

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas
92nd General Assembly
Regular Session, 2019

As Engrossed: H2/14/19 H3/4/19
A Bill

HOUSE BILL 1402

By: Representative Gonzales
By: Senator D. Wallace

For An Act To Be Entitled

AN ACT TO AMEND THE LAW CONCERNING THE DATES FOR
CERTAIN SPECIAL ELECTIONS; TO PROMOTE VOTER TURNOUT;
AND FOR OTHER PURPOSES.

Subtitle

TO AMEND THE LAW CONCERNING THE DATES FOR
CERTAIN SPECIAL ELECTIONS; AND TO PROMOTE
VOTER TURNOUT.

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

SECTION 1. Arkansas Code Title 7, Chapter 11, Subchapter 3, is amended to add an additional section to read as follows:

7-11-304. Dates of special elections.

(a) The proclamation, ordinance, resolution, order, or other authorized document calling for a special election shall:

(1) Set the date of the special election; and

(2) Be filed at least seventy-five (75) days before the date the special election is to be held.

(b) If a special election is called in a year in which a preferential primary election or general election is held, the special election shall be held with the preferential primary election or general election.

(c) If a special election is called in a year in which a preferential primary election or general election is not held, the special election shall be held on the third Tuesday in May or the Tuesday next after the first Monday in November.



(d) This section does not apply to special elections to fill vacancies in office, special runoff elections, local option elections, or special elections otherwise provided for by the Arkansas Constitution.

(e)(1) An emergency special election may be held on a date other than the dates specified under subsections (b) and (c) of this section.

(2) As used in this section "emergency" means:

(A) Either a substantial change in:

(i) The interpretation of the law by the federal or state courts which if not addressed by an election will render the governing entity incapable of performing its lawful duties and obligations;

(ii) Circumstances due to a fire, flood, tornado, or other natural disaster which if not addressed by an election will render the governing entity financially incapable of performing its lawful duties and obligations; or

(iii) Circumstances determined by the governing body of the entity requesting the election to be an imminent danger to public health and safety; and

(B) A delay of the special election that, until the next date under subsections (b) and (c) of this section, would cause a substantial and undue hardship to the governing entity.

SECTION 2. Arkansas Code § 2-16-504(b)(1), concerning elections to establish Johnson grass control and eradication districts, is amended to read as follows:

~~(b)(1) Immediately upon the submission of~~ If the petition to the county court or courts is submitted under subdivision (a)(1) of this section, the court or courts shall issue a proclamation calling the election ~~in accordance with~~ under § 7-11-201 et seq. and notify the county board or boards of election commissioners in writing. The election shall be held on a date ~~in accordance with § 7-11-201 et seq. but in no event more than ninety (90) days following publication of the proclamation~~ under § 7-11-304.

SECTION 3. Arkansas Code § 3-8-205(d)(3), concerning an election date by petition regarding local option, is amended to read as follows:

(3) If the decision is in favor of the petitioners, then the county board of election commissioners shall set the day for the election,

which shall be not earlier than sixty-five (65) days ~~nor later than ninety (90) days~~ after the final decision of the Supreme Court and shall be held on a date authorized under § 7-11-201 et seq.

SECTION 4. Arkansas Code § 6-14-102(b), concerning school millage elections, is amended to read as follows:

(b) The board of directors of any school district ~~shall have the authority to~~ may hold a school election concerning the tax rate or debt issues on a date ~~other than that fixed by law provided that~~ under § 7-11-304, if:

(1) All constitutional and statutory requirements for the annual school election are met, notwithstanding subsection (a) of this section; and

(2) ~~The election is held before the date of the annual school election; and~~

~~(3) The Commissioner of Education approves the date of the election.~~

SECTION 5. Arkansas Code § 6-14-122(b), concerning dates for elections regarding the consolidation, annexation, or merger of school districts, is amended to read as follows:

(b) The boards of directors of the school districts may, by resolution duly adopted and with the approval of the Commissioner of Education, set a date for the annual school election in that year for the school districts involved on a date ~~other than the date set in § 6-14-102 for all school districts~~ under § 7-11-304, provided only one (1) annual school election may be held in any school district in ~~one (1)~~ a calendar year.

SECTION 6. Arkansas Code § 6-53-602(b)(2), concerning publication of proclamation by a community college, is amended to read as follows:

(2)(A) The local board or acting local board shall issue a proclamation and set a date for the election under § 7-11-201 et seq., ~~but the date set for the election shall not be later than~~

(B) The local board or acting local board shall publish the proclamation at least ninety (90) days after the publication of the proclamation before the election date.

