

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

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INTERIM STUDY PROPOSAL 2009-027

State of Arkansas

As Engrossed: S2/2/09 S2/18/09 S3/2/09 S3/11/09

87th General Assembly

A Bill

Regular Session, 2009

SENATE BILL 253

By: Senators Faris, B. Pritchard, *G. Baker*

By: *Representative Saunders*

Filed with: Senate Interim Committee on State Agencies and Governmental Affairs
pursuant to A.C.A. §10-3-217.

For An Act To Be Entitled

*AN ACT TO REPEAL THE PRESIDENTIAL PREFERENTIAL
PRIMARY; TO MOVE THE DATE OF THE PREFERENTIAL
PRIMARY ELECTION TO THE FIRST TUESDAY IN JUNE; TO
MOVE THE DATE OF THE GENERAL PRIMARY ELECTION TO
THE TUESDAY THREE WEEKS AFTER THE PREFERENTIAL
PRIMARY ELECTION; AND FOR OTHER PURPOSES.*

Subtitle

AN ACT TO REPEAL THE PRESIDENTIAL
PREFERENTIAL PRIMARY ELECTION; AND TO
MOVE THE DATE OF THE PRIMARY ELECTIONS.

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

SECTION 1. Arkansas Code § 7-5-103 is amended to read as follows:

7-5-103. Special elections.

(a)(1) All special elections to fill vacancies in an office shall be called by proclamation, ordinance, resolution, or order of the appropriate constituted authority.

(2) The proclamation, ordinance, resolution, or order shall be published as soon as practicable in a newspaper of general circulation in which the special election is held and the proclamation, ordinance, resolution, or order shall establish:



- 1 (A) The date of the election;
- 2 (B) The date of the primary election, if any;
- 3 (C) The deadline for filing party certificates and
- 4 political practices pledges, if required, with the county clerk or Secretary
- 5 of State, as the case may be, if applicable;
- 6 (D) The deadline for party conventions to select nominees,
- 7 if applicable;
- 8 (E) The deadline for parties to issue certificates of
- 9 nomination, if applicable;
- 10 (F) The deadline for candidates to file certificates of
- 11 nomination, if applicable, and political practices pledges with the county
- 12 clerk or Secretary of State, as the case may be;
- 13 (G) The deadline for filing as an independent candidate
- 14 and the period in which petitions for independent candidacy may be
- 15 circulated;
- 16 (H) The deadline for filing as a write-in candidate, if
- 17 applicable;
- 18 (I) The deadline for drawing for ballot position by the
- 19 appropriate committee or election commission, as the case may be; and
- 20 (J) The date the election shall be certified by the county
- 21 board of election commissioners in each county in which the election takes
- 22 place and, if applicable, by the Secretary of State.

23 (3)(A) All special elections to fill vacancies in office shall
 24 be held on the second Tuesday of any month.

25 (B)(i) Special elections under this section in which a
 26 ~~presidential preferential primary election,~~ preferential primary election,
 27 general primary election, or general election is scheduled to occur shall be
 28 held on the date of the ~~presidential preferential primary election,~~
 29 preferential primary election, general primary election, or general election.

30 (ii) If a special election to fill a vacancy in
 31 office is held on the date of the ~~presidential preferential primary election,~~
 32 preferential primary election, or general primary election, the names of the
 33 candidates in the special election shall be included on the ballot of each
 34 political party, and the portion of the ballot on which the special election
 35 appears shall be labeled with a heading stating "SPECIAL ELECTION FOR
 36 _____" with the name of the office set out

1 in the heading.

2 (iii) However, separate ballots containing the names
3 of the candidates to be voted on at the special election, nonpartisan
4 judicial elections, if applicable, and any other measures or questions that
5 may be presented for a vote shall be prepared and made available to voters
6 requesting a separate ballot.

7 (iv) No voter shall be required to vote in a
8 political party's ~~presidential preferential primary~~, preferential primary, or
9 general primary in order to be able to vote in the special election.

