballot for each election.

(B) (i) Except for persons of long-term care or residential facilities licensed by the state or other persons who are voters with disabilities as defined in § 7-5-311(d), for those persons voting by absentee ballot who reside within the county in which they are registered to vote, the application shall be valid for only one (1) election cycle.

(ii) The election cycle shall include any one (1) election and the corresponding runoff election.

(c) Citizens of the United States temporarily residing outside the territorial limits of the United States may request the absentee ballot for any one (1) or more elections through the next two (2) regularly scheduled general elections for federal office, including any runoff elections that may occur as a result of the outcome of the general elections, by submitting only one (1) application during that period of time in the manner prescribed by subsection (a) of this section.

History. Acts 1969, No. 465, Art. 9, § 4; 1981, No. 685, § 1; 1983, No. 430, § 1; 1985, No. 1019, § 1; A.S.A. 1947, § 3-904; Acts 1987, No. 248, § 9; 1987, No. 843, § 1; 1991, No. 863, § 1; 1993, No. 303, § 1; 1993, No. 1201, § 1; 1995, No. 686, § 3; 1995, No. 948, § 3; 1997, No. 1092, § 1; 1999, No. 1111, § 1; 1999, No. 1538, §§ 2, 3; 2003, No. 994, § 8; 2005, No. 67, § 11; 2007, No. 543, § 1; 2007, No. 556, § 3; 2009, No. 250, § 4; 2009, No. 959, § 16.

7-5-405. Application form.

(a) (1) Applications for absentee ballots may be made on a form or forms prescribed by the Secretary of State and furnished by the county clerk at least sixty (60) days before the election.

(2) The form or forms shall contain the following information:

(A) The following statement:

“IF YOU PROVIDE FALSE INFORMATION ON THIS FORM, YOU MAY BE GUILTY OF PERJURY AND SUBJECT TO A FINE OF UP TO \$10,000 OR IMPRISONMENT FOR UP TO 10 YEARS.”;

(B) A statement in which the voter must indicate that he or she is requesting an absentee ballot because he or she will be:

(i) Unavoidably absent from the polling site on election day;

(ii) Unable to attend the polls on election day because of illness or physical disability; or

(iii) Unable to attend the polls on election day because of residence in a long-term care or residential facility licensed by the state;

(C) A statement by the voter indicating whether he or she resides outside the county;

(D) A statement indicating whether the voter is a United States citizen residing outside the territorial limits of the United States;

(E) A statement indicating whether the voter is in active service as a member of the armed services of the United States;

(F) Mailing information for the ballot or the name and signature of a designated bearer, an administrator, or an authorized agent;

(G) The date, the voter's printed or typed name, voting residence address, date of birth, and the voter's signature attesting to the correctness of the information provided under penalty of perjury; and

(H) The election in which the voter wishes to cast an absentee ballot.

(b) The Secretary of State may prescribe separate absentee ballot application forms for:

(1) (A) Persons who reside within the county in which they are registered to vote and will be unavoidably absent from the polls on the date of the election.

(B) The application shall be valid for one (1) election cycle, which includes any one (1) election and the corresponding runoff election;

(2) (A) Persons whose application would be valid for one (1) calendar year.

(B) This includes the following:

(i) Persons who reside outside the county in which they are registered to vote;

(ii) Persons in long-term care or residential facilities licensed by the state; and

(iii) Voters with disabilities; and

(3) (A) Persons whose applications would be valid through the next two (2) regularly scheduled general elections for federal office, including any resulting runoff elections.

(B) This shall include citizens of the United States temporarily residing outside the territorial limits of the United States.

(c) Any person may distribute blank applications for absentee ballots.

History. Acts 1969, No. 465, Art. 9, § 5; 1971, No. 184, § 2; 1983, No. 430, § 2; 1985, No. 1019, § 2; A.S.A. 1947, § 3-905; Acts 1987, No. 843, § 2; 1989, No. 912, § 7; 1993, No. 303, § 2; 1993, No. 1201, § 2; 1995, No. 686, § 5; 1995, No. 948, § 5; 1997, No. 1092, § 2; 1999, No. 918, § 1; 2001, No. 1789, § 9; 2003, No. 1202, § 1; 2003, No. 1275, § 1; 2005, No. 67, § 12; 2007, No. 543, § 3; 2007, No. 556, § 4; 2009, No. 250, §§ 5, 6.

7-5-406. Members of uniformed services and other citizens residing outside the United States.

(a) Any qualified elector of this state in any of the following categories who is absent from the place of his or her voting residence may make a request for an absentee ballot by submission of a federal postal card application as provided for in the Uniformed and Overseas Citizens Absentee Voting Act and may vote without prior registration by regular absentee ballot or by federal Write-in Absentee Ballot in any election held in his or her election precinct if he or she is otherwise eligible to vote in that election:

(1) Members of the uniformed services of the United States while in active duty or service, and their spouses and dependents who, by reason of the active duty or service of the member, are absent from the place of residence where the spouses or dependents are otherwise qualified to vote;

(2) Members of the Merchant Marine while in active duty or service and their spouses and dependents who, by reason of the active duty or service of the member, are absent from the place of residence where the spouses or dependents are otherwise qualified to vote; and

(3) Citizens of the United States residing or temporarily outside the territorial limits of the United States and the District of Columbia.

(b) (1) The ballot or ballots shall be transmitted according to federal regulations.

(2) The Secretary of State shall provide the county clerks with copies of these regulations at least ninety (90) calendar days before each general election.

(3) Notwithstanding any other provisions in this title, if selected by the United States Department of Defense, this state or any county in this state may participate in the Federal Voting Assistance Program's pilot project which allows members of the uniformed services and voters overseas to register to vote and to vote in elections electronically, according to federal regulations, if funds are available.

(c) (1) (A) Except as provided in subdivision (c)(1)(B) of this section, for the qualified electors in the categories named in subsection (a) of this section who are temporarily outside the territorial limits of the United States, the county board of election commissioners shall prepare a special absentee ballot for each preferential primary and general election to be sent to the voter in addition to the regular absentee ballot.

(B) The county board of election commissioners shall not prepare a special absentee ballot for a nonpartisan judicial election.

(2) (A) The special absentee ballot shall contain a list of all offices contested by three (3) or more candidates and the candidates qualifying for the election in each office.

(B) The special absentee ballot shall permit the elector to vote in the general primary election or in a general runoff election by indicating his or her order of preference for each candidate for each office.

(C) (i) To indicate his or her order of preference for each candidate for each office, the voter shall put the number one (1) next to the name of the candidate who is the voter's first choice, the number two (2) for the voter's second choice, and so forth, so that, in consecutive numerical order, a number indicating the voter's preference is written by the voter next to the candidate's name on the ballot.

(ii) However, the voter shall not be required to indicate his or her preference for more than one (1) candidate on the ballot if he or she chooses.

(3) The special absentee ballot shall be marked as a "special runoff ballot".

(4) Instructions shall be sent with the special absentee ballot to the voter explaining the instant runoff voting process.

History. Acts 1969, No. 465, Art. 9, §§ 5, 7, 8; 1971, No. 184, § 2; 1971, No. 261, §§ 25, 26; 1977, No. 739, § 1; 1983, No. 430, §§ 2, 4; 1985, No. 1019, § 2; A.S.A. 1947, §§ 3-905, 3-907, 3-908; Acts 1997, No. 1092, § 3; 2001, No. 1180, § 1; 2003, No. 107, § 1; 2003, No. 749, § 1; 2003, No. 994, § 9; 2005, No. 751, § 1; 2007, No. 233, § 1; 2007, No. 261, § 1; 2007, No. 556, §§ 5, 6; 2009, No. 250, §§ 7, 8; 2009, No. 659, § 6; 2009, No. 703, § 1.

7-5-407. Preparation and delivery of ballots.

(a) The county board of election commissioners shall prepare official absentee ballots and deliver them to the county clerk for mailing to all qualified applicants as soon as practicable but in any event not later than thirty-five (35) days before a preferential primary, general election, school election, nonpartisan judicial general election, nonpartisan judicial runoff election, or any special election.

(b) The county board shall prepare official absentee ballots and deliver them to the county clerk for mailing to any qualified applicant as soon as practicable but in any event not later than ten (10) days before all other elections not included in subsection (a).

History. Acts 1969, No. 465, Art. 9, § 2; 1971, No. 261, § 28; A.S.A. 1947, § 3-902; Acts 1997, No. 1092, § 4; 1999, No. 649, § 1; 2001, No. 1789, § 10; 2007, No. 1049, § 17.

7-5-408. List of applications — Preparation, preservation, and inspection.

(a) The county clerk shall make a list of the applications for absentee ballots as the applications are received and shall keep the list of applications and retain the application forms after the election in which they are to be used for the same period as is required for retaining ballots.

(b) The list and applications shall be available to public inspection during regular business hours from sixty (60) days prior to the election until they are destroyed.

History. Acts 1969, No. 465, Art. 9, § 6; 1983, No. 430, § 3; 1985, No. 567, § 5; 1985, No. 568, § 5; A.S.A. 1947, § 3-906; Acts 1997, No. 1092, § 5.

7-5-409. Materials furnished to qualified voters.

(a) (1) (A) The county clerk must satisfy himself or herself that the applicant for an absentee ballot is a qualified registered elector in the ward, precinct, or township in which he or she claims to be a resident or that the applicant is exempted from registration under § 7-5-406.

(B) The county clerk shall verify that the application has been properly signed by the applicant and, if necessary, the designated bearer, administrator, or authorized agent. If the application is not properly signed, the application shall be rejected by the county clerk.

(C) The county clerk shall notify the applicant of the reason for the rejection.

(2) If the county clerk is unable to contact the applicant to cure the deficiency, the county clerk shall forward the application with the reason for the rejection to the county board of election commissioners. The county board of election commissioners shall determine whether the applicant is a qualified elector.

(b) If the applicant is registered or is otherwise eligible to vote absentee, the county clerk, prior to mailing or delivering the ballot, shall detach the ballot stub and deposit the ballot stub

into a sealed box designated as "Absentee Stub Box" and deliver to the applicant or to the applicant's designated bearer, authorized agent, or administrator for delivery to the applicant the following materials:

(1) An official absentee ballot for each election named in the application;

(2) Instructions for voting and returning the official absentee ballot to the county clerk;

(3) An official absentee ballot secrecy envelope on which there shall be written or printed the words "Ballot Only";

(4) (A) (i) A voter statement.

(ii) The voter statement shall include the following heading in bold capitalized letters: **"THIS VOTER STATEMENT MUST BE COMPLETED AND RETURNED IN THE MAILING ENVELOPE OR THE ABSENTEE BALLOT WILL NOT BE COUNTED."**

(iii) The voter statement shall include the following statement in bold capitalized letters at the bottom of the page: **"THE INFORMATION I HAVE PROVIDED IS TRUE TO THE BEST OF MY KNOWLEDGE UNDER PENALTY OF PERJURY. IF I HAVE PROVIDED FALSE INFORMATION, I MAY BE SUBJECT TO A FINE OF UP TO TEN THOUSAND DOLLARS (\$10,000) OR IMPRISONMENT FOR UP TO TEN (10) YEARS, OR BOTH, UNDER FEDERAL OR STATE LAWS."**

(iv) The voter statement shall include a statement that the voter resides at the address on his or her application.

(v) The voter statement shall include a statement for a first-time voter who registers by mail: "If I am a newly registered voter of this county and this is the first time I am voting in this county, I am enclosing a copy of a current and valid photo identification card or a current utility bill, bank statement, government check, paycheck, or other government document that shows my name and address."

(B) Blanks shall be provided for the voter to provide his or her printed name, signature, address, date of birth, signature of administrator, authorized agent, or designated bearer, and address of the administrator, authorized agent, or designated bearer;

(5) A sealable envelope upon which shall be printed or written the words: "Return Envelope", the address of the county clerk, the precinct of the voter, and the words: "ABSENTEE BALLOT,,, ELECTION"; and

(6) An authorized agent authorization form, as follows:

"AGENT AUTHORIZATION FORM

If applicable, fill out and sign this form and place it in the Return Envelope

I hereby authorize (insert his or her name) as my authorized agent, to deliver this ballot as I am medically unable to vote on election day. An affidavit verifying my medical status as unable to deliver the application or to vote on the day of the election is attached or has been provided with my application.

.

signature of voter

.

printed name of voter

.

address of voter

.

date of birth of voter”

(c) (1) Except for absentee ballots mailed to an address outside the county in which the applicant is registered, an absentee ballot shall be mailed to the address that appears on the applicant's registration record or absentee ballot application if the voter is temporarily at a different address.

(2) The county clerk shall not mail more than two (2) absentee ballots to the same address unless:

(A) The address is outside the territorial limits of the United States;

(B) The address is for a long-term care or residential care facility licensed by the state; or

(C) There are more than two (2) persons lawfully registered at the same address.

(d) The county clerk shall not deliver an absentee ballot to any person other than the absentee voter unless the person picking up the ballot provides current and valid photographic identification to the county clerk that he or she is:

(1) The voter's:

(A) Designated bearer; or

(B) Authorized agent; or

(2) The administrator of a long-term care or residential care facility licensed by the state in which the voter resides.

(e) The county clerk shall not provide more than two (2) absentee ballots per election to any designated bearer or authorized agent, nor shall the county clerk accept delivery of more than two (2) absentee ballots per election from any designated bearer or authorized agent.

(f) A designated bearer shall be allowed to pick up only two (2) absentee ballots from the county clerk only during the fifteen (15) days prior to a school election, special election, preferential primary election, or general election and seven (7) days prior to a runoff election, including a general primary election.

(g) Upon delivery of an absentee ballot to an individual authorized to receive an absentee ballot, the county clerk shall mark the precinct voter registration list to indicate that an absentee ballot has been delivered to the voter.

(f) A designated bearer shall be allowed to pick up only two (2) absentee ballots from the county clerk only during the fifteen (15) days prior to a school election, special election, preferential primary election, or general election and seven (7) days prior to a runoff election, including a general primary election.

History. Acts 1969, No. 465, Art. 9, § 7; 1971, No. 261, § 25; 1983, No. 430, § 4; 1985, No. 567, § 3; 1985, No. 568, § 3; A.S.A. 1947, § 3-907; Acts 1987, No. 843, § 3; 1989, No. 912, § 8; 1993, No. 1201, § 3; 1995, No. 103, § 1; 1997, No. 1092, § 6; 1999, No. 918, § 2; 1999, No. 1243, §§ 1, 2; 1999, No. 1344, § 1; 1999, No. 1538, § 1; 2001, No. 1379, § 1; 2003, No. 647, § 1; 2003, No. 994, § 10; 2003, No. 1202, § 2; 2003, No. 1275, §§ 2, 3; 2005, No. 880, § 4; 2005, No. 2193, § 3; 2007, No. 543, § 4; 2007, No. 556, § 7; 2009, No. 26, § 2; 2009, No. 250, §§ 9, 10; 2009, No. 375, § 2.

7-5-410. Instructions and notice included with voting materials — Other enclosures prohibited.

It shall be unlawful for any person to place any notice, advertising material, or other advice with the material delivered or mailed to the applicant, other than instructions as to the method of casting an absentee ballot including a procedure to be followed by absentee voters such as express information covering the type or types of writing instruments which may be used to mark the absentee ballot, preferably pen or indelible pencil, the consequences of voting for more than one (1) candidate for a particular office, and notice of the last day on which the ballot may be received and counted. The instructions and notice shall not be signed by the name of any person.

History. Acts 1969, No. 465, Art. 9, § 9; 1971, No. 261, § 27; A.S.A. 1947, § 3-909; Acts 2009, No. 959, § 17.

7-5-411. Methods of voting absentee.

(a) Absentee voting may be accomplished in one (1) of the following methods and in no other manner:

(1) (A) By delivery of the ballot by mail that must be received in the office of the county clerk of the county of residence of the voter not later than 7:30 p.m. on election day.

(B) (i) However, except as provided in subdivision (a)(1)(B)(ii) of this section, by ballots applied for not later than thirty (30) days before the election by qualified electors outside the United States on election day that are signed, dated, postmarked, and mailed by the voters no later than the day of the election and received by the county clerk no later than 5:00 p.m. ten (10) calendar days after the date of the election.

(ii) The absentee ballots of armed services personnel serving in active status shall be counted if received by the county clerk no later than 5:00 p.m. ten (10) calendar days after the date of the election and if the absentee ballots were executed no later than the date of the election.

(C) Each absentee ballot shall be mailed separately by the voter and shall not be included with any other absentee ballot in a bulk mailing, except that an administrator of a long-term care or residential care facility licensed by the State of Arkansas or hospital may mail the absentee ballots of the residents and patients by bulk mail. Absentee ballots in any bulk mailing not otherwise permitted in this subsection shall not be counted;

(2) By delivery of the ballot to the county clerk of the county of residence of the voter not later than 7:30 p.m. on election day by the designated bearer, administrator, or the authorized agent of the absentee voter who is medically unable to vote at the regular polling site, upon proper verification of the signature of the voter by the county clerk and validation of the identity of the authorized agent; or

(3) The voter may deliver the ballot to the county clerk of the county of his or her residence not later than the close of regular business hours on the day before the election.

(b) Any person to whom an absentee ballot is delivered according to the precinct voter registration list but who elects to vote by early voting or to vote at his or her polling site on election day shall be permitted to cast a provisional ballot.

History. Acts 1969, No. 465, Art. 9, § 10; 1970 (Ex. Sess.), No. 28, § 1; 1981, No. 685, § 2; 1983, No. 430, § 5; 1985, No. 567, § 4; 1985, No. 568, § 4; 1985, No. 612, § 2; 1985, No. 1024, § 1; A.S.A. 1947, § 3-910; Acts 1987, No. 843, § 4; 1989, No. 912, § 9; 1997, No. 1092, § 7; 1999, No. 491, § 1; 1999, No. 1538, § 4; 1999, No. 1586, § 1; 2001, No. 1257, § 1; 2001, No. 1767, § 1; 2003, No. 273, § 1; 2003, No. 1275, § 4; 2005, No. 2193, § 4; 2007, No. 543, § 5; 2007, No. 556, § 8; 2009, No. 250, §§ 11, 12.

7-5-412. Marking and return of absentee ballots — Delivery of mailed absentee ballots.

(a) Upon receiving the blank absentee ballot, statement, and envelopes, whether in the office of the county clerk or elsewhere, the voter shall mark the absentee ballot and place the absentee ballot in the provided envelope. He or she shall then seal the envelope containing the absentee ballot and place it in the other provided outer envelope with the following:

(1) The executed voter statement; and

(2) A copy of a current and valid photographic identification or a copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the first-time voter, for first-time voters who registered by mail. However, this requirement does not apply if:

(A) The voter registered to vote by mail and provided the identification at that time; or

(B) The first-time voter registered to vote by mail and submitted his or her driver's license number or at least the last four (4) digits of his or her social security number at the time and this information matches the information in an existing state identification record bearing the same number, name, and date of birth as provided in the registration.

(b) A voter who desires to cast an absentee ballot but who does not meet the identification requirements of subdivision (a)(2) of this section may cast his or her absentee ballot by mail, and the absentee ballot shall be considered as a provisional ballot.

(c) Absentee ballots received by mail on election day before the polls close shall be delivered promptly by the county clerk to the election officials designated to canvass and count absentee ballots.

History. Acts 1969, No. 465, Art. 9, § 11; 1970 (Ex. Sess.), No. 28, § 2; A.S.A. 1947, § 3-911; Acts 1997, No. 1092, § 8; 2003, No. 647, § 2; 2003, No. 994, § 11; 2005, No. 880, § 5; 2007, No. 556, § 9; 2009, No. 250, § 13.

7-5-413. Voting machines — Related duties.

(a) (1) At least one (1) voting machine equipped for use by individuals with disabilities shall be placed in the county clerk's designated location for early voting for the election in accordance with this subchapter and at any off-site polling locations established by the county board.

(2) Those persons entitled under the law to vote early by personal appearance shall cast their votes on voting systems under the laws applicable to early voting, and the clerk or election official shall enter the name of each voter on a list at the time he or she votes.

(b) After regular business hours, the clerk at the clerk's designated early voting location or the election official at any off-site polling place shall secure the machines against further voting at the close of each day's voting in the presence of authorized poll watchers, if any. When early voting is concluded, the clerk or the election official shall secure the machines against further voting.

(c) (1) At the time designated in the notice of election, a set of election officials for the machines used for early voting shall canvass the vote in the manner provided for regular polling sites. After the canvass has been made, the machines shall be secured and shall remain

inaccessible to voting.

(2) The results of the canvass shall be returned to the county board of election commissioners to be tabulated and canvassed with and in the same manner as the returns of other election precincts.

(d) Any candidate or political party may be present in person or by a representative designated in writing during the progress of early voting and at the canvass of the results in any election for the purpose of determining whether or not the votes in any election are fairly and accurately cast and counted.

History. Acts 1969, No. 465, Art. 9, § 16; 1970 (Ex. Sess.), No. 6, § 1; 1985, No. 567, § 6; 1985, No. 568, § 6; A.S.A. 1947, § 3-916; Acts 1995, No. 686, § 6; 1995, No. 948, § 6; 1997, No. 1092, § 9; 2005, No. 2233, § 8; 2007, No. 556, § 10; 2007, No. 1020, § 12.

7-5-414. Appointment of election clerks — Qualifications.

(a) The county board of election commissioners shall appoint election clerks to process, count, and canvass the absentee voters' ballots in all elections.

(b) (1) The election clerks who are to canvass the absentee ballots shall be appointed in the same manner and at the same time the poll workers are selected to serve at the regular voting precincts.

(2) The election clerks shall possess the same qualifications as the poll workers who serve at the regular voting precincts.

(c) The processing, counting, and canvassing of the absentee ballots shall be under the supervision and at the direction of the county board of election commissioners.

History. Acts 1969, No. 465, Art. 9, § 12; A.S.A. 1947, § 3-912; Acts 1997, No. 1092, § 10; 2005, No. 1827, § 5; 2007, No. 556, § 11; 2009, No. 959, § 18.

7-5-415. Compensation of county clerk for extra deputy.

The county clerk's budget shall be paid not less than minimum wage for a period not to exceed thirty-five (35) days for hiring one (1) extra deputy for the purpose of carrying out the requirements of this act. The fee for this one (1) extra deputy shall be established and paid by the county, city, or other political subdivision, the representatives of which call the election, or in the case of a state-funded election, by the State Board of Election Commissioners. Any additional deputies beyond the one (1) extra deputy may be hired as necessary to carry out the purposes of early voting and absentee voting, if approved and paid by the quorum court of the county. In the regular general election, the fee for the one (1) extra deputy or additional deputies shall be paid by the county.

History. Acts 1969, No. 465, Art. 9, § 15; A.S.A. 1947, § 3-915; Acts 1991, No. 482, § 1; 1997, No. 1092, § 11; 2007, No. 556, § 12.

7-5-416. Counting of absentee ballots.

(a) (1) The election officials for absentee ballots shall meet in the courthouse in a place designated by the county board of election commissioners on election day for the purpose of processing absentee ballots.

(2) The county board shall give public notice of the time and location of the opening, processing, canvassing, and counting of absentee ballots and early voting ballots as provided in § 7-5-202.

(3) The county clerk shall forward the absentee ballot applications sorted alphabetically or by precinct to the election officials for absentee ballots.

(4) The counting of absentee ballots shall be open to the public, and candidates and political parties may be present in person or by a representative designated in writing pursuant to § 7-5-312 during the opening, processing, canvassing, and counting of the absentee ballots as provided in this subchapter.

(5) Absentee or early votes may be counted prior to the closing of the polls on election day.

(b) (1) The opening, processing, counting, and canvassing of absentee ballots shall be conducted as follows:

(A) One (1) of the election officials shall open outer absentee ballot envelopes one (1) by one (1) and verify the contents;

(B) If the required materials are properly placed in the outer absentee ballot envelope, the election official shall proceed to read aloud from the voter statement the name of the voter;

(C) If the required materials are not properly placed in the outer absentee ballot envelope, a second election official shall open the inner absentee ballot envelope to verify the contents;

(D) If all required materials are present within one (1) or the other envelopes, the election officials shall put the materials in the proper envelopes while preserving the secrecy of the voter's ballot and shall proceed to read aloud from the voter statement the name of the voter and the voting precinct in which the voter claims to be a legal voter;

(E) As each outer envelope is opened and the name of the voter is read, the election officials for the absentee box shall list in duplicate the name and voting precinct of the voter;

(F) (i) After the election official reads aloud from the statement, the election officials shall compare the name, address, date of birth, and signature of the voter's absentee application with the voter's statement and, for first-time voters who registered by mail, the

first-time voter's identification document unless the voter previously provided identification at the time of mailing the voter registration application.

(ii) If the county board of election commissioners determines that the application and the voter's statement do not compare as to name, address, date of birth, and signature, the absentee ballot shall not be counted.

(iii) If a first-time voter fails to provide the required identification with the absentee ballot or at the time of mailing the voter registration application, then the absentee application, absentee ballot envelope, and voter's statement shall be placed in an envelope marked "provisional" and the absentee ballot shall be considered a provisional ballot;

(G) If the absentee voter fails to return the voter statement, the vote shall not be counted;

(H) Failure of the voter to submit the required absentee materials in the proper envelopes shall not be grounds for disqualifying the voter;

(I) If no challenge is made by a qualified poll watcher, the election official shall remove the inner envelope, without opening the inner envelope containing the ballot, and place it in the ballot box without marking it in any way;

(J) (i) After all of the outer envelopes have been opened and a list has been made in duplicate of the name and voting precinct of the voters as required in this section, the election officials of the absentee box shall preserve all the statements of voters and the voters' identification documents and deliver them to the county clerk, who shall file and keep them for the same length of time after the election as is required for retention of other ballots.

(ii) The voter statements shall be made available for public inspection during regular business hours.

(iii) The voters' identification documents shall not be subject to public inspection except as part of a judicial proceeding to contest the election;

(K) When all of the inner envelopes containing the ballots have been placed in the ballot box, the ballot box shall be shaken thoroughly to mix the ballots; and

(L) The ballot box shall be opened and the ballots canvassed and counted.

(2) No election results shall be printed or released prior to the closing of the polls.

(c) If any person casting an absentee ballot dies before the polls open on election day, his or her vote shall not be counted.

(d) It is the intent of this section to permit the election officials for absentee ballots to meet and process, canvass, and count absentee ballots according to this section prior to the closing of the polls on election day.

(e) (1) Absentee votes shall be cast on paper ballots.

(2) (A) The ballots shall first be counted for write-in votes by the election officials.

(B) Then, at the discretion of the county board, the ballots may be either hand counted or counted on an electronic vote tabulating device.

(f) (1) Absentee ballots marked as “special runoff ballots” received from a qualified voter from one (1) of the categories in § 7-5-406(a) and who is temporarily residing outside the territorial limits of the United States shall be opened for general primary elections and general runoff elections according to the procedures described in subsection (b) of this section.

(2) However, in counting the special runoff ballot, one (1) of the election officials shall open the envelope containing the special runoff ballot and read the numbers indicated next to the names of the two (2) candidates in the general primary election or in the general runoff election.

(3) The candidate with the highest ranking shall receive the vote.

(4) A special runoff ballot received with the preferential primary absentee ballot shall be counted in the general primary election, and a special runoff ballot received with the general election absentee ballot shall be counted in the general runoff election.

(5) The Secretary of State shall prepare instructions for opening, counting, and canvassing special runoff ballots and provide the instructions to each county board of election commissioners.

History. Acts 1969, No. 465, Art. 9, § 13; 1971, No. 261, § 21; A.S.A. 1947, § 3-913; Acts 1989, No. 505, § 1; 1993, No. 845, §§ 1-3; 1997, No. 1092, § 12; 1999, No. 1368, § 1; 2003, No. 647, §§ 3, 4; 2003, No. 994, § 12; 2003, No. 1154, § 3; 2003, No. 1744, § 1; 2005, No. 138, § 2; 2005, No. 751, § 2; 2005, No. 880, § 6; 2007, No. 261, § 2; 2007, No. 556, § 13; 2009, No. 250, § 14; 2009, No. 959, §§ 19, 20.

7-5-417. Challenge of absentee votes.

(a) When the name and voting precinct of a voter is read by the election official, any candidate or qualified poll watcher pursuant to § 7-5-312 may challenge the vote in the manner provided by law for personal voting challenges, and the election officials shall consider the ballot as a provisional ballot.

(b) If the statement is not in proper form or for any other legal reason the vote should not be counted, the ballot shall not be counted and shall be preserved together with the statement and envelope for the same period of time that the statements are preserved.

(c) If the county board of election commissioners determines that the provisional voter is qualified and that the vote was properly cast, the vote shall be counted.

History. Acts 1969, No. 465, Art. 9, § 14; A.S.A. 1947, § 3-914; Acts 1997, No. 1092, § 13; 2003, No. 1154, § 4; 2005, No. 67, § 13; 2005, No. 880, § 7; 2007, No. 556, § 14.

7-5-418. Early voting.

(a) (1) (A) Except as provided in subdivision (a)(1)(B) of this section, early voting shall be available to any qualified elector who applies to the county clerk's designated early voting location, beginning fifteen (15) days before a preferential primary or general election between the hours of 8:00 a.m. and 6:00 p.m. Monday through Friday and 10:00 a.m. and 4:00 p.m. Saturday and ending at 5:00 p.m. on the Monday before the election.

(B) Early voting shall not be available on state or county holidays.

(2) However, on all other elections, including the general primary and general runoff elections, early voting shall be available to any qualified elector who applies to the county clerk during regular office hours, beginning seven (7) days before the election and ending on the day before the election day at the time the county clerk's office regularly closes.

(b) (1) (A) The county board of election commissioners may decide to hold early voting at additional polling sites outside the offices of the county clerk on any of the days and times provided for in subsection (a) of this section, if it so chooses.

(B) The county board of election commissioners shall determine by unanimous vote the location of additional polling sites for early voting.

(2) The county board of election commissioners shall appoint the election officials for the additional early voting polling site or sites in the same manner as election officials are appointed for election day.

(3) (A) The county board of election commissioners shall notify the county clerk of its decision to hold early voting at additional polling sites outside the office of the county clerk within ten (10) days of the decision.

(B) If the county board of election commissioners decides to hold early voting at one (1) or more conveniently located polling sites on the days and times under subsection (a) of this section, the county clerk may choose not to hold early voting within the office of the county clerk. The county clerk shall notify the county board within ten (10) days of the receipt of notice from the county board of election commissioners regarding early voting at additional polling sites.

(4) The early voting election official shall record the date on all pages of the early voting roster or early voting request form and keep a daily record of the number of early ballots cast.

(5) All voted ballots and unvoted ballots and all related election materials at each additional early voting polling site shall be stored in a secure location in the county courthouse or in a secure location as determined by the county board of election commissioners immediately after the close of the additional polling sites each day that early voting is conducted there.

(c) Before a person is permitted to cast an early vote, the county clerk or election official shall:

(1) Request the voter to identify himself or herself by stating his or her name, date of birth, and address in order to verify his or her registration;

(2) If the voter's name or address is not the same as that in the county voter registration record files, request the voter to complete an updated voter registration application form;

(3) Request the voter to sign an early voting roster or early voting request form that identifies his or her name, address, date of birth, and the date on the roster or form; and

(4) Enter the voter's precinct number on the early voting roster or early voting request form.

(d) If the voter is not listed in the county voter registration record files and the county clerk is unable to verify the voter's registration and if the voter contends that he or she is eligible to vote, then the voter may vote a provisional ballot that shall be counted only upon verification of the voter's registration status.

(e) The county clerk or county board of election commissioners shall furnish voting locations that adequately allow the early voter to personally and secretly execute his or her ballot.

(f) Except as provided in this section, early voting shall be conducted in the same manner as voting on election day. Conduct that is prohibited or restricted on election day shall be subject to the same prohibitions and restrictions on the days on which early voting is conducted.

History. Acts 1995, No. 686, § 7; 1995, No. 948, § 7; 1997, No. 967, § 1; 1997, No. 1092, § 14; 2003, No. 269, § 1; 2005, No. 655, § 1; 2005, No. 880, § 8; 2005, No. 1690, § 1; 2007, No. 556, § 15; 2007, No. 987, § 1; 2009, No. 375, § 3; 2009, No. 959, § 21.

7-5-419. [Transferred.]

Subchapter 5 **— Voting Machines**

7-5-501. [Repealed.]

7-5-502. Application of election laws and penalties.

7-5-503. Examination and approval of machines by State Board of Election Commissioners.

7-5-504. Machine specifications.

7-5-505, 7-5-506. [Repealed.]

7-5-507. Demonstration — Assistance in operating machine.

7-5-508. [Repealed.]

7-5-509. Machines used for demonstration.

7-5-510. Forms for complaints about function of voting machine — Investigation.

7-5-511. [Repealed.]

7-5-512. Certification of ballot styles — Equipment furnished to polling sites.

7-5-513. Machine breakdown — Delivery of ballot materials.

- 7-5-514. [Repealed.]
- 7-5-515. Preparation of machines for election.
- 7-5-516. Notice to candidates of preparation — Rules and statutes unaffected.
- 7-5-517. Securing machines — Certification.
- 7-5-518. Machines inactivated until polls open — Adjustment of counters.
- 7-5-519. [Repealed.]
- 7-5-520. Instructions for voters using voting machines.
- 7-5-521. Arrangement of polling place.
- 7-5-522. Voting procedure.
- 7-5-523. [Repealed.]
- 7-5-524. Voter access to machines — Persons in line at closing time.
- 7-5-525. Write-in votes.
- 7-5-526. Closing of polls — Securing machines — Poll workers' certificate.
- 7-5-527. Exposure of count — Verification — Return record — Official signatures.
- 7-5-528. Machines released to officers.
- 7-5-529. Tabulation of returns.
- 7-5-530. Securing audit materials upon election contest or recount.
- 7-5-531. Retention of audit data — Machines to remain secured until results are certified
except on court order.
- 7-5-532. Direct electronic voting machines.

7-5-501. [Repealed.]

7-5-502. Application of election laws and penalties.

All laws of this state applicable to elections where voting is done in any manner other than by machines and all penalties prescribed for violation of these laws shall apply to elections and precincts where voting machines are used insofar as they are applicable.

History. Acts 1969, No. 465, Art. 12, § 33; A.S.A. 1947, § 3-1233.

7-5-503. Examination and approval of machines by State Board of Election Commissioners.

(a) Any person or corporation selling voting machines may apply to exhibit machines to the State Board of Election Commissioners.

(b) The state board shall examine the machine and file a report of its accuracy, efficiency, and capacity with the office of the Secretary of State.

(c) If the kind of machine examined complies with the requirements of § 7-5-504 and can be safely used by voters at elections under the conditions prescribed, the machine shall be deemed approved by the state board, and machines of its kind may be adopted for use at elections if selected for use by the Secretary of State. When the machine has been approved, any improvement or change that does not impair its accuracy, efficiency, or capacity shall not render

necessary a reexamination or reapproval.

(d) A form of voting machine not approved cannot be used at any election.

History. Acts 1969, No. 465, Art. 12, § 1; A.S.A. 1947, § 3-1201; Acts 2005, No. 2233, § 10.

7-5-504. Machine specifications.

No make of voting machine shall be approved for use unless it is so constructed that:

- (1) It will ensure secrecy to the voter in the act of voting;
- (2) It shall provide facilities for voting for or against as many questions as may be submitted;
- (3) It shall permit the voter to vote separately for the candidate of his or her choice for each office or position to be voted upon and to vote separately on each issue to be decided by election;
- (4) It shall permit the voter to vote for as many persons for an office for whom he or she is lawfully entitled to vote, but no more;
- (5) It shall prevent the voter from voting for the same candidate or question more than one (1) time;
- (6) It shall permit the voter to verify in a private and independent manner the votes selected by the voter on the ballot before the ballot is cast;
- (7) It shall provide the voter with the opportunity in a private and independent manner to change the ballot or correct any error before the ballot is cast;
- (8) It shall include a voter-verified paper audit trail, except as provided under § 7-5-301(b);
- (9) If the voter is legally entitled to select only one (1) candidate for an office but the voter selects more than one (1) candidate for the office, it shall notify the voter before the ballot is cast that he or she has selected more than one (1) candidate for the office on the ballot, notify the voter of the effect of casting multiple votes for the office, and provide the voter with the opportunity to correct the ballot before the ballot is cast;
- (10) It shall permit the voter to vote for or against any question on which he or she may have the right to vote, but no other;
- (11) It shall be capable of being programmed to display for voting purposes only the voter's proper ballot;
- (12) It shall correctly register and record and accurately count all votes cast for any and all persons and for or against any and all questions;
- (13) It shall be provided with a protective device to prevent any unauthorized operation

of the machine before or after the election;

(14) It shall be provided with a counter or tabulator which shall show at all times during the election how many persons have voted;

(15) It shall be so equipped and constructed so that it can be made inaccessible to further voting after the polls have closed and all voters who were in line at the time the polls closed have voted;

(16) It shall permit a voter to vote in any election for any person for whom he or she wishes to vote when the person's name does not appear upon the voting machine;

(17) It bears a number that will distinguish it from any other machine;

(18) It shall be provided with a screen, hood, or partition which shall allow the voter to vote a secret ballot;

(19) It shall be capable of being operated from an alternate power source should the need arise;

(20) It shall permit voters with disabilities to vote unassisted if they so desire; and

(21) It shall be:

(A) Qualified by the National Association of State Election Directors or an authorized federal agency;

(B) Approved by the State Board of Election Commissioners; and

(C) Selected by the Secretary of State.

