

Hall of the House of Representatives
84th General Assembly - Regular Session, 2003
Amendment Form

Subtitle of House Bill No. 2372

"AN ACT CONCERNING REVISIONS TO THE STATE BOARD OF ELECTION
COMMISSIONERS."

Amendment No. 1 to House Bill No. 2372.

Amend House Bill No. 2372 as originally introduced:

Page 2, line 7, after "the" and before "board" delete "state" and substitute "state"

AND

Page 2, line 21, after "appointed and" delete "have"

AND

Page 3, delete line 4, and substitute the following

"(f) The ~~state~~ board shall ~~perform the following duties~~ have the authority to:"

AND

Page 3, delete lines 16 through 36 and insert the following:

~~"(5) Review citizen complaints regarding violations of election and voter registration laws and forward them to the proper authorities, except as to § 7-1-103(a)(1)-(4), (6), and (7) or except for any matter relating to campaign finance and disclosure laws, which the Arkansas Ethics Commission shall have the same power and authority to enforce as is provided the commission under §§ 7-6-217 and 7-6-218 for the enforcement of campaign finance laws;~~

~~(6) Develop procedures for reviewing and forwarding citizen complaints referred to in subdivision (f)(5) of this section;~~

~~(7)(5) Formulate, adopt, and promulgate all necessary rules and regulations to assure even and consistent application of voter registration laws and fair and orderly election procedures;~~

~~(8)(6)(A) Appoint certified election monitors to any county upon a signed, written request under oath filed with the state board and a determination by the state board that appointing a monitor is necessary.~~

(B) Certified election monitors shall serve as observers



for the purpose of reporting to the ~~state~~ board on the conduct of the election.

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

~~(9)(7)~~ Assist the county board of election commissioners in the performance of the administrative duties of the election process if the ~~state~~ board determines that assistance is necessary and appropriate;

(8)(A) Formulate, adopt, and promulgate all necessary rules and regulations 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; and

~~(10)(9)~~ If the state board finds a violation Investigate alleged violations and 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), ~~or~~ and except for any matters relating to campaign finance and disclosure laws which the ~~commission~~ Arkansas Ethics Commission shall have the same power and authority to enforce under according to §§ 7-6-217 and 7-6-218. for the enforcement of campaign finance laws, the state board may do one (1) or more of the following:

~~(A) Issue a public letter of caution or warning or reprimand;~~

~~(B)(i) Impose a fine of not less than twenty five dollars (\$25.00) nor more than one thousand dollars (\$1,000) for negligent or intentional violation of this subchapter.~~

~~(ii) The state board 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 state board in payment of fines shall be deposited in the State Treasury as general revenues; or~~

~~(C) Report its finding, along with such information and documents as it deems appropriate, and make recommendations to the proper law enforcement authorities;~~

~~(11) The state board shall complete its investigation of a complaint filed pursuant to this section within no later than ninety (90) days of the filing of the complaint; and~~

~~(12) Any final action of the state board under this section shall constitute an adjudication for purposes of judicial review under § 25-15-212.~~

~~(g) All election related questions are to be answered by the Secretary of State's office pursuant to § 7-1-106 and shall be consistent and in conformity with any policies, guidelines, or regulations established by the state board.~~

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

(h)(1) The board may appoint a director who may hire a staff.

~~(i)(1)(2)~~ The Director of the State Board of Election Commissioners and the staff shall serve at the pleasure of the state board.

~~(2) The Secretary of State shall exercise daily supervision of the director and the staff, consistent with personnel policy.~~

(3) The ~~state~~ 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.

SECTION 2. Arkansas Code Title 7, Chapter 4, Subchapter 1 is amended to add an additional section to read as follows:

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) through (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), the State Board of Election Commissioners may file a complaint.

(3) A complaint must be filed with the board in writing within thirty (30) days of the alleged violation.

(4) A complaint must clearly state the alleged election irregularity or illegality, when and where the alleged activity occurred, 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 of 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 complaint stating facts constituting violation of election or voter registration laws under its jurisdiction signed under penalty of perjury, 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) An 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 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 circuit court of Pulaski County 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., 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 in 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 subdivision (c)(1) 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, until a hearing is set or the Director's investigation is closed.

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

AND

Page 4, delete lines 1 through 36.

AND

Page 5, delete lines 1 through 14

The Amendment was read _____

By: Representative King

MTB/JGR - 031220031458

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Chief Clerk