10 (C)(i) If the special election is held at the same time as
11 the general election, the names of the candidates in the special election
12 shall be included on the general election ballot, and the portion of the
13 ballot on which the special election appears shall be labeled with a heading
14 stating "SPECIAL ELECTION FOR _____" with
15 the name of the office set out in the heading.

16 (ii) The county board of election commissioners may
17 include the special election on a separate ballot if the special election is
18 held at the same time as the general election and if the ~~commission~~ county
19 board determines that a separate ballot is necessary to avoid voter
20 confusion.

21 (D) A special election to fill a vacancy in office shall
22 be held not less than sixty-five (65) days following the date in the
23 proclamation, ordinance, resolution, or order for drawing for ballot position
24 when the special election is to be held on the date of the ~~presidential~~
25 ~~preferential primary election~~, preferential primary election, general primary
26 election, or general election.

27 (4) If the special election is not held at the same time as a
28 ~~presidential preferential primary election~~, preferential primary election,
29 general primary election, or general election, the special election shall be
30 held not less than fifty (50) days following the date in the proclamation,
31 ordinance, resolution, or order for drawing for ballot position.

32 (5)(A) All special primary elections required for an election to
33 fill a vacancy in office shall be held on the second Tuesday of any month,
34 and special primary elections held under this section in months in which a
35 ~~presidential preferential primary election~~, preferential primary election,
36 general primary election, or general election is scheduled to occur shall be

1 held on the date of the ~~presidential preferential primary election,~~
2 preferential primary election, general primary election, or general election.

3 (B) If a special primary election in conjunction with an
4 election to fill a vacancy in office is held on the date of the ~~presidential~~
5 ~~preferential primary election,~~ preferential primary election, general primary
6 election, or general election, the candidates to be voted upon at the special
7 election shall be included on the ballot of each political party or the
8 general election ballot, as the case may be, and the portion of the ballot on
9 which the special primary election appears shall be labeled with a heading
10 stating "SPECIAL PRIMARY ELECTION FOR _____"
11 with the name of the party for which nomination is sought and the office set
12 out in the heading.

13 (C) The county board of election commissioners may include
14 the special primary election on a separate ballot if the special primary
15 election is held at the same time as a ~~presidential preferential primary~~
16 ~~election,~~ preferential primary election, general primary election, or general
17 election and if the ~~commission~~ county board determines that a separate ballot
18 is necessary to avoid voter confusion.

19 (6) A special primary election shall be held not less than
20 sixty-five (65) days following the date in the proclamation, ordinance,
21 resolution, or order for drawing for ballot position when the special
22 election is to be held on the date of the ~~presidential preferential primary~~
23 ~~election,~~ preferential primary election, general primary election, or general
24 election.

25 (7)(A) If the special primary election is not held at the same
26 time as a ~~presidential preferential primary election,~~ preferential primary
27 election, general primary election, or general election, the special election
28 shall be held not less than fifty (50) days following the date in the
29 proclamation, ordinance, resolution, or order for drawing for ballot
30 position.

31 (B) When a special primary election is called to select
32 nominees for a special election to fill a vacancy in office, the nominee
33 shall be the person who receives the highest number of votes in the special
34 primary election. There shall be no runoff after a special primary election.

35 (8) In addition to the publication of the proclamation,
36 ordinance, resolution, or order required by the provisions of this section,

1 notice of special elections to fill vacancies called under this section shall
2 be published and posted under §§ 7-5-202 and 7-5-206.

3 (b)(1) Except for special school elections held under § 6-14-102(d),
4 all special elections on measures or questions referred to the voters shall
5 be called by proclamation, ordinance, resolution, or order of the properly
6 constituted authority.