History. Acts 1969, No. 465, Art. 12, § 2; A.S.A. 1947, § 3-1202; Acts 2005, No. 654, § 1; 2005, No. 2233, § 11.

7-5-505, 7-5-506. [Repealed.]

7-5-507. Demonstration — Assistance in operating machine.

(a) The manufacturer shall demonstrate the machine to the election officials prior to the first election at which the machines are placed in use. The date for the demonstration shall be set by the county board of election commissioners.

(b) On the date of the first election at which voting machines are used, manufacturers shall make employees available in each county where the machines are in operation to assist the county board in any manner that will expedite voting and provide efficient operation of voting machines. After the first election, the county board shall obtain the assistance needed in operating the machines, and the county board shall collect and pay expenses for this assistance as it would for any other election cost.

History. Acts 1969, No. 465, Art. 12, § 8; A.S.A. 1947, § 3-1208; Acts 1997, No. 446, § 3; 2005, No. 2233, § 14.

7-5-508. [Repealed.]

7-5-509. Machines used for demonstration.

(a) The county board of election commissioners may designate suitable times and places where voting machines shall be exhibited for the purpose of giving instructions in their use to all voters who apply for instruction.

(b) At least one (1) machine for demonstration purposes shall be placed in each precinct not more than twenty-five (25) days nor less than ten (10) days before each election, when practical. The location of voting machines for demonstration shall be in accessible public buildings. The voting machines used for demonstration shall display sample ballots showing the title of offices to be filled and, as far as practicable, the names of the candidates in the next election.

(c) No voting machine that is to be assigned for use in any election shall be used for instruction after having been prepared and secured for the election. Machines shall not be used for demonstration purposes during the time that the polls are open on election day or if the demonstration shall in any way interfere with the proper adjustment, securing, or use of the machine in the election.

History. Acts 1969, No. 465, Art. 12, § 11; A.S.A. 1947, § 3-1211; Acts 2005, No. 2233, § 16.

7-5-510. Forms for complaints about function of voting machine — Investigation.

(a) At each polling place at which voting machines are used, the county board of election commissioners shall provide forms that voters may use for complaints about the function of a voting machine. The complaint form shall include space for the following information:

- (1) The name, address, and telephone number of the person making the complaint;
- (2) The identification number of the voting machine;
- (3) The complaint; and

(4) Such other information concerning the complaint as the State Board of Election Commissioners determines to be appropriate to carry out the intent of this section.

(b) A voter may file a complaint form with a poll worker who shall forward the complaint form to the county board of election commissioners. It shall be the duty of the county board of election commissioners to investigate complaints regarding the function of a voting machine.

History. Acts 1985, No. 562, § 1; A.S.A. 1947, § 3-1235; Acts 1997, No. 446, § 5; 2009, No. 959, § 23.

7-5-511. [Repealed.]

7-5-512. Certification of ballot styles — Equipment furnished to polling sites.

(a) It shall be the duty of the county board of election commissioners to prepare and certify the ballot styles for the voting machine.

(b) In addition, the county board shall furnish any election materials and supplies as may be necessary or as may be required by law.

(c) The voting machine shall be delivered by the county board to the election officials at each polling site.

(d) The county board shall supply each precinct with clear, written instructions suitable for the instruction of voters that illustrate the manner of voting on the machine.

History. Acts 1969, No. 465, Art. 12, § 12; A.S.A. 1947, § 3-1212; Acts 1997, No. 446, § 7; 2005, No. 2233, § 18; 2007, No. 222, § 9.

7-5-513. Machine breakdown — Delivery of ballot materials.

The county board of election commissioners in any county in which voting machines are to be used shall be ready at any time on election day to deliver ballots, ballot boxes, replacement voting machines, if available, or other necessary equipment required by law for voting to any precinct in the county, town, or city upon notice that any voting machine is out of order or fails to work.

History. Acts 1969, No. 465, Art. 12, § 31; A.S.A. 1947, § 3-1231; Acts 1997, No. 446, § 8; 2005, No. 2233, § 19.

7-5-514. [Repealed.]

7-5-515. Preparation of machines for election.

(a) Immediately upon the proper certification of candidates and questions, the county board of election commissioners shall prepare the voting machines, oversee their programming, and test and adjust the voting machines for the election.

(b) In performing this function, the county board may be assisted by experts appointed or employed by the county board.

(c) (1) At least seven (7) days prior to the beginning of voting, the county board, with respect to all elections, shall have each machine tested to ascertain that the voting system will correctly count the votes cast for all offices and on all measures.

(2) Public notice of the time and place of the test shall be given at least forty-eight (48)

hours prior to the test by publication one (1) time in one (1) or more daily or weekly newspapers published in the town, city, or county using the machines if a newspaper is published in the town, city, or county.

(3) The test shall be open to representatives of the political parties, candidates, media, and the public.

(4) The test shall be conducted by processing a preaudited group of test ballots that are to be voted on the machines so as to record a predetermined number of valid votes for each candidate and on each measure. The test shall include for each office one (1) or more ballots which have votes in excess of the number allowed by law in order to test the ability of the machines to reject the votes.

(5) If any error is detected, the cause shall be ascertained and corrected and an errorless count shall be made before the machine is approved.

(d) After completion of the test, the ballots and programs used shall be sealed, retained, and disposed of as provided by law.

(e) After completion of the test, the county board of election commissioners shall certify the accuracy of the voting system and file the test results with the county clerk.

History. Acts 1969, No. 465, Art. 12, §§ 10, 13; A.S.A. 1947, §§ 3-1210, 3-1213; Acts 1997, No. 446, § 10; 2005, No. 2233, § 20; 2009, No. 1480, § 33.

7-5-516. Notice to candidates of preparation — Rules and statutes unaffected.

Before the county board of election commissioners begins the preparation of the machines for any election, it shall publish a notice in a newspaper of general circulation in the county stating:

(1) The time and place the machines will be prepared for the election; and

(2) A time at which one (1) representative of each candidate may inspect to see that the machines are in proper condition for use in the election.

History. Acts 1969, No. 465, Art. 12, § 14; A.S.A. 1947, § 3-1214; Acts 1997, No. 446, § 11; 2009, No. 959, § 24.

7-5-517. Securing machines — Certification.

(a) When a voting machine has been properly prepared by the county board of election commissioners and examined by the representatives of the candidates or the candidate himself or herself, it shall be made inaccessible to voting.

(b) Any device required to activate the machine shall be placed in a package on which shall be written the serial number and the precinct location of the voting machine and the number registered on the protective counter or device. The package shall be sealed in the presence of the

representatives of the candidates or the candidates themselves.

(c) The county board of election commissioners shall then certify, in the presence of the candidates or their representatives, the serial numbers of the machines, that all question counters are set at zero (000), and the number registered on the protective counter of the machine.

(d) Any activator pack or device required for voting on the voting machines shall be kept by the county board until turned over for delivery to the election officials with the election equipment at the polling site for election day.

History. Acts 1969, No. 465, Art. 12, § 15; A.S.A. 1947, § 3-1215; Acts 1997, No. 446, § 12; 2005, No. 2233, § 21.

7-5-518. Machines inactivated until polls open — Adjustment of counters.

(a) The voting machine shall remain inactivated against voting until the polls are formally opened and shall not be operated except by voters for voting.

(b) If any counter is found not to register zero (000), the poll workers shall immediately notify the county board of election commissioners, who shall cause the counters to be adjusted at zero (000).

(c) (1) The poll workers shall produce one (1) printout from each machine showing whether the candidate and question counters register zero (000) and shall sign and post the printout upon the wall of the polling room, where it shall remain throughout the election day.

(2) The certified printout shall be filed with the election returns.

History. Acts 1969, No. 465, Art. 12, § 16; A.S.A. 1947, § 3-1216; Acts 1997, No. 446, § 13; 2005, No. 2233, § 22; 2007, No. 835, § 1; 2009, No. 959, § 25.

7-5-519. [Repealed.]

7-5-520. Instructions for voters using voting machines.

During the election, each voter shall be instructed regarding the operation of voting machines before voting. The voter's attention shall also be called to the sample ballot, so that the voter shall become familiar with the questions, the names of the offices, and the names of the candidates.

History. Acts 1969, No. 465, Art. 12, § 18; A.S.A. 1947, § 3-1218; Acts 1997, No. 446, § 15; 2005, No. 2233, § 24.

7-5-521. Arrangement of polling place.

(a) The exterior of the voting machine and every part of the polling place shall be in plain view of the poll workers.

(b) The machine shall be placed so that no person can see or determine how the voter casts his or her vote.

(c) After the opening of the polls, the poll workers shall not allow any person to pass to the part of the room where the machine is situated, except for the purpose of voting.

History. Acts 1969, No. 465, Art. 12, § 22; A.S.A. 1947, § 3-1222; Acts 1997, No. 446, § 16; 2005, No. 2233, § 25; 2009, No. 959, § 26.

7-5-522. Voting procedure.

(a) (1) When a voter presents himself or herself for the purpose of voting, the poll workers shall ascertain whether he or she is properly qualified and registered under § 7-5-305.

(2) In preparing the machines, the poll workers shall ensure that each voter will have access only to the proper ballot.

(b) Only one (1) voter at a time shall be permitted to approach a voting machine. Having cast his or her vote, the voter shall at once move away from the voting machine and leave the polling room by the exit provided.

(c) A voter having left the voting machine shall not be permitted to return to the voting machine except to complete the voting process.

(d) If a voter leaves an electronic ballot on a voting machine on which the voter has either made some or no selections and has failed to complete the process of casting the ballot and failed to notify a poll worker of his or her desire to cancel the ballot before departing the polling site, two (2) poll workers shall take action to complete the process of casting the ballot and shall document:

(1) The time;

(2) The name of the voter, if known;

(3) The names of the poll workers completing the process of casting the ballot; and

(4) All other circumstances surrounding the abandoned ballot.

History. Acts 1969, No. 465, Art. 12, § 21; A.S.A. 1947, § 3-1221; Acts 1989, No. 342, § 1; 1997, No. 446, § 17; 2005, No. 2233, § 26; 2007, No. 835, § 2; 2009, No. 959, § 26.

7-5-523. [Repealed.]

7-5-524. Voter access to machines — Persons in line at closing time.

(a) During the time that the polls are open for voting, no more voters shall be permitted to approach the voting machine than there are vacant machines available for voting.

(b) At the time of the closing of the polls, all persons who have presented themselves for voting and who are then in line at the polling place shall be permitted to cast their votes as now provided by law. Every person in line shall have the opportunity to vote.

History. Acts 1969, No. 465, Art. 12, § 23; A.S.A. 1947, § 3-1223.

7-5-525. Write-in votes.

(a) Votes for any person whose name does not appear on the voting machine as a qualified candidate for office are referred to in this section as write-in votes.

(b) (1) The voting machine shall be programmed to allow a voter to enter the name of a qualified write-in candidate on the ballot.

(2) A write-in vote shall be cast in the appropriate place on the ballot, or the vote for that candidate shall be void and not counted.

(c) Write-in votes shall not be counted in primary elections.

History. Acts 1969, No. 465, Art. 12, § 20; A.S.A. 1947, § 3-1220; Acts 2005, No. 2233, § 28.

7-5-526. Closing of polls — Securing machines — Poll workers' certificate.

(a) At the official time for closing the polls and upon termination of the voting, the poll workers shall announce that the polls have closed and in the presence of all persons authorized to be present shall remove the activation packs or devices from the voting machines to make them inaccessible to further voting.

(b) At the same time, the poll workers shall sign a certificate provided by the county board of election commissioners stating that the machines were made inaccessible to further voting and giving the exact time and the number of votes shown on the public counters.

History. Acts 1969, No. 465, Art. 12, § 24; A.S.A. 1947, § 3-1224; Acts 1997, No. 446, § 19; 2005, No. 2233, § 29; 2009, No. 959, § 27.

7-5-527. Exposure of count — Verification — Return record — Official signatures.

(a) The poll workers shall then expose the count in the presence of all persons authorized to be present.

(b) It is the intention of this section to accord a full, complete, and public view of the count from each voting machine to all poll workers and designated watchers for the candidates or parties.

(c) (1) The poll worker shall proceed to produce the return record in a minimum of three (3) copies.

(2) (A) The return record shall be deemed the official count for that machine.

(B) One (1) copy of the completed return record for that machine shall be posted upon the wall of the polling room for all to see.

(d) The poll workers shall sign the machine return record produced by the device.

(e) (1) The activation pack or device used to collect votes from each voting machine and all certified return records shall be placed in a package that shall be sealed and signed by all the poll workers and any watchers that may desire to affix a signature.

(2) (A) The sealed package shall be immediately returned to the county board of election commissioners by one (1) of the poll workers selected for this purpose, accompanied by those other poll workers and watchers who desire to join the poll worker.

(B) The poll worker shall obtain a receipt for the sealed package.

History. Acts 1969, No. 465, Art. 12, §§ 25, 26; A.S.A. 1947, §§ 3-1225, 3-1226; Acts 1997, No. 446, § 20; 2005, No. 2233, § 30; 2009, No. 959, § 27.

7-5-528. Machines released to officers.

Voting machines shall be released to a person designated by the county board of election commissioners for storage in a secure facility designated by the county board.

History. Acts 1969, No. 465, Art. 12, § 27; A.S.A. 1947, § 3-1227; Acts 1997, No. 446, § 21; 2007, No. 835, § 5.

7-5-529. Tabulation of returns.

(a) The county board of election commissioners shall compile countywide totals from the activation pack or device used to collect votes from each voting machine.

(b) Prior to certification of the official election results, the county board of election commissioners shall manually compile countywide totals from the polling location's certified return records and verify that they match the electronically derived totals from the activation pack or device used to collect votes from each machine.

History. Acts 1969, No. 465, Art. 12, § 28; A.S.A. 1947, § 3-1228; Acts 1997, No. 446, § 22; 2005, No. 2233, § 31.

7-5-530. Securing audit materials upon election contest or recount.

(a) The county board of election commissioners shall produce an audit log for each voting machine used in the election.

(b) In the event that there is an election contest filed, the judge of the court that has jurisdiction may order the county board to secure the audit logs and the voter-verified paper audit trail alleged in the contest to be in question. The county board shall store them in a secure

place in the county courthouse under lock and key awaiting further orders of the court.

(c) In the event that any candidate in any election in which the machines have been utilized or any voter who questions the count of any question posed at any election gives written notice to the county board that he or she desires a recount, then the applicable county board shall secure the audit logs and voter-verified paper audit trails and store them in a secure place in the county courthouse awaiting further orders of the applicable county board or court.

History. Acts 1969, No. 465, Art. 12, § 29; A.S.A. 1947, § 3-1229; Acts 1997, No. 446, § 23; 2005, No. 2233, § 32; 2007, No. 835, § 6.

7-5-531. Retention of audit data — Machines to remain secured until results are certified except on court order.

(a) All audit logs and voter-verified paper audit trails produced by a voting machine shall remain secured for a period of two (2) years.

(b) (1) All voting machines used in any election shall remain secured for a period of at least three (3) days following the election unless the machines are ordered to be activated sooner by and on the authority of an order of a court of competent jurisdiction, in the event that the issue of the election should be in judicial controversy.

(2) Should no order be entered, it shall be the duty of the county board of election commissioners to clear the machines for future elections after the results of the election have been certified.

History. Acts 1969, No. 465, Art. 12, § 30; 1970 (Ex. Sess.), No. 25, § 1; A.S.A. 1947, § 3-1230; Acts 1997, No. 446, § 24; 2005, No. 2233, § 33.

7-5-532. Direct electronic voting machines.

(a) For purposes of this section:

(1) “Direct electronic voting machine” means a voting machine that:

(A) Records votes by means of a ballot display provided with mechanical or electro-optical components that may be actuated by the voter;

(B) Processes the data by means of a computer program;

(C) Records voting data and ballot images in internal or external memory components; and

(D) Produces a tabulation of the voting data stored in a removable memory component and in a printed copy; and

(2) “Voter-verified paper audit trail” means a contemporaneous paper record of a ballot printed for the voter to confirm his or her votes before the voter casts his or her ballot.

(b) The Secretary of State or the county shall not purchase or procure a direct-recording electronic voting machine that does not include a voter-verified paper audit trail.

(c) (1) All direct-recording electronic voting machines in use on or after January 1, 2006, shall include a voter-verified paper audit trail, except for those direct recording electronic voting machines in use during the 2004 general election.

(2) All direct-recording electronic voting machines purchased on or after August 12, 2005, shall include a voter-verified paper audit trail.

(d) A direct-recording electronic voting machine with a voter-verified paper audit trail shall meet the following conditions:

(1) The voter-verified paper audit trail may be verified by the voter before the casting of the voter's ballot;

(2) The voter-verified paper audit trail shall not be retained by the voter;

(3) The voter-verified paper audit trail shall not contain individual voter information;

(4) The paper used in producing the voter-verified paper audit trail shall be sturdy, clean, and resistant to degradation; and

(5) The voter-verified paper audit trail shall be readable in a manner that makes the voter's ballot choices obvious to the voter without the use of computer or electronic code.

(e) Voter-verified paper audit trails shall be preserved in the same manner and for the same time period as ballots and certificates are preserved under § 7-5-702.

History. Acts 2005, No. 654, § 2; 2007, No. 835, § 7; 2009, No. 959, § 28.

Subchapter 6

— Paper Ballots and Electronic Vote Tabulating Devices

7-5-601. Paper ballots — Form.

7-5-602. Ballots — Number — Official — Marking device — Spoiled.

7-5-603. Counting paper ballots at the polling site.

7-5-604. Authorization — Election laws applicable.

7-5-605. [Repealed.]

7-5-606. Approval of equipment — Specifications.

7-5-607. Arrangement of polling place.

7-5-608. [Repealed.]

7-5-609. Spoiled ballots.

7-5-610. Write-in ballots.

7-5-611. Preparation of electronic vote tabulating devices — Test — Disposition of voting materials.

7-5-612. [Repealed.]

7-5-613. Counting ballots and write-in votes.

7-5-614. Locations for vote tabulation — Procedures.

7-5-615. Tabulation of votes — Defective ballots — Certification of returns.

7-5-616. Penalty.

7-5-601. Paper ballots — Form.

(a) All paper ballots provided by the county board of election commissioners of any county in this state for any election shall be alike and shall be printed in plain type.

(b) Each ballot shall be printed on paper with a perforated portion capable of being detached for use as the ballot stub.

(c) (1) As ballots are printed, the portion that shall be used as the ballot stub shall be numbered consecutively beginning with the number 1.

(2) The number on the last ballot printed shall show the total number of ballots provided for the election.

(d) (1) The heading on the front or inner side of each ballot shall be: “OFFICIAL BALLOT. Vote by placing an appropriate mark opposite the person for whom you wish to vote”.

(2) If the ballot contains an initiated or referred amendment, act, or measure, the heading shall also contain these words: “Vote on amendments, acts, and measures by placing an appropriate mark above the amendment (or act or measure) either FOR or AGAINST”.

(e) Beneath the heading on each paper ballot there shall be printed instructions that inform the voter:

(1) Of the effect of casting multiple votes for an office; and

(2) How to correct the ballot before it is cast and counted, including without limitation instructions on how to correct an error through the issuance of a replacement ballot if the voter was otherwise unable to change the ballot or correct an error.

History. Acts 1977, No. 77, § 1; A.S.A. 1947, § 3-1801n; Acts 2005, No. 2233, § 34; 2009, No. 1480, § 35.

7-5-602. Ballots — Number — Official — Marking device — Spoiled.

(a) (1) The county board of election commissioners of each county in this state using paper ballots counted by hand at the polling site, paper ballots counted by an electronic vote tabulating device at the polling site, or paper ballots cast at a polling site and counted at a central location shall provide for each election precinct one hundred fifty (150) printed ballots for each one hundred (100) or fraction of one hundred (100) electors voting on paper ballots at the last preceding comparable election.

(2) The total number of ballots required to be printed for each election precinct shall not exceed one hundred five percent (105%) of the total number of registered voters for the

respective precinct.

(b) A ballot shall not be received or counted in any election to which this subchapter applies unless it is provided by the county board under this section.

(c) At all elections in counties that use paper ballots and in which those ballots are counted by hand, the ballots shall be marked using permanent ink.

(d) (1) A voter who shall by accident or mistake mar or spoil any ballot so that he or she cannot conveniently or clearly vote on the ballot may return it to the poll workers and receive another ballot, not to exceed three (3) ballots in total.

(2) Spoiled ballots shall be cancelled by a poll worker's writing "CANCELLED" on its face and initialing the ballot.

(3) The cancelled ballots shall be preserved separately from other ballots and returned to the county board of election commissioners and shall be open to public inspection.

History. Acts 2009, No. 1480, § 36.

7-5-603. Counting paper ballots at the polling site.

When paper ballots are to be counted at the polling site, the following procedures shall be followed:

(1) (A) In counting the ballots, the ballot box shall be opened and each ballot shall be counted in turn or by counting by offices and issues.

(B) The poll workers shall witness the counting of the ballots and shall keep separate tally lists of the votes cast for each candidate or issue on the ballot;

(2) (A) When two (2) or more ballots are found folded together, it shall be considered as conclusive evidence the ballots are fraudulent and neither of the ballots shall be counted.

(B) If a ballot is found to contain marks for more than the maximum allowable number of candidates in any one (1) contest, the contest shall be considered overvoted, and it shall be the responsibility of the poll workers to determine the voter's intent;

(3) (A) Upon the close of the polls, the poll workers immediately shall certify and attest the list of voters and continue the count to completion.

(B) If a poll worker becomes sick or incapacitated from any other cause, the remaining poll workers shall continue the count until it is completed;

(4) After the count is completed, the poll workers shall make out the certificates of election in triplicate and immediately post one (1) copy outside the polling site; and

(5) (A) The counting of ballots shall be open to the public.

(B) Any candidate or political party may be present in person or by

representative designated in writing under § 7-5-312 at the count of the ballots in any election for the purpose of determining whether or not the ballots in any election precinct are fairly and accurately counted.

(C) The candidate in person or an authorized representative of the candidate or political party shall be permitted, upon a request's being made to a poll worker, to inspect any or all ballots after the ballots have been counted.

History. Acts 1977, No. 77, § 8; A.S.A. 1947, § 3-1807; Acts 2005, No. 2233, § 35; 2009, No. 1480, § 37.

7-5-604. Authorization — Election laws applicable.

(a) Paper ballot voting systems that include electronic vote tabulating devices may be used in elections, provided that the systems shall:

(1) Enable the voter to cast a vote in secrecy;

(2) Enable the voter to vote for all offices and measures on which he or she is entitled to vote;

(3) Permit the voter to verify in a private and independent manner the votes selected by the voter on the ballot before the ballot is cast;

(4) Provide the voter with the opportunity in a private and independent manner to change the ballot or correct any error before the ballot is cast;

(5) (A) Notify the voter that he or she has selected more than one (1) candidate for the office, notify the voter before the ballot is cast and counted of the effect of casting multiple votes for the office, and provide the voter with the opportunity to correct the ballot before the ballot is cast if the voter is legally entitled to select only one (1) candidate for an office but the voter selects more than one (1) candidate for the office.

(B) Electronic vote tabulating devices used to cast and count votes at the polling place shall be programmed to reject ballots containing overvotes as described in this section.

(C) When votes are cast at polling places and are to be counted by hand or at the courthouse or other central counting location, the county board of election commissioners shall provide a voter education program to inform the voters:

(i) Of the effect of casting multiple votes for an office; and

(ii) How to correct the ballot before it is cast, including, but not limited to, instructions on how to correct the error through the issuance of a replacement ballot if the voter was otherwise unable to change the ballot or correct any error;

(6) (A) Notify the voter that the voter has selected more than the allowed number of candidates for the office on the ballot, notify the voter before the ballot is cast and counted of the effect of casting more than the allowed number of votes for that office, and provide the voter

with the opportunity to correct the ballot before the ballot is cast if the voter is legally entitled to select multiple candidates for an office but the voter selects more than the number of candidates he or she is legally entitled to select.

(B) Electronic vote tabulating devices used to cast and count votes at the polling places shall be programmed to reject ballots containing overvotes as described in this section.

(C) When votes are cast at polling places and are to be counted by hand or at the courthouse or other central counting location, the county board of election commissioners shall provide a voter education program to inform the voters:

(i) Of the effect of casting more votes than the voter is legally entitled to cast for an office; and

(ii) How to correct the ballot before it is cast, including, but not limited to, instructions on how to correct the error through the issuance of a replacement ballot if the voter was otherwise unable to change the ballot or correct any error;

(7) Permit the voter to vote:

(A) At any election for all persons and officers for whom he or she is lawfully entitled to vote and no others;

(B) For as many persons for an office as he or she is entitled to vote;

(C) For or against any question upon which he or she is entitled to vote; and

(D) By means of a single device, if authorized by law, for all candidates for one (1) party or to vote a split ticket as he or she desires;

(8) Permit the voter by one (1) mark to vote for the candidates for that party for president, vice president, and their presidential electors at presidential elections;

(9) Generate a printed record at the beginning of its operation which verifies that the tabulating elements for each candidate position and each question and the public counter are all set to zero (000); and

(10) Generate a printed record at the finish of its operation of the total number of:

(A) Voters whose ballots have been tabulated;

(B) Votes cast for each candidate whose name appears on the ballot;

(C) Votes cast for or against any question appearing on the ballot; and

(D) Undervotes and overvotes by contest.

(b) So far as applicable, the procedures provided by law for voting by other means and the conduct of the election in regard thereto by the election officials, not otherwise inconsistent with this subchapter, shall apply to the system of electronic vote tabulation as authorized in this subchapter.

History. Acts 1977, No. 77, § 3; 1979, No. 738, § 2; A.S.A. 1947, § 3-1802; Acts 2005, No. 2233, § 36; 2009, No. 1480, § 38.

7-5-605. [Repealed.]

7-5-606. Approval of equipment — Specifications.

(a) The State Board of Election Commissioners may promulgate rules for the administration of this subchapter and shall approve the marking devices and electronic vote tabulating devices.

(b) (1) Any person or company wishing to exhibit marking devices and electronic vote tabulating devices may file written application with the board and request an opportunity to exhibit and demonstrate devices.

(2) The board shall examine the electronic vote tabulating device and file a report in the office of the Secretary of State of its accuracy, efficiency, and capacity.

(3) If the board shall reject any device, the reasons shall be stated in the report filed with the Secretary of State.

(4) Any person or company aggrieved by any finding or ruling of the board may appeal to the Pulaski County Circuit Court within sixty (60) days from the date the report of the board is filed with the Secretary of State.

(c) After any device has been approved, it shall not be necessary that it be exhibited and approved again by the board unless there is a change or modification in the device that renders it incapable of marking ballots or tabulating votes in the same method of procedure approved by the board.

(d) Electronic vote tabulating devices not approved by the board may not be used in any lawful election in this state.

(e) No marking device or electronic vote tabulating device shall be approved unless it fulfills the requirements of this section and the federal Help America Vote Act of 2002.

History. Acts 1977, No. 77, § 7; A.S.A. 1947, § 3-1806; Acts 2005, No. 2233, § 38.

7-5-607. Arrangement of polling place.

In precincts where an electronic vote tabulating device is used, sufficient space shall be provided for the use of the device, and it shall be arranged in such a manner as to assure secrecy in voting.

History. Acts 1977, No. 77, § 4; A.S.A. 1947, § 3-1803; Acts 2005, No. 2233, § 39.

7-5-608. [Repealed.]

7-5-609. Spoiled ballots.

Any voter who spoils his or her ballot or makes an error may return it to the election officials and secure another, not to exceed three (3) in all.

History. Acts 1977, No. 77, § 4; A.S.A. 1947, § 3-1803; Acts 2005, No. 2233, § 41.

7-5-610. Write-in ballots.

In all elections in which write-in candidacies are allowed, the ballot shall permit electors to write in the names of persons who have qualified as write-in candidates and whose names are not on the ballot.

History. Acts 1977, No. 77, § 4; A.S.A. 1947, § 3-1803; Acts 2005, No. 2233, § 42.

7-5-611. Preparation of electronic vote tabulating devices — Test — Disposition of voting materials.

(a) (1) The county board of election commissioners, with respect to all elections, shall cause the electronic vote tabulating devices used for voting to be properly programmed and tested before delivery to the election precincts.

(2) At least seven (7) days prior to the beginning of voting, the county board, with respect to all elections, shall have each electronic vote tabulating device tested to ascertain that the devices will correctly count the votes cast for all offices and on all measures.

(3) Public notice of the time and place of the test shall be given at least forty-eight (48) hours prior thereto by publication one (1) time in one (1) or more daily or weekly newspapers published in the town, city, or county using the devices, if a newspaper is published therein.

(4) The test shall be open to representatives of the political parties, candidates, the press, and the public.

(5) (A) The test shall be conducted by processing predetermined results from a group of ballots marked to record a predetermined number of valid votes for each candidate and on each measure for each precinct or voting location.

(B) Prior to the start of the test, a printout shall be generated to show that no votes are recorded on the electronic vote tabulating device.

(C) The test shall include for each office one (1) or more ballots which have votes in excess of the number allowed by law in order to test the ability of the electronic vote tabulating devices to reject such votes.

(6) If any error is detected, the cause shall be ascertained and corrected, and an errorless count shall be made before the electronic vote tabulating device or devices are certified for use in the election.

(7) Upon completion of the testing, the electronic vote tabulating devices shall be cleared of any votes cast during the test.

(8) After completion of the test, the county board of election commissioners shall certify the accuracy of the voting system and file the test results with the county clerk.

(b) (1) Before the opening of the polls, the poll workers shall generate a printout from the electronic vote tabulating device or devices to verify that the candidates and measures are correct for the location and that no votes are recorded on the electronic vote tabulating device or devices.

(2) The poll workers shall sign and post the printout upon the wall of the polling room where it shall remain throughout the election day.

(3) The certified printout shall be filed with the election returns.

History. Acts 1977, No. 77, § 4; A.S.A. 1947, § 3-1803; Acts 1997, No. 446, § 27; 2005, No. 2233, § 43; 2009, No. 959, § 29; 2009, No. 1480, § 39.

7-5-612. [Repealed.]

7-5-613. Counting ballots and write-in votes.

In precincts where an electronic vote tabulating device is used, as soon as the polls are closed:

(1) The poll workers shall compare the total number of voters indicated by the electronic vote tabulating device with the list of voters to ensure that the number recorded by the tabulator is the same as the number of voters shown on the list of voters who received a ballot at the polling site. If the totals are different, this fact shall be reported in writing to the county board of election commissioners with the reasons, if known; and

(2) The poll workers shall count the write-in votes and prepare a return of the votes on forms provided for that purpose.

History. Acts 1977, No. 77, § 6; A.S.A. 1947, § 3-1805; Acts 1997, No. 446, § 29; 2005, No. 2233, § 44; 2009, No. 959, § 30.

7-5-614. Locations for vote tabulation — Procedures.

For the tabulation of votes of a precinct by electronic vote tabulating devices at a central counting location:

(1) (A) The poll workers shall place all ballots that have been cast in the container provided for that purpose.

(B) The container shall be sealed and delivered to the county board of election

commissioners forthwith by the poll workers together with the unused, void, and defective ballots; and

(2) All proceedings at the counting location shall be under the direction of the county board of election commissioners with respect to all elections.

History. Acts 1977, No. 77, § 6; A.S.A. 1947, § 3-1805; Acts 1993, No. 511, § 3; 1997, No. 446, § 30; 2005, No. 2233, § 45; 2007, No. 835, § 8; 2009, No. 959, § 30.

7-5-615. Tabulation of votes — Defective ballots — Certification of returns.

(a) The counting of votes by electronic vote tabulating devices at the courthouse or other central counting location shall be open to the public, and any candidate or political party may be present in person or by representative designated in writing pursuant to § 7-5-312 to view the counting.

(b) No person except those employed and authorized for that purpose shall touch any ballot or return.

(c) The election officials at the counting place and all persons operating the electronic vote tabulating devices shall take the same oath required by law for election officials before entering upon their duties.

(d) If any ballot is damaged or defective so that it cannot properly be counted by the electronic vote tabulating device, a true duplicate copy shall be made of the damaged ballot in the presence of tabulation election officials if the votes are tabulated at a central location. The duplicate shall be substituted for the damaged ballot. All duplicate ballots shall be clearly labeled “duplicate” and shall be counted in lieu of the damaged or defective ballot.

(e) The return printed by the electronic vote tabulating device, to which has been added the return of write-in, early, and absentee votes, shall constitute the official return of each polling site. All returns shall be certified by the election officials in charge of the tabulation thereof in the manner provided by law.

(f) Upon completion of the count, the returns shall be open to the public.

History. Acts 1977, No. 77, § 6; A.S.A. 1947, § 3-1805; Acts 1997, No. 446, § 31; 2003, No. 1154, § 5; 2005, No. 2233, § 46; 2007, No. 835, § 9.

7-5-616. Penalty.

A person who violates this subchapter shall be subject to the same fine and imprisonment as provided by law for violating the comparable provisions of the laws of this state regarding voting by other voting methods.

History. Acts 2009, No. 1480, § 40.

Subchapter 7

— Returns and Canvass

7-5-701. Declaration of results — Certification, delivery, and custody of returns.

7-5-702. Preservation of ballots, stubs, certificates, and other election materials.

7-5-703. Votes for United States Congress — Tie vote.

7-5-704. Votes for legislative, judicial, and executive officers — Tie vote.

7-5-705. Votes for constitutional officers — Tie vote — Certificate of election.

7-5-706. Presentation of list of legislators elected.

7-5-707. Vote certification — Report — Checklist.

7-5-701. Declaration of results — Certification, delivery, and custody of returns.

(a) (1) No earlier than forty-eight (48) hours after the election and no later than the fifteenth calendar day after the election, the county board of election commissioners, from the certificates and ballots received from the several precincts, shall proceed to ascertain, declare, and certify the result of the election to the Secretary of State.

(2) (A) The county board shall declare preliminary and unofficial results of the election, including a statement of the number of outstanding absentee ballots of overseas voters, immediately after the count of the vote is complete and report the preliminary and unofficial results to the county clerk, who shall immediately transmit the results to the Secretary of State by the Internet website interface provided by the Secretary of State.

(B) If it is not possible for the clerk to transmit the results via the Internet website interface, then the clerk may transmit the results by facsimile transmission.

(3) Within nineteen (19) calendar days after any general, special, or school election, the county board shall deliver a certificate of election to the person having the highest number of legal votes for any county office.

(b) The county board shall also file in the office of the clerk of the county court a certificate setting forth in detail the result of the election.

(c) (1) No earlier than forty-eight (48) hours after the election and no later than the fifteenth calendar day after the election, the county board shall deposit certified copies of the abstracts of the returns of the election for members of Congress and for all executive, legislative, and judicial officers in the nearest post office on the most direct route to the seat of government and directed to the Secretary of State.

(2) The county board shall not receive compensation for election duties after the election until the election results have been certified and delivered to the Secretary of State.

(3) The Secretary of State shall file a complaint with the State Board of Election Commissioners pursuant to § 7-4-118 if the county board does not comply with subdivision (c)(1) of this section.

(d) (1) It shall at the same time enclose in a separate envelope and direct to the Speaker of the House of Representatives, in care of the Secretary of State, at the seat of government, a

certified copy of the abstract of votes given for Governor, Lieutenant Governor, Secretary of State, Treasurer of State, Auditor of State, and Attorney General.

(2) It is made the duty of the Secretary of State to safely keep the returns addressed to the Speaker of the House of Representatives until they shall be required for the purpose of ascertaining and declaring the result of the election as prescribed in Arkansas Constitution, Article 6, § 3.

History. Acts 1969, No. 465, Art. 8, § 1; 1971, No. 261, § 14; A.S.A. 1947, § 3-801; Acts 1993, No. 512, § 3; 1993, No. 966, § 1; 1995, No. 441, § 1; 1995, No. 723, § 1; 1995, No. 724, § 1; 1999, No. 1304, § 1; 2001, No. 1475, § 1; 2003, No. 131, § 1; 2005, No. 731, § 1; 2005, No. 895, § 1; 2005, No. 1677, § 5.

7-5-702. Preservation of ballots, stubs, certificates, and other election materials.

(a) After the election has been finally certified by the county board of election commissioners, the county board of election commissioners shall retain the custody of and safely keep in a sealed container appropriately marked in a secure location in the county courthouse or other county storage facility all ballots and certificates returned to it from the several precincts for a period of twenty (20) days, after which time the ballots and certificates shall be stored in a secure location in the county courthouse or other county storage facility for a period of two (2) years from the date of the election, unless the county board of election commissioners shall be sooner notified in writing that:

(1) The election of some person voted for at the election and declared to have been elected has been contested; or

(2) Criminal prosecution has begun before a tribunal of competent jurisdiction against any officer of election or person voting thereat for any fraud in the election.

(b) If the county board of election commissioners is notified as provided in subsection (a) of this section, then so many of the ballots and certificates as may relate to matters involved in the contest or any prosecution shall be preserved for use as evidence in the contest or prosecution.

(c) During the time the ballots may be retained or stored, the package containing them shall not be opened by anyone unless directed to do so by some competent tribunal before which an election contest or prosecution is pending in which the ballots are to be used as evidence.

