

Stricken language would be deleted from and underlined language would be added to present law.
Act 794 of the Regular Session

State of Arkansas
94th General Assembly
Regular Session, 2023

As Engrossed: S3/29/23
A Bill

SENATE BILL 413

By: Senator J. Dismang
By: Representative Wardlaw

For An Act To Be Entitled

AN ACT TO AMEND THE REQUIREMENTS REGARDING APPOINTMENTS TO BOARDS AND COMMISSIONS BY THE GOVERNOR; TO AMEND THE PROCEDURES FOR SENATE CONFIRMATION OF BOARD AND COMMISSION APPOINTEES; TO AUTHORIZE THE RULES COMMITTEE OF THE SENATE TO MEET DURING THE INTERIM FOR THE PURPOSE OF CONSIDERING CONFIRMATION OF BOARD AND COMMISSION APPOINTEES; TO DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.

Subtitle

TO AMEND THE REQUIREMENTS AND PROCEDURES FOR APPOINTMENTS AND CONFIRMATION OF APPOINTMENTS TO BOARDS AND COMMISSIONS; AND TO DECLARE AN EMERGENCY.

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

SECTION 1. Arkansas Code § 2-33-102(d), concerning vacancies in the membership of the Arkansas Livestock and Poultry Commission, is amended to read as follows:

(d) Any vacancies arising in the membership of the commission for any reason other than expiration of the terms for which the members were appointed shall be filled by appointment by the Governor and be effective until the expiration of the terms, subject to the confirmation of the Senate ~~when it is next in session.~~



SECTION 2. Arkansas Code § 6-3-102(b), concerning vacancies in the membership of the Arkansas Educational Television Commission, is amended to read as follows:

(b)(1) Members of the commission shall be appointed by the Governor with the advice and consent of the Senate for terms of eight (8) years.

(2) Members of the commission shall be eligible for reappointment.

(3) If a vacancy occurs ~~at a time when the Senate is in session,~~ the Governor shall, with the advice and consent of the Senate, appoint another member of the commission for the unexpired term.

(4) ~~If a vacancy occurs when the Senate is not in session, the Governor shall appoint a member of the commission who shall take office immediately, but his or her appointment shall be subject to confirmation by the Senate at the next session of the General Assembly.~~

~~(5)~~ If the appointment of such member of the commission is confirmed by the Senate, he or she shall serve the remainder of the unexpired term.

SECTION 3. Arkansas Code § 6-43-101(d)(2), concerning submission of appointments of members of the Board of Trustees of the Arkansas School for the Blind and the Arkansas School for the Deaf, is amended to read as follows:

(2)(A) The Governor shall submit to the Senate for approval, ~~on or before the fourteenth day following the commencement of each regular session of the General Assembly,~~ the names of all ~~unconfirmed~~ appointments made by him or her to fill expired terms ~~and the names of appointments to fill the terms expiring during the regular session of the General Assembly~~ within ten (10) days following the appointment.

(B) The members appointed by the Governor to fill vacancies caused by the expiration of the terms of members may qualify and hold office until the appointments are rejected by the Senate.

SECTION 4. Arkansas Code § 6-65-201(d)(2), concerning submission of appointments of members of the Board of Trustees of the Arkansas State University system, is amended to read as follows:

(2) ~~On or before the fourteenth day following the commencement of each~~

~~regular session of the General Assembly, the~~ The Governor shall submit to the Senate for approval the names of all ~~unconfirmed~~ appointments made by him or her to fill expired terms ~~and the names of appointments to fill the terms expiring during the regular session of the General Assembly~~ within ten (10) days following the appointment. The members appointed by the Governor to fill vacancies caused by the expiration of the terms of members may qualify and hold office until the appointments are rejected by the Senate.

SECTION 5. Arkansas Code § 6-65-301(d)(2), concerning submission of appointments of members of the Board of Trustees of Southern Arkansas University, is amended to read as follows:

(2) The Governor shall submit to the Senate for approval, ~~on or before the fourteenth day following the commencement of each regular session of the General Assembly~~ the names of all ~~unconfirmed~~ appointments made by him or her to fill expired terms ~~and the names of appointments to fill the terms expiring during the regular session of the General Assembly~~ within ten (10) days following the appointment. The members appointed by the Governor to fill vacancies caused by the expiration of the terms of members may qualify and hold office until the appointments are rejected by the Senate.