7 (2) The proclamation, ordinance, resolution, or order shall set
8 forth:

9 (A) The date of the special election;

10 (B) The full text of any measure or question for which the
11 election is called;

12 (C) Any ballot title for the measure or question for which
13 the election is called; and

14 (D) Any other information ~~as may be~~ required by law.

15 (3) All special elections on measures or questions shall be held
16 on the second Tuesday of any month, except special elections held under this
17 section in a month in which a ~~presidential preferential primary election,~~
18 preferential primary election, general primary election, or general election
19 is scheduled to occur shall be held on the date of the ~~presidential~~
20 ~~preferential primary election,~~ preferential primary election, general primary
21 election, or general election. Special elections scheduled to occur in a
22 month in which the second Tuesday is a legal holiday shall be held on the
23 third Tuesday of the month.

24 (4)(A) If a special election is held on the date of the
25 ~~presidential preferential primary election,~~ preferential primary election, or
26 general primary election, the issue or issues to be voted upon at the special
27 election shall be included on the ballot of each political party. The portion
28 of the ballot containing the special election shall be labeled with a heading
29 stating "SPECIAL ELECTION ON _____" with a
30 brief description of the measure or question to be decided in the election.

31 (B) However, separate ballots containing the issue or
32 issues or candidates to be voted on at the special election and candidates
33 for nonpartisan judicial office shall be prepared and made available to
34 voters requesting a separate ballot.

35 (C) No voter shall be required to vote in a political
36 party's ~~presidential preferential primary,~~ preferential primary, or general

1 primary in order to be able to vote in the special election.

2 (5) A special election shall be held not less than sixty-five
3 (65) days following the date that the ordinance or resolution is adopted or
4 the date the proclamation or order is issued when the special election is to
5 be held on the date of the ~~presidential preferential primary election,~~
6 preferential primary election, general primary election, or general election.

7 (6) If the special election is not held at the same time as a
8 ~~presidential preferential primary election,~~ preferential primary election,
9 general primary election, or general election, the special election shall be
10 held not less than fifty (50) days following the date that the proclamation,
11 ordinance, resolution, or order is published.

12 (7) Notice of the election shall be published and posted in
13 accordance with § 7-5-202, § 7-5-206, or as may be otherwise provided by
14 Arkansas law.

15
16 *SECTION 2. Arkansas Code § 7-5-203 is amended to read as follows:*
17 *7-5-203. Certification of candidate lists.*

18 (a) *Not less than ~~seventy-five (75)~~ seventy (70) days before each*
19 *general election day, the Secretary of State shall certify to all county*
20 *boards of election commissioners a full ~~lists~~ list of all United States,*
21 *state, and district candidates to be voted for in their respective counties*
22 *as ~~the nominations have been certified to him or her~~ nominated in party*
23 *primary elections, by petition, notice, or as otherwise may be provided in*
24 *law.*

25 (b) *Not less than seventy-five (75) days before each general election*
26 *day, the clerk of each county shall certify to the county board of his or her*
27 *county a full list of all county, township, municipal, and other local*
28 *candidates to be voted for in the county as ~~the nominations have been~~*
29 *~~certified to him or her~~ nominated in party primary elections, by petition,*
30 *notice, or as otherwise provided in law.*

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

35
36 *SECTION 3. Arkansas Code § 7-5-409(f), concerning materials furnished*

1 to qualified voters, is amended to read as follows:

2 (f) A designated bearer shall be allowed to pick up only two (2)
3 absentee ballots from the county clerk only during the fifteen (15) days
4 prior to a school election, special election, preferential primary election,
5 ~~presidential preferential primary election~~, or general election and seven (7)
6 days prior to a runoff election, including a general primary election.

7
8 SECTION 4. Arkansas Code § 7-5-418(a)(2), concerning availability of
9 early voting, is amended to read as follows:

10 (2) *However, on all other elections, including the ~~presidential~~
11 ~~preferential primary~~, general primary, and general runoff elections, early
12 voting shall be available to any qualified elector who applies to the county
13 clerk during regular office hours, beginning seven (7) days before the
14 election and ending on the day before the election day at the time the county
15 clerk's office regularly closes.*

16
17 SECTION 5. Arkansas Code § 7-7-203 is amended to read as follows:
18 7-7-203. Dates.