(d) For a period of twenty (20) days, the county treasurer shall retain the custody of and safely keep all ballot stubs in a sealed container appropriately marked which are delivered to him or her from the several precincts, after which time they shall be stored unless an election contest has been filed or a criminal prosecution has been initiated in connection with the election.

(e) After a period of two (2) years, all marked ballots may be destroyed in the following manner:

(1) The county board of election commissioners shall enter an order directing the destruction of marked ballots;

(2) The county board of election commissioners shall make and retain a record of marked ballots destroyed; and

(3) The county board shall file the order and record pertaining to marked ballots and ballot stubs destroyed with the county clerk.

History. Acts 1969, No. 465, Art. 8, § 2; A.S.A. 1947, § 3-802; Acts 1987, No. 492, § 1; 1997, No. 446, § 33; 2005, No. 953, § 1; 2005, No. 2233, § 47; 2009, No. 959, § 31.

7-5-703. Votes for United States Congress — Tie vote.

(a) It shall be the duty of the Secretary of State, in the presence of the Governor, within thirty (30) days after the time allowed to make returns of election by the county board of election commissioners, or sooner, if all the returns have been received, to cast up and arrange the votes from the several counties, or such of them as may have made returns, for each person voted for as United States Senator or Representative.

(b) The Governor shall immediately thereafter issue his or her proclamation declaring the person having the greatest number of legal votes to be duly elected to represent this state in the Senate or House of Representatives of the United States Congress and shall grant a certificate thereof, under the seal of the state, to the person so elected.

(c) Should any two (2) or more persons have an equal number of votes, and a higher number than any other person, the names of the two (2) candidates receiving the highest number of votes for United States Senator or Representative shall be certified to a special runoff election which shall be held three (3) weeks from the day on which the general election is held. The special runoff election shall be conducted in the same manner as is now provided by law, and the election results shall be canvassed and certified in the manner provided by law.

History. Acts 1969, No. 465, Art. 8, §§ 3, 4; 1971, No. 261, §§ 15, 16; A.S.A. 1947, §§ 3-803, 3-804; Acts 1997, No. 446, § 34.

7-5-704. Votes for legislative, judicial, and executive officers — Tie vote.

(a) It shall be the duty of the Secretary of State, in the presence of the Governor, within thirty (30) days after the time allowed in this subchapter to make returns of elections by the county board of election commissioners, or sooner, if all the returns have been received, to cast up and arrange the votes from the several counties for each person who received votes for any legislative, judicial, or executive office, except the offices named in Arkansas Constitution, Article 6, § 3. The persons who have received the greatest number of legal votes for Justice of the Supreme Court and Commissioner of State Lands, within the state; judges of the Court of Appeals and of the circuit courts, and prosecuting attorneys, in their respective districts or circuits; judges of the county and probate courts, circuit clerk, county clerk, sheriff, coroner, surveyor, and assessor, in their respective counties; and all other officers required by law, shall be commissioned by the Governor.

(b) If two (2) or more persons have an equal number of votes for the same office and a higher number than any other person, the names of the two (2) candidates receiving the highest number of votes for any legislative or executive office, except those officers named in Arkansas Constitution, Article 6, § 3, and constables, shall be certified to a special runoff election which shall be held three (3) weeks from the day on which the general election is held. The special runoff election shall be conducted in the same manner as is now provided by law, and the election results thereof shall be canvassed and certified in the manner provided by law.

(c) Subsection (b) of this section shall not apply to the offices of Justice of the Supreme Court, Judge of the Court of Appeals, circuit judge, or district judge.

History. Acts 1969, No. 465, Art. 8, §§ 5, 6; 1971, No. 261, §§ 17, 18; A.S.A. 1947, §§ 3-805, 3-806; Acts 1993, No. 512, § 4; 1997, No. 446, § 35; 2001, No. 1789, § 5; 2009, No. 959, § 32.

7-5-705. Votes for constitutional officers — Tie vote — Certificate of election.

(a) During the first week of the session after each election for Governor, Lieutenant Governor, Secretary of State, Treasurer of State, Auditor of State, and Attorney General, and in the presence of both houses of the General Assembly, the Speaker of the House of Representatives shall open and publish the votes cast and given for each of the respective officers hereinbefore mentioned.

(b) The person having the greatest number of legal votes for each of the respective offices shall be declared duly elected thereto, but if two (2) or more shall be equal and highest in votes for the same office, one (1) of them shall be chosen by a joint vote of both houses of the General Assembly, and a majority of all the members elected shall be necessary to a choice.

(c) The President of the Senate and the Speaker of the House of Representatives shall make and deposit in the office of the Secretary of State a certificate declaring what person has been elected to any office named.

History. Acts 1969, No. 465, Art. 8, § 8; 1971, No. 261, § 19; A.S.A. 1947, § 3-808; Acts 1993, No. 512, § 5.

7-5-706. Presentation of list of legislators elected.

It shall be the duty of the Secretary of State, on the first day of each regular session of the General Assembly, to lay before each house a list of members elected in accordance with the returns in his or her office.

History. Acts 1969, No. 465, Art. 8, § 7; A.S.A. 1947, § 3-807.

7-5-707. Vote certification — Report — Checklist.

(a) For all state and federal elections, the county board of election commissioners shall transmit the certified results for each polling place to the county clerk, who shall immediately

transmit the results to the Secretary of State through the Internet website interface provided by the Secretary of State.

(b) At the time that the county board of election commissioners certifies the vote to the Secretary of State, the county board of election commissioners shall submit to the State Board of Election Commissioners a written report of:

- (1)** The total number of persons who voted in the election;
- (2)** The total number of early votes cast by voting machine;
- (3)** The total number of votes cast by voting machine on election day;
- (4)** The total number of absentee ballots, including without limitation:
 - (A)** The total number of nonprovisional absentee ballots cast;
 - (B)** The total number of provisional absentee ballots cast;
 - (C)** The total number of provisional absentee ballots counted; and
 - (D)** The total number of provisional absentee ballots disqualified;
- (5)** The total number of early votes cast by paper ballot, including without limitation:
 - (A)** The total number of nonprovisional early paper ballots cast;
 - (B)** The total number of provisional early ballots cast;
 - (C)** The total number of provisional early ballots counted; and
 - (D)** The total number of provisional early ballots disqualified;
- (6)** The total number of paper ballots cast on election day, including without limitation:
 - (A)** The total number of nonprovisional paper ballots cast on election day;
 - (B)** The total number of provisional ballots cast on election day;
 - (C)** The total number of provisional election day ballots counted; and
 - (D)** The total number of provisional election day ballots disqualified;
- (7)** The total number of spoiled ballots;
- (8)** The total number of unused ballots;
- (9)** The total number of ballots printed; and
- (10)** Other information at the request of the Secretary of State as may be required by federal law or regulation.

(c) The county board of election commissioners shall post a copy of the written report

submitted to the state board in a public place in the county clerk's office for twenty (20) days and file a copy with the clerk's office.

(d) The county board of election commissioners shall transmit the number of overvotes and undervotes cast in each race and issue in the election to the county clerk, who shall enter and transmit it to the state board through the Secretary of State's Internet website interface.

(e) Fifteen (15) days following any regularly scheduled preferential primary election, general election, or statewide special election, each county election commissioner shall file a statement with the State Board of Election Commissioners in the form of a checklist provided by the State Board of Election Commissioners showing compliance with all duties and responsibilities of the county election commissioner.

History. Acts 2001, No. 1396, § 1; 2003, No. 131, § 2; 2003, No. 994, § 13; 2005, No. 67, § 14; 2007, No. 559, § 5; 2009, No. 959, § 33.

Subchapter 8 **— Election Contests**

7-5-801. Right of action — Procedure.

7-5-802. Circuit court proceedings.

7-5-803. Special judges for additional contests.

7-5-804. Trial — Appeal — Enforcement — Other laws superseded.

7-5-805. Contest of state legislative offices.

7-5-806. Contest of state constitutional executive offices.

7-5-807. Election illegalities — Complaint — Grand jury investigation — Indictment —
Trial.

7-5-808. Finding of guilt — Effect.

7-5-809. Determination of guilt after election — Effect.

7-5-810. Contest of election results — Time for appeal.

7-5-801. Right of action — Procedure.

(a) A right of action is conferred on any candidate to contest the certification of nomination or the certificate of vote as made by the appropriate officials in any election.

(b) The action shall be brought in the circuit court of the county in which the certification of nomination or certificate of vote is made when a county or city or township office, including the office of county delegate or county committeeman, is involved, and except as provided in this subchapter, within any county in the circuit or district wherein any of the wrongful acts occurred when any circuit or district office is involved, and except as provided in this subchapter, in the Pulaski County Circuit Court when the office of United States Senator or any state office is involved.

(c) If there are two (2) or more counties in the district where the action is brought and when fraud is alleged in the complaint, answer, or cross-complaint, the circuit court may hear testimony in any county in the district.

(d) The complaint shall be verified by the affidavit of the contestant to the effect that he or she believes the statements to be true and shall be filed within twenty (20) days of the certification complained of.

(e) The complaint shall be answered within twenty (20) days.

History. Acts 1969, No. 465, Art. 10, § 1; A.S.A. 1947, § 3-1001.

7-5-802. Circuit court proceedings.

(a) If the complaint is sufficiently definite to make a prima facie case, unless the circuit court in which it is filed is in session or is to convene within thirty (30) days, the judge shall call a special term which shall possess the powers of a court convened in a regular term, and shall proceed at once to hear the case. The session of the special term to hear these cases shall not interfere with the validity of other courts proceeding at the same time in the circuit.

(b) If the case comes in regular term, it shall be given precedence and be speedily determined. The judge may adjourn other courts in order to hear these cases and may call another judge in exchange to sit in other courts or vacate the bench in other courts and cause a special judge to be elected to hold the court.

History. Acts 1969, No. 465, Art. 10, § 2; A.S.A. 1947, § 3-1002.

7-5-803. Special judges for additional contests.

(a) In the event that there are more election contests brought under this section than the circuit court judge can dispose of prior to ten (10) days before any election to be held, either of the parties to the contest may so report to the circuit judge in vacation or otherwise, who shall have full and complete authority to appoint an attorney with the qualifications of circuit judge to hear any contest and render a final judgment in such contest.

(b) The circuit judge shall appoint as special judge any attorney named by a committee of three (3) qualified electors of the county in which the contest is pending, one (1) to be named by the contestant, one (1) to be named by the contestee, and the third to be named by those two (2) committee members. In the event that the first two (2) committee members do not agree within five (5) days on the third member, then the third member shall be chosen by lot from the respective choices of the two committee members.

(c) All proceedings shall be conducted as in the case of any regular judge trying any such case, including the right of appeal. The judge so appointed shall have full power and authority in the trial of election contests in all respects as are now conferred by the Arkansas Constitution upon circuit judges in this state. The judgment rendered by the attorney so appointed shall be binding with full force and effect as if the regular circuit judge had heard the cause.

(d) In the appointment of the attorney, the circuit judge shall not be confined in the selection of the attorney to the judicial circuit in which the contest is pending. However, the hearing of the

contest shall be had in the county in which the contest has been filed.

History. Acts 1969, No. 465, Art. 10, § 3; A.S.A. 1947, § 3-1003.

7-5-804. Trial — Appeal — Enforcement — Other laws superseded.

(a) The election contest shall be tried by the circuit judge in open court without a jury.

(b) An appeal may be taken from the judgment. However, the appeal shall not operate as a supersedeas by judicial order or otherwise and the judgment of the circuit court shall be obeyed by officeholders, political committees and their officers, and all election officials, until reversed. It shall be the duty of the Supreme Court to advance the hearing of any such appeal.

(c) The circuit court or, when necessary, the circuit judge in vacation shall enforce by mandamus to the officers of political parties and election officials, or both, or the Secretary of State the proper certification and proper ballot in accordance with the judgment of the court and shall punish the failure of any such officers to obey the mandamus by imprisonment in the county jail.

(d) Except as provided in this subchapter, all laws pertaining to general and special elections or rules of political organizations regarding primary elections providing for contest before political conventions or committees, other than the proceedings provided in this subchapter, shall be of no further force or effect.

History. Acts 1969, No. 465, Art. 10, § 4; A.S.A. 1947, § 3-1004; Acts 1997, No. 446, § 36.

7-5-805. Contest of state legislative offices.

(a) Any contest to the eligibility, qualifications, or election to serve as a member of the Senate shall be in accordance with the rules and procedures for election contests as established by that chamber under its governing rules.

(b) (1) (A) Any action to contest eligibility, qualification, or election to serve as a member of the House of Representatives shall be initiated by filing a complaint with the Arkansas State Claims Commission.

(B) This procedure shall apply to House of Representatives election contests pursuant to Arkansas Constitution, Article 5, § 11, to contests of eligibility pursuant to Arkansas Constitution, Article 5, § 9, and to actions for expulsion pursuant to Arkansas Constitution, Article 5, § 12, except that a member of the House of Representatives shall be automatically suspended from the legislative process if a representative under felony criminal indictment is subsequently found guilty or pleads guilty.

(C) (i) If a representative under a felony criminal indictment in any federal or state court is subsequently found guilty or pleads guilty to the charges, then the Speaker of the House of Representatives shall immediately declare the representative suspended from the legislative process, and notification shall be given to the convicted representative, all members

of the House of Representatives, the Chief Clerk of the House of Representatives, the Governor, the Secretary of State, and the Auditor of State.

(ii) (a) However, if a representative who was found guilty appeals that conviction, then the representative may petition the House Management Committee for a stay of the suspension from the legislative process, and the committee may grant a stay upon the filing of the petition and a notice of appeal to the relevant appellate court.

(b) The stay of the suspension shall continue until the appeal is complete or until the House of Representatives takes final action on the conviction.

(D) A representative suspended from the legislative process shall not participate in interim committee meetings nor in extraordinary or regular sessions of the General Assembly and shall not accept per diem and mileage but shall be eligible to retain the title of office and salary as a member of the General Assembly and is authorized to assist constituents and utilize legislative staff until a final action is taken by the House of Representatives.

(2) For House election contests, the complaint shall be filed within fifteen (15) days after the election returns are certified by the county board of election commissioners. A responsive pleading shall be filed by the House contestee within fifteen (15) days after receipt of the complaint unless an earlier or later date is set by the commission for good cause shown. Upon receipt of the complaint, the commission shall establish a schedule for discovery and hearing, which schedule shall allow the commission to take and review evidence presented by the parties and submit a nonbinding recommendation to the House of Representatives no later than five (5) days before the date fixed for the assembling of the General Assembly.

(3) For eligibility contests for the House of Representatives pursuant to Arkansas Constitution, Article 5, § 9, a complaint shall be filed at any time after the election of the individual to a seat in the House of Representatives. For action for expulsion from the House of Representatives pursuant to Arkansas Constitution, Article 5, § 12, the complaint shall be filed at any time permitted by law. A responsive pleading shall be filed within twenty (20) days after receipt of the complaint unless an earlier or later date is set by the commission for good cause shown. The commission shall establish a schedule for discovery and hearing, which schedule shall allow the commission to take and review evidence presented by the parties and submit a nonbinding recommendation to the House of Representatives in a timely fashion.

(4) An additional copy of all complaints filed pursuant to this subsection (b) shall be served on the Speaker of the House of Representatives. The Speaker of the House of Representatives shall appoint one (1) member of the chamber from each political party to serve as ex officio, nonvoting members of the commission for the consideration of all matters relating to the complaint.

(5) In those actions concerning a seat in the House of Representatives, the recommendation is to be made to the Speaker of the House of Representatives. The Speaker of the House of Representatives shall present the nonbinding recommendation to the members of the House of Representatives, and the members shall take such actions as they deem appropriate.

(6) The commission is authorized to promulgate any rules and regulations necessary to carry out the provisions set forth herein regarding contests for the seats in the House of Representatives.

History. Acts 1969, No. 465, Art. 10, § 8; A.S.A. 1947, § 3-1008; Acts 1991, No. 1014, § 1; 2001, No. 452, § 1.

7-5-806. Contest of state constitutional executive offices.

(a) All contested general elections of Governor, Lieutenant Governor, Secretary of State, Treasurer of State, Auditor of State, and Attorney General, except as provided in this section, shall be decided by the joint vote of both houses of the General Assembly, and in that joint meeting the President of the Senate shall preside.

(b) If, following any general election, any person contests any election covered by this section, he or she shall present his or her petition to the General Assembly, setting forth the points on which he or she will contest the election and the facts which he or she will prove in support of the points, and he or she shall pray for leave to introduce his or her proofs.

(c) A vote shall be taken by yeas and nays in each house as to whether the prayers shall be granted.

(d) If a majority of the whole number of votes of both houses shall be in the affirmative, they shall appoint a joint committee to take testimony on the part of the petitioner and also on the part of the person whose place is contested. The committee shall have power to send for witnesses and to issue warrants under the hand of the chair to any judge or justice of the peace to take the deposition of witnesses at such time and place as the warrant shall direct. The points to which the testimony is to be taken shall be set forth in the warrants.

(e) Reasonable notice shall be given by the party in whose favor depositions shall be allowed to be taken to the opposite party of the time and place of taking the depositions. The judge or justice shall proceed in all things, in the attendance of witnesses and in taking and certifying the testimony, as is directed in the preceding section.

(f) The party shall also be allowed to attend the examination of witnesses before the committee and to cross-examine them, but no testimony shall be taken except in relation to the points set forth in the petition.

(g) The committee shall report the facts to the two (2) houses, and the day shall be fixed by a joint resolution for the meeting of the two (2) houses to decide the contest, on which decision the yeas and nays shall be taken and entered on the journal of each house.

History. Acts 1969, No. 465, Art. 10, § 9; A.S.A. 1947, § 3-1009; Acts 1993, No. 512, § 6.

7-5-807. Election illegalities — Complaint — Grand jury investigation — Indictment — Trial.

(a) If ten (10) reputable citizens of any county shall file a complaint with the circuit judge within twenty (20) days after any election alleging that illegal or fraudulent votes were cast, that fraudulent returns or certifications were made, or that the Political Practices Act was violated, the circuit judge, if in his or her opinion there is good ground to believe the charges to be true, shall convene a special term at once unless the regular term is in session or will convene within thirty (30) days.

(b) If the charges come in a regular term, the judge shall specially charge the grand jury as to them.

(c) Should a special term be called, it shall in all respects be as if convened by law. The circuit judge shall cause to be summoned grand and petit jurors, either on lists selected by the jury commissioners, by the sheriff, or by disinterested persons selected by him or her for that purpose, according to his or her opinion as to the best method to select unbiased jurors.

(d) Should indictments be returned, either at a special or regular term, for violating the general, primary, or special election laws, the defendants shall be given a speedy trial at the term, and the court may adjourn terms of other courts in order that they may be tried, unless for good cause shown or in the interests of justice a continuance or change of venue is granted. No change of venue shall be granted in such cases except after a hearing and a finding by the court that the defendant cannot obtain a fair and impartial trial in the district of the county where the indictment is pending.

History. Acts 1969, No. 465, Art. 10, § 5; A.S.A. 1947, § 3-1005.

7-5-808. Finding of guilt — Effect.

(a) Should it be proved to the satisfaction of the trial judge, in cases instituted under this subchapter, that a successful candidate has been guilty of violating the Political Practices Act or any of the laws regulating general, primary, or special elections, the circuit court shall enter the finding as a part of the judgment, irrespective of the determination of the issues in other suits filed under this subchapter or the verdict of the jury in a criminal prosecution.

(b) The judgment to that effect shall operate to deprive the candidate of the nomination, and the vacancy shall be filled in the manner provided by law.

History. Acts 1969, No. 465, Art. 10, § 6; A.S.A. 1947, § 3-1006.

7-5-809. Determination of guilt after election — Effect.

(a) Should a proceeding under previous sections of this subchapter or a criminal prosecution under the criminal penalties imposed in this act not be determined finally until after the election, if the defendant in the proceeding is elected to the office or is the nominee of a political party to the office, and if it is determined that he or she was not entitled to be elected or to the nomination or that the judgment contains a finding that he or she violated the Political Practices Act or any of the laws applicable to general, primary, or special elections, then the judgment

shall operate as a forfeiture of nomination or ouster from office.

(b) The vacancy shall be filled as provided by law for filling vacancies in nominations or office in case of death or resignation.

History. Acts 1969, No. 465, Art. 10, § 7; A.S.A. 1947, § 3-1007.

7-5-810. Contest of election results — Time for appeal.

An appeal to contest the determination of any election in any court of this state must be filed within seven (7) calendar days of the final certification of the election result as announced by a court as authorized by this subchapter, except in instances in which the Arkansas Constitution establishes a time frame for filing an appeal.

History. Acts 1993, No. 514, § 1; 1997, No. 446, § 37.

Chapter 6 Campaign Practices

Subchapter 1 — General Provisions

Subchapter 2 — Campaign Financing

Subchapter 1 — General Provisions

7-6-101. Campaign services contract — Right of action.

7-6-102. Political practices pledge — Penalty for falsification

7-6-103. Campaign participation by judges — Penalty.

7-6-104. Defamatory political broadcasts.

7-6-105. Use of sound equipment — Penalty for interference.

7-6-101. Campaign services contract — Right of action.

No action shall be brought to charge any person upon any contract, promise, or agreement for any service rendered to or for him or her as a candidate in any election in this state or in aid of his or her campaign for the nomination to any office in this state unless the agreement, promise, or contract, upon which said action shall be brought, or some memorandum or note thereof, shall be made in writing and signed by the party to be charged therewith, or signed by some other person by him or her thereunto properly authorized in writing.

History. Acts 1969, No. 465, Art. 11, § 1; A.S.A. 1947, § 3-1101.

7-6-102. Political practices pledge — Penalty for falsification

(a) (1) Candidates for political party nominations for state or district offices shall file with the Secretary of State and candidates for county, municipal, or township offices shall file with the county clerk of the county during the filing period set out in § 7-7-203 for the preferential

primary election a pledge in writing stating that they are familiar with the requirements of §§ 7-1-103, 7-1-104, 7-3-108, 7-6-101, 7-6-103, 7-6-104, and this section and will comply in good faith with their terms.

(2) Persons seeking nomination as independent candidates and school district candidates shall file the political practices pledge at the time of filing the petition for nomination.

(3) Independent candidates for municipal office shall file the political practices pledge with the county clerk at the time of filing the petition for nomination.

(4) Persons who wish to be write-in candidates shall file the political practices pledge at the time of filing the notice to be a write-in candidate.

(5) Nonpartisan judicial candidates paying filing fees in accordance with § 7-10-103(b) shall file the political practices pledge at the time of filing for office.

(6) Nonpartisan judicial candidates filing by petition in accordance with § 7-10-103(c) shall file the political practices pledge at the time of filing the petition.

(b) All political practices pledge forms for state or district offices and county, municipal, or township offices shall be required to contain the following additional pledge:

“I hereby certify that I have never been convicted of a felony in Arkansas or in any other jurisdiction outside of Arkansas.”

(c) Any person who has been convicted of a felony and signs the pledge stating that he or she has not been convicted of a felony shall be guilty of a Class D felony.

(d) For purposes of this section, a person shall be qualified to be a candidate for a state, district, county, municipal, and township office and may certify that he or she has never been convicted of a felony if his or her record was expunged in accordance with §§ 16-93-301 — 16-93-303, or a similar expunction statute in another state, provided, the candidate presents a certificate of expunction from the court that convicted the prospective candidate.

(e) (1) The name of a candidate who fails to sign and file the pledge shall not appear on the ballot.

(2) (A) However, within five (5) days from which the pledge is required to be filed, the Secretary of State or the county clerk shall notify by certified mail that requires a return receipt signed by the candidate those candidates who have failed to file a signed political practice pledge. The notice shall include a copy of the written pledge required by this section.

(B) Failure of the state or district candidate to file with the Secretary of State or of the county, municipal, or township candidate to file with the county clerk within twenty (20) days of receipt or refusal of this notice shall prevent the candidate's name from appearing on the ballot.

History. Acts 1969, No. 465, Art. 11, § 3; 1970 (Ex. Sess.), No. 27, § 1; 1972 (Ex. Sess.), No. 37, § 3; 1972 (Ex. Sess.), No. 42, § 3; 1983, No. 244, § 1; A.S.A. 1947, §§ 3-1103, 3-1103.1;

Acts 1987, No. 248, § 10; 1989, No. 755, § 1; 1989, No. 912, § 3; 1995, No. 665, § 2; 1997, No. 886, § 1; 2003, No. 542, § 1; 2003, No. 1731, § 2; 2005, No. 67, § 15; 2007, No. 222, § 1; 2007, No. 1049, § 20.

7-6-103. Campaign participation by judges — Penalty.

(a) It shall be unlawful for any judge of the district or circuit courts and any Justice of the Supreme Court or Judge of the Court of Appeals to participate in the campaign of any candidate for office at any election, other than his or her own.

(b) The word “participation”, as used in this section, shall mean the managing of another's campaign or any solicitation on his or her behalf.

(c) Participation shall be deemed to be misfeasance and malfeasance in office and shall subject the judge to impeachment therefor.

History. Acts 1969, No. 465, Art. 11, § 6; A.S.A. 1947, § 3-1106; Acts 2005, No. 1994, § 261.

7-6-104. Defamatory political broadcasts.

Neither the owner, licensee, nor operator of a visual or sound radio broadcasting station or network of stations nor his or her agents or employees shall be liable for any damages for any defamatory statement published or uttered in, or as a part of, a visual or sound broadcast by a candidate for political office in those instances in which, under the acts of Congress or the rules and regulations of the Federal Communications Commission, the broadcasting station or network is prohibited from censoring the script of the broadcast.

History. Acts 1969, No. 465, Art. 11, § 8; A.S.A. 1947, § 3-1108.

7-6-105. Use of sound equipment — Penalty for interference.

(a) When any citizen of Arkansas becomes a candidate in any primary or general election and complies with all the laws pertaining thereto, then the candidate shall be entitled to go into any city, town, municipality, or rural community in Arkansas and operate his or her acoustical or sound equipment between the hours of 8:00 a.m. and 9:00 p.m. notwithstanding any town or city ordinance to the contrary.

(b) Any person who interferes in any manner with the right granted in this section shall be guilty of a Class B misdemeanor.

History. Acts 1969, No. 465, Art. 13, §§ 1, 2; A.S.A. 1947, §§ 3-1301, 3-1302; Acts 2005, No. 1994, § 394.

Subchapter 2 — Campaign Financing

7-6-201. Definitions.

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- 7-6-203. Contributions — Limitations — Acceptance or solicitation — Use as personal income — Disposition.
- 7-6-204. Restriction on cash contributions or expenditures — Exception.
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- 7-6-206. Records of contributions and expenditures.
- 7-6-207. Reports of contributions — Candidates for office other than school district, township, municipal, or county office, etc.
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- 7-6-209. Reports of contributions — Candidates for county office.
- 7-6-210. Reports of contributions — Personal loans.
- 7-6-211, 7-6-212. [Repealed.]
- 7-6-213. Verification of reports.
- 7-6-214. Publication of reports.
- 7-6-215. Registration and reporting by approved political action committees.
- 7-6-216. Registration and reports by exploratory committees.
- 7-6-217. Creation of Arkansas Ethics Commission.
- 7-6-218. Citizen complaints.
- 7-6-219. Retiring a campaign debt.
- 7-6-220. Reporting of independent expenditures.
- 7-6-221. [Repealed.]
- 7-6-222. Tax credits for certain individual political contributions.
- 7-6-223. Reports of contributions by political parties.
- 7-6-224. Authority of local jurisdictions.
- 7-6-225. Filing deadlines.
- 7-6-226. Registration and reporting by county political party committees.
- 7-6-227. Registration by independent expenditure committee.

7-6-201. Definitions.

As used in this subchapter:

(1) (A) “Approved political action committee” means any person that:

(i) Receives contributions from one (1) or more persons in order to make contributions to candidates, ballot question committees, legislative question committees, political parties, county political party committees, or other political action committees;

(ii) Does not accept any contribution or cumulative contributions in excess of five thousand dollars (\$5,000) from any person in any calendar year; and

(iii) Registers pursuant to § 7-6-215 prior to making contributions.

(B) “Approved political action committee” shall not include an organized political party as defined in § 7-1-101, a county political party committee, the candidate's own

campaign committee, an exploratory committee, or a ballot or legislative question committee as defined in § 7-9-402;

(2) “Candidate” means any individual who has knowingly and willingly taken affirmative action, including solicitation of funds, for the purpose of seeking nomination for or election to any public office;

(3) “Carryover funds” means the amount of campaign funds retained from the last election by the candidate for future use but not to exceed the annual salary, excluding expense allowances, set by Arkansas law for the office sought;

(4) (A) “Contribution” means, whether direct or indirect, advances, deposits, or transfers of funds, contracts, or obligations, whether or not legally enforceable, payments, gifts, subscriptions, assessments, payment for services, dues, advancements, forbearance, loans, or pledges or promises of money or anything of value, whether or not legally enforceable, to a candidate, committee, or holder of elective office made for the purpose of influencing the nomination or election of any candidate.

(B) (i) “Contribution” includes the purchase of tickets for events such as dinners, luncheons, rallies, and similar fundraising events; the granting of discounts or rebates by television and radio stations and newspapers not extended on an equal basis to all candidates for the same office; and any payments for the services of any person serving as an agent of a candidate or committee by a person other than the candidate or committee or persons whose expenditures the candidates or committee must report under this subchapter.

(ii) “Contribution” further includes any transfer of anything of value received by a committee from another committee.

(C) “Contribution” shall not include noncompensated, nonreimbursed, volunteer personal services or travel;

(5) “Contribution and expenditure” shall not include activity sponsored and funded by organized political parties as defined in § 7-1-101 to promote their candidates or nominees through events such as dinners, luncheons, rallies, or similar gatherings and shall not include nonpartisan activity designed to encourage individuals to register to vote or to vote or any communication by any membership organization to its members or stockholders if the membership organization or corporation is not organized primarily for the purpose of influencing the nomination for election or election of any candidate;

(6) “County political party committee” means a person that:

(A) Is organized at the county level for the purpose of supporting its affiliate party and making contributions;

(B) Is recognized by an organized political party, as defined in § 7-1-101, as being affiliated with that political party;

(C) Receives contributions from one (1) or more persons in order to make

contributions to candidates, ballot question committees, legislative question committees, political parties, political action committees, or other county political party committees;

(D) Does not accept any contribution or cumulative contributions in excess of five thousand dollars (\$5,000) from any person in any calendar year; and

(E) Registers pursuant to § 7-6-226 prior to making contributions;

(7) “Election” means each election held to nominate or elect a candidate to any public office, including school elections. For the purposes of this subchapter, a preferential primary, a general primary, a special election, and a general election shall each constitute a separate election;

(8) “Expenditure” means a purchase, payment, distribution, gift, loan, or advance of money or anything of value, and a contract, promise, or agreement to make an expenditure, made for the purpose of influencing the nomination or election of any candidate;

(9) (A) “Exploratory committee” means a person that receives contributions which are held to be transferred to the campaign of a single candidate in an election.

(B) “Exploratory committee” shall not include an organized political party as defined in § 7-1-101 or the candidate's own campaign committee;

(10) “Financial institution” means any commercial bank, savings and loan, mutual savings bank or savings bank, insurance company brokerage house, or any corporation that is in the business of lending money and that is subject to state or federal regulation;

(11) An “independent expenditure” is any expenditure which is not a contribution and:

(A) Expressly advocates the election or defeat of a clearly identified candidate for office;

(B) Is made without arrangement, cooperation, or consultation between any candidate or any authorized committee or agent of the candidate and the person making the expenditure or any authorized agent of that person; and

(C) Is not made in concert with or at the request or suggestion of any candidate or any authorized committee or agent of the candidate;

(12) “Independent expenditure committee” means any person that receives contributions from one (1) or more persons in order to make an independent expenditure and is registered pursuant to § 7-6-227 prior to making expenditures;

(13) (A) “Legislative caucus committee” means a person that is composed exclusively of members of the General Assembly, that elects or appoints officers and recognizes identified legislators as members of the organization, and that exists for research and other support of policy development and interests that the membership hold in common.

(B) “Legislative caucus committee” includes, but is not limited to, a political

party caucus of the General Assembly, the Senate, or the House of Representatives.

(C) An organization whose only nonlegislator members are the Lieutenant Governor or the Governor is a “legislative caucus committee” for the purposes of this subchapter;

(14) “Person” means any individual, proprietorship, firm, partnership, joint venture, syndicate, labor union, business trust, company, corporation, association, committee, or any other organization or group of persons acting in concert. It shall also include organized political parties as defined in § 7-1-101, county political party committees, and legislative caucus committees;

(15) (A) “Prohibited political action committee” means any person that receives contributions from one (1) or more persons in order to make contributions to candidates but that does not meet the requirements of an approved political action committee.

(B) “Prohibited political action committee” shall not include an organized political party as defined in § 7-1-101, the candidate's own campaign committee, a county political party committee, an exploratory committee, or a ballot or legislative question committee;

(16) “Public office” means any office created by or under authority of the laws of the State of Arkansas, or of a subdivision thereof, that is filled by the voters, except a federal office; and

(17) “Surplus campaign funds” means any balance of campaign funds over expenses incurred as of the day of the election except for:

(A) Carryover funds; and

(B) Any funds required to repay loans made by the candidate from his or her personal funds to the campaign or to repay loans made by financial institutions to the candidate and applied to the campaign.

History. Acts 1975, No. 788, § 1; 1977, No. 312, §§ 4, 7; A.S.A. 1947, § 3-1109; Acts 1987, No. 246, § 1; Init. Meas. 1990, No. 1, § 1; Acts 1993, No. 1209, § 2; Init. Meas. 1996, No. 1, § 1; Acts 1997, No. 491, § 1; 1999, No. 553, § 2; 2003, No. 195, § 1; 2005, No. 1284, § 2; 2005, No. 2006, § 1; 2009, No. 473, § 2; 2009, No. 1204, § 1.

7-6-202. Penalties.

Any person who knowingly or willfully fails to comply with any provisions of this subchapter shall upon conviction be guilty of a Class A misdemeanor.

History. Acts 1975, No. 788, § 10; A.S.A. 1947, § 3-1118; Acts 2005, No. 1994, § 224.

7-6-203. Contributions — Limitations — Acceptance or solicitation — Use as personal income — Disposition.

(a) (1) (A) It shall be unlawful for any candidate for any public office, except the office of Governor, Lieutenant Governor, Secretary of State, Treasurer of State, Auditor of State, Attorney General, and Commissioner of State Lands, or for any person acting on the candidate's behalf to accept campaign contributions in excess of two thousand dollars (\$2,000) per election from any person.

(B) A candidate may accept a campaign contribution or contributions up to the maximum amount from any prospective contributor for each election, whether opposed or unopposed.

(2) (A) It shall be unlawful for any candidate for the office of Governor, Lieutenant Governor, Secretary of State, Treasurer of State, Auditor of State, Attorney General, and Commissioner of State Lands, or for any person acting on the candidate's behalf to accept campaign contributions in excess of two thousand dollars (\$2,000) per election from any person.

(B) A candidate may accept a campaign contribution or contributions up to the maximum amount from any prospective contributor for each election, whether opposed or unopposed.

(b) (1) (A) It shall be unlawful for any person to make a contribution to a candidate for any public office, except the office of Governor, Lieutenant Governor, Secretary of State, Treasurer of State, Auditor of State, Attorney General, and Commissioner of State Lands, or to any person acting on the candidate's behalf, which in the aggregate exceeds two thousand dollars (\$2,000) per election.

(B) A person may make a contribution or contributions up to the maximum amount to a candidate for each election, whether opposed or unopposed.

(2) (A) It shall be unlawful for any person to make a contribution to a candidate for the office of Governor, Lieutenant Governor, Secretary of State, Treasurer of State, Auditor of State, Attorney General, and Commissioner of State Lands, or to any person acting on the candidate's behalf, which in the aggregate exceeds two thousand dollars (\$2,000) per election.

(B) A person may make a contribution or contributions up to the maximum amount to a candidate for each election, whether opposed or unopposed.

(c) The limitation shall not apply to loans made by a candidate from his or her own personal funds to the campaign, contributions made by a candidate from his or her personal funds to the campaign, or to personal loans made by financial institutions to the candidate and applied to his or her campaign.

(d) However, an organized political party as defined in § 7-1-101 may contribute up to two thousand five hundred dollars (\$2,500) to each of the party's candidates per election.

(e) (1) It shall be unlawful for any candidate for any public office or any person acting in the candidate's behalf to accept any contribution from a prohibited political action committee for any election.

(2) It shall be unlawful for any prohibited political action committee to make a contribution to a candidate for public office in an election.

(3) It shall be unlawful for any ballot question committee, legislative question committee, political party, county political party committee, or political action committee to accept any contribution from a prohibited political action committee.

(4) It shall be unlawful for any prohibited political action committee to make a contribution to a:

- (A)** Ballot question committee;
- (B)** Legislative question committee;
- (C)** Political party;
- (D)** County political party committee; or
- (E)** Political action committee.

(f) It shall be unlawful for any candidate for public office, any person acting in the candidate's behalf, or any exploratory committee to solicit or accept campaign contributions more than two (2) years before an election at which the candidate seeks nomination or election. This subsection shall not prohibit the solicitation or acceptance of a contribution for the sole purpose of raising funds to retire a previous campaign debt.