SECTION 6. Arkansas Code § 6-65-401(g), concerning vacancies in the membership of the Board of Trustees of Southern Arkansas University, is amended to read as follows:

(g) Any vacancies arising in the membership of the board for any reason other than the expiration of the regular terms for which the members were appointed shall be filled by the appointment of the Governor, subject to the approval by a majority of the remaining members of the board and shall be thereafter effective until the expiration of the regular term unless the appointment is rejected by the Senate ~~at the next regular session of the General Assembly~~.

SECTION 7. Arkansas Code § 6-67-102(d)(2), concerning submission of appointments of members of the Board of Trustees of the University of Central Arkansas, is amended to read as follows:

(2) The Governor shall submit to the Senate for approval, ~~on or before the fourteenth day following the commencement of each regular session of the~~

~~General Assembly, the names of all unconfirmed appointments made by him or her to fill expired terms and the names of appointments to fill the terms expiring during the regular session of the General Assembly within ten (10) days following the appointment.~~ The members appointed by the Governor to fill vacancies caused by the expiration of the terms of members may qualify and hold office until the appointments are rejected by the Senate.

SECTION 8. Arkansas Code § 8-4-104(d), concerning vacancies in the membership of the Arkansas Pollution Control and Ecology Commission, is amended to read as follows:

(d) In the event of a vacancy in the membership of the Arkansas Pollution Control and Ecology Commission, the Governor shall appoint a person to fill the vacancy temporarily who shall serve until the next meeting of the Senate, when some person shall be appointed by the Governor, by and with the consent and approval of the Senate, to serve the remainder of the unexpired term.

SECTION 9. Arkansas Code § 10-2-113 is amended to read as follows:
10-2-113. Senate confirmation of board and commission appointees.

(a) All appointments made by the Governor of members of boards and commissions of the State of Arkansas, except appointments of members of boards and commissions governed by specific constitutional provisions that may be in conflict with this section, shall be subject to confirmation by the Senate. ~~However, if any such appointment is made while the General Assembly is not in session, the~~ The person so appointed may qualify and hold office until the appointment shall be rejected by the Senate.

(b)~~(1)~~ The Governor shall submit to the Senate ~~within thirty (30) days after the General Assembly convenes in a regular session and within fifteen (15) days after the General Assembly convenes in a fiscal session~~ the names of all appointments to boards and commissions of this state made subsequent to adjournment of the Senate at the last regular session or fiscal session of the General Assembly within ten (10) days following the appointment for the consideration of confirmation by the Senate.

~~(2) Upon the convening of a special session of the General Assembly, the Governor shall immediately submit the names of all appointments to boards and commissions of this state made subsequent to adjournment of the~~

~~Senate at the last regular session, fiscal session, or special session of the General Assembly.~~

~~(3) All appointments of members of boards and commissions of this state made while the General Assembly is in session shall be submitted immediately to the Senate.~~

(c) If an appointment is rejected by the Senate, the person rejected shall not thereafter be eligible to serve in the position or exercise the powers of the position, unless the appointment of the person is first approved by the Senate.

SECTION 10. Arkansas Code Title 10, Chapter 2, Subchapter 1 is amended to add a new section to read as follows:

10-2-134. Senate confirmation of gubernatorial appointments.

(a) The Governor shall submit the names of all appointments for which Senate confirmation is required by law to the Senate within ten (10) days following the appointment.

(b) During the interim between legislative sessions, the President Pro Tempore of the Senate shall call a Senate business meeting at least one (1) time every three (3) months to consider recommendations from the Rules Committee of the Senate regarding confirmation of gubernatorial appointments.

(c) During a regular session, fiscal session, or extraordinary session of the General Assembly, the Senate shall consider confirmation of gubernatorial appointments in accordance with the Rules of the Senate.