SECTION 7. Arkansas Code § 6-53-603(a)(2), concerning the date of election for a tax levy called, is amended to read as follows:

(2) ~~It~~ The tax may be reduced or repealed, with the exception of the amount of tax required to service ~~any an~~ outstanding ~~bonds bond~~, or the tax may be increased upon approval ~~thereof~~ by a majority of the qualified electors of the district voting on the issue at ~~an~~ the next election called by the local board or acting local board to be held ~~at least thirty (30) calendar days after the local board or acting local board notifies the county boards of election commissioners~~ under § 7-11-304.

SECTION 8. Arkansas Code § 6-53-604(b), concerning dissolution of a technical college district, is amended to read as follows:

(b)(1) ~~The petitions~~ A petition shall be filed with the Secretary of State, ~~who, within.~~

(2) The Secretary of State, within ten (10) days of the receipt and verification ~~by the Secretary of State~~ of the sufficiency of ~~the petitions~~ the petition, shall notify the county ~~boards~~ board of election commissioners in each county in the district that an election ~~shall is to~~ be held ~~at a time not less than thirty (30) days nor more than one hundred eighty (180) days from the date of notification~~ under § 7-11-304.

SECTION 9. Arkansas Code § 7-1-101(16), concerning the definition of "general or special election", is amended to read as follows:

(16) "General or special election" means the regular biennial or annual election for election of United States, state, district, county, township, and municipal officials and the special elections to fill vacancies therein and special elections to approve any measure. ~~The term as used in this act shall not apply to school elections for officials of school districts;~~

SECTION 10. Arkansas Code § 7-11-205 is amended to read as follows:

7-11-205. Dates of special elections on measures and questions -
Exceptions - Separate ballots.

~~(a)(1)(A) Except as provided in subdivision (a)(1)(B) of this section, all special elections on measures or questions~~ A special election on a measure or a question shall be held ~~on the second Tuesday of any month,~~

~~except special elections held under this section in a month in which a preferential primary election, general primary election, or general election is scheduled to occur, which shall be held on the date of the preferential primary election, general primary election, or general election under § 7-11-304.~~

~~(B) Special elections scheduled to occur in a month in which the second Tuesday is a legal holiday shall be held on the third Tuesday of the month.~~

~~(2)(A)~~ (b)(1) If a special election is held on the date of the preferential primary election, the issue or issues to be voted upon at the special election shall be included on the ballot of each political party.

~~(B)(2)~~ (2) The portion of the ballot containing the special election shall be labeled with a heading stating "SPECIAL ELECTION ON _____" with a brief description of the measure or question to be decided in the election.

~~(3)(c)~~ (c) Separate ballots containing the issue or issues to be voted on at the special election and candidates for nonpartisan judicial office shall be prepared and made available to voters requesting a separate ballot.

~~(4)(d)~~ (d) A voter shall not be required to vote in a political party's preferential primary in order to be able to vote in the special election.

~~(b)(1) A special election shall be held not less than seventy (70) days following the date that the proclamation, ordinance, resolution, order, or other authorized document is filed with the county clerk when the special election is to be held on the date of the preferential primary election or general election.~~

~~(2) If the special election is not held at the same time as a preferential primary election or general election, the special election shall be held not less than sixty (60) days following the date that the proclamation, ordinance, resolution, order, or other authorized document is filed with the county clerk.~~

SECTION 11. Arkansas Code § 11-10-1006(a)(2), concerning elections on the issuance of Arkansas Unemployment Trust Fund Bonds, is amended to read as follows:

~~(2)(A) An election under this section may be in conjunction with a general election, or it may be a special election.~~

~~(B) A special election held under this section shall occur on the second Tuesday of any month, except as otherwise provided for in this subsection.~~

~~(C) A special election that is held in months in which a presidential preferential primary election, preferential primary election, general primary election, or general election is scheduled to occur shall be held on the date of the presidential preferential primary election, preferential primary election, general primary election, or general election, held on a date under § 7-11-304.~~

~~(D)(i)(B)(i)~~ If a special election is held on the date of the presidential preferential primary election, preferential primary election, or general primary election, the issue or issues to be voted upon at the special election shall be included on the ballot of each political party.

(ii) However, separate ballots containing only the issue or issues to be voted upon at the special election shall be prepared and made available to voters requesting a separate ballot.

(iii) A voter shall not be required to vote in a political party's presidential preferential primary election, preferential primary election, or general primary election in order to be able to vote in the special election.