(g) (1) A candidate shall not take any campaign funds as personal income. This subdivision (g)(1) shall not apply to campaign funds that were:

- (A)** Accumulated prior to the passage of Initiated Act 1 of 1990; or
- (B)** Disposed of prior to July 28, 1995.

(2) A candidate shall not take any campaign funds as income for his or her spouse or dependent children, except that:

(A) This subsection shall not prohibit a candidate who has an opponent from employing his or her spouse or dependent children as campaign workers; and

(B) Any candidate who has an opponent and who, during the campaign and before the election, takes a leave of absence without pay from his or her primary place of employment shall be authorized to take campaign funds during the campaign and before the election as personal income up to the amount of employment income lost as a result of such leave of absence.

(3) A candidate who takes campaign funds during the campaign and before the election under a leave of absence pursuant to the provisions of subdivision (g)(2) of this section may elect to treat the campaign funds as a loan from the campaign fund to the candidate to be paid back to the campaign fund by the candidate.

(4) (A) For purposes of this subsection, a candidate who uses campaign funds to fulfill any commitment, obligation, or expense that would exist regardless of the candidate's campaign shall be deemed to have taken campaign funds as personal income.

(B) The use of campaign funds to purchase a cake or other perishable item of food at a fund-raising event held by a volunteer agency, as defined in § 16-6-103, shall not be considered a taking of campaign funds as personal income.

(C) The use of campaign funds to purchase advertising prior to the date the final report is due to be filed thanking voters for their support shall not be considered a taking of campaign funds as personal income.

(h) (1) Within thirty (30) days following the end of the month in which the general election is held, a candidate shall turn over surplus campaign funds to either:

(A) The Treasurer of State for the benefit of the General Revenue Fund Account of the State Apportionment Fund;

(B) A political party as defined in § 7-1-101 or a political party caucus of the General Assembly, the Senate, or the House of Representatives;

(C) A nonprofit organization that is exempt from taxation under Section 501(c)(3) of the Internal Revenue Code;

(D) Cities of the first class, cities of the second class, or incorporated towns; or

(E) The contributors to the candidate's campaign.

(2) (A) If an unopposed candidate agrees not to solicit further campaign contributions by filing an affidavit declaring such an agreement, the candidate may dispose of any surplus campaign funds prior to a general election as soon as the time has passed to declare an intent to be a write-in candidate pursuant to § 7-5-205.

(B) For unopposed candidates for nonpartisan judicial office, the affidavit may be filed after the deadlines have passed to declare as a filing fee candidate, petition candidate, or write-in candidate under § 7-10-103.

(C) The affidavit shall be filed in the office in which the candidate is required to file reports of contributions received and expenditures made.

(D) Unopposed candidates and defeated candidates who file the affidavit are exempt from further reporting requirements provided that the affidavit contains:

(i) All campaign activity not previously reported; and

(ii) A statement that the candidate's campaign fund has a zero (\$0.00) balance.

(3) (A) Carryover funds may be expended at any time for any purpose not prohibited by

this chapter and may be used as campaign funds for seeking any public office. Nothing shall prohibit a person at any time from disposing of all or any portion of his or her carryover funds in the same manner as for surplus campaign funds. However, the candidate shall not take the funds as personal income or as income for his or her spouse or dependent children.

(B) (i) When a person having carryover funds files as a candidate for public office, his or her carryover funds shall be transferred to the person's active campaign fund. Once transferred, the funds will no longer be treated as carryover funds.

(ii) This subdivision (h)(3)(B) shall not apply to carryover funds from an election held prior to July 1, 1997.

(iii) This subdivision (h)(3)(B) shall not apply to a campaign debt.

(C) (i) If carryover funds are expended prior to transferring the funds to an active campaign fund, the expenditures shall be reported pursuant to this subdivision (h)(3)(C). A person shall file an expenditure report concerning carryover funds if since the last report concerning the carryover funds, the person has expended in excess of five hundred dollars (\$500). The report shall be filed at the office in which the candidate was required to file his or her campaign contribution and expenditure reports for the previous campaign not later than fifteen (15) days after a calendar quarter in which a report becomes required. No report is required in any calendar quarter in which the cumulative expenditure limit has not been exceeded since the person's last report.

(ii) The person shall also file an expenditure report for the calendar quarter in which he or she transfers the carryover funds to an active campaign fund.

(iii) A person who retains carryover funds shall file an annual report outlining the status of the carryover fund account as of December 31 unless the person has filed a quarterly report during the calendar year pursuant to subdivisions (h)(3)(C)(i) and (ii) of this section. The annual report shall be due by January 31 of each year.

(iv) The carryover fund reports of a candidate for school district, township, municipal, or county office shall be filed with the county clerk of the county in which the election was held.

(v) The carryover fund reports of a candidate for state or district office shall be filed with the Secretary of State.

(D) (i) Carryover funds may be retained by a person for not more than ten (10) years after the last election at which he or she was a candidate, or if applicable, not more than ten (10) years after the last day that the person held office, and any remaining carryover funds shall be disposed of in the same manner as for surplus campaign funds.

(ii) (a) The officer with whom the person last filed a final campaign report shall provide the person timely notice of the requirements of this subdivision (h)(3)(D) prior to the expiration of the ten-year period.

(b) However, failure to provide the notice does not relieve the person of his or her obligation under this subsection.

(4) After the date of an election at which the person is a candidate for nomination or election, the person shall not accept campaign contributions for that election except for the sole purpose of raising funds to retire campaign debt.

(5) Surplus campaign funds or carryover funds given to a political party caucus shall be segregated in an account separated from other caucus funds and shall not be used:

(A) By the political party caucus to make a campaign contribution; or

(B) To provide any personal income to any candidate who donated surplus campaign funds or carryover funds.

(i) A candidate may maintain his or her campaign funds in one (1) or more campaign accounts. Campaign funds shall not be placed in an account containing personal or business funds.

History. Acts 1975, No. 788, § 2; 1977, No. 312, § 6; 1981, No. 690, § 1; A.S.A. 1947, § 3-1110; Init. Meas. 1990, No. 1, §§ 2, 3; Acts 1993, No. 1195, § 1; 1993, No. 1196, § 1; 1995, No. 863, §§ 1-3; 1995, No. 1296, § 41; Init. Meas. 1996, No. 1, §§ 2, 3; Acts 1997, No. 116, § 1; 1997, No. 491, §§ 2, 3; 1999, No. 553, § 3; 1999, No. 1057, § 1; 2001, No. 954, § 1; 2001, No. 1839, § 2; 2003, No. 195, §§ 2, 3; 2003, No. 248, § 1; 2005, No. 1284, §§ 3, 4; 2005, No. 1413, § 1; 2005, No. 1695, § 1; 2007, No. 221, § 2; 2009, No. 340, § 1; 2009, No. 473, §§ 3, 4; 2009, No. 1204, § 2.

7-6-204. Restriction on cash contributions or expenditures — Exception.

(a) No campaign contribution in excess of one hundred dollars (\$100) or expenditure in excess of fifty dollars (\$50.00) shall be made or received in cash.

(b) All contributions or expenditures in behalf of a campaign activity, other than in-kind contributions and expenditures, in excess of the amounts mentioned in subsection (a) of this section shall be made by a written instrument containing the name of the donor and the name of the payee.

(c) The payment of filing fees may be in cash even though the amount exceeds fifty dollars (\$50.00). The candidate shall obtain a receipt for the payment and shall report it as a campaign expenditure.

History. Acts 1975, No. 788, § 8; 1977, No. 312, § 2; A.S.A. 1947, § 3-1116.

7-6-205. Contributions made indirectly, anonymously, or under assumed names.

(a) No campaign contribution shall be made to a candidate, a political action committee, an independent expenditure committee, an exploratory committee, a county political party

committee, or a political party unless such contribution is made directly to the intended recipient. Provided, it shall be permissible to make a contribution to a candidate's campaign committee instead of directly to the candidate.

(b) No contribution shall be made to or knowingly accepted by a candidate or his or her campaign committee, a political action committee, an independent expenditure committee, an exploratory committee, a county political party committee, or a political party unless the contribution is made in the name by which the person providing the funds for the contribution is identified for legal purposes.

(c) (1) No person shall make an anonymous contribution in support of or opposition to a candidate or campaign committee totalling fifty dollars (\$50.00) or more in a calendar year.

(2) An anonymous contribution of fifty dollars (\$50.00) or more shall not be kept by the intended recipient but shall be promptly paid by the recipient to the Secretary of State for deposit into the State Treasury as general revenues.

(d) Whenever any person provides his or her dependent child with funds and the child uses those funds to make a contribution to a candidate, the contribution shall be attributed to such person for purposes of applying the contribution limit pursuant to § 7-6-203(b).

(e) Campaign contributions may not be made by individuals who are not citizens of the United States or by any other entity which is not organized, existing, or created under the laws of the United States or of any state or other place subject to the jurisdiction of the United States and which does not have its principal place of business in the United States.

History. Acts 1975, No. 788, § 9; A.S.A. 1947, § 3-1117; Init. Meas. 1990, No. 1, § 4; Acts 1999, No. 553, § 4; 2007, No. 221, § 3.

7-6-206. Records of contributions and expenditures.

(a) A candidate, a political party, or a person acting in the candidate's behalf shall keep records of all contributions and expenditures in a manner sufficient to evidence compliance with §§ 7-6-207 — 7-6-210.

(b) The records shall be made available to the Arkansas Ethics Commission and the prosecuting attorney in the district in which the candidate resides, who are delegated the responsibility of enforcing this subchapter, and shall be maintained for a period of four (4) years.

History. Acts 1975, No. 788, § 5; 1977, No. 312, § 5; A.S.A. 1947, § 3-1113; Acts 1999, No. 553, § 5; 2007, No. 221, § 4.

7-6-207. Reports of contributions — Candidates for office other than school district, township, municipal, or county office, etc.

(a) Reports Required.

(1) Except as provided in subsection (c) of this section, each candidate for office, other

than a school district, township, municipal, or county office, or a person acting in the candidate's behalf, shall file with the Secretary of State:

(A) For each quarter during a calendar year in which a candidate is not listed on any ballot for election, a quarterly report of all contributions received and expenditures made during that quarter. The quarterly report shall be filed no later than fifteen (15) days after the end of each quarter;

(B) Beginning with the month of January in the calendar year in which a candidate may be listed on any ballot for election, a monthly report of all contributions received and expenditures made during that month. However, for any month in which certain days of that month are included in a preelection report required under subdivision (a)(1)(C) of this section or a final report required under subdivision (a)(1)(D) of this section, no monthly report for that month shall be due. In the case of a primary or runoff election, those days of the month occurring after the date of the election shall be carried forward and included in the next monthly report. The monthly report shall be filed no later than fifteen (15) days after the end of each month, except that the final report, covering the month during which an election is held, shall be filed within thirty (30) days after the end of the month in which the last election is held at which the candidate seeks nomination and after the end of the month in which the general election is held. With respect to a special election, the candidate shall file monthly reports under this section beginning with the month in which the special election candidate's total campaign contributions or expenditures exceed five hundred dollars (\$500);

(C) No later than seven (7) days prior to any preferential primary election, runoff election, general election, or special election in which the candidate's name appears on the ballot, a preelection report of all contributions received and expenditures made between the period covered by the previous report and the period ten (10) days before the election. In case of a runoff election, the report shall cover all contributions received and expenditures made during that period of time that begins after the date of the election from which the runoff arose and ends ten (10) days before the runoff election;

(D) No later than thirty (30) days after the end of the month in which the candidate's name has appeared on the ballot in any primary election, runoff election, or general election, a final report of all contributions received and expenditures made which have not been disclosed on reports previously required to be filed. A final report is required regardless of whether a candidate has received contributions or made expenditures in excess of five hundred dollars (\$500); and

(E) (i) No later than thirty (30) days after the end of the month in which the candidate has withdrawn, a final report of all contributions received and expenditures made that have not been disclosed on reports previously required to be filed.

(ii) If a candidate withdraws from the campaign, the candidate shall notify the Secretary of State in writing of the withdrawal.

(2) Upon receiving the first report from any candidate, or upon receipt of the candidate's notice of filing for office, the Secretary of State shall provide the candidate with information on

the deadlines for filing remaining quarterly, monthly, and preelection reports and shall furnish each candidate with the appropriate forms and instructions for complying with the deadlines. All reports shall be filed on the forms furnished by the Secretary of State, except that computer-generated contribution and expenditure reports shall be accepted by the Secretary of State and the Arkansas Ethics Commission provided that all of the requisite elements are included.

(3) For any report except a preelection report, a report is timely filed if it is either hand delivered or mailed to the Secretary of State, properly addressed, postage prepaid, bearing a postmark indicating that it was received by the post office or common carrier on the date that the report is due. A preelection report is timely filed if it is received in the Secretary of State's office no later than seven (7) days prior to the election for which it is filed. The Secretary of State shall accept via facsimile any report, provided the original is received by the Secretary of State within ten (10) days of the date of transmission. The Secretary of State may receive reports in a readable electronic format that is acceptable to the Secretary of State and approved by the commission.

(b) Contents of Reports.

(1) The contribution and expenditure reports required by subsection (a) of this section shall indicate:

(A) The total amount of contributions received with loans stated separately, the total amount of expenditures made during the filing periods, and the cumulative amount of those totals;

(B) The name and address of each person, including the candidate, who made a contribution or contributions that in the aggregate exceeded fifty dollars (\$50.00), the contributor's place of business, employer, occupation, and date of the contribution and the amount contributed;

(C) The contributor's principal place of business, employer, occupation, the amount contributed, the date the contribution was accepted by the candidate, and the aggregate contributed for each election;

(D) The name and address of each person, including the candidate, who contributed a nonmoney item, together with a description of the item, the date of receipt, and the value, not including volunteer service by individuals;

(E) An itemization of all single expenditures made which exceed one hundred dollars (\$100), including the amount of the expenditure, the name and address of any person, including the candidate, to whom the expenditure was made, and the date the expenditure was made;

(F) A list of all paid campaign workers and the amount the workers were paid;

(G) A list of all expenditures by categories, including, but not limited to:

- (i) (a) Television;
- (b) Radio;
- (c) Print; and
- (d) Other advertising;
- (ii) Direct mail;
- (iii) Office supplies;
- (iv) Rent;
- (v) Travel;
- (vi) Expenses;
- (vii) Entertainment; and
- (viii) Telephone;

(H) The total amount of all nonitemized expenditures made during the filing period; and

(I) The current balance of campaign funds.

(2) (A) When the candidate's campaign has ended, the final report shall also indicate which option under § 7-6-203(h) was used to dispose of any surplus of campaign funds, the amount of funds disposed of by the candidate, and the amount of funds retained by the candidate in accordance with § 7-6-203(h).

(B) If the candidate's campaign has not ended, disposal of campaign funds shall not be required and the candidate may carry forward any remaining campaign funds to the general primary election, general election, or general runoff election for that same office.

(c) Reports Not Required.

(1) The candidate or any person acting in the candidate's behalf shall comply with the filings required by this section beginning with the first reporting period, either quarterly, monthly, or preelection, in which his or her total contributions or expenditures exceed five hundred dollars (\$500). A candidate who has not received contributions or made expenditures in excess of five hundred dollars (\$500) shall not be required to file any reports required under this section other than the final report required under subdivision (a)(1)(B) of this section. In calculating the amount of contributions received or expenditures made for purposes of this exception, the payment of the filing fee from the candidate's personal funds shall not be considered as either a contribution or an expenditure.

(2) The preelection reports referenced in subdivision (a)(1)(C) of this section are only required for candidates with opponents in those elections.

(3) An unopposed candidate for an office described in subdivision (a)(1) of this section or any person acting in the unopposed candidate's behalf shall not be required to file the ten-day preelection report required by subdivision (a)(1)(C) of this section.

(d) Filings and Public Inspection.

(1) (A) The Secretary of State shall establish a filing system for reports filed pursuant to this section. The reports shall be kept for eight (8) years from the date of filing, catalogued by candidate in chronological order, and made available for public inspection.

(B) After the eight-year period, the Secretary of State shall turn the reports over to the Arkansas History Commission for maintenance and continued public inspection.

(2) The Secretary of State shall furnish to the Arkansas Ethics Commission, no later than thirty (30) days after each filing deadline under this section, a report listing the names of all candidates who have filed for office, the type of report filed by each candidate, and the date the report was received by the Secretary of State.

History. Acts 1975, No. 788, § 3; 1977, No. 312, § 1; 1985, No. 896, §§ 1-3; A.S.A. 1947, § 3-1111; Acts 1987, No. 246, § 2; Init. Meas. 1990, No. 1, § 5; Acts 1993, No. 1243, § 1; 1995, No. 1263, § 1; Init. Meas. 1996, No. 1, § 4; Acts 1999, No. 103, § 1; 1999, No. 553, § 6; 2001, No. 564, § 1; 2001, No. 1839, §§ 3, 4; 2007, No. 221, § 5; 2009, No. 1204, § 3.

7-6-208. Reports of contributions — Candidates for school district, township, or municipal office.

(a) **Reports Required.** Except as provided in subsection (d) of this section, each candidate for school district, township, or municipal office, or a person acting in the candidate's behalf, shall:

(1) No later than seven (7) days prior to any preferential primary election, runoff election, general election, school election, or special election in which the candidate's name appears on the ballot, file a preelection report of all contributions received and expenditures made between the period covered by the previous report, if any, and the period ten (10) days before the election. In case of a runoff election, the report shall cover all contributions received and expenditures made during that period of time that begins after the date of the election from which the runoff arose and ends ten (10) days before the runoff election;

(2) No later than thirty (30) days after any preferential primary election, runoff election, general election, school election, or special election in which the candidate's name has appeared on the ballot, file a final report of all contributions received and expenditures made that have not been disclosed on reports previously required to be filed. A final report is required regardless of whether a candidate has received contributions or made expenditures in excess of five hundred dollars (\$500);

(3) File supplemental reports of all contributions received and expenditures made after the date of preparation of the final report. The supplemental reports shall be filed within thirty

(30) days after the receipt of a contribution or the making of an expenditure; and

(4) (A) No later than thirty (30) days after the end of the month in which the candidate has withdrawn, file a final report of all contributions received and expenditures made that have not been disclosed on reports previously required to be filed.

(B) If a candidate withdraws from the campaign, the candidate shall notify the county clerk in writing of the withdrawal.

(b) Contents of Reports.

(1) The contribution and expenditure reports required by subsection (a) of this section shall indicate:

(A) The total amount of contributions received with loans stated separately, the total amount of expenditures made during the filing periods, and the cumulative amount of those totals;

(B) The name and address of each person, including the candidate, who made a contribution or contributions that, in the aggregate, exceeded fifty dollars (\$50.00), the contributor's place of business, employer, occupation, and date of the contribution and the amount contributed;

(C) The contributor's principal place of business, employer, occupation, the amount contributed, the date the contribution was accepted by the candidate and the aggregate contributed for each election;

(D) The name and address of each person, including the candidate, who contributed a nonmoney item, together with a description of the item, the date of receipt, and the value, not including volunteer service by individuals;

(E) An itemization of all single expenditures made that exceeded one hundred dollars (\$100), including the amount of the expenditure, the name and address of any person, including the candidate, to whom the expenditure was made, and the date the expenditure was made;

(F) A list of all paid campaign workers and the amount the workers were paid;

(G) A list of all expenditures by categories, including, but not limited to:

(i) (a) Television;

(b) Radio;

(c) Print; and

(d) Other advertising;

(ii) Direct mail;

(iii) Office supplies;

- (iv) Rent;
- (v) Travel;
- (vi) Expenses;
- (vii) Entertainment; and
- (viii) Telephone;

(H) The total amount of all nonitemized expenditures made during the filing period; and

(I) The current balance of campaign funds.

(2) (A) When the candidate's campaign has ended, the final report shall also indicate which option under § 7-6-203(h) was used to dispose of any surplus of campaign funds, the amount of funds disposed of by the candidate, and the amount of funds retained by the candidate in accordance with § 7-6-203(h).

(B) If the candidate's campaign has not ended, disposal of campaign funds is not required and the candidate may carry forward any remaining campaign funds to the general primary election, general election, or general runoff election for that same office.

(3) (A) Not later than fourteen (14) days after the deadline for filing for office, the county clerk shall notify each candidate in person or by mail of the deadlines for filing the ten-day preelection and final reports required by subsection (a) of this section and, at that time, furnish each candidate with the appropriate forms and instructions for complying with the deadlines.

(B) If notice is sent by mail, then the notice shall be postmarked within fourteen (14) days after the deadline for filing for office.

(c) **Filing of Reports.** The reports required by this section shall be filed with the county clerk in the county in which the election is held. Reports shall be filed on the appropriate forms furnished by the Secretary of State.

(d) Reports Not Required.

(1) A candidate who has not received contributions or made expenditures in excess of five hundred dollars (\$500) shall not be required to file any preelection reports required under subdivision (a)(1) of this section. In calculating the amount of contributions received or expenditures made for purposes of this exception, the payment of the filing fee from the candidate's personal funds shall not be considered as either a contribution or an expenditure.

(2) The preelection reports referenced in subdivision (a) (1) of this section are required only for candidates with opponents in those elections.

History. Acts 1975, No. 788, § 3; 1977, No. 312, § 1; A.S.A. 1947, § 3-1111; Acts 1987, No.

246, § 2; 1993, No. 1243, § 2; Init. Meas. 1996, No. 1, § 5; Acts 1999, No. 553, §§ 7-9; 2001, No. 1839, § 5; 2003, No. 195, § 4; 2007, No. 221, § 6; 2009, No. 1204, § 4.

7-6-209. Reports of contributions — Candidates for county office.

(a) Reports Required. Except as provided in subsection (d) of this section, each candidate for county office or a person acting in the candidate's behalf shall:

(1) No later than seven (7) days prior to any preferential primary election, runoff election, general election, or special election in which the candidate's name appears on the ballot, file a preelection report of all contributions received and expenditures made between the period covered by the previous report, if any, and the period ten (10) days before the election. In case of a runoff election, the report shall cover all contributions received and expenditures made during that period of time that begins after the date of the election from which the runoff arose and ends ten (10) days before the runoff election;

(2) No later than thirty (30) days after any preferential primary election, runoff election, general election, or special election in which the candidate's name has appeared on the ballot, file a final report of all contributions received and expenditures made that have not been disclosed on reports previously required to be filed. A final report is required regardless of whether a candidate has received contributions or made expenditures in excess of five hundred dollars (\$500);

(3) File supplemental reports of all contributions received and expenditures made after the date of preparation of the final report, and the supplemental reports shall be filed within thirty (30) days after the receipt of a contribution or the making of an expenditure; and

(4) (A) No later than thirty (30) days after the end of the month in which the candidate has withdrawn, a final report of all contributions received and expenditures made that have not been disclosed on reports previously required to be filed.

(B) If a candidate withdraws from the campaign, the candidate shall notify the county clerk in writing of the withdrawal.

(b) Contents of Reports.

(1) The contribution and expenditure reports required by subsection (a) of this section shall indicate:

(A) The total amount of contributions received with loans stated separately, the total amount of expenditures made during the filing periods, and the cumulative amount of those totals;

(B) The name and address of each person, including the candidate, who made a contribution or contributions that, in the aggregate, exceeded fifty dollars (\$50.00), the contributor's place of business, employer, occupation, and date of the contribution and the amount contributed;

(C) The contributor's principal place of business, employer, occupation, the amount contributed, the date the contribution was accepted by the candidate, and the aggregate contributed for each election;

(D) The name and address of each person, including the candidate, who contributed a nonmonetary item, together with a description of the item, the date of receipt, and the value, not including volunteer service by individuals;

(E) An itemization of all single expenditures made that exceeded one hundred dollars (\$100), including the amount of the expenditure, the name and address of any person, including the candidate, to whom the expenditure was made, and the date the expenditure was made;

(F) A list of all paid campaign workers and the amount the workers were paid;

(G) A list of all expenditures by categories, including, but not limited to:

(i) (a) Television;

(b) Radio;

(c) Print; and

(d) Other advertising;

(ii) Direct mail;

(iii) Office supplies;

(iv) Rent;

(v) Travel;

(vi) Expenses;

(vii) Entertainment; and

(viii) Telephone;

(H) The total amount of all nonitemized expenditures made during the filing period; and

(I) The current balance of campaign funds.

(2) (A) When the candidate's campaign has ended, the final report shall also indicate which option under § 7-6-203(h) was used to dispose of any surplus of campaign funds, the amount of funds disposed of by the candidate, and the amount of funds retained by the candidate in accordance with § 7-6-203(h).

(B) If the candidate's campaign has not ended, disposal of campaign funds is not required and the candidate may carry forward any remaining funds in the campaign to the

general primary election, general election, or general runoff election for that same office.

(3) (A) Not later than fourteen (14) days after the deadline for filing for office, the county clerk shall notify each candidate in person or by mail of the deadlines for filing the ten-day preelection and final reports required by subsection (a) of this section and, at that time, furnish each candidate with the appropriate forms and instructions for complying with the deadlines.

(B) If notice is sent by mail, then the notice shall be postmarked within fourteen (14) days after the deadline for filing for office.

(c) Filing of Reports. The reports required by this section shall be filed with the county clerk in the county in which the election is held. Reports shall be filed on the appropriate forms furnished by the Secretary of State.

(d) Reports Not Required.

(1) A candidate who has not received contributions or made expenditures in excess of five hundred dollars (\$500) shall not be required to file any preelection reports required under subdivision (a)(1) of this section. In calculating the amount of contributions received or expenditures made for purposes of this exception, the payment of the filing fee from the candidate's personal funds shall not be considered as either a contribution or an expenditure.

(2) The preelection reports referenced in subdivision (a)(1) of this section are required only for candidates with opponents in those elections.

History. Acts 1975, No. 788, § 3; 1977, No. 312, § 1; A.S.A. 1947, § 3-1111; Acts 1987, No. 246, § 2; 1993, No. 1243, § 3; Init. Meas. 1996, No. 1, § 6; Acts 1999, No. 553, §§ 10-12; 2001, No. 1839, § 6; 2003, No. 195, § 5; 2007, No. 221, § 7; 2009, No. 1204, § 5.

7-6-210. Reports of contributions — Personal loans.

(a) (1) The transfer of a candidate's own personal funds to his or her campaign shall be reported as either a loan from the candidate to his or her campaign or a contribution from the candidate to his or her campaign.

(2) In the event the transfer of such funds is reported as a loan from the candidate to his or her campaign, the campaign funds may be used to repay the candidate for the funds loaned by the candidate to his or her campaign.

(3) In the event the transfer of the funds is reported as a contribution from the candidate to his or her campaign, the campaign funds may not be used to reimburse the candidate for the funds contributed by the candidate to his or her campaign.

(b) (1) A personal loan made to a candidate by a financial institution that is applied toward a candidate's campaign shall be reported as a loan from the candidate to his or her campaign.

(2) The name of the financial institution, the amount of the loan, and the name of the

guarantor, if any, also shall be reported.

History. Acts 1975, No. 788, § 3; 1977, No. 312, § 1; A.S.A. 1947, § 3-1111; Acts 1987, No. 246, § 2; 2009, No. 1204, § 6.

7-6-211, 7-6-212. [Repealed.]

7-6-213. Verification of reports.

All reports required to be filed by the provisions of this subchapter shall be verified by affidavit by the candidate or a person acting in the candidate's behalf stating that to the best of his or her knowledge and belief the information so disclosed is a complete, true, and accurate financial statement of the candidate's campaign contributions or expenditures.

History. Acts 1975, No. 788, § 6; A.S.A. 1947, § 3-1114.

7-6-214. Publication of reports.

(a) Upon proper filing, the information required in §§ 7-6-207 — 7-6-210 of this subchapter shall constitute a public record and shall be available within twenty-four (24) hours of the reporting deadline to all interested persons and the news media.

(b) The Secretary of State shall post reports of contributions required in § 7-6-207 on his or her official website.

History. Acts 1975, No. 788, § 7; A.S.A. 1947, § 3-1115; 2001, No. 564, § 2.

7-6-215. Registration and reporting by approved political action committees.

(a) (1) (A) To qualify as an approved political action committee, the political action committee shall register with the Secretary of State within fifteen (15) days after accepting contributions during a calendar year that exceed five hundred dollars (\$500) in the aggregate.

(B) Registration shall be annually renewed by January 15, unless the political action committee has ceased to exist.

(C) Registration shall be on forms provided by the Secretary of State, and the contents therein shall be verified by an affidavit of an officer of the political action committee.

(2) (A) The political action committee shall maintain for a period of four (4) years records evidencing the name, address, and place of employment of each person that contributed to the political action committee, along with the amount contributed.

(B) Furthermore, the political action committee shall maintain for a period of four (4) years records evidencing the name and address of each candidate who received a contribution from the political action committee, along with the amount contributed.

(3) (A) The political action committee shall designate a resident agent who shall be an

individual who resides in this state.

(B) No contribution shall be accepted from a political action committee and no expenditure shall be made by a political action committee that has not registered and does not have a resident agent.

(C) It shall be unlawful for a prohibited political action committee as defined in § 7-6-201 to make a contribution to a:

- (i)** Ballot question committee;
- (ii)** Legislative question committee;
- (iii)** Political party;
- (iv)** Political party committee; or
- (v)** Political action committee.

(4) (A) An out-of-state political action committee, including a federal political action committee, shall be required to comply with the registration and reporting provisions of this section if the committee contributes more than five hundred dollars (\$500) in a calendar year to candidates, ballot question committees, legislative question committees, political parties, county political party committees, independent expenditure committees, or other political action committees within this state.

(B) Subdivision (a)(4)(A) of this section shall not apply to:

(i) The national committee of any political party that is registered with the Federal Election Commission;

(ii) Any federal candidate committee that is registered with the Federal Election Commission;

(iii) Funds which a subordinate committee of the national committee of any political party that is registered with the Federal Election Commission transfers to the federal account of an organized political party as defined under § 7-1-101; or

(iv) Funds which a political action committee that is registered with the Federal Election Commission transfers to the federal account of an organized political party as defined under § 7-1-101.

(b) The registration form of an approved political action committee shall contain the following information:

(1) The name, address, and, where available, phone number of the political action committee and the name, address, phone number, and place of employment of each of its officers, provided if the political action committee's name is an acronym, then both it and the words forming the acronym shall be disclosed;

(2) The professional, business, trade, labor, or other interests represented by the political action committee, including any individual business, organization, association, corporation, labor organization, or other group or firm whose interests will be represented by the political action committee;

(3) The full name and street address, city, state, and zip code of each financial institution the political action committee uses for purposes of receiving contributions or making expenditures within this state;

(4) A written acceptance of designation as a resident agent;

(5) A certification by a political action committee officer, under penalty of false swearing, that the information provided on the registration is true and correct; and

(6) A clause submitting the political action committee to the jurisdiction of the State of Arkansas for all purposes related to compliance with the provisions of this subchapter.

(c) (1) When a committee makes a change to any information required in subsection (b) of this section, an amendment shall be filed within ten (10) days to reflect the change.

(2) A committee failing to file an amendment shall be subject to a late filing fee of ten dollars (\$10.00) for each day the change is not filed.

(d) (1) Within fifteen (15) calendar days after the end of each calendar quarter, political action committees shall file a quarterly report with the Secretary of State, including the following information:

(A) The total amount of contributions received and the total amount of contributions made during the filing period and the cumulative amount of those totals;

(B) The current balance of political action committee funds;

(C) The name and address of each person that made a contribution or contributions to the political action committee that exceeded five hundred dollars (\$500) in the aggregate, the contributor's place of business, employer, occupation, the date of the contribution, the amount contributed, and the total contributed for the year;

(D) The name and address of each candidate or political action committee, if any, to whom or which the political action committee made a contribution or contributions that exceeded fifty dollars (\$50.00) in the aggregate during the filing period, with the amount contributed and the election for which the contribution was made;

(E) The name and address of each candidate or political action committee, if any, to whom or which the political action committee contributed a nonmonetary item, together with a description of the item, the date the item was contributed, and the value of the item; and

(F) The total amount of expenditures made for administrative expenses and for each single expenditure that exceeded one hundred dollars (\$100), an itemization including the

amount of the expenditure, the name and address of the person to whom the expenditure was made, and the date the expenditure was made.

(2) The information required in subdivision (d)(1)(C)-(F) of this section may be provided in the form of schedules attached to the report.

(3) The reports shall be verified by an affidavit of an officer of the political action committee stating that to the best of his or her knowledge and belief the information so disclosed is a complete, true, and accurate financial statement of the political action committee's contributions received and made.

(4) (A) A report is timely filed if it is either hand delivered or mailed to the Secretary of State, properly addressed, postage prepaid, bearing a postmark indicating that it was received by the post office or common carrier on the date that the report is due.

(B) The Secretary of State shall accept via facsimile any report if the original is received by the Secretary of State within ten (10) days of the date of transmission.

(C) The Secretary of State may receive reports in a readable electronic format that is acceptable to the Secretary of State and approved by the Arkansas Ethics Commission.

History. Init. Meas. 1990, No. 1, § 6; Init. Meas. 1996, No. 1, § 7; Acts 1999, No. 553, §§ 15-17; 2001, No. 1839, § 7; 2005, No. 2006, § 2; 2007, No. 221, § 8; 2009, No. 473, § 5.

7-6-216. Registration and reports by exploratory committees.

(a) (1) An exploratory committee shall register with the Secretary of State within fifteen (15) days after receiving contributions during a calendar year which, in the aggregate, exceed five hundred dollars (\$500).

(2) (A) For a state or district office, the place of filing shall be the Secretary of State's office.

(B) For a county, municipal, township, or school district office, the place of filing shall be the county clerk's office.

(3) Registration shall be on forms provided by the Secretary of State and the contents therein shall be verified by an affidavit of an officer of the committee.

(b) An exploratory committee shall disclose on the registration form the name, address, and, where available, phone number of the committee and each of its officers. It shall also disclose the individual person who, upon becoming a candidate, is intended to receive campaign contributions from the committee.

(c) Within thirty (30) days of the end of each month, an exploratory committee shall file a report with the Secretary of State indicating:

(1) The total amount of contributions received during the filing period;

(2) The name and address of each person who has made a contribution which, in the aggregate, exceeds fifty dollars (\$50.00), along with the contributor's principal place of business, employer, occupation, and the amount contributed; and

(3) The total amount of expenditures made and for each single expenditure which exceeds one hundred dollars (\$100) an itemization including the amount of the expenditure, the name and address of the person to whom the expenditure was made, and the date the expenditure was made.

(d) (1) The first report shall be filed for the month in which the committee files its registration. The final report shall be filed within thirty (30) days after the end of the month in which the committee either transfers its contributions to a candidate's campaign or no longer accepts contributions.

(2) The committee shall not accept contributions after the filing of a final report.

History. Init. Meas. 1990, No. 1, § 6; Acts 1999, No. 553, § 18; 2001, No. 1839, § 8; 2007, No. 221, § 9; 2009, No. 473, § 6.

7-6-217. Creation of Arkansas Ethics Commission.

(a) (1) The Arkansas Ethics Commission shall be composed of five (5) members, one (1) each appointed by the Governor, Attorney General, Lieutenant Governor, Speaker of the House of Representatives, and President Pro Tempore of the Senate.

(2) Members of the commission shall be appointed for terms of five (5) years and shall continue to serve until their successors have been appointed and have taken the official oath.

(3) (A) No person may be appointed to serve consecutive terms on the commission.

(B) Provided, any commissioner who has been appointed to serve two (2) years or less of an unexpired term shall be eligible for an appointment to a subsequent five-year term.

(4) In the event of a vacancy on the commission, a successor shall be appointed within thirty (30) days to serve the remainder of the unexpired term, such appointment to be made by the official holding the office responsible for appointing the predecessor.

(b) (1) In making appointments to the commission, the appointing officials shall ensure that at least one (1) member of a minority race, one (1) woman, and one (1) member of the minority political party, as defined in § 7-1-101, serves on the commission.

(2) Any person appointed as a member of the minority political party must have voted in the preferential primaries of the minority political party in the last two (2) primaries in which he or she has voted.

(c) (1) No member of the commission shall be a federal, state, or local government official or employee, an elected public official, a candidate for public office, a lobbyist as defined in § 21-8-402(11), or an officer or paid employee of an organized political party as defined in §

7-1-101.

(2) During the entire term of service on the commission, a commissioner shall be prohibited from raising funds for, making contributions to, providing services to, or lending his or her name in support of any candidate for election to a state, county, municipal, or school board office under the laws of Arkansas or in support of a ballot issue or issues submitted or intended to be submitted to the voters of the State of Arkansas, or any of its political subdivisions, excluding the exercise of the right to vote or the mere signing of an initiative or referendum petition. Employees of the commission shall be similarly prohibited.

(d) (1) The commission shall elect its chair.

(2) (A) A majority of the membership of the commission shall constitute a quorum for conducting business.

(B) No action shall be taken except by an affirmative vote of a majority of those present and voting.

(C) No sanctions shall be imposed without the affirmative vote of at least three (3) members of the commission who are physically present at a commission meeting.

(3) The vote of each member voting on any action shall be a public record.

(e) Members of the commission shall serve without compensation but may receive expense reimbursement in accordance with § 25-16-901 et seq.

(f) The commission shall meet at such times as may be provided by its rules, upon call of the chair, or upon written request to the chair of any three (3) members.