19 (a) *The ~~general~~ preferential primary election shall be held on the
20 ~~second~~ first Tuesday in June preceding the general election.*

21 (b) *The ~~preferential~~ general primary election shall be held on the
22 Tuesday three (3) weeks ~~prior to~~ after the ~~general~~ preferential primary
23 election.*

24 (c)(1) *Party pledges, if any, shall be filed and any filing fees of a
25 political party, if any, shall be paid during regular office hours in the
26 period beginning at 12:00 noon on the ~~first weekday~~ third Tuesday in March
27 and ending at 12:00 noon on the seventh day thereafter before the
28 preferential primary election.*

29 (2) *A party certificate and the political practice pledge for
30 primary elections shall be filed with the county clerk or the Secretary of
31 State, as the case may be, during regular office hours in the period
32 beginning at 12:00 noon on the ~~first weekday~~ third Tuesday in March and
33 ending at 12:00 noon on the seventh day thereafter before the preferential
34 primary election.*

35 (3) *The name of a candidate who fails to file a party
36 certificate by the filing deadline with the Secretary of State or county*

1 clerk, as the case may be, shall not appear on the ballot.

2 (4) Party pledges, if any, shall be filed, filing fees, if any,
3 shall be paid, and party certificates and political practice pledges shall be
4 filed for special primary elections on or before the deadline established by
5 proclamation of the Governor.

6 (d) At least seventy (70) days before the preferential primary
7 election, the Secretary of State shall certify the ballot to the various
8 county committees and to the various county boards of election commissioners
9 with the names of all candidates who have qualified with the state committee
10 for election by filing the party pledge and paying the filing fees of the
11 political party within the time required by law.

12 (e)(1) The county board shall convene, at the time specified in the
13 notice to the members given by the chair of the board, no later than the
14 tenth day after each primary election for the purpose of canvassing the
15 returns and certifying the election results.

16 (2) If no time is specified for the meeting of the county board,
17 the meeting shall be at 5:00 p.m.

18 (f) The county convention of a political party holding a primary
19 election shall be held on the first Monday following the date of the general
20 primary.

21 (g)(1) The county board of election commissioners shall certify to the
22 county clerk and the county committee a list of all nominated candidates for
23 county, township, and municipal offices, and the political parties' county
24 committee members and delegates.

25 (2) At the same time, the county board of election commissioners
26 shall certify to the Secretary of State, the county clerk, and the secretary
27 of the state committee the results of the contests for all United States,
28 state, and district offices. Immediately after ascertaining the results for
29 all United States, state, and district offices, the Secretary of State shall
30 certify to the state committee and to the county board of election
31 commissioners a list of all nominated candidates for the offices.

32 ~~(h)(1)(A) The Secretary of State shall at least one hundred (100) days~~
33 ~~prior to the date of the general election notify by registered mail the chair~~
34 ~~and secretary of the state committee of the respective political parties that~~
35 ~~a certificate of nomination is due for all nominated candidates for United~~
36 ~~States, state, and district offices in order that the candidates' names be~~

1 ~~placed on the ballot of the general election.~~

2 ~~(B)(i) The state committee shall issue certificates of~~
3 ~~nomination to all nominated candidates for United States, state, and district~~
4 ~~offices, who shall file the certificates with the Secretary of State at least~~
5 ~~ninety (90) days prior to the general election.~~

6 ~~(ii) However, if the chair and secretary of the~~
7 ~~state committee of the respective political parties are not properly notified~~
8 ~~as directed by subdivision (h)(1)(A) of this section, the failure of a~~
9 ~~candidate to file a certificate of nomination shall not prevent that~~
10 ~~candidate's name from being placed on the ballot of the general election.~~