SECTION 11. Arkansas Code § 10-3-212(a), concerning interim meetings of the Rules Committee of the House of Representatives and the Rules Committee of the Senate, is amended to read as follows:

(a)(1) The Rules Committee of the Senate and the Rules Committee of the House of Representatives are authorized to meet jointly or separately at any time during the interim between legislative sessions as the Rules Committee of the Senate and the Rules Committee of the House of Representatives shall deem necessary or desirable to review the Rules of the Senate, the Rules of the House of Representatives, and the Joint Rules of the House of Representatives and the Senate and to make recommendations for revisions in the rules or new rules as the Rules Committee of the Senate and the Rules Committee of the House of Representatives shall deem appropriate.

(2) In addition to meeting under subdivision (a)(1) of this section, the Rules Committee of the Senate is authorized to meet during the interim between legislative sessions to:

(A) Consider gubernatorial appointments; and

(B) Make recommendations to the Senate regarding confirmation of appointments under subdivision (a)(2)(A) of this section.

SECTION 12. Arkansas Code § 11-2-107(b)(4), concerning timing of the appointment of the Director of the Division of Labor, is repealed.

~~(4) All appointments made while the Senate is not in regular session shall be effective ad interim.~~

SECTION 13. Arkansas Code § 12-8-102(c)(1), concerning vacancies in the membership of the Arkansas State Police Commission, is amended to read as follows:

(c)(1) When vacancies occur in the commission, the Governor may temporarily fill the position consistent with subsection (b) of this section ~~until the Senate is next in session.~~

SECTION 14. Arkansas Code § 12-12-302(a)(2)(B), concerning vacancies in the membership of the State Crime Laboratory Board, is amended to read as follows:

(B) However, a vacancy may be temporarily filled by the Governor ~~until the Senate shall next meet~~ subject to confirmation of the Senate.

SECTION 15. Arkansas Code § 12-62-101(b), concerning appointment and confirmation of general officers above the grade of brigadier general of the Arkansas National Guard, is amended to read as follows:

(b) General officers above the grade of brigadier general shall be appointed and promoted by the Governor with the consent of the Senate. ~~During the time that the Senate is not in session, the Governor may make such appointments subject to subsequent confirmation by the Senate.~~

SECTION 16. Arkansas Code § 13-3-102(c), concerning vacancies in the membership of the Arkansas History Commission, is amended to read as follows:

(c) Any vacancies arising in the membership of the commission for any reason other than expiration of the regular terms for which the members were appointed shall be filled by appointment by the Governor, and to be thereafter effective until the expiration of the regular terms, subject, however, to the confirmation of the Senate ~~when it is next in session.~~

SECTION 17. Arkansas Code § 13-3-202(d), concerning vacancies in the membership of the Black History Commission of Arkansas, is amended to read as follows:

(d) Any vacancies arising in the membership of the commission for any reason other than expiration of the regular terms for which the members were appointed shall be filled by appointment by the Governor, and to be thereafter effective until the expiration of the regular terms, subject, however, to the confirmation of the Senate ~~when it is next in session.~~

SECTION 18. Arkansas Code § 14-118-203(d), concerning vacancies in the membership of the Red River Commission, is amended to read as follows:

(d) Any vacancies arising in the membership of the commission for any reason other than expiration of the regular terms for which the members were appointed shall be filled by appointment by the Governor, and to be thereafter effective until the expiration of the regular terms, subject, however, to the confirmation of the Senate ~~when it is next in session.~~

SECTION 19. Arkansas Code § 15-4-202(c), concerning vacancies in the membership of the Arkansas Economic Development Council, is amended to read as follows:

(c) A vacancy arising in the membership of the council appointed by the Governor for any reason other than expiration of the regular terms for which the members were appointed shall be filled by appointment by the Governor to be thereafter effective until the expiration of the terms, subject to the confirmation of the Senate ~~when it is next in session.~~

SECTION 20. Arkansas Code § 15-11-202(f), concerning vacancies in the membership of the State Parks, Recreation, and Travel Commission, is amended to read as follows:

(f) Any vacancies arising in the membership of the commission for any

reason other than expiration of the regular terms for which members were appointed shall be filled by appointment by the Governor and be thereafter effective until the expiration of their regular terms, subject, however, to the confirmation of the Senate ~~when it is next in session.~~