(g) The commission shall have the authority to:

(1) Pursuant to the Arkansas Administrative Procedure Act, § 25-15-201 et seq., promulgate reasonable rules and regulations to implement and administer the requirements of this subchapter, as well as § 7-9-401 et seq., § 21-8-301 et seq., § 21-8-401 et seq., § 21-8-501 et seq. [repealed], § 21-8-601 et seq., § 21-8-701 et seq., § 21-8-801 et seq., § 21-8-901 et seq., and § 21-8-1001 et seq., and to govern procedures before the commission, matters of commission operations, and all investigative and disciplinary procedures and proceedings;

(2) Issue advisory opinions and guidelines on the requirements of § 7-1-103(a)(1)-(4), (6), and (7), this subchapter, § 7-9-401 et seq., § 21-8-301 et seq., § 21-8-401 et seq., § 21-8-501 et seq. [repealed], § 21-8-601 et seq., § 21-8-701 et seq., § 21-8-801 et seq., § 21-8-901 et seq., and § 21-8-1001 et seq.;

(3) After a citizen complaint has been submitted to the commission, investigate alleged violations of § 7-1-103(a)(1)-(4), (6), and (7), this subchapter, § 7-9-401 et seq., § 21-1-401 et seq., § 21-8-301 et seq., § 21-8-401 et seq., § 21-8-501 et seq. [repealed], § 21-8-601 et seq., § 21-8-701 et seq., § 21-8-801 et seq., § 21-8-901 et seq., and § 21-8-1001 et seq. and render findings and disciplinary action thereon;

(4) Pursuant to commission investigations, subpoena any person or the books, records, or other documents being held by any person and take sworn statements;

(5) Administer oaths for the purpose of taking sworn testimony of witnesses and conduct hearings;

(6) Hire a staff and retain legal counsel;

(7) Approve forms prepared by the Secretary of State pursuant to this subchapter, § 7-9-401 et seq., § 21-8-301 et seq., § 21-8-401 et seq., § 21-8-501 et seq. [repealed], § 21-8-601 et seq., § 21-8-701 et seq., § 21-8-801 et seq., § 21-8-901 et seq., and § 21-8-1001 et seq.; and

(8) (A) File suit in the Pulaski County Circuit Court or in the circuit court of the county wherein the respondent resides or, pursuant to § 16-17-706, in the small claims division established in any district court in the State of Arkansas, to obtain a judgment for the amount of any fine imposed pursuant to § 7-6-218(b)(4)(B)(i)-(iii), or to enforce an order of the commission requiring the filing or amendment of a disclosure form.

(B) Said action by the court shall not involve further judicial review of the commission's actions.

(C) The fee normally charged for the filing of a suit in any of the circuit courts in the State of Arkansas shall be waived on behalf of the commission.

(h) When in the course of an investigation the commission issues subpoenas to financial institutions for records or information regarding a person who is the subject of the investigation, the commission shall provide the subject of the investigation with reasonable notice of the subpoenas and an opportunity to respond.

History. Init. Meas. 1990, No. 1, § 6; Acts 1995, No. 349, § 1; 1995, No. 352, § 1; 1997, No. 250, § 43; 1999, No. 553, §§ 19-21; 2001, No. 1839, §§ 9, 10; 2003, No. 195, § 6; 2003, No. 1185, § 6; 2005, No. 1284, § 5.

7-6-218. Citizen complaints.

(a) (1) Any citizen may file a complaint with the Arkansas Ethics Commission against a person covered by this subchapter, by § 7-1-103(a)(1)-(4), (6), or (7), § 7-9-401 et seq., § 21-1-401 et seq., or § 21-8-301 et seq., § 21-8-401 et seq., § 21-8-501 et seq. [repealed], § 21-8-601 et seq., § 21-8-701 et seq., § 21-8-801 et seq., § 21-8-901 et seq., and § 21-8-1001 et seq. for an alleged violation of the subchapters. For purposes of this subdivision (a)(1), the Arkansas Ethics Commission shall be considered a citizen.

(2) A complaint must be filed within four (4) years after the alleged violation occurred. If the alleged violation is the failure to file a report or the filing of an incorrect report, the complaint must be filed within four (4) years after the date the report was due.

(b) (1) (A) Upon a complaint stating facts constituting an alleged violation signed under

penalty of perjury by any person, the commission shall investigate the alleged violation of this subchapter or § 7-1-103(a)(1)-(4), (6), or (7), § 7-9-401 et seq., § 21-1-401 et seq., § 21-8-301 et seq., § 21-8-401 et seq., § 21-8-501 et seq. [repealed], § 21-8-601 et seq., § 21-8-701 et seq., § 21-8-801 et seq., § 21-8-901 et seq., and § 21-8-1001 et seq.

(B) The commission shall immediately notify any person under investigation of the investigation and of the nature of the alleged violation.

(C) The commission in a document shall advise the complainant and the respondent of the final action taken, together with the reasons for the action, and such document shall be a public record.

(D) Filing of a frivolous complaint shall be a violation of this subchapter. For purposes of this section, “frivolous” means clearly lacking any basis in fact or law. In any case in which the commission has dismissed a complaint, the respondent may request in writing that the commission make a finding as to whether or not the complaint filed was frivolous. In the event that the commission finds that the complaint was frivolous, the respondent may file a complaint seeking sanctions as provided in § 7-6-218(b)(4).

(2) If, after the investigation, the commission finds that probable cause exists for a finding of a violation, the respondent may request a hearing. The hearing shall be a public hearing.

(3) (A) The commission shall keep a record of its investigations, inquiries, and proceedings.

(B) (i) All proceedings, records, and transcripts of any investigations or inquiries shall be kept confidential by the commission, unless the respondent requests disclosure of documents relating to investigation of the case, in case of a hearing under subdivision (b)(2) of this section, or in case of judicial review of a commission decision pursuant to § 25-15-212.

(ii) However, through its members or staff, the commission may disclose confidential information to proper law enforcement officials, agencies, and bodies or as may be required to conduct its investigation.

(C) Thirty (30) days after any final adjudication in which the commission makes a finding of a violation, all records relevant to the investigation and upon which the commission has based its decision, except working papers of the commission and its staff, shall be open to public inspection.

(4) If the commission finds a violation of this subchapter, § 7-1-103(a)(1)-(4), (6), or (7), § 21-1-401 et seq., § 21-8-301 et seq., § 21-8-401 et seq., § 21-8-501 et seq. [repealed], § 21-8-601 et seq., § 21-8-701 et seq., § 21-8-801 et seq., § 21-8-901 et seq., and § 21-8-1001 et seq., then the commission shall do one (1) or more of the following, unless good cause be shown for the violation:

(A) Issue a public letter of caution or warning or reprimand;

(B) (i) Notwithstanding the provisions of §§ 7-6-202, 7-9-409, 21-8-403, and 21-8-903, impose a fine of not less than fifty dollars (\$50.00) nor more than two thousand dollars (\$2,000) for negligent or intentional violation of this subchapter or § 21-8-301 et seq., § 21-8-401 et seq., § 21-8-601 et seq., § 21-8-701 et seq., § 21-8-801 et seq., and § 21-8-901 et seq.

(ii) The commission shall adopt rules governing the imposition of such fines in accordance with the provisions of the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

(iii) All moneys received by the commission in payment of fines shall be deposited into the State Treasury as general revenues;

(C) Order the respondent to file or amend a statutorily required disclosure form; or

(D) (i) Report its finding, along with such information and documents as it deems appropriate, and make recommendations to the proper law enforcement authorities.

(ii) When exercising the authority provided in this subdivision (b)(4), the commission is not required to make a finding of a violation of the laws under its jurisdiction.

(5) (A) The commission shall complete its investigation of a complaint filed pursuant to this section and take final action within one hundred fifty (150) days of the filing of the complaint. If a hearing under subdivision (b)(2) of this section or other hearing of adjudication is conducted, all action on the complaint by the commission shall be completed within one hundred eighty (180) days.

(B) However, such time shall be tolled during the pendency of any civil action, civil appeal, or other judicial proceeding involving those particular commission proceedings.

(c) Any final action of the commission under this section shall constitute an adjudication for purposes of judicial review under § 25-15-212.

History. Init. Meas. 1990, No. 1, § 6; Acts 1995, No. 349, § 2; 1995, No. 352, § 2; 1999, No. 553, § 22; 2001, No. 1839, §§ 11-13; 2003, No. 195, § 7; 2007, No. 221, § 10.

7-6-219. Retiring a campaign debt.

(a) (1) Any person who was a candidate and has a campaign debt from an election that has ended may solicit funds and hold fundraisers to retire the campaign debt.

(2) The contributions received shall be treated as campaign contributions to the person's previous campaign, and all campaign contribution limits shall continue to apply.

(b) Contributors shall be given notice that the campaign contributions are for the purpose of retiring a campaign debt. Any invitation to or notice of a fundraiser to retire a campaign debt of a previous campaign shall state that the funds are to retire a campaign debt.

(c) A person shall file a campaign contribution and expenditure report concerning a campaign debt if, since the last report concerning the debt, the person has received cumulative contributions in excess of five hundred dollars (\$500). The report shall be filed not later than fifteen (15) days after a calendar quarter in which a report becomes required. No report is required in any calendar quarter in which the cumulative contribution or cumulative expenditure limit has not been exceeded since the person's last report.

History. Acts 1993, No. 1209, § 1; 1997, No. 139, § 1.

7-6-220. Reporting of independent expenditures.

(a) A person who or an independent expenditure committee which makes independent expenditures in an aggregate amount or value in excess of five hundred dollars (\$500) in a calendar year shall file reports with the Secretary of State:

(1) No later than thirty (30) days prior to preferential primary elections, general elections, and special elections covering the period ending thirty-five (35) days prior to such elections;

(2) No later than seven (7) days prior to preferential primary elections, runoff elections, general elections, and special elections covering the period ending ten (10) days prior to such elections; and

(3) As for a final report, no later than thirty (30) days after the end of the month in which the last election is held at which the candidate seeks nomination or election.

(b) Such reports shall include:

(1) In the case of an individual making such an expenditure, the name, address, telephone number, principal place of business, employer, and occupation of the individual;

(2) In the case of a committee, the name, address, employer, and occupation of its officers;

(3) In the case of a person who is not an individual, the principal name of the entity, the address, and the name, address, employer, and occupation of its officers; and

(4) The same information required of candidates for office other than school district, township, municipal, or county office as set forth in § 7-6-207(b)(1)(A)-(I).

History. Init. Meas. 1996, No. 1, § 8; Acts 2001, No. 1839, § 14; 2005, No. 1284, § 6.

7-6-221. [Repealed.]

7-6-222. Tax credits for certain individual political contributions.

(a) Pursuant to regulations to be adopted by the Department of Finance and Administration,

a credit against individual Arkansas income taxes shall be allowed for money contributions made by the taxpayer in a taxable year to one (1) or more of the following:

(1) A candidate seeking nomination or election to a public office at an election or to the candidate's campaign committee;

(2) An approved political action committee as defined in § 7-6-201; or

(3) An organized political party as defined in § 7-1-101.

(b) The credit allowed by subsection (a) of this section shall be the aggregate contributions, not to exceed fifty dollars (\$50.00), on an individual tax return, or the aggregate contributions, not to exceed one hundred dollars (\$100), on a joint return.

(c) Credits for contributions qualifying under this section and made prior to April 15 in a calendar year may be applied to the return filed for the previous taxable year.

History. Init. Meas. 1996, No. 1, § 10; Acts 1999, No. 1446, § 1; 2003, No. 774, § 1; 2005, No. 1284, § 7; 2007, No. 221, § 11.

7-6-223. Reports of contributions by political parties.

(a) Within fifteen (15) calendar days after the end of each calendar quarter, each political party that meets the definition of political party stated in § 7-1-101 or that has met the petition requirements of § 7-7-205 shall file a quarterly report with the Secretary of State.

(b) The report shall include:

(1) The total amount of contributions received by the political party during the preceding calendar quarter;

(2) An itemization, including the name, address, employer, and occupation of each person who made a contribution or contributions to the political party which, in the aggregate, exceeded fifty dollars (\$50.00) in the preceding calendar quarter, as well as the amount received and date of receipt;

(3) The total amount of money disbursed by the political party during the preceding calendar quarter; and

(4) An itemization, including the amount of the disbursement, the name and address of the person to whom the disbursement was made, and the date the disbursement was made for each single disbursement that exceeded one hundred dollars (\$100).

History. Init. Meas. 1996, No. 1, § 11; Acts 2003, No. 1730, § 1; 2005, No. 1284, § 8; 2009, No. 473, § 7.

7-6-224. Authority of local jurisdictions.

Municipalities, counties, and townships shall have the authority to establish reasonable

limitations on:

- (1) Time periods that candidates for local office shall be allowed to solicit contributions;
- (2) Limits on contributions to local candidates at amounts lower than those set by state law; and
- (3) Voluntary campaign expenditure limits for candidates seeking election to their respective governing bodies.

History. Init. Meas. 1996, No. 1, § 12.

7-6-225. Filing deadlines.

Whenever a report becomes due on a day which is a Saturday, Sunday, or legal holiday, the report shall be due the next day which is not a Saturday, Sunday, or legal holiday.

History. Acts 1999, No. 553, § 23; 2001, No. 1839, § 16.

7-6-226. Registration and reporting by county political party committees.

(a) (1) (A) To qualify as a county political party committee, the committee shall register with the Secretary of State within fifteen (15) days after accepting contributions during a calendar year that exceed five thousand dollars (\$5,000) in the aggregate.

(B) The registration shall be renewed annually by January 15, unless the committee has ceased to exist.

(C) Registration shall be on forms provided by the Secretary of State, and the contents of the form shall be verified by an affidavit of an officer of the committee.

(2) (A) The committee shall maintain for a period of four (4) years records evidencing the name, address, and place of employment of each person that contributed to the committee, along with the amount contributed.

(B) Furthermore, the committee shall maintain for a period of four (4) years records evidencing the name and address of each candidate who received a contribution from the committee, along with the amount contributed.

(3) (A) The committee shall appoint a treasurer who is a qualified elector of the State of Arkansas.

(B) No contribution shall be accepted from a committee and no expenditure shall be made by a committee that has not registered and which does not have a treasurer.

(4) No county political party committee shall accept a contribution from a prohibited political action committee as defined in § 7-6-201.

(b) The county political party committee shall disclose on the registration form the

following information:

(1) The name, address, and, when available, phone number of the committee and the name, address, phone number, and place of employment of each of its officers. If the committee's name is an acronym, then both the acronym and the words forming the acronym shall be disclosed;

(2) The political party with which the county political party committee is affiliated;

(3) The full name and street address, city, state, and zip code of the financial institution in this state that the committee designates as its official depository for the purposes of depositing all money contributions that it receives in this state and making all expenditures in this state; and

(4) A written acceptance of appointment by the treasurer.

(c) (1) Within fifteen (15) calendar days after the end of each calendar quarter, county political party committees shall file a quarterly report with the Secretary of State, including the following information:

(A) The total amount of contributions received and the total amount of contributions made during the filing period and the cumulative amount of those totals;

(B) The current balance of committee funds;

(C) The name and address of each person who made a contribution or contributions to the committee that exceeded five hundred dollars (\$500) in the aggregate, the contributor's place of business, employer, or occupation, the date of the contribution, the amount contributed, and the total contributed for the year;

(D) The name and address of each candidate or committee, if any, to whom or which the committee made a contribution or contributions that exceeded fifty dollars (\$50.00) in the aggregate during the filing period, with the amount contributed and the election for which the contribution was made;

(E) The name and address of each candidate or committee, if any, to whom or which the committee contributed a nonmonetary item, together with a description of the item, the date the item was contributed, and the value of the item;

(F) The total amount of expenditures made for administrative expenses and for each single expenditure that exceeded one hundred dollars (\$100), an itemization including the amount of the expenditure, the name and address of the person to whom the expenditure was made, and the date the expenditure was made; and

(G) Any change in the information required by subsection (b) of this section.

(2) The reports shall be verified by an affidavit of an officer of the committee stating that to the best of his or her knowledge and belief the information disclosed is a complete, true, and accurate financial statement of the committee's contributions received and made.

(3) (A) A report is timely filed if it is either hand delivered or mailed to the Secretary of State, properly addressed, postage prepaid, bearing a postmark indicating receipt by the post office or common carrier on the date that the report is due.

(B) The Secretary of State shall accept via facsimile any report if the original is received by the Secretary of State within ten (10) days of the date of transmission.

(C) The Secretary of State may receive reports in a readable electronic format acceptable to the Secretary of State and approved by the Arkansas Ethics Commission.

History. Acts 2005, No. 2006, § 3; 2007, No. 221, § 12; 2009, No. 473, § 8.

7-6-227. Registration by independent expenditure committee.

(a) (1) (A) An independent expenditure committee shall register with the Secretary of State within fifteen (15) days after accepting contributions that exceed five hundred dollars (\$500) in the aggregate during a calendar year.

(B) Registration shall be annually renewed by January 15 unless the independent expenditure committee has ceased to exist.

(C) Registration shall be on a form provided by the Secretary of State, and the contents of the form shall be verified by an affidavit of an officer of the independent expenditure committee.

(2) (A) The independent expenditure committee shall maintain for a period of four (4) years records evidencing the name, address, and place of employment of each person that contributed to the political action committee, along with the amount contributed.

(B) The independent expenditure committee shall maintain for a period of four (4) years records evidencing each independent expenditure made by the committee, along with the amount of each expenditure.

(3) (A) The political action committee shall designate a resident agent who shall be an individual who resides in this state.

(B) A contribution shall not be accepted from an independent expenditure committee and an expenditure shall not be made by an independent expenditure committee that has not registered and does not have a resident agent.

(4) An out-of-state independent expenditure committee shall comply with the registration and reporting provisions of this section if the committee makes an independent expenditure or independent expenditures within the State of Arkansas that in the aggregate exceed more than five hundred dollars (\$500) during a calendar year.

(b) The registration form of an independent expenditure committee shall contain the following information:

(1) (A) The name, address, and, when available, phone number of the independent expenditure committee and the name, address, phone number, and place of employment of each of its officers.

(B) However, if the independent expenditure committee's name is an acronym, then both it and the words forming the acronym shall be disclosed;

(2) The full name and street address, city, state, and zip code of each financial institution the independent expenditure committee uses for purposes of receiving contributions or making expenditures within this state;

(3) A written acceptance of designation as a resident agent;

(4) A certification by an independent expenditure committee officer, under penalty of false swearing, that the information provided on the registration is correct; and

(5) A clause submitting the independent expenditure committee to the jurisdiction of the State of Arkansas for all purposes related to compliance with this subchapter.

(c) (1) When a committee makes a change to any information required in subsection (b) of this section, an amendment shall be filed within ten (10) days to reflect the change.

(2) A committee failing to file an amendment shall be subject to a late filing fee of ten dollars (\$10.00) for each day the change is not filed.

History. Acts 2009, No. 473, § 9.

Chapter 7

Nominations and Primary Elections

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Subchapter 1

— Methods of Nomination

- 7-7-101. Selection of nominees.
- 7-7-102. Party nominees certified at primary election.
- 7-7-103. Filing as an independent — Petitions — Disqualification.
- 7-7-104. Vacancy in nomination — Alternative methods for filling — Tie vote.
- 7-7-105. Filling vacancies in certain offices — Special primary elections.
- 7-7-106. Filling vacancies in candidacy for nomination — Preferential primary.

7-7-101. Selection of nominees.

The name of no person shall be printed on the ballot in any general or special election in this state as a candidate for election to any office unless the person shall have been certified as a nominee selected pursuant to this subchapter.

History. Acts 1969, No. 465, Art. 1, § 5; 1971, No. 261, § 3; 1972 (Ex. Sess.), No. 42, § 1; 1975, No. 700, § 1; 1977, No. 731, § 1; 1981, No. 960, § 1; A.S.A. 1947, § 3-105.

7-7-102. Party nominees certified at primary election.

Nominees of any political party for United States Senate, United States House of Representatives, or state, district, county, township, or applicable municipal office to be voted upon at a general election shall be certified as having received a majority of the votes cast for the office, or as an unopposed candidate, at a primary election held by the political party in the manner provided by law.

History. Acts 1969, No. 465, Art. 1, § 5; 1971, No. 261, § 3; 1972 (Ex. Sess.), No. 42, § 1; 1975, No. 700, § 1; A.S.A. 1947, § 3-105; Acts 2009, No. 959, § 34.

7-7-103. Filing as an independent — Petitions — Disqualification.

(a) (1) A person desiring to have his or her name placed upon the ballot as an independent candidate without political party affiliation for any United States office other than President of the United States or Vice President of the United States or state, county, township, or district office in any general election in this state shall file, during the party filing period for the year in which the election is to be held, a political practices pledge, an affidavit of eligibility, and a notice of candidacy stating the name and title the candidate proposes to appear on the ballot and identifying the elective office sought, including the position number, if any.

(2) (A) An independent candidate shall state the same position, including the position number, if any, on his or her petition.

(B) When a candidate has identified the position sought on the notice of candidacy, the candidate shall not be allowed to change the position but may withdraw a notice of candidacy and file a new notice of candidacy designating a different position before the deadline for filing.

(b) (1) (A) The person shall furnish by 12:00 noon on May 1 of the year in which the election is to be held petitions signed by not less than three percent (3%) of the qualified electors in the county, township, or district in which the person is seeking office, but in no event shall more than two thousand (2,000) signatures be required for a district, county, or township office.

(B) If the person is a candidate for state office or for United States Senator in which a statewide race is required, the person shall file petitions signed by not less than three percent (3%) of the qualified electors of the state or which contain ten thousand (10,000) signatures of qualified electors, whichever is the lesser.

(2) Each elector signing the petition shall be a registered voter, and the petition shall be directed to the official with whom the person is required by law to file the petition to qualify as a candidate and shall request that the name of the person be placed on the ballot for election to the office mentioned in the petition.

(3) Petitions shall be circulated not earlier than ninety (90) calendar days before the deadline for filing petitions to qualify as an independent candidate unless the number of days is reduced by a proclamation, ordinance, resolution, order, or other authorized document for a special election under § 7-11-101 et seq.

(4) In determining the number of qualified electors in any county, township, or district or in the state, the total number of votes cast therein for all candidates in the preceding general election for the office of Governor shall be conclusive of the number of qualified electors therein for the purposes of this section.

(5) If the number of days in which the petition for independent candidacy may be circulated is reduced by a proclamation, ordinance, resolution, order, or other authorized document for a special election under 7-11-101 et seq., the number of signatures required on the petition shall be reduced proportionately.

History. Acts 1969, No. 465, Art. 1, § 5; 1971, No. 261, § 3; 1972 (Ex. Sess.), No. 42, §§ 1, 2; 1975, No. 700, § 1; 1977, No. 731, § 1; 1981, No. 960, § 1; 1985, No. 1055, § 3; A.S.A. 1947, §§ 3-105, 3-105.1; Acts 1989, No. 591, §§ 1, 2; 1993, No. 512, § 7; 1997, No. 886, § 2; 1999, No. 77, § 1; 2001, No. 472, § 1; 2001, No. 1553, § 19; 2001, No. 1789, § 6; 2003, No. 1165, § 6; 2003, No. 1731, § 3; 2005, No. 67, § 16; 2007, No. 1020, § 13; 2007, No. 1049, § 21; 2009, No. 188, § 1; 2009, No. 1480, § 41.

7-7-104. Vacancy in nomination — Alternative methods for filling — Tie vote.

(a) Nominees of a political party to fill a vacancy in nomination, as defined in § 7-1-101, shall be declared by:

(1) Certificate of the chair and secretary of any convention of delegates held within twenty-five (25) days of the Governor's letter certifying vacancy; or

(2) (A) A special primary election called, held, and conducted in accordance with the rules of the party.

(B) A special primary election may be called only if the special primary election can be called, held, conducted, and certified and certificates of nomination filed at least seventy (70) days before the general election.

(b) In case of a tie vote for the same office at a general primary election, a vacancy in nomination for that office shall exist.

(c) When a vacancy in nomination occurs as a result of death or when the person who received the majority of votes cast at the preferential primary election or the general primary

election notifies the state committee of the political party of his or her intent to refuse nomination due to serious illness, moving out of the area from which elected as the party's nominee, or filing for another office, the state committee of the political party shall notify the Governor within five (5) days after the date of death or the date the party was notified of intent to refuse nomination as to whether the party chooses to fill the vacancy in nomination at a special election or a convention.

(d) If the party fails to notify the Governor within the five-day period, the vacancy in nomination shall not be filled nor shall the vacancy in nomination be filled if it occurred for any reason other than death, serious illness, the candidate's moving out of the area from which elected as the party's nominee, or filing for another office.

(e) (1) If the party notifies the Governor within the time prescribed in subsection (c) of this section of the desire to have a special primary election, the Governor shall issue a proclamation within five (5) days calling the special election and establishing the deadline for filing as a candidate for nomination, drawing for ballot position, and issuing and filing certificates of nomination. The special primary election shall occur no earlier than thirty (30) days nor later than sixty (60) days after the filing deadline. The candidate who receives the most votes in the special primary election shall be declared the nominee. There shall be no runoff election. In the event of a tie for the most votes, the nominee shall be determined by lot in a public meeting of the appropriate party committee.

(2) When the certificate of nomination is filed for a nominee who is filling a vacancy in nomination, the filing authority shall immediately certify the name of the nominee to the appropriate county board of election commissioners.

(f) If the party notifies the Governor that it desires to fill the vacancy in nomination by convention, the convention shall occur no later than twenty-five (25) days after the notice is provided to the Governor.

(g) (1) If the party's nominee is not selected in time to file his or her certificate of nomination with the appropriate party authority at least sixty-six (66) days before the general election, the nominee's name shall not appear on the general election ballot but the name of the person who vacated the nomination shall appear on the ballot, and votes cast for the name of the person appearing on the ballot shall be counted for the nominee but only if the certificate of nomination is duly filed at least thirty-five (35) days before the general election.

(2) (A) If votes for a nominee whose name does not appear on the ballot are to be counted under subdivision (g)(1) of this section, the county board of election commissioners shall post a notice at each affected polling place stating each election in which a vote for the person appearing on the ballot shall be counted for the nominee.

(B) A copy of the notice shall be included with the instructions sent to absentee voters.

History. Acts 1969, No. 465, Art. 1, §§ 5, 10; 1971, No. 261, §§ 3, 4; 1972 (Ex. Sess.), No. 42, § 1; 1975, No. 700, § 1; A.S.A. 1947, §§ 3-105, 3-110; Acts 1997, No. 1082, § 3; 2005, No. 2145,

§ 12; 2007, No. 1049, § 22.

7-7-105. Filling vacancies in certain offices — Special primary elections.

(a) Nominees for special elections called for the purpose of filling a vacancy in office for a member of the United States House of Representatives, Lieutenant Governor, or for a member of the Senate or House of Representatives of the General Assembly shall be chosen as follows:

(1) The Governor shall certify in writing to the state committees of the respective political parties the fact of vacancy and shall request the respective state committees to make a determination and notify him or her in writing within ten (10) days with respect to whether the political parties desire to hold a special primary election or a convention of delegates held under party rules to choose nominees; and

(2) (A) If the state committee of any political party timely notifies the Governor that it chooses to hold a special primary election, any political party desiring to choose a nominee shall choose the nominee at a special primary election.

(B) The Governor's proclamation shall set dates for the special primary election and the runoff primary election to be held if no candidate receives a majority of the vote at the special primary election; and

(3) (A) A special election to fill the vacancy in office shall be held on a date as soon as possible after the vacancy occurs, but not more than one hundred fifty (150) days after the occurrence of the vacancy.

(B) The special election shall be held in accordance with laws governing special elections.

(C) (i) If a nominee is to be chosen at a special primary election and if, after the close of the filing period, only one (1) or two (2) candidates have filed for the nomination of a party holding a primary, the state committee of a party holding a primary shall notify the Governor.

(ii) The Governor shall issue a new proclamation setting the special election for an earlier date so long as the earlier date is in accordance with state laws governing special elections.

(b) If no state committee of any political party timely notifies the Governor of the desire to hold a special primary election or convention, the Governor, in issuing his or her proclamation calling for the special election, shall declare that the nominee of a political party shall be chosen at a convention.

History. Acts 1969, No. 465, Art. 1, § 5; 1971, No. 261, § 3; 1972 (Ex. Sess.), No. 42, § 1; 1975, No. 700, § 1; A.S.A. 1947, § 3-105; Acts 1987, No. 248, § 1; 1993, No. 512, § 8; 1997, No. 1082, § 2; 2005, No. 2145, § 13; 2007, No. 1049, § 23; 2009, No. 1480, § 42.

7-7-106. Filling vacancies in candidacy for nomination — Preferential primary.

(a) A political party may fill a vacancy if:

(1) A person is running unopposed in a preferential primary and cannot accept the nomination due to death; or

(2) Upon notification to the party that he or she will not accept the nomination due to a serious illness.

(b) The vacancy shall be filled within ten (10) calendar days after the death or notification to the political party.

(c) The vacancy shall be filled at a convention of the political party.

(d) If the vacancy is filled more than sixty-six (66) days before the preferential primary election, the name of the person filling the vacancy shall be printed on the ballot instead of the name of the person who vacated the candidacy.

(e) If the vacancy is filled less than sixty-six (66) days before the date of the preferential primary, the name of the person subsequently elected to fill the vacancy in candidacy shall be declared the nominee even if the name of the person who vacated the candidacy appears on the preferential primary ballot.

(f) If the vacancy in candidacy is not filled before the date of the preferential primary election, a vacancy in nomination shall be deemed to exist on the date of the preferential primary election and the vacancy in nomination shall be filled under § 7-7-104.

History. Acts 2001, No. 1772, § 1; 2007, No. 1049, § 24.

Subchapter 2
— Primary Elections Generally

7-7-201. Law governing primary elections.

7-7-202. Preferential and general primaries — When required — Common polling places.

7-7-203. Dates.

7-7-204. Candidacy for multiple nominations prohibited.

7-7-205. Petition requirements for new political parties.

7-7-201. Law governing primary elections.

(a) The cost of political party primaries shall be borne by the State of Arkansas and shall be paid from an appropriation made to the State Board of Election Commissioners for that purpose.

(b) (1) Within each county, the political party primary elections shall be conducted by the county board of election commissioners.

(2) The state board shall have authority to adopt rules for the administration of primary

elections consistent with the provisions of this chapter.

(3) The state board may withhold reimbursement of funds to the counties for state-funded elections for failure to comply with the rules developed by the state board for the administration of primary elections or applicable state election laws until all requirements are met to the satisfaction of the state board.

(4) Each political party shall be responsible for determining the qualifications of candidates seeking nomination by the political party, provide necessary applications for candidacy, accept and process the applications, and determine the order of its ballot.

(c) All political party primary elections shall be conducted in conformity with the provisions of this act, and these elections are declared to be legal elections.

(d) In cases of circumstances or procedures which may arise in connection with any primary election for which there is no provision of this act governing the circumstances or procedures, they shall be governed by the general election laws of this state or by party rules if there is no applicable general election law.

History. Acts 1969, No. 465, Art. 1, § 7; A.S.A. 1947, § 3-107; Acts 1995, No. 901, § 2; 2001, No. 1175, § 1; 2007, No. 987, § 2.

7-7-202. Preferential and general primaries — When required — Common polling places.

(a) Whenever any political party shall select by primary election party nominees as candidates at any general election for any United States, state, district, county, township, or municipal office, there shall be held a preferential primary election and a general primary election, if required, on the respective dates provided in § 7-7-203(a) and (b).

(b) A general primary election for a political party shall not be held if there are no races in which three (3) or more candidates qualify for the same office or position as provided in subsection (c) of this section unless a general primary election is necessary to break a tie vote for the same office or position at the preferential primary.

(c) If there are no races in which three (3) or more candidates qualify for the same office or position, only the preferential primary election shall be held for the political party. If all nominations have been determined at the preferential primary election or by withdrawal of candidates as provided in § 7-7-304(a) and (b), the general primary election shall not be held.

(d) The county board of election commissioners shall establish common polling places for the joint conduct of the primary elections of all political parties.

History. Acts 1969, No. 465, Art. 1, §§ 8, 10; 1971, No. 261, § 4; A.S.A. 1947, §§ 3-108, 3-110; Acts 1995, No. 901, § 3; 2005, No. 67, § 17; 2009, No. 959, § 35.

7-7-203. Dates.

(a) The general primary election shall be held on the second Tuesday in June preceding the general election.

(b) The preferential primary election shall be held on the Tuesday three (3) weeks before the general primary election.

(c) (1) Party pledges, if any, shall be filed and any filing fees of a political party, if any, shall be paid during regular office hours in the period beginning at 12:00 noon on the first weekday in March and ending at 12:00 noon on the seventh day thereafter before the preferential primary election.

(2) A party certificate and the political practice pledge for primary elections shall be filed with the county clerk or the Secretary of State, as the case may be, during regular office hours in the period beginning at 12:00 noon on the first weekday in March and ending at 12:00 noon on the seventh day thereafter before the preferential primary election.

(3) The name of a candidate who fails to file a party certificate by the filing deadline with the Secretary of State or county clerk, as the case may be, shall not appear on the ballot.

(4) Party pledges, if any, shall be filed, filing fees, if any, shall be paid, and party certificates and political practice pledges shall be filed for special primary elections on or before the deadline established by proclamation of the Governor.

(d) (1) At least seventy (70) days before the preferential primary election, the Secretary of State shall certify to the various county committees and to the various county boards of election commissioners a list of the names of all candidates who have filed party certificates with the Secretary of State within the time required by law.

(2) At least seventy (70) days before the preferential primary election, the county clerk shall certify to the county committees and to the county board of election commissioners a list of the names of all candidates who have filed party certificates with the county clerk within the time required by law.

(e) (1) The county board of election commissioners shall convene, at the time specified in the notice to the members given by the chair of the board, no later than the tenth day after each primary election for the purpose of canvassing the returns and certifying the election results.

(2) If no time is specified for the meeting of the county board of election commissioners, the meeting shall be at 5:00 p.m.

(f) The county convention of a political party holding a primary election shall be held on the first Monday following the date of the general primary election.

(g) (1) The county board of election commissioners shall certify to the county clerk and the county committee a list of all nominated candidates for county, township, and municipal offices, and the political parties' county committee members and delegates.

(2) At the same time, the county board of election commissioners shall certify to the

Secretary of State and the secretary of the state committee the results of the contests for all United States, state, and district offices. Immediately after ascertaining the results for all United States, state, and district offices, the Secretary of State shall certify to the state committee a list of all nominated candidates for the offices.

(h) (1) (A) The Secretary of State shall at least one hundred (100) days before the date of the general election notify by registered mail the chair and secretary of the state committee of the respective political parties that a certificate of nomination is due for all nominated candidates for United States, state, and district offices in order that the candidates' names be placed on the ballot of the general election.

(B) (i) The state committee shall issue certificates of nomination to all nominated candidates for United States, state, and district offices, who shall file the certificates with the Secretary of State at least ninety (90) days before the general election.

(ii) However, if the chair and secretary of the state committee of the respective political parties are not properly notified as directed by subdivision (h)(1)(A) of this section, the failure of a candidate to file a certificate of nomination by the deadline shall not prevent that candidate's name from being placed on the ballot of the general election.

(2) (A) Each county clerk shall at least ninety (90) days before the date of the general election notify by registered mail the chairs and secretaries of the county committees of the respective political parties that a certified list of all nominated candidates for county, township, and municipal offices is due and shall be filed with the county clerk in order that the candidates' names be placed on the ballot for the general election.

(B) (i) Each county committee shall issue the certified list on behalf of those nominated candidates and submit the certified list to the county clerk at least eighty (80) days before the general election.

(ii) However, if the chairs and secretaries of the county committees of the respective political parties are not properly notified as directed by subdivision (h)(2)(A) of this section, the failure of a certified list to be filed by the deadline shall not prevent any candidate's name from being placed on the ballot of the general election.

History. Acts 1969, No. 465, Art. 1, § 13; 1971, No. 261, § 23; 1971, No. 347, §§ 5-7; 1971, No. 829, §§ 1-3; 1972 (Ex. Sess.), No. 37, §§ 1, 2; 1975, No. 601, §§ 1, 2; 1977, No. 888, §§ 1, 2; 1981, No. 448, § 1; A.S.A. 1947, § 3-113; Acts 1987, No. 123, §§ 13, 14; 1987, No. 248, §§ 2, 16; 1993, No. 966, § 2; 1995, No. 723, § 2; 1995, No. 724, § 2; 1995, No. 901, § 4; 1997, No. 886, § 3; 2001, No. 1475, § 3; 2003, No. 1165, § 7; 2003, No. 1731, § 4; 2007, No. 1020, § 14; 2007, No. 1049, § 25; 2009, No. 959, § 36.

7-7-204. Candidacy for multiple nominations prohibited.

(a) A person who files as a candidate for nomination by a political party shall not be eligible to:

(1) Be the nominee of any other political party for the same office during the primary election or the following general or special election; or

(2) Be an independent or write-in candidate for the same office at the general or special election.

(b) A person who is certified as an independent candidate shall not be eligible to be a write-in candidate or the nominee of any political party for the same office at the same general or special election.

History. Acts 1997, No. 343, § 1.

7-7-205. Petition requirements for new political parties.

(a) (1) A group desiring to form a new political party shall do so by filing a petition with the Secretary of State.