11 ~~(2)(A) Each county clerk shall at least ninety (90) days prior~~
12 ~~to the date of the general election notify by registered mail the chairs and~~
13 ~~secretaries of the county committees of the respective political parties that~~
14 ~~a certified list of all nominated candidates for county, township, and~~
15 ~~municipal offices is due and shall be filed with the county board of election~~
16 ~~commissioners and the county clerk in order that the candidates' names be~~
17 ~~placed on the ballot for the general election.~~

18 ~~(B)(i) Each county committee shall issue the certified~~
19 ~~list on behalf of those nominated candidates and submit the certified list to~~
20 ~~the county board of election commissioners and the county clerk at least~~
21 ~~eighty (80) days prior to the general election.~~

22 ~~(ii) However, if the chairs and secretaries of the~~
23 ~~county committees of the respective political parties are not properly~~
24 ~~notified as directed by subdivision (h)(2)(A) of this section, the failure of~~
25 ~~a certified list to be filed shall not prevent any candidate's name from~~
26 ~~being placed on the ballot of the general election.~~

27
28 SECTION 6. Arkansas Code § 7-8-101 is amended to read as follows:

29 7-8-101. Primaries - General law governs.

30 (a) All primaries, preferential and general, for the selection of
31 nominees for federal offices, including those of the United States Senators
32 and Representatives, shall be held on the same date and in the same manner as
33 the preferential and general primaries for state, district, county, and
34 township offices and shall be governed by the same procedure prescribed by
35 this act.

36 (b) ~~Unless otherwise provided by Arkansas law, the presidential~~

1 ~~preferential primary election shall be on the date established by the General~~
2 ~~Assembly and shall be governed in accordance with the laws for primary~~
3 ~~elections in this state.~~

4
5 SECTION 7. Arkansas Code § 7-8-201 is amended to read as follows:

6 7-8-201. Preferential elections required – Apportionment of delegates.

7 ~~(a)(1)~~ Each political party in the state desiring to select delegates
8 to attend a quadrennial national nominating convention of the party to select
9 a nominee for the office of President of the United States shall hold a
10 ~~presidential~~ preferential primary election in the state, and the delegates to
11 the national party convention shall be apportioned to the presidential
12 candidates whose names were on the ballot at the ~~presidential~~ preferential
13 primary or to “uncommitted” in the proportion that the votes cast for each
14 candidate or for “uncommitted” bear to the total votes cast at the election,
15 rounded to the closest whole number.

16 ~~(2)~~ Presidential preferential primary elections shall be held on
17 the first Tuesday in February of the year in which the convention is held.

18 ~~(3)(A)(i)~~ Any person desiring to have his or her name printed on
19 the presidential preferential primary ballot as a candidate for his or her
20 party’s nomination shall file a party certificate with the Secretary of State
21 during regular office hours in the period beginning at 12:00 noon on the
22 first Monday in November and ending at 12:00 noon on the fourteenth day
23 thereafter before the presidential preferential primary election.

24 ~~(ii)~~ The name to be printed on the ballot shall be
25 the name on the party certificate.

26 ~~(iii)~~ The Secretary of State shall not accept for
27 filing a party certificate that contains a name that does not conform to the
28 requirements of § 7-7-305(e).

29 ~~(B)~~ Each political party shall:

30 ~~(i)~~ Be responsible for determining the
31 qualifications of candidates seeking to appear on the presidential
32 preferential primary ballot of each political party;

33 ~~(ii)~~ Provide necessary applications for candidacy;
34 and

35 ~~(iii)~~ Accept and process the applications.