SECTION 21. Arkansas Code § 15-20-202(d), concerning vacancies in the membership of the Arkansas Natural Resources Commission, is amended to read as follows:

(d) Any vacancies arising in the membership of the commission for any reason other than expiration of the regular terms for which such members were appointed shall be filled by appointment by the Governor and to be thereafter effective until the expiration of those terms, subject, however, to the confirmation of the Senate ~~when it is next in session.~~

SECTION 22. Arkansas Code § 15-31-102(c), concerning vacancies in the membership of the Arkansas Forestry Commission, is amended to read as follows:

(c)(1) Any vacancies arising in the membership of the commission for any reason other than expiration of the regular terms for which the members were appointed shall be filled by appointment by the Governor.

(2) Appointments shall be thereafter effective until the expiration of the regular terms, subject, however, to the confirmation of the Senate ~~when it is next in session.~~

SECTION 23. Arkansas Code § 15-55-202(d), concerning vacancies in the membership of the Arkansas Geological Survey, is amended to read as follows:

(d) Any vacancies arising in the membership of the survey for any reason other than expiration of the regular terms for which the members were appointed shall be filled by appointment by the Governor, to be thereafter effective until the expiration of the regular terms, subject, however, to the confirmation of the Senate ~~when it is next in session.~~

SECTION 24. Arkansas Code § 16-93-201(b), concerning vacancies in the membership of the Parole Board, is amended to read as follows:

(b) If any vacancy occurs on the board prior to the expiration of a term, the Governor shall fill the vacancy for the remainder of the unexpired

term, subject to confirmation by the Senate ~~at its next regular session.~~

SECTION 25. Arkansas Code § 17-50-201(d), concerning vacancies in the membership of the Commission on Water Well Construction, is amended to read as follows:

(d) Any vacancies arising on the membership of the commission for any reason other than expiration of the regular terms for which the members were appointed shall be filled by appointment by the Governor, to be effective until the expiration of the regular terms, subject, however, to the confirmation of the Senate ~~when it is next in session.~~

SECTION 26. Arkansas Code § 25-16-804(b)(1), concerning removal and replacement of a state board or commission member, is amended to read as follows:

(b)(1) The Governor may remove for good cause a state board or commission member whose office or position is filled by gubernatorial appointment, subject to confirmation by the Senate. ~~If the Senate is not in session, confirmation shall be by written petition of a majority of the senators.~~

SECTION 27. Arkansas Code § 27-89-201 is amended to read as follows:
27-89-201. Creation of commission – Members.

(a) The Governor, by and with the advice and consent of the Senate, shall appoint three (3) commissioners to enter into a compact on behalf of the State of Arkansas with the State of Mississippi.

~~(b) If the Senate is not in session at the time for making these appointments, the Governor shall make temporary appointments, as in the case of a vacancy.~~

~~(e)~~ Any two (2) of the commissioners so appointed, together with the Attorney General of the State of Arkansas, may act to enter into the compact set out in § 27-89-202.

~~(d)~~(c) Vacancies occurring in the office of any appointed commissioner shall be filled by appointment by the Governor by and with the advice and consent of the Senate for the unexpired term.

SECTION 28. EMERGENCY CLAUSE. It is found and determined by the

General Assembly of the State of Arkansas that the positions to which the Governor makes appointments are important and necessary to the functions of the government of the State of Arkansas; with a change in the administration of the government of the State of Arkansas due to a new Governor taking office on January 10, 2023, there are many vacancies on boards and commissions in the state to be filled by the Governor's appointees; it is imperative that the Senate consider confirmation of the appointments near in time to when the appointments occur, whether that be during a legislative session or the interim between legislative sessions, in order to avoid continued vacancies; and that this act is immediately necessary to provide for the expeditious review and confirmation of gubernatorial appointments in order to fill the positions that are necessary to the functioning of state government and the protection of the public health, welfare, and safety of the citizens of the State of Arkansas. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of 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/J. Dismang

APPROVED: BECAME LAW ON 4/12/23 WITHOUT THE GOVERNOR'S SIGNATURE.