(2) The petition shall contain at the time of filing the signatures of at least ten thousand (10,000) registered voters in the state.

(3) The Secretary of State shall not accept for filing any new party petition that is not prima facie sufficient at the time of filing.

(4) The petitions shall be circulated during any ninety-day period.

(b) The petition shall declare the intent of organizing a political party, the name of which shall be stated in the declaration, and of participating in the next general election. No political party or group shall assume a name or designation that is so familiar, in the opinion of the Secretary of State, as to confuse or mislead the voters at an election.

(c) The Secretary of State shall determine the sufficiency of the signatures submitted within thirty (30) days of filing.

(d) If the petition is determined to be insufficient, the Secretary of State shall forthwith notify the sponsors in writing, through their designated agent, and shall set forth his or her reasons for so finding.

(e) (1) Upon certification of sufficiency by the Secretary of State, a new political party shall be declared by the Secretary of State.

(2) A new political party formed by the petition process may nominate candidates by convention for the first election after certification.

(3) Nominated candidates shall file a political practice pledge with the Secretary of State or county clerk, as the case may be, no later than sixty (60) days prior to the general election.

(4) If the new party maintains party status by obtaining three percent (3%) of the total vote cast for the office of Governor or nominees for presidential electors at the first election after certification, the new political party shall nominate candidates in the party primary as set forth in

§ 7-7-101 et seq.

(f) Any challenges to the certification of the Secretary of State shall be filed with the Pulaski County Circuit Court.

History. Acts 1997, No. 886, § 4; 2003, No. 1165, §§ 8, 9; 2007, No. 821, § 1; 2009, No. 188, § 2; 2009, No. 959, § 37.

Subchapter 3 **— Conduct of Primary**

7-7-301. Party pledges, affidavits of eligibility, and party filing fees.

7-7-302. Selection of primary election officials.

7-7-303. Precincts — Boundaries.

7-7-304. Names to be included on ballots — Withdrawal — Unopposed candidates —
Position.

7-7-305. Printing of ballots — Form.

7-7-306. Partisan and nonpartisan judicial general ballots.

7-7-307. Additional voter qualifications.

7-7-308. Voting procedure and requirements.

7-7-309. Canvass and certification of returns.

7-7-310. [Repealed.]

7-7-311. [Repealed.]

7-7-312. [Repealed.]

7-7-313. Unopposed races.

7-7-301. Party pledges, affidavits of eligibility, and party filing fees.

(a) A political party may impose a filing fee for candidates seeking nomination by that party. The filing fee for county, municipal, and township offices shall be fixed by the county committee, as authorized by the state executive committee. For all other races, the filing fee shall be established by the state executive committee. On or before noon of the last day of the political party filing period, all candidates at primary elections of political parties shall file an affidavit of eligibility and any pledge required by such party and shall pay the party filing fees required by the party, as follows:

(1) Candidates for United States Senator, for United States Representative, and for all state offices shall file the pledge and the affidavit of eligibility and pay the party filing fees with the secretary of the state committee of the political party or his or her designated agent;

(2) Candidates for district offices, including, but not limited to, the offices of State Representative and State Senator, shall file the pledge and affidavit of eligibility with the secretary of the state committee of the political party or his or her designated agent and pay the party filing fees with the secretary of the state committee of the political party or his or her designated agent; and

(3) All candidates for county, municipal, and township offices, candidates for county

committee member, and delegates to the county convention shall file the pledge and the affidavit of eligibility and pay the party filing fees with the secretary of the county committee of the political party.

(b) The county clerk shall not accept for filing the political practices pledge of any candidate for nomination by a political party to any county, township, or partisan municipal office, nor shall the Secretary of State accept for filing the political practices pledge of any candidate for nomination by a political party to any state or district office, unless the candidate first files a party certificate.

(c) Any candidate who shall fail to file the party pledge and affidavit of eligibility and pay the party filing fee at the time and in the manner as provided in this section shall not receive a party certificate and shall not have his or her name printed on the ballot at any primary election.

(d) The names of candidates who file with the state committee as provided in this section shall be certified to the various county committees and the various county boards of election commissioners in the manner and at the time provided in § 7-7-203.

History. Acts 1969, No. 465, Art. 1, § 9; 1977, No. 169, § 1; A.S.A. 1947, § 3-109; Acts 1995, No. 901, § 5; 1997, No. 886, § 5; 2003, No. 1731, § 5; 2009, No. 1480, § 43.

7-7-302. Selection of primary election officials.

The election officials of primary elections shall be selected in the same manner as for general elections and shall be subject to the same requirements as provided for general elections.

History. Acts 1969, No. 465, Art. 1, §§ 4, 12; 1971, No. 261, § 6; 1971, No. 451, § 1; 1972 (Ex. Sess.), No. 41, § 1; 1983, No. 395, § 1; A.S.A. 1947, §§ 3-104, 3-112; Acts 1995, No. 901, § 6; 1997, No. 886, § 6.

7-7-303. Precincts — Boundaries.

The election precincts in all political party primary elections shall be the same as established by the county board of election commissioners for general elections.

History. Acts 1969, No. 465, Art. 1, § 11; 1971, No. 261, § 5; A.S.A. 1947, § 3-111; Acts 1989, No. 912, § 4; 1995, No. 901, § 7; 2009, No. 959, § 38.

7-7-304. Names to be included on ballots — Withdrawal — Unopposed candidates — Position.

(a) (1) Not less than seventy (70) days before each preferential primary election, the Secretary of State shall certify to all county boards of election commissioners full lists of the names of all candidates who have filed party certificates with him or her to be placed on the ballots in their respective counties at the preferential primary election.

(2) A name of a person shall not be certified and shall not be placed on the ballot if prior

to the certification a candidate:

(A) Notifies the Secretary of State in writing, signed by the candidate and acknowledged before an officer authorized to take acknowledgements, of his or her desire to withdraw as a candidate for the office or position; or

(B) Dies.

(b) (1) Not less than seventy (70) days before each preferential primary election, the county clerk shall certify to the county board full lists of the names of all candidates who have filed party certificates with him or her to be placed on the ballot at the preferential primary election.

(2) A name of a person shall not be certified and shall not be placed on the ballot if prior to the certification a candidate:

(A) Notifies the county clerk in writing, signed by the candidate and acknowledged before an officer authorized to take acknowledgements, of his or her desire to withdraw as a candidate for the office or position; or

(B) Dies.

(c) (1) The votes received by a person whose name appeared on the preferential primary ballot and who withdrew or died after the certification of the ballot shall be counted.

(2) If the person receives enough votes to win the nomination, a vacancy in nomination shall exist.

(3) If the person receives enough votes to advance to the general primary election, the person's name shall be printed on the general primary election ballot.

(4) If the person receives enough votes to win the general primary election, a vacancy in nomination shall exist.

(d) When only one (1) candidate qualifies for a particular office or position, the office or position and the name of the unopposed candidate shall be printed on the political party's ballot in all primary elections.

(e) When there are two (2) or more nominees to be selected for the same office, such as state senator, state representative, justice of the peace, alderman, or for any other office, the proper committee shall require the candidates to designate in writing a particular position, i.e., Position Number 1, Position Number 2, Position Number 3, etc., at the time that a party pledge is required to be filed with the secretary of the committee. When a candidate has once filed and designated for a certain position, that candidate shall not be permitted to thereafter change the position.

(f) (1) If at the preferential primary election for a political party a candidate receives a majority of the votes cast for that office or position, the person shall be declared the party nominee and it shall not be necessary for the candidate's name to appear on the ballot at the general primary election.

(2) If no candidate receives a majority of the votes cast for an office or position at the preferential primary for a political party, the names of the two (2) candidates of the political party who received the highest number of votes for an office or a position shall be placed upon the ballots at the general primary election.

History. Acts 1969, No. 465, Art. 1, § 10; 1971, No. 261, § 4; A.S.A. 1947, § 3-110; Acts 1989, No. 912, § 5; 1995, No. 901, § 8; 2003, No. 332, § 1; 2007, No. 1020, § 15; 2007, No. 1049, § 26; 2009, No. 1480, § 44.

7-7-305. Printing of ballots — Form.

(a) The ballots of the primary election shall be provided by the county board of election commissioners. The form of the ballots shall be the same as is provided by law for ballots in general or special elections in this state. A different color ballot may be used to distinguish between political parties.

(b) The order in which the names of the respective candidates are to appear on the ballots at all preferential and general primary elections shall be determined by lot at the public meeting of the county board of election commissioners held not later than sixty-five (65) days before the preferential primary election. The county board shall give at least ten (10) days' written notice of the time and place of the meeting to the chairs of the county committees, if the chairs are not members of the board, and shall, at least three (3) days before the meeting, publish notice of the time and place of holding the meeting in some newspaper of general circulation in the county.

(c) (1) (A) Any person who shall file for any elective office in this state may use not more than three (3) given names, one (1) of which may be a nickname or any other word used for the purpose of identifying the person to the voters, and may add as a prefix to his or her name the title or an abbreviation of an elective public office the person currently holds.

(B) A person may only use as the prefix the title of a judicial office in an election for a judgeship if the person is currently serving in a judicial position to which the person has been elected.

(C) A nickname shall not include a professional or honorary title.

(2) The names and titles as proposed to be used by each candidate on the political practice pledge or, if the political practice pledge is not filed by the filing deadline, then the names and titles that appear on the party certificate shall be reviewed no later than one (1) business day after the filing deadline by the Secretary of State for state and district offices and by the county board of election commissioners for county, township, school, and municipal offices.

(3) (A) The name of every candidate shall be printed on the ballot in the form as certified by either the Secretary of State or the county board.

(B) However, the county board of election commissioners may substitute an abbreviated title if the ballot lacks space for the title requested by a candidate.

(C) The county board of election commissioners shall immediately notify a candidate whose requested title is abbreviated by the county board of election commissioners.

(4) A candidate shall not be permitted to change the form in which his or her name will be printed on the ballot after the deadline for filing the political practices pledge.

History. Acts 1969, No. 465, Art. 1, § 14; 1971, No. 261, § 7; A.S.A. 1947, § 3-114; Acts 1991, No. 408, § 1; 1995, No. 901, § 9; 1999, No. 1335, § 1; 2001, No. 799, § 1; 2001, No. 1835, § 1; 2003, No. 1731, § 6; 2007, No. 559, § 6; 2007, No. 1020, § 16; 2007, No. 1049, § 27; 2009, No. 959, § 39.

7-7-306. Partisan and nonpartisan judicial general ballots.

(a) At each party primary and nonpartisan judicial general election each county board of election commissioners shall furnish separate ballots for each political party containing:

(1) The names of persons seeking offices to be voted on as a nominee or candidate of that political party;

(2) The names of all qualified candidates for the general election to nonpartisan judicial offices under § 7-10-101; and

(3) All measures and questions, if any, to be decided by the voters.

(b) The county board of election commissioners shall also furnish a separate nonpartisan ballot containing the names of all qualified candidates for the general election to nonpartisan judicial offices and all measures, if any, to be decided by the voters.

History. Acts 1969, No. 465, Art. 1, § 15; A.S.A. 1947, § 3-115; Acts 1995, No. 901, § 10; 2005, No. 67, § 18; 2009, No. 959, § 39.

7-7-307. Additional voter qualifications.

(a) Each political party may establish by party rules additional qualifications to those established by § 7-5-201 for eligibility to vote in primary elections of the party.

(b) However, any additional qualifications established by a political party shall comply with the National Voter Registration Act of 1993.

History. Acts 1969, No. 465, Art. 1, § 15; A.S.A. 1947, § 3-115; Acts 1995, No. 928, § 2; 1995, No. 936, § 2.

7-7-308. Voting procedure and requirements.

(a) The procedure for voting in primary elections is the same as for general elections.

(b) At the same time that the voter identifies himself or herself and the party primary or other election in which he or she intends to vote, the election official shall mark next to the

voter's name on the precinct voter registration list the party primary or other election in which the voter chooses to vote.

History. Acts 1973, No. 157, § 4; A.S.A. 1947, § 3-126; Acts 1993, No. 487, § 3; 1995, No. 901, § 11; 1995, No. 946, § 10; 1995, No. 963, § 10; 1997, No. 886, § 7; 2005, No. 67, § 19; 2007, No. 1020, § 17; 2009, No. 959, § 40.

7-7-309. Canvass and certification of returns.

The county board of election commissioners shall canvass the returns and examine the ballots when demanded. It may hear testimony, if offered, of fraudulent practices and illegal votes, may cast out illegal votes and fraudulent returns, may find the true and legal vote cast for each candidate, and shall certify the result not sooner than forty-eight (48) hours and not later than ten (10) days after the primary.

History. Acts 1969, No. 465, Art. 1, § 16; A.S.A. 1947, § 3-116; Acts 1995, No. 901, § 12; 1997, No. 886, § 8; 2001, No. 1475, § 2; 2007, No. 1020, § 18.

7-7-310. [Repealed.]

7-7-311. [Repealed.]

7-7-312. [Repealed.]

7-7-313. Unopposed races.

If there is a primary election in which only one (1) candidate has filed for the position by a filing deadline and there are no other ballot issues to be submitted for consideration, the county board of election commissioners may reduce the number of polling places or open no polling places on election day so that the election is conducted by absentee ballot and early voting only.

History. Acts 2009, No. 812, § 1.

Subchapter 4
— Certification of Nominations

7-7-401. Certification of nominations.

7-7-402. Filing certificates of nomination.

7-7-403. [Repealed.]

7-7-401. Certification of nominations.

(a) The county board of election commissioners shall certify the nomination of all county, township, and municipal offices to the county committee of the political party, state committee of the political party, and county clerk. It shall further certify the vote of all candidates for

United States, state, and district office to the state committee and the Secretary of State.

(b) The Secretary of State shall receive the returns from the county board of election commissioners and canvass and certify the result thereof as provided by law. When ordered by a circuit court as provided by law, the county board or its officers shall annul the certifications made and make certifications in accordance with the judgment of the circuit court.

(c) The nominations of any and all political parties for candidates chosen at a regular or special primary election held by the political party shall be certified by the county board of election commissioners.

(d) (1) Nominees of political parties chosen by a convention of delegates, in those circumstances in which nominations by political party conventions are authorized by law, shall be certified by the chair and secretary of the convention of delegates held by the political party.

(2) All certificates of nomination made by the chair and secretary of conventions or of county boards of election commissioners of primary elections shall be acknowledged before an officer authorized by law to take acknowledgments.

(e) (1) Nomination as a nonpartisan candidate for Justice of the Supreme Court, Judge of the Court of Appeals, circuit judge, or district judge shall be deemed certified upon the candidate's filing for office when a filing fee is paid or upon determination by the appropriate officer that sufficient signatures were obtained when the candidate seeks alternative ballot access.

(2) For any other office, nomination as an independent candidate without political party affiliation for election to any office shall be certified by petition of electors in the manner provided in § 7-7-103.

History. Acts 1969, No. 465, Art. 1, §§ 17, 20; 1971, No. 261, § 8; 1975, No. 601, §§ 3, 5; A.S.A. 1947, §§ 3-117, 3-120; Acts 1995, No. 901, § 16; 1997, No. 886, § 11; 2001, No. 1789, § 7.

7-7-402. Filing certificates of nomination.

(a) (1) All certified lists of nominees as candidates for presidential electors and members of Congress and for state, judicial, and district officers, either by convention, primary election, or electors, shall be filed with the Secretary of State.

(2) All certified lists of nominees for county, township, and municipal offices shall be filed with the county board of election commissioners and the county clerk of the county in which they are to be voted for.

(b) Certified lists of nomination shall be filed within the time provided in § 7-7-203.

History. Acts 1969, No. 465, Art. 1, § 21; 1975, No. 601, § 4; A.S.A. 1947, § 3-121; Acts 1999, No. 656, § 1.

7-7-403. [Repealed.]

Subchapter 5 — Counties Using Voting Machines

7-7-501 — 7-7-504. [Repealed.]

7-7-501 — 7-7-504. [Repealed.]

Chapter 8 Federal Elections

Subchapter 1 — General Provisions

Subchapter 2 — Selection of Delegates For National Convention

Subchapter 3 — Presidential Electors

Subchapter 4 — Special Residency and Age Requirements

Subchapter 1 — General Provisions

7-8-101. Primaries — General law governs.

7-8-102. Filling Senate vacancies.

7-8-103. Credentials of Senate appointee.

7-8-104. Filling vacancies in the House of Representatives.

7-8-101. Primaries — General law governs.

All primaries, preferential and general, for the selection of nominees for federal offices, including those of the United States Senators and Representatives, shall be held on the same date and in the same manner as the preferential and general primaries for state, district, county, and township offices and shall be governed by the same procedure prescribed by this act.

History. Acts 1969, No. 465, Art. 3, § 1; A.S.A. 1947, § 3-301; Acts 2007, No. 987, § 3; 2009, No. 26, § 3; 2009, No. 375, § 4.

7-8-102. Filling Senate vacancies.

(a) When any vacancy occurs in the representation of the State of Arkansas in the United States Senate by death, resignation, or otherwise, the Governor shall have the power and authority to fill the vacancy by temporary appointment until the people fill the vacancy by election at the next-ensuing general election for state and county officers to be held more than sixty (60) days and less than twelve (12) months after the vacancy occurs.

(b) If no general election for state and county officers occurs within twelve (12) months after the vacancy, the Governor shall call a special election to be held in accordance with §

7-11-101 et seq. but in no event more than one hundred twenty (120) days after the vacancy occurs.

History. Acts 1969, No. 465, Art. 3, § 2; A.S.A. 1947, § 3-302; Acts 2005, No. 2145, § 14; 2007, No. 1049, § 29; 2009, No. 1480, § 45.

7-8-103. Credentials of Senate appointee.

When the Governor shall make a temporary appointment of a United States Senator by authority of this subchapter, he or she shall deliver to the senator a credential in the following form:

“ who was chosen United States Senator of the State of Arkansas, in pursuance of Constitution of the United States of America, having died (resigned, or otherwise, as the case may be

Therefore, I,, Governor of the State of Arkansas, have appointed United States Sen to fill the said vacancy temporarily until the election of a United States Senator by the qualified elec of the state.

Given under my hand and the seal of the said state this day of, 20

.....
Governor of the State
of Arkansas

Attest:

....., Secretary of State.”

History. Acts 1969, No. 465, Art. 3, § 3; A.S.A. 1947, § 3-303; Acts 2005, No. 67, § 22.

7-8-104. Filling vacancies in the House of Representatives.

When any vacancy shall happen in the office of a member of the United States House of Representatives from this state by death, resignation, removal, or otherwise, it shall be the duty of the Governor, by proclamation, to order the sheriffs of the several counties to order an election to be held on a certain day to be named in the proclamation to fill the vacancy. The election shall be conducted in the same manner, and returns thereof made, as prescribed in this title for general elections.

History. Acts 1969, No. 465, Art. 3, § 4; A.S.A. 1947, § 3-304; Acts 1987, No. 248, § 3.

Subchapter 2

— Selection of Delegates For National Convention

7-8-201. Preferential elections required — Apportionment of delegates.

7-8-202, 7-8-203. [Repealed.]

7-8-204. Rules for selection of delegates and alternates.

7-8-205 — 7-8-211. [Repealed.]

7-8-201. Preferential elections required — Apportionment of delegates.

Each political party in the state desiring to select delegates to attend a quadrennial national nominating convention of the party to select a nominee for the office of President of the United States shall hold a preferential primary election in the state, and the delegates to the national party convention shall be apportioned to the presidential candidates whose names were on the ballot at the preferential primary or to “uncommitted” in the proportion that the votes cast for each candidate or for “uncommitted” bear to the total votes cast at the election, rounded to the closest whole number.

History. Acts 1989, No. 700, § 2; 1997, No. 450, § 1; 2005, No. 501, § 1; 2007, No. 987, § 4; 2009, No. 26, § 4; 2009, No. 375, § 5.

7-8-202, 7-8-203. [Repealed.]

7-8-204. Rules for selection of delegates and alternates.

Each political party holding a preferential primary election in the state shall adopt appropriate rules for the selection of delegates and alternate delegates to the quadrennial national nominating convention of the party and to otherwise carry out the intent and purposes of this subchapter.

History. Acts 1989, No. 700, § 2; 1997, No. 450, § 4; 2005, No. 501, § 2; 2009, No. 26, § 5; 2009, No. 375, § 6.

7-8-205 — 7-8-211. [Repealed.]

Subchapter 3

— Presidential Electors

7-8-301. Date of election.

7-8-302. Election and certification of electors — Ballots — Contesting conventions —
Vacancy.

7-8-303. Right of nominee to be candidate for other office.

7-8-304. Delivery and canvass of returns — Tie vote.

7-8-305. Publication of results — Certification of election.

7-8-306. Voting by electors — Expenses.

7-8-307. Vacancy — Appointment — Exception.

7-8-301. Date of election.

(a) There shall be elected by general ticket in the manner and with the effect provided in this subchapter, on the Tuesday next after the first Monday in November preceding the expiration of the term of office of each President of the United States, as many electors of President and Vice President of the United States as this state may be entitled to elect.

(b) If Congress should hereafter fix a different day for the election, then the election for electors shall be held on the day as shall be named by act of Congress.

(c) The election shall be conducted and returns thereof made as provided in § 7-8-302.

History. Acts 1969, No. 465, Art. 2, § 6; A.S.A. 1947, § 3-206.

7-8-302. Election and certification of electors — Ballots — Contesting conventions — Vacancy.

Choosing and election of electors of President and Vice President of the United States shall be in the following manner:

(1) (A) In each year in which a President and Vice President of the United States are chosen, each political party or group in the state shall choose by its state convention electors of President and Vice President of the United States. The state convention of the party or group shall also choose electors at large if any are to be appointed for the state.

(B) The state convention of the party or group, by its chair and secretary, shall certify to the Secretary of State the total list of electors together with electors at large so chosen. The certificate shall be filed no later than September 15 in the year of the election. The filing of the certificate with the Secretary of State shall be deemed and taken to be the choosing and selection of the electors of this state, if the party or group is successful at the polls, as provided in this subchapter, in choosing their candidates for President and Vice President of the United States.

(C) The certification by the respective political parties or groups in this state of electors of President and Vice President shall be made to the Secretary of State within two (2) days after the state convention;

(2) (A) Should more than one (1) certificate of choice and selection of electors of the same political party or group be filed by contesting conventions or contesting groups, it shall be the duty of the constitutional officers of this state within ten (10) days after the adjournment of the last of the conventions to meet in the office of the Governor and determine which set of nominees for electors of the party or group was chosen and selected by the authorized convention of the party or group.

(B) The Secretary of State shall notify the state officers of the date, time, and

place of the meeting.

(C) (i) At the meeting, a majority of the officers present, after notice to the chair and secretaries or managers of the conventions or groups and after a hearing, shall determine which set of electors was chosen by the authorized convention and shall so announce and publish that fact.

(ii) The decision shall be final, and the set of electors determined by the state officers to be chosen shall be the list or set of electors to be deemed elected if that party is successful at the polls, as herein provided;

(3) Should a vacancy occur in the choice of an elector, the vacancy may be filled by the state executive committee of the party or group, to be certified by the committee to the Secretary of State;

(4) (A) The names of the candidates of the several political parties or groups for electors of President and Vice President shall not be printed on the official ballot to be voted on in the election to be held on the day provided in § 7-8-301. In lieu of the names of the candidates for electors, the name of the candidate for President and the name of the candidate for Vice President with the particular political party designation of each shall be printed on the ballot. Each voter in this state may choose and elect one (1) list or set of electors from the several lists or sets of electors chosen and selected by the respective political parties or groups, by placing an appropriate mark on the ballot.

(B) Placing a cross within the square before the bracket enclosing the names of President and Vice President shall not be deemed and taken as a direct vote for the candidates for President and Vice President, or either of them, but shall only be deemed and taken to be a vote for the entire list or set of electors chosen by the political party or group so certified to the Secretary of State as herein provided. Voting by means of placing a cross in the appropriate place following the names of the candidates for President and Vice President shall not be deemed or taken as a direct vote for the candidates for President and Vice President, or either of them, but instead, as to the presidential vote, as a vote for the entire list or set of electors chosen by that political party or group so certified to the Secretary of State as herein provided;

(5) (A) (i) In order to have the name of a political party's candidates for President and Vice President printed on the ballot, a political party shall hold a presidential preferential primary election.

(ii) A new political party formed under the petition process may nominate by convention if the presidential election is the first general election after certification as a party by the Secretary of State.

(B) A political group desiring to have the names of its candidates for President and Vice President printed on the ballot shall file a petition with the Secretary of State by noon on the first Monday of August of the year of the election. The petition shall contain at the time of filing the names of one thousand (1,000) qualified electors of the state declaring their desire to have printed on the ballot the names of their candidate for President and Vice President. The

Secretary of State shall verify the sufficiency of the petition within ten (10) days from the filing of the petition. If the petition is determined to be insufficient, the Secretary of State shall notify in writing the political group through its designated agent and shall set forth his or her reasons for so finding.

(C) Any challenges to the certification of the Secretary of State shall be filed in the Pulaski County Circuit Court.

(D) No later than seventy (70) days before the election, a political group that qualifies by petition to place its candidate on the ballot shall submit a certificate of choice stating the names of its candidates for President and Vice President, signed under oath by either the chair, vice chair, or secretary of the political group's convention; and

(6) (A) Persons desiring to have their names printed on the ballot as independent candidates for President and Vice President shall file a petition with the Secretary of State by noon on the first Monday of August of the year of the election. The petition shall contain at the time of filing the names of one thousand (1,000) qualified electors of the state declaring their desire to have printed on the ballot the names of the persons desiring their names to be printed on the ballot as independent candidates for President and Vice President. The Secretary of State shall verify the sufficiency of the petition within ten (10) days from the filing of the petition. If the petition is determined to be insufficient, the Secretary of State shall notify in writing the persons desiring to have their names printed on the ballot as independent candidates for President and Vice President at the address or telephone number submitted with the petition and shall set forth his or her reasons for so finding.

(B) Any challenges to the certification of the Secretary of State shall be filed in the Pulaski County Circuit Court.

(C) By September 15 in the year of the election, independent candidates who qualify by petition to be on the ballot shall certify to the Secretary of State the total list of electors together with electors at large. The filing of the certificate with the Secretary of State shall be deemed and taken to be the choice and selection of the electors of this state, if the independent candidate is successful at the polls, as provided in this subchapter.

History. Acts 1969, No. 465, Art. 2, § 7; A.S.A. 1947, § 3-207; Acts 1991, No. 242, § 1; 1997, No. 450, § 5; 2001, No. 473, § 1; 2005, No. 501, § 3; 2007, No. 822, §§ 1, 2; 2009, No. 26, § 6; 2009, No. 375, § 7; 2009, No. 959, §§ 42, 43.

7-8-303. Right of nominee to be candidate for other office.

The appearance on the general election ballot of the name of a party nominee for the office of President or Vice President of the United States in lieu of the names of the candidates for electors for the offices shall not limit or restrict the party nominee so named from being a candidate in his or her own right for any office to be filled at the general election.

History. Acts 1972 (Ex. Sess.), No. 38, § 1; A.S.A. 1947, § 3-207.1.

7-8-304. Delivery and canvass of returns — Tie vote.

(a) The county clerks of the several counties shall make, within eight (8) days next after holding the election as provided in § 7-8-302, three (3) copies of the abstract of the votes cast for electors by each political party or group as indicated by the voter as provided in § 7-8-302 by a cross in the square to the right of the bracket as specified in § 7-8-302 and transmit by mail one (1) of the copies to the Governor, transmit another to the office of the Secretary of State, and retain the third in his or her office to be sent for by the Governor in case both the others should be mislaid.

(b) Within twenty (20) days after the holding of the election, and sooner if all the returns are received by either the Governor or by the Secretary of State, the constitutional officers of this state, or any two (2) of them, shall proceed, in the presence of the Governor, to open and canvass the election returns and to declare which set of candidates for President and Vice President received the highest number of votes so cast, and the candidates' party's electors shall be taken and deemed to be elected as electors of President and Vice President.

(c) Should two (2) or more sets of candidates for President and Vice President be returned with an equal and the highest vote, the Secretary of State shall cause a notice to be published, which notice shall name some day and place not less than five (5) days from the time of the publication of the notice upon which the constitutional officers of this state will decide by lot which of the sets of candidates for President and Vice President so equal and highest shall be declared to be highest. Upon the day and at the place so appointed in the notice, the constitutional officers shall so decide by lot and declare which is deemed highest of the sets of candidates for President and Vice President so equal and highest, thereby determining only that the electors chosen as provided in this subchapter by the candidates' party or group are thereby elected by general ticket to be the electors.

History. Acts 1969, No. 465, Art. 2, § 8; A.S.A. 1947, § 3-208.

7-8-305. Publication of results — Certification of election.

Within five (5) days after the votes shall have been canvassed and the results declared or the result declared by lot as provided in § 7-8-304, the Governor shall:

(1) Cause the result of the election to be published;

(2) Proclaim the persons composing the list so elected to be the electors of President and Vice President by mailing the electors a triplicate certificate of their appointment under the seal of the state; and

(3) Transmit under the Seal of the State of Arkansas to the Secretary of State of the United States the certificate of the election of the electors as required by the laws of Congress.

History. Acts 1969, No. 465, Art. 2, § 9; A.S.A. 1947, § 3-209.

7-8-306. Voting by electors — Expenses.

(a) The electors, elected as provided in this subchapter, shall meet at the office of the Secretary of State, in a room to be designated by him or her in the State Capitol Building, at the time appointed by the laws of the United States at the hour of 10:00 a.m. of that day, and give their votes for President and for Vice President of the United States, in the manner herein provided, and perform such duties as are or may be required by law.

(b) Each elector shall receive for every twenty (20) miles of necessary travel in going to the seat of government to give his or her vote and returning to his or her residence, to be computed by the most usual route, the sum of three dollars (\$3.00), to be paid on the warrant of the Auditor of State, out of any money in the State Treasury not otherwise appropriated. Any person appointed by the electors assembled to fill a vacancy shall also receive the compensation provided for electors appointed.

History. Acts 1969, No. 465, Art. 2, § 10; A.S.A. 1947, § 3-210.

7-8-307. Vacancy — Appointment — Exception.

In case any person duly elected an elector of President and Vice President of the United States shall fail to attend at the Capitol on the day on which his or her vote is required to be given, it shall be the duty of the electors of President and Vice President attending at the time and place to appoint persons to fill the vacancies. Should the person or persons chosen pursuant to this subchapter arrive at the place aforesaid before the votes for President and Vice President are actually given, the person or persons appointed to fill the vacancy shall not act as an elector of President and Vice President.

History. Acts 1969, No. 465, Art. 2, § 11; A.S.A. 1947, § 3-211.

Subchapter 4 — Special Residency and Age Requirements

7-8-401 — 7-8-405. [Repealed.]

7-8-401 — 7-8-405. [Repealed.]

Chapter 9 Initiatives, Referenda, and Constitutional Amendments

Subchapter 1 — Petition and Election Procedure

Subchapter 2 — Legislative Proposal of Constitutional Amendments

Subchapter 3 — Constitutional Conventions

Subchapter 4 — Disclosure for Matters Referred to Voters

Subchapter 5 — Review of Initiative Petitions

Subchapter 1

— Petition and Election Procedure

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7-9-101. Definitions.

As used in this subchapter:

(1) “Act” means any act having general application throughout the state, whether originating in the General Assembly or proposed by the people, and referred acts;

(2) “Amendment” means any proposed amendment to the Arkansas Constitution, whether proposed by the General Assembly or by the people;

(3) “Canvasser” means a person who circulates an initiative or referendum petition or a part or parts of an initiative or referendum petition to obtain the signatures of petitioners thereto;

(4) “Election” means a regular general election at which state and county officers are elected for regular terms;

(5) “Legal voter” means a person who is registered at the time of signing the petition pursuant to Arkansas Constitution, Amendment 51;

(6) “Measure” means either an amendment or an act;

(7) “Petitioner” means a person who signs an initiative or referendum petition ordering a vote upon an amendment or an act having general application throughout the state; and

(8) “Sponsor” means a person or group of persons filing an initiative or referendum petition with the Secretary of State.

History. Acts 1943, No. 195, § 1; A.S.A. 1947, § 2-201; Acts 1997, No. 646, § 1.

7-9-102. Duties of election officers — Penalty for failure to perform.

(a) (1) The duties imposed by this act upon members of the State Board of Election Commissioners and county boards of election commissioners, election officials, and all other officers expressly named in this act are declared to be mandatory.

(2) These duties shall be performed in good faith within the time and in the manner provided.

(b) (1) If any member of any board, any election official, or any other officer so charged with the duty shall knowingly and willfully fail or refuse to perform his or her duty or shall knowingly and willfully commit a fraud in evading the performance of his or her duty, then he or she shall be guilty of a violation.

(2) Upon conviction, he or she shall be fined any sum not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) and also shall be removed from office.

History. Acts 1943, No. 195, § 12; A.S.A. 1947, § 2-223; Acts 1997, No. 646, § 2; 2005, No. 1994, § 74.

7-9-103. Signing of petition — Penalty for falsification.

(a) (1) Any person who is a qualified elector of the State of Arkansas may sign an initiative or referendum petition in his or her own proper handwriting, and not otherwise, to order an initiative or referendum vote upon a proposed measure or referred act.

(2) Any person who is an elector of any municipality of this state may sign any petition for the referendum of any ordinance passed by the council of the municipality.

(b) A person shall be deemed guilty of a Class A misdemeanor if the person:

(1) Signs any name other than his or her own to any petition;

(2) Knowingly signs his or her name more than once to any petition;

(3) Knowingly signs a petition when he or she is not legally entitled to sign it;

(4) Knowingly and falsely misrepresents the purpose and effect of the petition or the measure affected for the purpose of causing anyone to sign a petition;

(5) Acting in the capacity of canvasser, knowingly makes a false statement on a petition verification form; or

(6) Acting in the capacity of a notary, knowingly fails to witness a canvasser's affidavit either by witnessing the signing of the instrument and personally knowing the signer or by being presented with proof of identify of the signer.

History. Acts 1913, No. 135, § 3; C. & M. Dig., § 7505; Pope's Dig., § 9564; Acts 1943, No. 195, § 2; A.S.A. 1947, §§ 2-202, 2-401; Acts 1991, No. 719, § 1; 1997, No. 646, § 3.

7-9-104. Form of initiative petition — Sufficiency of signatures.

(a) The petition for any ordinance, law, or amendment to the Arkansas Constitution proposed by initiative shall be on substantially the following form:

“INITIATIVE PETITION

To the Honorable

Secretary of State of the State of Arkansas, or County Clerk, or City Clerk

We, the undersigned legal voters of the State of Arkansas, or _____ County, Arkansas or City of _____, or Incorporated Town of _____, Arkansas (as the case may be), respectfully propose the following amendment to the Constitution of the State or law or ordinance (as the case may be), to wit:

(Here insert title and full text of measure proposed.)

and by this, our petition, order that the same be submitted to the people of said state, or county municipality (as the case may be), to the end that the same may be adopted, enacted, or rejected by vote of legal voters of said (state, county, or municipality) at the regular general election to be held said _____ on the _____ day of _____, 20 _____, and each of us for himself or herself says:

I have personally signed this petition; I am a legal voter of the State of Arkansas, and my print name, date of birth, residence, city or town of residence, and date of signing this petition are correctly written after my signature.”

(b) The information provided by the person on the petition may be used as evidence of the validity or invalidity of the signature. However, if a signature of a registered voter on the petition is sufficient to verify the voter's name, then it shall not be adjudged invalid for failure to sign the name or write the residence and city or town of residence exactly as it appears on voter registration records, for failure to print the name in the space provided, for failure to provide the correct date of birth, nor for failure to provide the correct date of signing the petition, all the information being an aid to verification rather than a mandatory requirement to perfect the validity of the signature.

(c) No additional sheets of voter signatures shall be attached to any petition unless the sheets contain the full language of the petition.

History. Acts 1911 (Ex. Sess.), No. 2, § 4; C. & M. Dig., § 9761; Pope's Dig., § 13285; A.S.A. 1947, § 2-203; Acts 1989, No. 280, § 1; 1991, No. 42, § 1; 1997, No. 646, § 4; 2001, No. 789, § 1; 2005, No. 67, § 23.

7-9-105. Form of referendum petition — Sufficiency of signatures.

(a) The petition and order of referendum shall be on substantially the following form:

“PETITION FOR REFERENDUM

To the Honorable

Secretary of State of the State of Arkansas, or County Clerk, or City Clerk

We, the undersigned legal voters of the State of Arkansas, or _____ County, Arkansas, or City or Incorporated Town of _____, Arkansas, (as the case may be) respectfully or by this, our petition, that Act No. _____ of the General Assembly of the State of Arkansas, approved the _____ day of _____, 20____, entitled ‘An Act _____’ or Ordinance _____, passed by the county quorum court, the city (or town) council of the City (or Incorporated Town), or County of _____, Arkansas, on the _____ day of _____, 20____ entitled, ‘An Ordinance _____,’ be referred to the people of said state, county, municipality (as the case may be), to the end that the same may be approved or rejected by the vote of the legal voters of the state, or of said county or municipality (as the case may be) at the biennial annual, as the case may be, if a city ordinance) regular general election (or at a special election, as the case may be) to be held on the _____ day of _____, 20____; and each of us for himself herself says:

I have personally signed this petition; I am a legal voter of the State of Arkansas, and my print name, date of birth, residence, city or town of residence, and date of signing this petition are correctly written after my signature.”

