

State of Arkansas  
91st General Assembly  
Regular Session, 2017

# A Bill

SENATE BILL 368

By: Senator B. King

## For An Act To Be Entitled

AN ACT TO TRANSFER THE STATE BOARD OF ELECTION COMMISSIONERS TO THE OFFICE OF THE SECRETARY OF STATE; TO AMEND THE LAW CONCERNING COMPLAINTS OF ELECTION LAW VIOLATIONS; TO DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.

## Subtitle

TO TRANSFER THE STATE BOARD OF ELECTION COMMISSIONERS TO THE OFFICE OF THE SECRETARY OF STATE; TO AMEND THE LAW CONCERNING COMPLAINTS OF ELECTION LAW VIOLATIONS; AND TO DECLARE AN EMERGENCY.

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

SECTION 1. DO NOT CODIFY. Transfer of the State Board of Election Commissioners to the office of the Secretary of State.

(a) Effective July 1, 2017, the State Board of Election Commissioners is transferred as a type 1 transfer under § 25-2-104 to the office of the Secretary of State.

(b) The board shall be administered under the direction and supervision of the Secretary of State, but shall retain the same prescribed statutory powers, authorities, duties, and functions as the board had before the transfer, including:

- (1) Rulemaking, regulation, licensing, and registration;
- (2) The promulgation of rules, rates, and standards; and
- (3) The rendering of findings, orders, and adjudications.



(c) The board shall exercise those powers, authorities, duties, and functions independently of the office of the Secretary of State.

SECTION 2. The introductory language of Arkansas Code § 7-4-101(a), concerning the State Board of Election Commissioners, is amended to read as follows:

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

SECTION 3. The introductory language of Arkansas Code § 7-4-101(f) and (f)(1), concerning the State Board of Election Commissioners, are amended to read as follows:

(f) ~~The board~~ Secretary of State shall have the authority to:

(1) Publish a candidate's election handbook, in conjunction with ~~the office of the Secretary of State board~~ 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~~ the Secretary of State determines to be helpful to a candidate in complying with state election law;

SECTION 4. Arkansas Code § 7-4-101(g) and (h), concerning the State Board of Election Commissioners, are amended to read as follows:

(g) ~~The Attorney General~~ An attorney designated by the Secretary of State 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.~~

SECTION 5. Arkansas Code § 7-4-120(c)(2), concerning complaints of election law violations, is amended to read as follows:

(2) Except as provided in subdivisions (c)(3) and (4) of this

section, records under this section are exempt from disclosure under the Freedom of Information Act of 1967, § 25-19-101 et seq., until:

(A) A hearing by the Chair of the State Board of Election Commissioners is set; or

(B) The investigation by the State Board of Election Commissioners is closed by the Chair of the State Board of Election Commissioners.

SECTION 6. Arkansas Code § 7-4-120(h)(4), concerning complaints of election law violations, is amended to read as follows:

(4) All moneys received by the State Board of Election Commissioners in payment of fines shall be deposited into the ~~State Treasury as general revenues~~ County Voting System Grant Fund under § 19-5-1247.

SECTION 7. DO NOT CODIFY. Legislative findings.

(a) The General Assembly finds that:

(1) Significant changes in the day-to-day operations of the State Board of Election Commissioners before July 1, 2017, may impede the ability of the board to transfer seamlessly to the Secretary of State; and

(2) Additional administrative guidance and operational restrictions are necessary to assure a smooth transfer to the new administrative structure for the board as established by this act.

(b) Except as provided under subsection (c) of this section, on and after the effective date of this act and before July 1, 2017, the board shall not:

(1) Change its policies or procedures;

(2) Terminate an employee of the board;

(3) Transfer an employee of the board to a different position;

(4) Hire a new employee of the board;

(5) Enter into any new contractual obligations; and

(6) Destroy, mutilate, or alter documents, records, or other property maintained by the board or its employees unless the destruction, mutilation, or alteration is made in the normal course of business and the nature of and reason for the destruction, mutilation, or alteration are recorded.

(c) If the board determines that performance of one (1) or more of the

actions prohibited under subsection (b) of this section is necessary to appropriately perform the duties or functions of the board:

(1) The Executive Director of the State Board of Election Commissioners may request that the Secretary of State permit performance of the action; and

(2) The Secretary of State may grant or deny permission to perform the requested action.

(d) On and after the effective date of this act and before July 1, 2017, the board shall provide to the Secretary of State or his or her designee any document, record, testimony, explanation, or other information maintained by the board or its employees upon the request of the Secretary of State or his or her designee.

SECTION 8. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that the State Board of Election Commissioners is a substantial component of the election process; that effective elections are essential to the preservation of a citizen's right to vote; and that this act is immediately necessary to complete the transfer of the State Board of Election Commissioners before the 2017 annual school election. 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.