36 ~~(C)~~ The Secretary of State shall transmit to each county

1 ~~board of election commissioners no later than sixty five (65) days before the~~
2 ~~presidential preferential primary election a certified list of the names of~~
3 ~~the candidates of each political party as they are to be printed on the~~
4 ~~ballot.~~

5 ~~(D)(i) Not later than sixty (60) days before the~~
6 ~~presidential preferential primary election, the county board of election~~
7 ~~commissioners of each county shall hold a public meeting to determine by lot~~
8 ~~the order in which the names of the candidates for the respective party~~
9 ~~primaries are to appear on the ballot.~~

10 ~~(ii) The county board of election commissioners~~
11 ~~shall publish notice of the meeting at least three (3) days before the~~
12 ~~meeting in a newspaper of general circulation in the county.~~

13 ~~(4) The cost of the presidential preferential primary election~~
14 ~~shall be borne by the State of Arkansas and shall be paid from an~~
15 ~~appropriation made to the State Board of Election Commissioners for that~~
16 ~~purpose.~~

17 ~~(5)(A) Within each county, the presidential preferential primary~~
18 ~~election shall be conducted by the county board of election commissioners.~~

19 ~~(B) The state board shall have authority to adopt rules~~
20 ~~for the administration of presidential preferential primary elections~~
21 ~~consistent with the election laws of this state.~~

22 ~~(C) The state board may withhold reimbursement of funds to~~
23 ~~counties for state funded presidential preferential primary elections for~~
24 ~~failure to comply with the rules developed by the state board for the~~
25 ~~administration of primary elections or applicable state election laws until~~
26 ~~all requirements are met to the satisfaction of the state board.~~

27 ~~(b)(1) Presidential preferential primary election procedures not~~
28 ~~addressed in this section shall be governed by the general election laws of~~
29 ~~this state, including, but not limited to, laws governing primary elections.~~

30 ~~(2) Party rules shall govern presidential preferential primary~~
31 ~~election procedures not addressed by the general election laws of this state.~~

32
33 SECTION 8. Arkansas Code § 7-8-204 is amended to read as follows:
34 7-8-204. Rules for selection of delegates and alternates.

35 Each political party holding a ~~presidential~~ preferential primary
36 election in the state shall adopt appropriate rules for the selection of

1 delegates and alternate delegates to the quadrennial national nominating
2 convention of the party and to otherwise carry out the intent and purposes of
3 this subchapter.

4
5 SECTION 9. Arkansas Code § 7-8-302(5)(A)(i), concerning holding a
6 preferential primary election in order to have the name of a political
7 party's candidates for President and Vice President placed on the ballot, is
8 amended to read as follows:

9 (5)(A)(i) In order to have the name of a political party's
10 candidates for President and Vice President printed on the ballot, a
11 political party shall hold a ~~presidential~~ preferential primary election.

12
13 SECTION 10. Arkansas Code § 7-10-103(b)(2)(B), concerning period for
14 paying filing fees and filing political practice pledges for the nonpartisan
15 election of judges, is amended to read as follows:

16 (B) The period for paying filing fees and filing political
17 practice pledges shall begin at 12:00 noon on the ~~first weekday~~ third Tuesday
18 in March and end at 12:00 noon on the seventh day thereafter.

19
20 SECTION 11. Arkansas Code § 7-10-103(c)(1)(A)(i), concerning filing a
21 petition to have a candidate's name placed on the ballot for a nonpartisan
22 judicial office without paying a filing fee, is amended to read as follows:

23 (c)(1)(A)(i) Any person desiring to have his or her name placed on the
24 ballot for a nonpartisan judicial office without paying a filing fee may do
25 so by filing a petition in the manner provided for under this section.
26 Petitions for Supreme Court, Court of Appeals, and circuit court positions
27 shall be filed with the Secretary of State, and petitions for district court
28 positions shall be filed with the applicable county clerk beginning at 12:00
29 noon forty-six (46) days before the ~~first weekday~~ third Tuesday in March and
30 ending at 12:00 noon thirty-two (32) days before the ~~first weekday~~ third
31 Tuesday in March.

32 /s/ Faris

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36 Filed Date: 04/02/2009 By: JET\VJF