(b) The information provided by the person on the petition may be used as evidence of the validity or invalidity of the signature. However, if a signature of a registered voter on the petition is sufficient to verify the voter's name, then it shall not be adjudged invalid for failure to sign the name or write the residence and city or town of residence exactly as it appears on voter registration records, for failure to print the name in the space provided, for failure to provide the correct date of birth, nor for failure to provide the correct date of signing the petition, all of that information being an aid to verification rather than a mandatory requirement to perfect the validity of the signature.

(c) No additional sheets of voter signatures shall be attached to any petition unless the sheets contain the full language of the petition.

History. Acts 1911 (Ex. Sess.), No. 2, § 2; C. & M. Dig., § 9766; Pope's Dig., § 13287; A.S.A. 1947, § 2-204; Acts 1989, No. 280, § 2; 1991, No. 42, § 2; 1997, No. 646, § 5; 2001, No. 790, § 1; 2005, No. 67, § 24.

7-9-106. Required attachments to petitions.

(a) To every petition for the initiative shall be attached a full and correct copy of the title and the measure proposed.

(b) To every petition for the referendum shall be attached a full and correct copy of the measure on which the referendum is ordered.

History. Acts 1911 (Ex. Sess.), No. 2, § 7; C. & M. Dig., § 9768; Pope's Dig., § 13288; A.S.A. 1947, § 2-205.

7-9-107. Approval of ballot titles and popular names of petitions prior to circulation — Publication.

(a) Before any initiative or referendum petition ordering a vote upon any amendment or act shall be circulated for obtaining signatures of petitioners, the sponsors shall submit the original draft to the Attorney General, with a proposed legislative or ballot title and popular name.

(b) Within ten (10) days, the Attorney General shall approve and certify or shall substitute and certify a more suitable and correct ballot title and popular name for each amendment or act. The ballot title so submitted or supplied by the Attorney General shall briefly and concisely state the purpose of the proposed measure.

(c) If, as a result of his or her review of the ballot title and popular name of a proposed initiated act or a proposed amendment to the Arkansas Constitution, the Attorney General determines that the ballot title, or the nature of the issue, is presented in such manner that the ballot title would be misleading or designed in such 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, the Attorney General may reject the entire ballot title, popular name, and petition and state his or her reasons therefor and instruct the petitioners to redesign the proposed measure and the ballot title and popular name in a manner that would not be misleading.

(d) If the Attorney General refuses to act or if the sponsors feel aggrieved at his or her acts in such premises, they may, by petition, apply to the Supreme Court for proper relief.

(e) (1) (A) If a sponsor of any proposed statewide initiative elects to submit its popular name and ballot title to the Attorney General for certification prior to September 30 of the year preceding the year in which the initiative would be voted on, then, within ten (10) days of certification by the Attorney General, who shall deliver such certification to the Secretary of State on the day of certification, the Secretary of State shall approve and certify the sufficiency of such popular name and ballot title as certified by the Attorney General and shall cause to be published in a newspaper with statewide circulation the entire proposal with its certified popular name and ballot title and a notice informing the public of such certification and the procedure identified in this section to govern any party who may contest such certification before the Supreme Court.

(B) The procedure shall be as follows:

(i) Any legal action against such certification shall be filed with the Supreme Court within forty-five (45) days of the Secretary of State's publication;

(ii) No such action filed later than forty-five (45) days following publication shall be heard by the Supreme Court; and

(iii) An action timely filed shall be advanced by the Supreme Court as a matter of public interest over all other civil cases except contested election cases and shall be heard and decided expeditiously.

(2) Nothing in this section shall be taken to require any sponsor of a statewide initiative to submit its popular name and ballot title to the Attorney General prior to September 30 of the year preceding the year in which the proposal would be voted on. If the Secretary of State refuses to act as required in this section or if the sponsors feel aggrieved at his or her acts in such premises, they may, by petition, apply to the Supreme Court for proper relief.

(3) Whenever the sponsor of any initiative or referendum petition has obtained final approval of its ballot title and popular name, the sponsor shall file such petition with the Secretary of State prior to obtaining signatures on the petition.

(f) The cost of the initial publication in a newspaper of the text of a statewide initiative and related information as required in subsection (e) of this section shall be paid by the sponsor of the statewide initiative.

History. Acts 1943, No. 195, § 4; 1977, No. 208, § 1; A.S.A. 1947, § 2-208; Acts 1989, No. 280, § 3; 1989, No. 912, § 6.

7-9-108. Procedure for circulation of petition.

(a) Each initiative or referendum petition ordering a vote upon a measure having general application throughout the state shall be prepared and circulated in fifteen (15) or more parts or counterparts, and each shall be an exact copy or counterpart of all other such parts upon which signatures of petitioners are to be solicited. When a sufficient number of parts are signed by a requisite number of qualified electors and are filed and duly certified by the Secretary of State, they shall be treated and considered as one (1) petition.

(b) Each part of any petition shall have attached thereto the affidavit of the person who circulated the petition to the effect that all signatures appearing thereon were made in the presence of the affiant and that to the best of the affiant's knowledge and belief each signature is genuine and that the person so signing is a legal voter.

(c) Preceding every petition, there shall be set out in boldface type, over the signature of the Attorney General, any instructions to canvassers and signers as may appear proper and beneficial informing them of the privileges granted by the Constitution and of the penalties imposed for violations of this act. The instructions on penalties shall be in larger type than the other instructions.

(d) No part of any initiative or referendum petition shall contain signatures of petitioners from more than one (1) county.

History. Acts 1943, No. 195, § 3; A.S.A. 1947, § 2-206; Acts 1991, No. 719, § 2.

7-9-109. Form of verification — Penalty for false statement.

(a) Each petition containing the signatures shall be verified in substantially the following form, by the person who circulated the sheet of the petition by his or her affidavit thereon as a part thereof:

"State of Arkansas County of _____		
---------------------------------------	--	--

I, _____, being first duly sworn, state that the foregoing persons signed this sheet of the foregoing petition, and each of them signed his or her name thereunto in my presence. I believe that each has stated his or her name, date of birth, residence or town of residence correctly, and that each signer is a legal voter of the State of Arkansas, _____ County, or City or Incorporated Town of _____.

Signature _____

Residence _____

Subscribed and sworn to before me this the ____ day of _____, 20____

Signature _____

Clerk, Notary, Judge or

Residence _____”

(b) Forms herein given are not mandatory, and if substantially followed in any petition it shall be sufficient, disregarding clerical and merely technical errors.

(c) (1) Petitions shall not be disqualified due to clerical or technical errors made by a clerk, notary, judge, or justice of the peace when verifying the canvasser's signature.

(2) Petitions shall not be disqualified for failure of a clerk, notary, judge, or justice of the peace to sign exactly as his or her name appears on his or her seal if the signature of a clerk, notary, judge, or justice of the peace is sufficient to verify his or her name.

(d) A canvasser who knowingly makes a false statement on a petition verification form required by this section shall be deemed guilty of a Class D felony.

History. Acts 1911 (Ex. Sess.), No. 2, § 8; C. & M. Dig., § 9769; Pope's Dig., § 13289; A.S.A. 1947, § 2-207; Acts 1989, No. 280, § 4; 1991, No. 42, § 3; 1991, No. 197, § 1; 1997, No. 646, § 6; 2005, No. 1817, § 1.

7-9-110. Designation of number and popular name.

(a) The Attorney General shall fix and declare the popular name by which each amendment to the Arkansas Constitution and each initiated and referred measure shall be designated.

(b) In all legal notices and publications, proceedings, and publicity affecting any such amendment or measure, the amendment or measure shall be designated by both the number and popular name fixed as provided in subsection (a) of this section.

History. Acts 1933, No. 71, §§ 1, 2; Pope's Dig., §§ 1772, 1773; A.S.A. 1947, §§ 2-209, 2-214; Acts 1993, No. 512, § 9; 2009, No. 281, § 1.

7-9-111. Determination of sufficiency of petition — Corrections.

(a) (1) The Secretary of State shall ascertain and declare the sufficiency or insufficiency of each initiative and referendum petition within thirty (30) days after it is filed.

(2) The Secretary of State may contract with the various county clerks for their

assistance in verifying the signatures on petitions. The county clerk shall return the petitions to the Secretary of State within ten (10) days.

(b) In considering the sufficiency of initiative and referendum petitions, if it is made to appear beyond a reasonable doubt that twenty percent (20%) or more of the signatures on any one (1) part thereof are fictitious, forged, or otherwise clouded or that the challenged petitioners were ineligible to sign the petition, which fact was known or could have been ascertained by the exercise of reasonable diligence on the part of the canvasser, then the Secretary of State shall require the sponsors to assume the burden of proving that all other signatures appearing on the part are genuine and that the signers are qualified electors and are in all other respects entitled to sign the petition. If the sponsors refuse or fail to assume and meet the burden, then the Secretary of State shall reject the part and shall not count as petitioners any of the names appearing thereon.

(c) If the petition is found to be sufficient, the Secretary of State shall certify and record the finding and do and perform such other duties relating thereto as are required by law.

(d) (1) If the petition is found to be insufficient, the Secretary of State shall forthwith notify the sponsors in writing, through their designated agent, and shall set forth his or her reasons for so finding. When the notice is delivered, the sponsors shall have thirty (30) days in which to do any or all of the following:

(A) Solicit and obtain additional signatures;

(B) Submit proof to show that the rejected signatures or some of them are good and should be counted; or

(C) Make the petition more definite and certain.

(2) Any amendments and corrections shall not materially change the purpose and effect of the petition. No change shall be made in the measure, except to correct apparent typographical errors or omissions.

(e) (1) To assist the Secretary of State in ascertaining the sufficiency or insufficiency of each initiative and referendum petition, all county clerks shall furnish at cost to the Secretary of State a single alphabetical list of all registered voters in their respective counties. The list shall be provided at least four (4) months before the election, and an updated list shall be provided at cost by September 1 in the year of the election. The list shall include the date of birth of each registered voter.

(2) The State Board of Election Commissioners, upon the request of the county clerk, may grant a waiver from this provision if the state board determines that the county clerk is unable to provide the list within the time required.

(f) A person filing initiative or referendum petitions with the Secretary of State shall bundle the petitions by county and shall file an affidavit stating the number of petitions and the total number of signatures being filed.

(g) All county initiative and referendum elections shall be held in accordance with the provisions of § 14-14-917.

(h) Municipal referendum petition measures shall be submitted to the electors at a regular general election unless the petition expressly calls for a special election. If the date set by the petition does not allow sufficient time to comply with election procedures, then the city or town council shall fix the date for any special election on the referendum measure. The date of any special election shall be set in accordance with § 7-11-201 et seq. but in no event more than one hundred twenty (120) calendar days after the date of certification of sufficiency by the municipal clerk.

History. Acts 1943, No. 195, § 5; A.S.A. 1947, § 2-210; Acts 1989, No. 280, § 5; 1991, No. 1094, § 1; 1991, No. 1153, § 1; 1997, No. 646, § 7; 1997, No. 1145, § 1; 2005, No. 2145, § 15; 2007, No. 1049, § 30; 2009, No. 1480, § 46.

7-9-112. Failure to act on petition — Mandamus — Injunction.

(a) If the Secretary of State shall fail or refuse to examine and file any initiative or referendum petition within the time prescribed in § 7-9-111, any twenty-five (25) qualified electors who feel aggrieved thereby may, within fifteen (15) days thereafter, apply to the Supreme Court for a writ of mandamus to compel the officer to certify the sufficiency of the petition.

(b) If the Supreme Court shall decide that the petition is legally sufficient, it shall order the Secretary of State to file and certify the sufficiency thereof as of the date upon which it was first offered for filing, and a certified copy of the judgment shall be attached to the petition.

(c) On a proper showing that any petition is not sufficient, the Supreme Court may enjoin the Secretary of State from certifying its sufficiency and may also enjoin the various election boards from allowing the ballot title thereof to be printed on the ballots and certifying votes cast on the proposal.

History. Acts 1943, No. 195, § 6; A.S.A. 1947, § 2-211.

7-9-113. Publication of notice.

(a) The Secretary of State shall be charged with the duty of letting contracts for publishing notices as authorized in this section.

(b) (1) Before the election at which any proposed or referred measure is to be voted upon by the people, notice shall be published in two (2) weekly issues of some newspaper in each county as is provided by law.

(2) (A) Publication of the notice for amendments proposed by the General Assembly shall commence six (6) months before the election.

(B) Publication of the notice for all other measures shall commence eight (8)

weeks before the election.

(c) At least one (1) notice shall contain the number, the popular name, the ballot title, and a complete text of the measure to be submitted and shall be published in a camera-ready format in a type no smaller than ten-point type.

(d) It shall be the duty of the Secretary of State, in connection with a copy of the proposed amendment, to give notice in the same newspapers that each elector on depositing his or her ballot at the election shall vote for or against the amendment.

History. Acts 1879, No. 80, § 6, p. 128; C. & M. Dig., § 1473; Pope's Dig., § 1771; Acts 1943, No. 195, § 7; A.S.A. 1947, §§ 2-212, 2-213; Acts 1991, No. 798, § 1; 1991, No. 1094, § 2; 1991, No. 1153, § 2; 1997, No. 646, § 8.

7-9-114. Abstract of proposed measure.

(a) The Attorney General shall prepare a concise abstract of the contents of each statewide initiative and referendum measure proposed under Arkansas Constitution, Amendment 7, and he or she shall transmit it to the Secretary of State not less than twenty (20) days before the election.

(b) Not fewer than eighteen (18) days before the election, the Secretary of State shall transmit a certified copy of the abstract to the county boards of election commissioners, who shall cause copies to be printed and posted conspicuously at all polling places in the county for the information of the voters.

(c) The cost of printing copies of the abstracts shall be borne by the counties as a regular expense of the election.

History. Acts 1959, No. 47, §§ 1-3; A.S.A. 1947, §§ 2-225 — 2-227.

7-9-115. Furnishing ballot title and popular name to election commissioners.

Not less than eighteen (18) days before the election, the Secretary of State shall furnish the State Board of Election Commissioners and county boards of election commissioners a certified copy of the ballot title and popular name for each proposed measure and each referred act to be voted upon at the ensuing election.

History. Acts 1943, No. 195, §§ 8, 9; A.S.A. 1947, §§ 2-216, 2-217; Acts 1997, No. 646, § 9.

7-9-116. Captions and designations of numbered issues.

(a) The Secretary of State shall fix and declare the number of the issue by which state measures shall be designated on the ballot.

(b) Each state measure shall be identified with the issue number designated by the Secretary of State.

(c) Measures proposed by initiative petition shall be captioned, "CONSTITUTIONAL

AMENDMENT (OR ACT) PROPOSED BY PETITION OF THE PEOPLE”.

(d) Measures referred to a vote by petition shall be captioned, “MEASURE REFERRED BY ORDER OF THE PEOPLE”.

(e) Measures referred to a vote by the General Assembly shall be captioned, “CONSTITUTIONAL AMENDMENT (OR OTHER MEASURE) REFERRED TO THE PEOPLE BY THE GENERAL ASSEMBLY”.

History. Acts 1943, No. 195, § 8; A.S.A. 1947, § 2-216; Acts 2009, No. 281, § 2.

7-9-117. Ballot form.

(a) It shall be the duty of the county board of election commissioners in each county to cause each title and popular name to be printed upon the official ballot to be used in the election at which the measure is to be voted upon, in the manner certified by the Secretary of State.

(b) The title and popular name shall be stated plainly, followed by these words:

“FOR ISSUE NO ____.

“AGAINST ISSUE NO”

(c) (1) In arranging the ballot titles on the ballot, the county board shall place each measure separate and apart from others.

(2) Each statewide measure shall be designated on the ballot as an issue, and the issues shall be numbered consecutively beginning with “Issue 1” and in the following order:

- (A) Constitutional amendments proposed by the General Assembly, if any;
- (B) Initiated constitutional amendments, if any;
- (C) Statewide initiated acts, if any;
- (D) Referred acts of the General Assembly, if any;
- (E) Questions referred by the General Assembly, if any; and
- (F) Other measures that may be referred, if any.

(3) The ballot titles of measures submitted by municipalities, counties, and other political subdivisions that may submit ballot measures to the people shall be:

(A) Placed separate and apart on the ballot from the ballot titles of statewide measures and from other ballot titles of measures submitted by municipalities, counties, and

other political subdivisions; and

(B) Numbered consecutively for each political subdivision in the following order:

- (i) Initiated local measures, if any;
- (ii) Referred local measures, if any; and
- (iii) Other measures that may be referred, if any.

History. Acts 1943, No. 195, §§ 8, 9; A.S.A. 1947, §§ 2-216, 2-217; Acts 2009, No. 281, § 3.

7-9-118. Failure to place proposal on ballot — Manner of voting.

If any election board shall fail or refuse to submit any proposal after its sufficiency has been duly certified, the qualified electors of the county may vote for or against the measure by writing or stamping on their ballot the proposed ballot title, followed by the word “FOR” or “AGAINST”. All votes so cast, if otherwise legal, shall be canvassed, counted, and certified.

History. Acts 1943, No. 195, § 9; A.S.A. 1947, § 2-217.

7-9-119. Counting, canvass, and return of votes — Proclamation of result — Effective date.

(a) The vote on each measure shall be counted, tabulated, and returned by the proper precinct election officials to the county board of election commissioners in each county at the time and in the manner the vote for candidates for state and county officers is tabulated, canvassed, and returned.

(b) An abstract of all votes cast on any measure shall be certified by the county board and delivered or postmarked to the Secretary of State no earlier than forty-eight (48) hours and no later than fifteen (15) calendar days after the election is held.

(c) It shall be the duty of the Secretary of State to canvass the returns on each measure not later than ten (10) days thereafter and to certify the result to the Governor and to the State Board of Election Commissioners.

(d) (1) (A) The Governor shall thereupon issue a proclamation showing the total number of votes cast and the number cast for and the number cast against each measure and shall declare the measure adopted or rejected, as the facts appear.

(B) If the Governor declares any measure adopted, it shall be in full force and effect thirty (30) days after the election unless otherwise provided in the measure.

(2) However, amendments to the Arkansas Constitution shall also be declared adopted or rejected by the Speaker of the House of Representatives, as is provided by the Arkansas Constitution.

History. Acts 1943, No. 195, § 10; A.S.A. 1947, § 2-218; Acts 1997, No. 646, § 10; 2005, No. 1677, § 6.

7-9-120. Printing of approved measures with general laws — Certification of city ordinances.

(a) The Secretary of State shall cause every measure approved by the people to be printed with the general laws enacted by the next ensuing session of the General Assembly with the date of the Governor's proclamation declaring the same to have been approved by the people.

(b) However, city ordinances approved by the people shall only be certified by the Secretary of State to the city clerk or recorder of the municipality for which the ordinance has been approved, who shall immediately record the same as he or she is required by law to record other ordinances of the municipality.

History. Acts 1911 (Ex. Sess.), No. 2, § 7; C. & M. Dig., § 9768; Pope's Dig., § 13288; A.S.A. 1947, § 2-205.

7-9-121. Contest of returns and certification.

(a) The right to contest the returns and certification of the votes cast upon any measure is expressly conferred upon any twenty-five (25) qualified electors of the state.

(b) Any contest may be brought in the Pulaski County Circuit Court and shall be conducted under any rules and regulations as may be made and promulgated by the Supreme Court. However, the complaint shall be filed within sixty (60) days after the certification of the vote thereon, and the contestants shall not be required to make bond for the costs.

History. Acts 1943, No. 195, § 11; A.S.A. 1947, § 2-222; Acts 2005, No. 67, § 25.

7-9-122. Adoption of conflicting measures.

If two (2) or more conflicting measures shall be approved by a majority of the votes severally cast for and against the measures at the same election, the measure receiving the greatest number of affirmative votes shall become law.

History. Acts 1911 (Ex. Sess.), No. 2, § 14; C. & M. Dig., § 9776; Pope's Dig., § 13295; A.S.A. 1947, § 2-221; Acts 1993, No. 512, § 10.

7-9-123. Preservation of records.

All petitions, notices, certificates, or other documentary evidence of procedural steps taken in submitting any measure shall be filed and preserved. Petitions with signatures shall be retained for two (2) years and thereafter destroyed. The measure and the certificates relating thereto shall be recorded in a permanent record and duly attested by the Secretary of State.

History. Acts 1943, No. 195, § 13; A.S.A. 1947, § 2-224; Acts 1997, No. 897, § 1.

7-9-124. Voter registration signature imaging system.

(a) There is hereby established in the office of the Secretary of State a voter registration signature imaging system, and the Secretary of State is authorized to acquire and maintain the necessary equipment and facilities to accommodate the system.

(b) The Department of Information Systems shall cooperate with and assist the Secretary of State in determining the computer equipment and software needed in the office of the Secretary of State for the voter registration signature imaging system.

(c) There is hereby created on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a fund to be known as the “Voter Registration Signature Imaging System Fund”.

History. Acts 1993, No. 1285, §§ 1-3; 1997, No. 1104, § 1.

7-9-125. Definitions — Prohibition of profit — Penalties — Freedom of Information.

(a) For purposes of this section:

(1) “Act” means an enactment having general application throughout the state or an ordinance applicable to a municipality or county and enacted by legislative authority or by the people;

(2) “Amendment” means any proposed amendment to the Arkansas Constitution, whether proposed under the provisions of Amendment 7 or Article 19, § 22;

(3) “Election” means a general election at which state and county officers are elected for regular terms;

(4) “Initiative petition” means a form of petition which conforms to the requirements of § 7-9-104;

(5) “Measure” means either an amendment or an act;

(6) “Property” means both real and personal property and includes, but is not limited to, both tangible and intangible property;

(7) “Referendum petition” means a form of petition which conforms to the requirements of § 7-9-105; and

(8) “Sponsor” means a person or persons who arrange for the circulation of initiative, referendum, or constitutional amendment petitions or who file an initiative, referendum, or constitutional amendment with the Secretary of State or other authorized recipient of the petitions.

(b) (1) No person who is a sponsor of an initiative petition, referendum petition, or constitutional amendment which proposes the sale of property owned by a municipality or county shall receive anything of value as a result of the passage of the act sponsored by the person.

(2) A sponsor of an initiative petition, referendum petition, or constitutional amendment which proposes the sale of property owned by a municipality or county shall file, within sixty (60) calendar days of the election at which the initiative, referendum, or constitutional amendment has been voted upon, with the Secretary of State an accounting of all expenditures by the sponsor in connection with the petition or amendment.

(3) No person shall directly or indirectly benefit from sponsorship of a petition or amendment which proposes the sale of property owned by a municipality or county by contracting sponsorship activities to any business enterprise in which the sponsor has a substantial interest.

(4) Nothing in this act shall prohibit the circulation of petitions or compensation to persons who circulate the petitions.

(c) (1) (A) If a sponsor violates any provision of subsection (b) of this section, the sponsor shall be fined an amount equal to twice the amount of the person's personal gain.

(B) The fine shall be paid to the state, municipality, or county in which the petition or amendment was voted upon.

(2) This section shall be enforced by the:

(A) City attorney of the municipality;

(B) Prosecuting attorney of the county; or

(C) Attorney General of this state.

(d) The expense reports filed by the sponsor of the petition shall be subject to the Freedom of Information Act of 1967, § 25-19-101 et seq.

History. Acts 2001, No. 1100, §§ 1-3.

Subchapter 2

— Legislative Proposal of Constitutional Amendments

7-9-201. Proposal and vote.

7-9-202. Enrollment and filing.

7-9-203. Entry on journals.

7-9-204. Ballot title.

7-9-201. Proposal and vote.

Amendments to the Arkansas Constitution shall be proposed in either branch of the General Assembly in the form of a joint resolution, which shall be read in full on three (3) several days in each house unless the rules be suspended by two-thirds (2/3) of each house, when it may be read a second or third time on the same day. On the final passage of the proposed amendment through each house, the vote shall be taken by yeas and nays, and the names of the persons voting for and against it be entered on the journal. No amendment shall be proposed unless it is agreed to by a majority of all the members elected to each house.

History. Acts 1879, No. 80, § 1, p. 128; C. & M. Dig., § 1467; Pope's Dig., § 1768; A.S.A. 1947, § 2-101.

7-9-202. Enrollment and filing.

When any joint resolution proposing an amendment to the Arkansas Constitution shall have passed each house as prescribed in § 7-9-201, it shall be enrolled and signed by the President of the Senate and the Speaker of the House of Representatives and filed in the office of the Secretary of State.

History. Acts 1879, No. 80, § 2, p. 128; C. & M. Dig., § 1468; Acts 1923, No. 279, § 1; 1927, No. 206, § 2; Pope's Dig., § 1769; A.S.A. 1947, § 2-102.

7-9-203. Entry on journals.

The proposed amendment shall be entered on the journals of each house, with the yeas and nays.

History. Acts 1879, No. 80, § 5, p. 128; C. & M. Dig., § 1472; Pope's Dig., § 1770; A.S.A. 1947, § 2-103.

7-9-204. Ballot title.

The title of the joint resolution proposing an amendment to the Arkansas Constitution shall be the ballot title of the proposed constitutional amendment.

History. Acts 2001, No. 150, § 1

Subchapter 3 — Constitutional Conventions

7-9-301. Calling constitutional convention — Majority vote.

7-9-302. Delegate qualifications — Election date.

7-9-303. Apportionment of delegates — Vacancies.

7-9-304. Nominating petitions.

7-9-305. Election and certification of delegates.

7-9-306. Organizational meeting — Plenary meeting.

7-9-307. Meeting procedures.

7-9-308. Duration of constitutional convention — Certification of draft constitution — Report.

7-9-309. Method of publication.

7-9-310. Submission of proposed constitution to electors.

7-9-311. Proposal of amendments to present constitution.

7-9-312. Expenses.

7-9-301. Calling constitutional convention — Majority vote.

(a) When a majority of the qualified electors of this state voting on the issue at a general election shall vote for the holding of a constitutional convention, the convention shall be held. The delegates thereto shall be selected and qualified as provided in this subchapter.

(b) Whenever a majority of the electors voting on the question vote against the holding of a constitutional convention, no convention shall be held. Delegates to the proposed convention elected at the election shall have and exercise no power or authority and shall perform no functions by virtue of their election as delegates.

History. Acts 1968 (1st Ex. Sess.), No. 42, §§ 1, 6; A.S.A. 1947, §§ 2-104, 2-109.

7-9-302. Delegate qualifications — Election date.

(a) At the same general election at which a vote on the calling of a constitutional convention shall be taken, delegates to the convention shall be elected.

(b) Candidates for the office of delegate to the constitutional convention shall possess the qualifications required by law for a member of the House of Representatives of the General Assembly, and they shall be qualified electors of the district from which elected.

(c) The election of delegates to the convention shall be on a nonpartisan basis, and no candidate shall designate political party affiliation at the time he or she files for election.

History. Acts 1968 (1st Ex. Sess.), No. 42, § 2; A.S.A. 1947, § 2-105.

7-9-303. Apportionment of delegates — Vacancies.

(a) The basis for representation in any constitutional convention called as a result of an affirmative vote on the calling of a constitutional convention shall be as follows: One hundred (100) members shall be elected from the same districts and on the same basis as members of the House of Representatives of the General Assembly.

(b) Vacancies in positions of delegates shall be filled by appointment by the convention from the same district in which the vacancy occurred.

History. Acts 1968 (1st Ex. Sess.), No. 42, § 3; A.S.A. 1947, § 2-106.

7-9-304. Nominating petitions.

(a) (1) Every person desiring to be elected as a delegate from a particular House district shall file a nominating petition with the Secretary of State containing at least fifty (50) signatures thereon of persons who are qualified electors within the district.

(2) In addition, he or she shall pay a filing fee of twenty-five dollars (\$25.00).

(3) When petitions are filed on behalf of a candidate, they shall contain a statement signed by the candidate and filed along with the petition indicating the candidate's willingness to accept the nomination and to serve as a delegate.

(b) Persons who circulate nominating petitions shall execute an affidavit concerning the genuineness of the signatures in like manner as now required for the circulators of petitions for initiative acts and constitutional amendments.

(c) The petitions shall be filed with the Secretary of State not less than seventy (70) days before the next general election, and the Secretary of State shall certify the names of all candidates and the position that each is seeking to the county board of election commissioners of the counties in the respective House districts not later than seventy (70) days prior to the date of the election. A candidate must designate the position he or she is seeking at the time he or she files his or her nominating petition with the Secretary of State, and after having designated a position, the candidate is prohibited from changing to a different position.

History. Acts 1968 (1st Ex. Sess.), No. 42, § 4; A.S.A. 1947, § 2-107; Acts 2007, No. 1049, § 31.

7-9-305. Election and certification of delegates.

(a) The county board of election commissioners shall include on the general election ballots the names of all candidates for delegate to the constitutional convention as certified by the Secretary of State.

(b) (1) The candidate receiving a majority of the votes for a particular position in the general election shall be declared elected as a delegate to the convention.

(2) In the event that more than two (2) candidates are seeking a particular delegate position and that no candidate receives a majority of the votes cast for all candidates for the position, the names of the two (2) candidates receiving the highest number of votes for the position shall be certified to a special runoff election that shall be held by the respective county board of election commissioners of the district three (3) weeks from the day on which the general election is held. The special runoff election shall be conducted in the same manner as is now provided by law, and the election results shall be canvassed and certified in the manner provided by law.

(3) A tie vote for a delegate position in the special runoff election shall be determined by drawing lots in the presence of the circuit court of the county within ten (10) days from the date of the election.

(c) The results of the election of delegates at the general election or at a special runoff election held for delegate positions shall be certified to the Secretary of State along with the other election results as is now provided by law.

History. Acts 1968 (1st Ex. Sess.), No. 42, § 5; A.S.A. 1947, § 2-108; Acts 1993, No. 512, § 11; 2007, No. 1020, § 19.

7-9-306. Organizational meeting — Plenary meeting.

(a) Whenever a majority of the electors vote affirmatively to call a constitutional convention, it shall be the duty of the delegates elected as prescribed in § 7-9-305 to assemble at the State Capitol Building at 10:00 a.m. on the first Tuesday after the first Monday in January next after their election for an organizational meeting of no longer than two (2) days' duration.

(b) This meeting shall be for the purpose of electing permanent convention officers, adopting rules of procedure, and providing for such interim committees and staff members as may be necessary to prepare for the plenary meeting of the convention which shall convene at the State Capitol Building in the House Chamber on the first Monday of the following April.

(c) The Secretary of State shall preside at the organizational meeting until the permanent convention chair is selected, and he or she may vote in case of a tie vote in the selection of a permanent chair.

(d) At the meeting each member shall take an oath to support the Constitution of the United States and to faithfully discharge the duties of a convention delegate.

History. Acts 1968 (1st Ex. Sess.), No. 42, §§ 6, 7; A.S.A. 1947, §§ 2-109, 2-110.

7-9-307. Meeting procedures.

(a) A majority of the delegates shall constitute a quorum, and a majority of the total number of delegates shall be required for approval of any section to be included in a proposed constitution or part thereof or in a proposed constitutional amendment.

(b) The constitutional convention shall elect its own officers and shall be sole judges of the qualifications and election of its own membership.

(c) All meetings of the convention shall be open to the public.

History. Acts 1968 (1st Ex. Sess.), No. 42, § 7; A.S.A. 1947, § 2-110.

7-9-308. Duration of constitutional convention — Certification of draft constitution — Report.

(a) The constitutional convention shall remain in session as long as is required to transact its business and to meet its responsibilities, but not past the following July 1. If the convention determines that additional time is needed, it may vote to recess until the following August 1 and

resume its sessions on that date, but the convention may not extend its sessions past the following September 1, and it must adjourn itself sine die no later than September 1.

(b) Thereafter and not later than September 15 next, the finished draft of the proposed constitution shall be certified by the president and the secretary of the convention to the Secretary of State.

(c) The convention shall also publish a report to the people explaining its proposals.

History. Acts 1968 (1st Ex. Sess.), No. 42, § 6; A.S.A. 1947, § 2-109.

7-9-309. Method of publication.

(a) Publication of a proposed new constitution by a constitutional convention called by the people of the state at a general election shall be made by one (1) of the following methods, whichever is less costly to the state:

(1) One (1) time at the rate of two and one-half cents ($2\frac{1}{2}\text{¢}$) per word in each legal newspaper in the state by insertion of preprinted copies of the proposed new constitution furnished by the state to each legal newspaper without charge. The copies shall be in tabloid form suitable for insertion in legal newspapers and shall be printed in not less than eight-point type; or

(2) One (1) time without preprint at the rate of five cents (5¢) per word in every legal newspaper in the state.

(b) Publication of the proposed constitution shall take place not less than sixty (60) days prior to the election at which it shall be voted upon by the people of the state.

History. Acts 1969, No. 116, § 6; A.S.A. 1947, § 2-114.

7-9-310. Submission of proposed constitution to electors.

(a) The constitutional convention may submit a new constitution as one (1) proposal to be voted on by the people, and it may submit proposed parts or alternative parts of a new constitution for separate votes. The proposals of the convention shall be submitted to the electors of this state for adoption or rejection at the general election held next following adjournment sine die of the convention.

(b) The Governor shall issue a proclamation no later than the October 1 preceding the general election. Within ten (10) days after the proclamation by the Governor, the several sheriffs throughout the state shall issue their proclamations notifying the electors of the county that a new constitution will be voted upon at the general election. The returns of the issue at the general election shall be made, canvassed, and the results thereof declared in the same manner as is provided by law for initiative and referendum measures.

(c) (1) If a majority of the electors of the state voting thereon at the general election shall vote for the proposed constitution, it shall become effective on the date and in the manner

provided in the proposed constitution, or if no effective date shall be provided in the proposed constitution, it shall become effective as now provided by law with reference to initiated acts and amendments.

(2) If a majority of the electors of the state voting thereon at the general election shall vote against the proposed constitution, it shall be deemed rejected by the electors, and the existing Arkansas Constitution shall continue to be the Arkansas Constitution until changed as provided by law. In the event that proposed parts or alternative parts of the new constitution are submitted for separate vote and that the people shall reject the new constitution, then all proposed parts or alternative parts for a new constitution voted upon separately shall be deemed rejected, even though the parts received a majority of the votes cast thereon. In no event shall the proposed parts or alternative parts of a new constitution voted upon separately be deemed to amend or change the existing Arkansas Constitution or any of its amendments if the people reject the proposed new constitution. It is the intent hereof that proposed parts or alternative parts of the new constitution upon which votes are cast separate and apart from the new constitution shall be of no force and effect in the event the people reject the proposed new constitution.

History. Acts 1968 (1st Ex. Sess.), No. 42, § 9; A.S.A. 1947, § 2-112.

7-9-311. Proposal of amendments to present constitution.

The constitutional convention, if it shall not propose a new constitution, may propose one (1) or more amendments to the present constitution to be submitted to the voters at the next general election.

History. Acts 1968 (1st Ex. Sess.), No. 42, § 10; A.S.A. 1947, § 2-113.

7-9-312. Expenses.

(a) The appropriation to defray the expenses of any constitutional convention which may be called after a vote of the people shall be made by the next regular session of the General Assembly convening after an affirmative vote on the calling of a constitutional convention.

(b) The proposed budget for the expenses of the convention shall be prepared by the Governor and promptly submitted to the General Assembly for action thereon.

(c) Delegates to the convention shall be paid at the rate of twenty-five dollars (\$25.00) per diem for each day of attendance at meetings of the convention or its committees, plus their necessary travel expenses.

History. Acts 1968 (1st Ex. Sess.), No. 42, § 8; A.S.A. 1947, § 2-111.

Subchapter 4 **— Disclosure for Matters Referred to Voters**

7-9-401. Title.

7-9-402. Definitions.

- 7-9-403. Penalty.
- 7-9-404. Filing deadlines.
- 7-9-405. Contributions and expenditures limited.
- 7-9-406. Financial reports — Requirement.
- 7-9-407. Financial report — Information.
- 7-9-408. Financial reports — Verification.
- 7-9-409. Financial reports — Time to file — Late fee.
- 7-9-410. Public inspection — Record retention.
- 7-9-411. Enforcement.
- 7-9-412. Reporting the use of state funds to oppose or support a ballot measure.
- 7-9-413. Use of state funds to oppose or support a ballot measure.
- 7-9-414. Applicability of §§ 7-9-412 and 7-9-413.
- 7-9-415. Scope.

7-9-401. Title.

This subchapter shall be known as the “Disclosure Act for Public Initiatives, Referenda, and Measures Referred to Voters”.

History. Acts 1989, No. 261, § 1; 1989, No. 634, § 1; 1993, No. 1114, § 1.

7-9-402. Definitions.

As used in this subchapter:

(1) “Ballot question” means a question in the form of a statewide, county, municipal, or school district initiative or referendum which is submitted or intended to be submitted to a popular vote at an election, whether or not it qualifies for the ballot;

(2) (A) “Ballot question committee” means any person, located within or outside Arkansas, that receives contributions for the purpose of expressly advocating the qualification, disqualification, passage, or defeat of any ballot question, or any person, other than an individual, located within or outside Arkansas, that makes expenditures for the purpose of expressly advocating the qualification, disqualification, passage, or defeat of any ballot question.

