

State of Arkansas
94th General Assembly
Regular Session, 2023

As Engrossed: H4/4/23
A Bill

HOUSE BILL 1687

By: Representatives Long, *Wing*
By: Senator K. Hammer

For An Act To Be Entitled

AN ACT CONCERNING PAPER BALLOTS; TO AMEND THE LAW
CONCERNING PAPER BALLOTS AND THE MARKING AND COUNTING
OF PAPER BALLOTS; TO AMEND THE LAW CONCERNING THE
DECLARATION OF ELECTION RESULTS; TO DECLARE AN
EMERGENCY; AND FOR OTHER PURPOSES.

Subtitle

CONCERNING PAPER BALLOTS; TO AMEND THE
LAW CONCERNING PAPER BALLOTS AND THE
MARKING AND COUNTING OF PAPER BALLOTS; TO
AMEND THE LAW CONCERNING THE DECLARATION
OF ELECTION RESULTS; AND TO DECLARE AN
EMERGENCY.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 7-5-601, concerning paper ballots, is amended to add additional subsections to read as follows:

(f) Each paper ballot shall be compatible with the electronic vote tabulation devices selected by the Secretary of State under § 7-5-301.

(g)(1) A county that chooses to use a hand count of paper ballots in place of approved voting machines shall be responsible for:

(A) The cost of the hand-counted paper ballots and any devices or machines required for the printing of the hand-counted paper ballots under this subchapter; and

(B) The labor costs associated with the performance of the



hand count of paper ballots.

(2) A county that chooses to hand-count paper ballots shall be eligible to receive the amount of reimbursement as if the county performed a machine tabulation of the votes.

(h) The county board of election commissioners of any county that chooses to use hand count paper ballots instead of approved voting machines shall be responsible for compliance with § 7-5-311 and with the Equal Access to Voting Rights Act, Pub. L. No. 98-435, the Americans with Disabilities Act, Title II of Pub. L. No. 101-336, and the Help America Vote Act of 2002, Pub. L. No. 107-252 regarding the accessibility of voting locations for voters with disabilities.

(i) Each paper ballot to be hand counted shall contain a watermark on the ballot with a unique placement of the watermark for each election cycle.

SECTION 2. Arkansas Code § 7-5-602(b) and (c), concerning ballots, number of ballots, marking devices, spoiled ballots, and official ballots, are amended to read as follows:

(b) A ballot shall not be received or counted in any election to which this subchapter applies unless it is approved and provided by the county board of election commissioners 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:

(1) First be marked using permanent ink; and

(2)(A) Be run through an electronic vote tabulation device before a hand count is conducted.

(B)(i) The requirement under subdivision (c)(2)(A) of this section shall apply in all general elections and preferential primary elections.

(ii) The requirement under (c)(2)(A) of this section is optional if an election:

(a) Is an election other than the general election or the preferential primary election; and

(b) Involves fewer than five thousand (5,000) registered voters.

SECTION 3. Arkansas Code § 7-5-603 is amended to read as follows:

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 paper ballots, the ballot box shall be opened and each paper ballot shall be counted in turn or by counting by offices and issues by first being run through a tabulation device before any hand count is conducted.

(B) The poll workers shall witness the counting of the paper ballots and shall keep separate tally lists of the votes cast for each candidate or issue on the paper ballot by precinct.

(C) The tabulated results shall be posted at each polling site prior to the completion of the hand count of the paper ballots;

(2)(A) After being run through a tabulation device, the paper ballots shall be placed in a sealed double-locking hard shell ballot box for transport to the designated hand count location and the seal initialed by a minimum of two (2) election officials.

(B) Each county board of election commissioners shall designate the hand count location thirty (30) days before an election.

(C) A minimum of two (2) election officials shall transport the paper ballots to the hand count location.

(D) All ballots from voting machines used for compliance with the Equal Access to Voting Rights Act, Pub. L. No. 98-435, the Americans with Disabilities Act, Title II of Pub. L. No. 101-336, and the Help America Vote Act of 2002, Pub. L. No. 107-252 shall be counted with the hand-counted paper ballots.

(E) All paper ballots shall be stored in a secure location approved by the county board of election commissioners when not in use by a poll worker performing the hand count of the paper ballots;

(3)(A) When two (2) or more paper ballots are found folded together, it shall be considered as conclusive evidence the paper ballots are fraudulent and neither of the paper ballots shall be counted.

(B) If a paper 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~~ county board of election commissioners to determine the voter's intent;

~~(3)(A)~~(4)(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)(i) A hand count of paper ballots shall be completed a minimum of twenty-four (24) hours before the certification deadline.

(ii) If the hand count of paper ballots is not completed a minimum of twenty-four (24) hours before the certification deadline, the machine tabulated results under subdivision (1) of this section shall be the certified results of the election.

(C)(i) If a poll worker becomes sick or incapacitated from any other cause, the remaining poll workers shall continue the count until it is completed.

(ii) The county board of election commissioners shall ensure there is a minimum of four (4) poll workers available to continue the count.

(D) All hand-count paper ballot totals shall be recorded by race in each precinct, and posted at the designated hand-count location upon the completion of the hand count of the paper ballots;

(5) A minimum of two (2) poll workers are required to verify the vote on each hand-counted paper ballot;

~~(4)~~(6) 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)~~(7)(A)(i) The counting of paper ballots shall be open to the public.

(ii) the public shall maintain a minimum distance of three (3) feet from the poll workers counting the paper ballots.

(iii) If sufficient room to maintain a minimum distance of three (3) feet from the poll workers counting the paper ballots may not be achieved, the candidate, the candidate's designated or authorized representative, and designated or authorized representatives of the political parties shall be given priority viewing by the county board of election commissioners.

(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 paper ballots in any election for the purpose of determining

whether or not the paper 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 paper ballots after the paper ballots have been counted.

SECTION 4. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that sufficient laws to ensure the integrity of paper ballot elections do not currently exist; that this act is immediately necessary to establish adequate guidelines and requirements to ensure that elections conducted by paper ballot are safe and secure and to fortify the integrity of each and every election conducted within the State of Arkansas; that adequate guidelines are required to ensure elections conducted by paper ballots accommodate disabled Arkansas citizens and are in compliance with the Americans with Disabilities Act; and that the preservation of safe and secure elections is necessary to preserve the public peace, health and safety. Therefore, an emergency is declared to exist, and this act being immediately necessary to preserve the public peace, health and safety shall become effective on:

(1) The date of its approval by the Governor;

(2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or

(3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.

/s/Long

APPROVED: 4/12/23