(B) A person other than an individual or an approved political action committee as defined in § 7-6-201, located within or outside Arkansas, also qualifies as a ballot question committee if two percent (2%) or more of its annual revenues, operating expenses, or funds are used to make a contribution or contributions to another ballot question committee and if the contribution or contributions exceed ten thousand dollars (\$10,000) in value;

(3) (A) “Contribution” means, whether direct or indirect, advances, deposits, transfers of funds, contracts, or obligations, whether or not legally enforceable, payments, gifts, subscriptions, assessments, payment for services, dues, advancements, forbearance, loans, pledges, or promises of money or anything of value, whether or not legally enforceable, to a person for the purpose of expressly advocating the qualification, disqualification, passage, or

defeat of a ballot question or the passage or defeat of a legislative question.

(B) “Contribution” includes the purchase of tickets for events such as dinners, luncheons, rallies, and similar fundraising events, and the granting of discounts or rebates by television and radio stations and newspapers, not extended on an equal basis to all persons seeking to expressly advocate the qualification, disqualification, passage, or defeat of a ballot question or the passage or defeat of a legislative question.

(C) “Contribution” shall not include noncompensated, nonreimbursed volunteer personal services or travel;

(4) “Contribution and expenditure” shall not include activities designed solely to encourage individuals to register to vote or to vote, or any communication by a bona fide church or religious denomination to its own members or adherents for the sole purpose of protecting the right to practice the religious tenets of the church or religious denomination, and “expenditure” shall not include one (1) made for communication by a person strictly with the person's paid members or shareholders;

(5) “Disqualification of a ballot question” means any action or process, legal or otherwise, which seeks to prevent a ballot question from being on the ballot at an election;

(6) “Expenditure” means a purchase, payment, distribution, gift, loan, or advance of money or anything of value, and a contract, promise, or agreement to make an expenditure, for goods, services, materials, or facilities for the purpose of expressly advocating the qualification, disqualification, passage, or defeat of a ballot question or the passage or defeat of a legislative question;

(7) “Legislative question” means a question in the form of a measure referred by the General Assembly, a quorum court, a municipality, or a school district to a popular vote at an election;

(8) (A) “Legislative question committee” means any person, located within or outside Arkansas, that receives contributions for the purpose of expressly advocating the passage or defeat of any legislative question or any person, other than an individual, located within or outside Arkansas, that makes expenditures for the purpose of expressly advocating the passage or defeat of any legislative question.

(B) A person other than an individual or an approved political action committee as defined in § 7-6-201, located within or outside Arkansas, also qualifies as a legislative question committee if two percent (2%) or more of its annual revenues, operating expenses, or funds are used to make a contribution or contributions to another legislative question committee and if the contribution or contributions exceed ten thousand dollars (\$10,000) in value;

(9) (A) “Person” means any individual, business, proprietorship, firm, partnership, joint venture, syndicate, business trust, labor organization, company, corporation, association, committee, or any other organization or group of persons acting in concert.

(B) “Person” includes a public servant or governmental body using public funds

to expressly advocate the qualification, disqualification, passage, or defeat of any ballot question or the passage or defeat of any legislative question; and

(10) “Qualification of a ballot question” means any action or process, legal or otherwise, through which a ballot question obtains certification to be on the ballot at an election.

History. Acts 1989, No. 261, § 2; 1989, No. 634, § 2; 1993, No. 1114, § 2; 1993, No. 1235, §§ 1, 2; 2001, No. 1839, § 17; 2003, No. 195, § 8; 2005, No. 1765, § 1; 2009, No. 473, §§ 10, 11.

7-9-403. Penalty.

Upon conviction, any person who knowingly fails to comply with any of the provisions of this subchapter shall be fined an amount not to exceed one thousand dollars (\$1,000) or be imprisoned for not more than one (1) year, or both.

History. Acts 1989, No. 261, § 3; 1989, No. 634, § 3.

7-9-404. Filing deadlines.

(a) (1) (A) A ballot question committee or a legislative question committee shall file a statement of organization with the Arkansas Ethics Commission within five (5) days of receiving contributions or making expenditures in excess of five hundred dollars (\$500) for the purpose of expressly advocating the qualification, passage, or defeat of a ballot question or the passage or defeat of a legislative question.

(B) The commission shall maintain the statement of organization until notified of the committee's dissolution.

(2) A ballot question committee or legislative question committee failing to file a statement of organization required by this section shall be subject to a late filing fee not exceeding fifty dollars (\$50.00) for each day the statement remains not filed.

(b) The statement of organization shall include the following information:

(1) The name, the street address, and where available, the telephone number of the committee. A committee address and telephone number may be that of the residence of an officer or a director of the committee;

(2) The name, street address, and where available, the telephone number of the treasurer and other principal officers and directors of the committee;

(3) The name and address of each financial institution in which the committee deposits money or anything else of monetary value;

(4) The name of each person who is a member of the committee. A person that is not an individual may be listed by its name without also listing its own members, if any; and

(5) A brief statement identifying the substance of each ballot question, the qualification, disqualification, passage, or defeat of which the committee seeks to influence or of each

legislative question, the passage or defeat of which the committee seeks to influence, and if known, the date each ballot or legislative question shall be presented to a popular vote at an election.

(c) When any of the information required in a statement of organization is changed, an amendment shall be filed within ten (10) days to reflect the change, except that changes in individual membership may be filed when the next financial report is required. A committee failing to file a change as required shall be subject to a late filing fee not exceeding twenty-five dollars (\$25.00) for each day the change remains not filed.

(d) Upon dissolution, a ballot question committee or a legislative question committee shall so notify the commission in writing. Any remaining funds on hand at the time of dissolution shall be turned over to either:

(1) The Treasurer of State for the benefit of the General Revenue Fund Account of the State Apportionment Fund;

(2) An organized political party as defined in § 7-1-101 or a political party caucus of the General Assembly, the Senate, or House of Representatives;

(3) A nonprofit organization that is exempt from taxation under Section 501(c)(3) of the Internal Revenue Code; or

(4) The contributors to the ballot or legislative question committee.

History. Acts 1989, No. 261, § 4; 1989, No. 634, § 4; 1993, No. 1114, § 3; 1999, No. 553, § 24; 2001, No. 1839, § 18; 2005, No. 1284, §§ 9, 10; 2005, No. 1765, § 2; 2007, No. 221, § 13; 2007, No. 1001, § 1.

7-9-405. Contributions and expenditures limited.

(a) No ballot question committee or legislative question committee shall accept any contribution in cash, meaning currency or coin, that exceeds one hundred dollars (\$100).

(b) No ballot question committee or legislative question committee shall accept any contribution from a prohibited political action committee as defined in § 7-6-201.

(c) No ballot question committee, legislative question committee, or individual shall make an expenditure in cash that exceeds fifty dollars (\$50.00) to influence the qualification, disqualification, passage, or defeat of a ballot question or the passage or defeat of a legislative question.

(d) No contributions shall be made, directly or indirectly, by any person in a name other than the name by which the person is identified for legal purposes.

(e) (1) No person shall make an anonymous contribution totaling fifty dollars (\$50.00) or more to a ballot question committee or legislative question committee.

(2) Any such anonymous contribution actually received by any ballot question

committee or legislative question committee shall be promptly paid by the recipient to the Arkansas Ethics Commission for deposit into the State Treasury as general revenues.

History. Acts 1989, No. 261, § 10; 1989, No. 634, § 10; 1991, No. 786, § 5; 1993, No. 1114, § 4; 2005, No. 1765, § 3; 2007, No. 1001, § 2; 2009, No. 473, § 12.

7-9-406. Financial reports — Requirement.

(a) A ballot question committee or legislative question committee that either receives contributions or makes expenditures in excess of five hundred dollars (\$500) for the purpose of expressly advocating the qualification, disqualification, passage, or defeat of a ballot question or the passage or defeat of a legislative question shall file with the Arkansas Ethics Commission financial reports as required by §§ 7-9-407 — 7-9-409.

(b) An individual person who on his or her own behalf expends in excess of five hundred dollars (\$500), excluding contributions, for the purpose of expressly advocating the qualification, disqualification, passage, or defeat of a ballot question or the passage or defeat of a legislative question shall file with the commission financial reports as required by §§ 7-9-407 — 7-9-409.

(c) A public servant or governmental body expending public funds in excess of five hundred dollars (\$500) for the purpose of expressly advocating the qualification, disqualification, passage, or defeat of a ballot question or the passage or defeat of a legislative question shall file with the commission financial reports as required by §§ 7-9-407 — 7-9-409.

(d) Except as provided in subsection (f) of this section, any report required by this subchapter shall be deemed timely filed if it is:

(1) Hand-delivered to the commission on or before the date due;

(2) Mailed to the commission, properly addressed, postage prepaid, bearing a postmark indicating that it was received by the post office or common carrier on or before the date due;

(3) Received via facsimile by the commission on or before the date due, provided that the original is received by the commission within ten (10) days of the transmission; or

(4) Received by the commission in a readable electronic format that is approved by the commission.

(e) Whenever a report under this subchapter becomes due on a day that is a Saturday, Sunday, or legal holiday, the report shall be due the next day that is not a Saturday, Sunday, or legal holiday.

(f) A preelection report is timely filed if it is received by the commission no later than seven (7) days prior to the election for which it is filed.

History. Acts 1989, No. 261, § 5; 1989, No. 634, § 5; 1993, No. 1114, § 5; 1999, No. 553, § 26; 2001, No. 1839, § 19; 2003, No. 195, § 9; 2005, No. 1765, § 4; 2007, No. 221, § 14.

7-9-407. Financial report — Information.

A financial report of a ballot question committee, a legislative question committee, an individual person, a public servant, or a governmental body, as required by § 7-9-406, shall contain the following information:

(1) The name, address, and telephone number of the committee, individual person, public servant, or governmental body filing the statement;

(2) (A) For a committee:

(i) The total amount of contributions received during the period covered by the financial report;

(ii) The total amount of expenditures made during the period covered by the financial report;

(iii) The cumulative amount of those totals for each ballot question or legislative question;

(iv) The balance of cash and cash equivalents on hand at the beginning and the end of the period covered by the financial report;

(v) The total amount of contributions received during the period covered by the financial statement from persons who contributed less than fifty dollars (\$50.00), and the cumulative amount of that total for each ballot question or legislative question;

(vi) The total amount of contributions received during the period covered by the financial statement from persons who contributed fifty dollars (\$50.00) or more, and the cumulative amount of that total for each ballot question or legislative question;

(vii) The name and street address of each person who contributed fifty dollars (\$50.00) or more during the period covered by the financial report, together with the amount contributed, the date of receipt, and the cumulative amount contributed by that person for each ballot question or legislative question; and

(viii) The name and address of each person who contributed a nonmoney item, together with a description of the item, the date of receipt, and the value, not including volunteer service by individuals.

(B) For an individual person:

(i) The total amount of expenditures made during the period covered by the financial report; and

(ii) The cumulative amount of that total for each ballot question or legislative question.

(C) For a public servant or governmental body using public funds:

(i) The total amount of expenditures made during the period covered by the financial report; and

(ii) The cumulative amount of that total for each ballot question or legislative question; and

(3) The name and street address of each person to whom expenditures totalling one hundred dollars (\$100) or more were made, together with the date and amount of each separate expenditure to each person during the period covered by the financial report and the purpose of the expenditure.

History. Acts 1989, No. 261, § 6; 1989, No. 634, § 6; 1993, No. 1114, § 6; 2001, No. 1839, §§ 20, 21; 2003, No. 195, § 10; 2005, No. 1284, § 11; 2007, No. 1001, § 3.

7-9-408. Financial reports — Verification.

The financial reports identified in § 7-9-407 shall be verified by affidavit by the person filing them to the effect that to the best of his or her knowledge and belief the information disclosed is a complete, true, and accurate financial statement of contributions or expenditures.

History. Acts 1989, No. 261, § 8; 1989, No. 634, § 8.

7-9-409. Financial reports — Time to file — Late fee.

(a) (1) The first financial reports shall be filed no later than fifteen (15) days following the month in which the five-hundred-dollar threshold of § 7-9-406 is met and thereafter no later than fifteen (15) days after the end of each month until the election is held. Provided, however, for any month in which certain days of that month are included in a preelection financial report required under subdivision (a)(2) of this section, no monthly report for that month shall be due, but those days of that month shall be carried forward and included in the final financial report.

(2) Additionally, a preelection financial report shall be filed no less than seven (7) days prior to any election on the ballot question or legislative question, such statement to have a closing date of ten (10) days prior to the election.

(3) Furthermore, a final financial report shall be filed no later than thirty (30) days after the election.

(b) A ballot question committee, legislative question committee, or individual person who files a late financial report shall be subject to a late filing fee not exceeding fifty dollars (\$50.00) for each day the report remains unfiled.

History. Acts 1989, No. 261, §§ 7, 8; 1989, No. 634, §§ 7, 8; 1999, No. 553, §§ 25, 27; 2007, No. 1001, § 4.

7-9-410. Public inspection — Record retention.

(a) All statements of organization and financial reports required by this subchapter shall be open to public inspection at the office of the Arkansas Ethics Commission during regular office hours.

(b) All records supporting the reports filed under this subchapter shall be:

(1) Made available to the commission; and

(2) Retained by the filer for a period of four (4) years after the date of filing the report.

History. Acts 1989, No. 261, § 9; 1989, No. 634, § 9; 1993, No. 1114, § 7; 1999, No. 553, § 28; 2007, No. 221, § 15.

7-9-411. Enforcement.

The Arkansas Ethics Commission shall have the same power and authority to enforce the provisions of this subchapter as is provided the commission under §§ 7-6-217 and 7-6-218 for the enforcement of campaign finance laws.

History. Acts 1993, No. 1114, § 8.

7-9-412. Reporting the use of state funds to oppose or support a ballot measure.

Any funds appropriated to any state agency, board, or commission that are expended, as prescribed in § 7-9-413, for the purpose of opposing or supporting any initiative, referendum, proposed constitutional amendment, or other measure which is submitted or intended to be submitted to a popular vote at an election, whether or not it qualifies for the ballot, shall be reported to the Legislative Council if the amount exceeds one hundred dollars (\$100).

History. Acts 1999, No. 1006, § 1.

7-9-413. Use of state funds to oppose or support a ballot measure.

The use of state funds under § 7-9-412 includes:

(1) Newspaper, television, radio, and other forms of communication;

(2) Publication materials;

(3) Travel expenses relative to reimbursement;

(4) Surveys;

(5) Private contracts; and

(6) Postage.

History. Acts 1999, No. 1006, § 2.

7-9-414. Applicability of §§ 7-9-412 and 7-9-413.

This act does not apply to state funds appropriated to any elected officials.

History. Acts 1999, No. 1006, § 3.

7-9-415. Scope.

Nothing in this subchapter may limit, waive, or abrogate the scope of any statutory or common law privilege, including, but not limited to, the work product doctrine and the attorney-client privilege.

History. Acts 2005, No. 1765, § 5.

Subchapter 5
— Review of Initiative Petitions

7-9-501. Purpose.

7-9-502. Construction.

7-9-503. Declaration of sufficiency.

7-9-504. Cure by correction or amendment.

7-9-505. Right of review.

7-9-506. Effect on existing petition.

7-9-501. Purpose.

The purpose of this subchapter is to provide for the timely and expeditious review of the legal sufficiency of initiative petitions by the Supreme Court.

History. Acts 1999, No. 877, § 1.

7-9-502. Construction.

(a) The General Assembly declares that this subchapter be construed as a measure to facilitate the provisions of Arkansas Constitution, Amendment 7.

(b) The General Assembly declares that this subchapter is not intended to expand the jurisdiction of the Supreme Court under Arkansas Constitution, Amendment 7, but is intended to provide a process to timely review the legal sufficiency of a measure in a manner which avoids voter confusion and frustration which occur when measures are stricken from the ballot on the eve of an election on the measure.

History. Acts 1999, No. 877, § 6.

7-9-503. Declaration of sufficiency.

(a) (1) Any Arkansas taxpayer and voter may submit a written petition to the Secretary of State requesting the determination of legal sufficiency of statewide initiative petitions.

(2) The petitioner shall notify the sponsor of the measure of the petition for determination by certified mail on the date that it is submitted to the Secretary of State.

(b) Within thirty (30) days after receipt of the petition for determination, the Secretary of State shall decide and declare, after consultation with the Attorney General, questions on one (1) or both of the following issues:

(1) Whether the popular name and ballot title of the measure are fair and complete; and

(2) Whether the measure, if subsequently approved by the electorate, would violate any state constitutional provision or any federal constitutional, statutory, or regulatory provision or would be invalid for any other reason.

(c) The declaration shall be in writing and shall be mailed to the petitioner and the sponsor of the measure by certified mail on the date that it is issued.

(d) The scope of review authorized by this subchapter shall be strictly limited to the questions referred to in subsection (b) of this section and shall not include questions regarding the sufficiency or validity of signatures on the initiative petitions.

History. Acts 1999, No. 877, § 2.

7-9-504. Cure by correction or amendment.

(a) If the Secretary of State declares the initiative petition legally insufficient, the sponsors of such measure may attempt to cure the insufficiency by correction or amendment, as provided in Arkansas Constitution, Amendment 7.

(b) Within fifteen (15) days after a correction or amendment is filed with the Secretary of State, the Secretary of State shall notify the petitioner and sponsor of the measure of this declaration by certified mail on the date that it is issued.

History. Acts 1999, No. 877, § 3.

7-9-505. Right of review.

The petitioner, the sponsor of the measure, and any Arkansas taxpayer and voter shall have the immediate right to petition the Supreme Court to review the determination of the Secretary of State regarding the sufficiency of the initiative petition.

History. Acts 1999, No. 877, § 4.

7-9-506. Effect on existing petition.

(a) (1) This subchapter shall be applicable to any initiative petition which has received the

approval of the Attorney General and has been filed with the Secretary of State, pursuant to § 7-9-107, as of March 25, 1999.

(2) The Secretary of State shall review all initiative petitions approved by the Attorney General within two (2) months after March 25, 1999.

(3) If this review is not completed within the stated period, the initiative petition will be presumed sufficient and subject to immediate review by the Supreme Court.

(b) In addition, this subchapter shall be applicable to all initiative petitions submitted to the Attorney General after March 25, 1999.

History. Acts 1999, No. 877, § 5.

Chapter 10

Nonpartisan Election of Judges

7-10-101. Definitions.

7-10-102. Nonpartisan election of judges and justices.

7-10-103. Filing as a candidate.

7-10-101. Definitions.

For the purposes of this chapter:

(1) “Nonpartisan judicial office” means the offices of Justice of the Supreme Court, Judge of the Court of Appeals, circuit judge, and district judge; and

(2) “Political party” has the same meaning as provided in § 7-1-101.

History. Acts 2001, No. 1789, § 1.

7-10-102. Nonpartisan election of judges and justices.

(a) The offices of Justice of the Supreme Court, Judge of the Court of Appeals, circuit judge, and district judge are declared to be nonpartisan offices.

(b) (1) The general elections for nonpartisan judicial offices shall be held on the same dates and at the same times and places as provided by law for preferential primary elections.

(2) The names of candidates for nonpartisan judicial offices shall be included on the ballots of the political parties and shall be designated as nonpartisan judicial candidates. However, separate ballots containing the names of nonpartisan judicial candidates shall be prepared and shall be made available to voters requesting the same.

(3) No voter shall be required to vote in a political party's preferential primary in order to be able to vote in nonpartisan judicial elections.

(c) (1) A person shall not be elected to a nonpartisan judicial office without receiving a

majority of the votes cast at the election for the office.

(2) In any nonpartisan judicial election in which no person receives a majority of the votes cast, the two (2) candidates receiving the highest and next highest number of votes shall be certified to a runoff election which shall be held on the same date and at the same times and places as the November general election.

(3) The names of the candidates in a nonpartisan judicial runoff election shall be placed on the same ballots as used for the November general elections.

History. Acts 2001, No. 1789, § 2; 2007, No. 1020, § 20; 2009, No. 959, § 44.

7-10-103. Filing as a candidate.

(a) A candidate for a nonpartisan judicial office may pay a filing fee as provided for in this chapter, file a petition in the manner provided for in this chapter, or file as a write-in candidate in the manner as provided for in this chapter.

(b) (1) The State Board of Election Commissioners shall establish reasonable filing fees for nonpartisan judicial offices.

(2) (A) The filing fee for the offices of Justice of the Supreme Court, Judge of the Court of Appeals, and circuit judge shall be paid to the Secretary of State at the same time that the candidate files his or her political practices pledge. A candidate for district judge shall pay the filing fee to the county clerk at the same time that the candidate files his or her political practices pledge.

(B) The period for paying filing fees and filing political practice pledges shall begin at 12:00 noon on the first weekday in March and end at 12:00 noon on the seventh day thereafter.

(3) (A) There is created on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a fund to be known as the “Judicial Filing Fee Fund”.

(B) The filing fees shall be remitted to the Treasurer of State for deposit into the fund for covering the cost of election expenses of the state board.

(c) (1) (A) (i) Any person desiring to have his or her name placed on the ballot for a nonpartisan judicial office without paying a filing fee may do so by filing a petition in the manner provided for under this section. Petitions for Supreme Court, Court of Appeals, and circuit court positions shall be filed with the Secretary of State, and petitions for district court positions shall be filed with the applicable county clerk beginning at 12:00 noon forty-six (46) days before the first weekday in March and ending at 12:00 noon thirty-two (32) days before the first weekday in March.

(ii) Political practice pledges for nonpartisan judicial candidates filing by petition shall be filed at the same time as the petition.

(B) The petition shall be directed to the office with which it is to be filed and shall request that the name of the candidate be placed on the ballot for the election set forth in the petition. Candidates may begin circulating petitions not earlier than sixty (60) days prior to the filing deadline.

(C) The Secretary of State or the county clerk, as the case may be, shall determine within thirty (30) days whether the petition contains the names of a sufficient number of qualified electors. The Secretary of State or county clerk shall verify the sufficiency of the petitions within thirty (30) days of filing. The sufficiency of any petition filed under the provisions of this section may be challenged in the same manner as provided by law for election contests, § 7-5-801 et seq.

(D) Qualified electors signing the petitions must be registered voters in the geographic area applicable to the position at the time they sign the petition. Each qualified elector shall provide his or her printed name, signature, address, date of birth, and date of signing on the petition.

(E) In determining the number of qualified electors in the state or in any court of appeals district, circuit court circuit, or district court district, the total number of all votes cast therein for Governor in the immediately preceding general gubernatorial election shall be conclusive of the number of all qualified electors therein for purposes of this section.

(2) (A) Candidates by petition for the Supreme Court shall file petitions signed by at least ten thousand (10,000) qualified electors or three percent (3%) of the qualified electors residing within the state, whichever is the lesser.

(B) Candidates by petition for the Court of Appeals shall file petitions signed by three percent (3%) of the qualified electors residing within the court of appeals district for which the candidate seeks office, but in no event shall more than two thousand (2,000) signatures be required.

(C) Candidates by petition for circuit judge shall file petitions signed by three percent (3%) of the qualified electors residing within the circuit for which the candidate seeks office, but in no event shall more than two thousand (2,000) signatures be required.

(D) Candidates by petition for district judge shall file petitions signed by at least one percent (1%) of the qualified electors residing within the district for which the candidate seeks office, but in no event shall more than two thousand (2,000) signatures be required.

(d) No votes for a write-in candidate in a nonpartisan judicial election shall be counted or tabulated unless the candidate or his or her agent gives notice in writing of his or her intention to be a write-in candidate to the county board of election commissioners and either:

(1) (A) The Secretary of State, if a candidate for a Supreme Court, Court of Appeals, or a circuit judgeship; or

(B) A county clerk, if a candidate for a district judgeship.

(2) The written notice must be given not later than sixty (60) days before the nonpartisan judicial election.

(3) Write-in candidates shall file a political practices pledge at the same time as filing a notice of intention.

(e) (1) A candidate for Justice of the Supreme Court, Judge of the Court of Appeals, or circuit judge shall file with the Secretary of State.

(2) A candidate for district judge shall file with the county clerk.

(f) (1) (A) A candidate for nonpartisan judicial office may not use more than three (3) given names, one (1) of which may be a nickname or any other word used for the purpose of identifying the candidate to the voters.

(B) (i) A candidate for nonpartisan judicial office may add as a prefix to his or her name the title or an abbreviation of an elective public office the candidate currently holds.

(ii) A candidate may only use as the prefix the title of a judicial office in an election for a judgeship if the candidate is currently serving in a judicial position to which the candidate has been elected.

(C) A nickname shall not include a professional or honorary title.

(2) The names and titles as proposed to be used by each candidate on the political practice pledge shall be reviewed no later than one (1) business day after the filing deadline by the Secretary of State for Supreme Court, Court of Appeals, and circuit court positions and by the county board of election commissioners for district court positions.

(3) (A) The name of every candidate shall be printed on the ballot in the form as certified by either the Secretary of State or the county board of election commissioners.

(B) However, the county board of election commissioners may substitute an abbreviated title if the ballot lacks space for the title requested by a candidate.

(C) The county board of election commissioners shall immediately notify a candidate whose requested title is abbreviated by the county board of election commissioners.

(4) A candidate shall not be permitted to change the form in which his or her name will be printed on the ballot after the deadline for filing the political practices pledge.

History. Acts 2001, No. 1789, § 3; 2005, No. 67, § 26; 2007, No. 1049, § 32; 2009, No. 959, § 45; 2009, No. 1407, §§ 1, 2.

Chapter 11

Special Elections

Subchapter 1 — Elections to Fill Vacancies

Subchapter 2 — Special Elections on Measures and Questions

Subchapter 3 — Certain Procedures for Special Elections

Subchapter 1
— Elections to Fill Vacancies

- 7-11-101. Calling elections to fill vacancies.
- 7-11-102. Content of calling document.
- 7-11-103. Filling vacancies in state, federal, or district offices.
- 7-11-104. Filling vacancies in local offices.
- 7-11-105. Special elections to be held on the second Tuesday of a month — Exceptions — Separate ballots.
- 7-11-106. Special primary elections held in conjunction with regularly scheduled primary election — Separate ballots optional.
- 7-11-107. Unopposed candidates.

7-11-101. Calling elections to fill vacancies.

All special elections and other elections to fill a vacancy in an office shall be called by proclamation, ordinance, resolution, order, or other authorized document of the appropriate constituted authority.

History. Acts 2009, No. 1480, § 47.

7-11-102. Content of calling document.

The proclamation, ordinance, resolution, order, or other authorized document of the appropriate constituted authority calling a special election or other election to fill a vacancy in an office shall set forth:

- (1) The date of the election;
- (2) The date of the special primary election, if any;
- (3) The date of the special primary runoff election, if any is required;
- (4) The deadline for filing as a party candidate with the county clerk or Secretary of State, as the case may be;
- (5) The deadline for party conventions to select nominees if applicable;
- (6) The deadline for parties to issue certificates of nomination or certified lists of nominees, as the case may be, if applicable;
- (7) The deadline for candidates to file certificates of nomination, if applicable, with the county clerk or Secretary of State, as the case may be;
- (8) The deadline for filing as an independent candidate and the period in which petitions for independent candidacy may be circulated;

(9) The deadline for filing as a write-in candidate if applicable;

(10) The deadline for drawing for ballot position by the county board of election commissioners; and

(11) The date the election shall be certified by the county board in each county in which the election takes place and, if applicable, by the Secretary of State.

History. Acts 2009, No. 1480, § 47.

7-11-103. Filling vacancies in state, federal, or district offices.

(a) The proclamation, ordinance, resolution, order, or other authorized document of the appropriate constituted authority calling a special election to fill a state, federal, or district office shall be filed with the Secretary of State, who shall immediately transmit the document to the county board of election commissioners of each county where the special election shall be held.

(b) The county board shall cause the proclamation, ordinance, resolution, order, or other authorized document to be published as soon as practicable in a newspaper of general circulation in the county in which the special election is held.

History. Acts 2009, No. 1480, § 47.

7-11-104. Filling vacancies in local offices.

(a) The proclamation, ordinance, resolution, order, or other authorized document of the appropriate constituted authority calling a special election to fill a local office shall be filed with the county clerk of the county administering the election, who shall immediately transmit the document to the county board of election commissioners of each county where the special election shall be held.

(b) The county board shall cause the proclamation, ordinance, resolution, order, or other authorized document to be published as soon as practicable in a newspaper of general circulation in the county in which the special election is held.

History. Acts 2009, No. 1480, § 47.

7-11-105. Special elections to be held on the second Tuesday of a month — Exceptions — Separate ballots.

(a) Except as provided in this chapter, all special elections to fill vacancies in office and associated special primary elections shall be held on the second Tuesday of any month.

(b) A special election scheduled to occur in a month in which the second Tuesday of the month is a legal holiday shall be held on the third Tuesday of the month.

(c) A special election called in June of an even-numbered year shall be held on the fourth

Tuesday of the month.

(d) (1) Special elections held in months in which a preferential primary election or general election is scheduled to occur shall be held on the date of the preferential primary election or general election.

(2) If a special election to fill a vacancy in office is held on the date of the preferential primary election, the names of the candidates in the special election shall be included on the ballot of each political party, and the portion of the ballot on which the special election appears shall be labeled with a heading stating “SPECIAL ELECTION FOR _____” with the name of the office set out in the heading.

(3) Separate ballots containing the names of the candidates to be voted on at the special election or nonpartisan judicial elections, if applicable, and any other measures or questions that may be presented for a vote shall be prepared and made available to voters requesting a separate ballot.

(4) (A) A voter shall not be required to vote in a political party's preferential primary in order to be able to vote in the special election.

(B) (i) If the special election is held at the same time as the general election, the names of the candidates in the special election shall be included on the general election ballot, and the portion of the ballot on which the special election appears shall be labeled with a heading stating “SPECIAL ELECTION FOR _____” with the name of the office set out in the heading.

(ii) The county board may include the special election on a separate ballot if the special election is held at the same time as the general election and the commission determines that a separate ballot is necessary to avoid voter confusion.

(e) (1) A special election to fill a vacancy in office shall be held not less than sixty-five (65) days following the date established in the proclamation, ordinance, resolution, order, or other authorized document for drawing for ballot position when the special election is to be held on the date of the preferential primary election or general election.

(2) If a special election to fill a vacancy in office is not held at the same time as a preferential primary election or general election, the special election shall be held not less than fifty (50) days following the date established in the proclamation, ordinance, resolution, order, or other authorized document for drawing for ballot position.

History. Acts 2009, No. 1480, § 47.

7-11-106. Special primary elections held in conjunction with regularly scheduled primary election — Separate ballots optional.

(a) When a special primary election is held on the date of the preferential primary election,

the candidates to be voted upon at the special primary election shall be included on the ballot of each political party and the portion of the ballot on which the special primary election appears shall be labeled with a heading stating “SPECIAL PRIMARY ELECTION FOR _____” with the name of the party for which nomination is sought and the office set out in the heading.

(b) The county board of election commissioners may include the special primary election on a separate ballot if the special primary election is held at the same time as a preferential primary election and the commission determines that a separate ballot is necessary to avoid voter confusion.

History. Acts 2009, No. 1480, § 47.

7-11-107. Unopposed candidates.

(a) If there is only one (1) candidate after all deadlines for filing as a candidate have passed in a special election or special primary election to fill a vacancy and if no other office or issue is on the ballot, the county board of election commissioners may provide that:

(1) Polling places shall not be open on election day and the election shall be conducted by absentee ballot and early voting only; or

(2) Only one (1) polling place shall be open and that polling place may be at the courthouse and may be staffed by the county clerk or as many poll workers as the county board deems necessary.

(b) In a county that uses voting machines or an electronic vote tabulating device, the county board may:

(1) Choose to use paper ballots counted by hand for the election; and

(2) (A) Provide that no voting machines shall be used in the election.

(B) If the county board chooses to provide that no voting machines shall be used in the election, any other provision in Arkansas law requiring the use of a voting machine shall not apply to this section.

History. Acts 2009, No. 1480, § 47.

Subchapter 2

— Special Elections on Measures and Questions

7-11-201. Calling special elections on measures or questions.

7-11-202. Calling special elections on state measures or questions.

7-11-203. Calling special elections on local measures or questions.

7-11-204. Content of calling document.

7-11-205. Dates of special elections on measures and questions — Exceptions — Separate ballots.

7-11-201. Calling special elections on measures or questions.

Except for special school elections, all special elections on measures or questions referred to the voters by governmental entities as authorized by law shall be called by proclamation, ordinance, statute, resolution, order, or other authorized document of the properly constituted authority as required by law.

History. Acts 2009, No. 1480, § 47.

7-11-202. Calling special elections on state measures or questions.

(a) The document under § 7-11-201 calling the special election on a state measure or question shall be filed with the Secretary of State, who shall immediately transmit the document to the county board of election commissioners in each county where the special election is to be held.

(b) The county board shall publish the document as soon as practicable in a newspaper of general circulation in the county in which the special election is held.

History. Acts 2009, No. 1480, § 47.

7-11-203. Calling special elections on local measures or questions.

(a) The document under § 7-11-201 calling the special election on a local measure or question shall be filed with the county clerk of the county administering the election, who shall immediately transmit the document to the county board of election commissioners in each county where the special election is to be held.

(b) The county board shall publish the document as soon as practicable in a newspaper of general circulation in the county in which the special election is held.

History. Acts 2009, No. 1480, § 47.

7-11-204. Content of calling document.

The proclamation, ordinance, statute, resolution, order, or other authorized document of the properly constituted authority calling the special election shall state:

- (1) The date of the special election;
 - (2) The full text of any measure or question for which the election is called;
 - (3) The ballot title, if any, for the measure or question for which the election is called;
- and
- (4) Any other information required by law.

History. Acts 2009, No. 1480, § 47.

7-11-205. Dates of special elections on measures and questions — Exceptions — Separate ballots.

(a) (1) (A) Except as provided in subdivision (a)(1)(B) of this section, all special elections on measures or questions shall be held on the second Tuesday of any month, except special elections held under this section in a month in which a preferential primary election or general election is scheduled to occur shall be held on the date of the preferential primary election or general election.

(B) (i) Special elections scheduled to occur in a month in which the second Tuesday is a legal holiday shall be held on the third Tuesday of the month.

(ii) A special election called in June of an even-numbered year shall be held on the fourth Tuesday of the month.

(2) (A) If a special election is held on the date of the preferential primary election, the issue or issues to be voted upon at the special election shall be included on the ballot of each political party.

(B) The portion of the ballot containing the special election shall be labeled with a heading stating “SPECIAL ELECTION ON _____” with a brief description of the measure or question to be decided in the election.

(3) Separate ballots containing the issue or issues to be voted on at the special election and candidates for nonpartisan judicial office shall be prepared and made available to voters requesting a separate ballot.

(4) A voter shall not be required to vote in a political party's preferential primary in order to be able to vote in the special election.

(b) (1) A special election shall be held not less than sixty-five (65) days following the date that the proclamation, ordinance, resolution, order, or other authorized document is filed with the county clerk when the special election is to be held on the date of the preferential primary election or general election.

(2) If the special election is not held at the same time as a preferential primary election or general election, the special election shall be held not less than fifty (50) days following the date that the proclamation, ordinance, resolution, order, or other authorized document is filed with the county clerk.

History. Acts 2009, No. 1480, § 47.

Subchapter 3

— Certain Procedures for Special Elections

7-11-301. Law governing special elections.

7-11-302. Special procedures for vacancies filled under Arkansas Constitution, Amendment 29.

7-11-303. Notice.

7-11-301. Law governing special elections.

In cases of circumstances or procedures that may arise in connection with any special election for which there is no provision in law governing the circumstances or procedures, the special election shall be governed by:

- (1) The general election laws of this state; or
- (2) In the case of special primary elections, the primary election laws of this state.

History. Acts 2009, No. 1480, § 47.

7-11-302. Special procedures for vacancies filled under Arkansas Constitution, Amendment 29.

Whenever a vacancy in office is to be filled under Arkansas Constitution, Amendment 29, the following shall apply:

- (1) The Governor shall issue a proclamation calling an election to fill a vacancy;
- (2) If the vacancy occurs less than one hundred eighty (180) days before a general election at which the vacancy is to be filled and the position is one that may be filled by partisan election, the political parties shall choose their nominees at a convention of delegates held in accordance with the party rules for the convention;
- (3) If the vacancy occurs more than one hundred eighty (180) days before the general election and is a position that may be filled by partisan election, the Governor shall certify in writing to the state committees of the respective political parties the fact of vacancy and shall request the respective state committees to make a determination and notify him or her in writing within ten (10) days with respect to whether the political parties desire to hold a special primary election or a convention of delegates under party rules to choose nominees;
- (4) If the state committee of any political party shall timely notify the Governor that it chooses to hold a special primary election, it is mandatory that any political party desiring to choose a nominee shall choose the nominee at a special primary election, and the Governor's proclamation shall set dates for both the special primary election and for any runoff primary election to be held if no candidate receives a majority of the vote at the special primary election; and
- (5) If no state committee of any political party timely notifies the Governor of the desire to hold either a primary election or convention of delegates, the Governor, in issuing his or her

proclamation calling for the special election, shall declare that the nominee of any political party shall be chosen at a convention of delegates.

History. Acts 2009, No. 1480, § 47.

7-11-303. Notice.

In addition to the publication of the calling document, notice of special elections under this chapter shall be published and posted under §§ 7-5-202 and 7-5-206.

History. Acts 2009, No. 1480, § 47.