~~(E) Special elections scheduled to occur in a month in which the second Tuesday is a legal holiday shall be held on the third Tuesday of the month.~~

SECTION 12. Arkansas Code § 14-14-917(a)(2), concerning special elections for referendum petition measures, is amended to read as follows:

(2) Referendum. Referendum petition measures may be submitted to the electors during a regular general election and shall be submitted if the adequacy of the petition is determined within the time limitation prescribed in this section. A referendum measure may also be referred to the electors at a special election called for the expressed purpose proposed by petition. However, no referendum petition certified within the time limitations established for initiative measures shall be referred to a

special election, but shall be voted upon at the next regular election. ~~No~~ A referendum election shall be held ~~less than sixty (60) days after the certification of adequacy of the petition by the county clerk~~ on a date under § 7-11-304.

SECTION 13. Arkansas Code § 14-20-108(a)(1)(B)(i)(b), concerning special elections on the issue of the levy of volunteer fire department dues on residences, is amended to read as follows:

(b)~~(1)~~ The issue may be placed on the ballot at a special election by order of the quorum court in accordance with § 7-11-201 et seq.

~~(2) The special election shall be held by August 1.~~

SECTION 14. Arkansas Code § 14-40-303(a)(3), concerning ordinances calling annexation elections, is amended to read as follows:

(3) *Fix the date for the election ~~provided in~~ under this section at the next special election date under § 7-11-304 after the ordinance is filed.*

SECTION 15. Arkansas Code § 14-47-140(d), concerning special elections for mayor, is amended to read as follows:

(d) The special election shall be held ~~not less than thirty (30) days nor more than one hundred twenty (120) days after the proclamation at the next special election date under § 7-11-304.~~

SECTION 16. Arkansas Code § 14-48-104(b), concerning special elections after submission of governmental form question to electors, is amended to read as follows: is amended to read as follows:

(b) If the number of signatures certified by the clerk is equal to or greater than fifteen percent (15%) of the aggregate number of votes cast, as prescribed, the Secretary of State shall call the election by proclamation ~~in accordance with, and an election shall be held under § 7-11-201 et seq. a special election to be held not more than ninety (90) days from the date of the clerk's certification.~~

SECTION 17. Arkansas Code § 14-48-114(b)(3), concerning removal of mayors or directors in city administrator cities, is amended to read as follows:

(3) The county board of election commissioners shall issue a proclamation in accordance with § 7-11-201 et seq., calling a special election on the question and shall fix a date for holding it ~~not more than ninety (90) days from~~ on the next special election date under § 7-11-304 after the date of the certification of the petitions by the clerk;

SECTION 18. Arkansas Code § 14-57-704(a)(2), concerning special elections for the levy of a vehicle tax, is amended to read as follows:

(2) ~~This~~ The election shall be held ~~not more than ninety (90) days from the date of the publication of the proclamation, at which the qualified electors of the city or town shall vote on the question of the levy of the tax~~ at the next special election date under § 7-11-304.

SECTION 19. Arkansas Code § 14-61-113(1)(C), concerning special elections called by petition, is amended to read as follows:

(C) The special election shall be held ~~not more than sixty (60) days~~ at the next special election date under § 7-11-304 after the proclamation calling the election, ~~provided that if the county board of election commissioners certifies in writing that it cannot prepare the ballots because of other pending elections, then the election can be held not more than ninety (90) days after the proclamation;~~

SECTION 20. Arkansas Code § 14-120-102(a), concerning elections in certain combination levee and drainage districts, is amended to read as follows:

(a)(1) ~~There~~ An election shall be held ~~an election~~ annually on the Tuesday next after the first Monday in May in all combination levee and drainage districts where the boundaries of the districts embrace all of the lands within the corporate limits of a city of the first class and no lands situated more than three (3) miles from the corporate limits, for the election of one (1) member of the board of improvement.

(2) The judges of the election ~~are to~~ shall be appointed by the county board of election commissioners.

SECTION 21. Arkansas Code § 14-122-104 is amended to read as follows:
14-122-104. Filing referendum petitions – Special election.

If petitions signed by not less than fifteen percent (15%) of the qualified electors voting on the office of mayor in the city at the last preceding general election are filed with the city clerk of the city within forty-five (45) days after the enactment of the ordinance creating the municipal drainage improvement district requesting that the ordinance be referred to a vote of the qualified electors of the district, the petitions shall be referred to the people at a special election to be called by the mayor of the municipality in accordance with § 7-11-201 et seq. to be held ~~not more than ninety (90) days after the proclamation~~ at the next special election date under § 7-11-304.

SECTION 22. Arkansas Code § 14-125-302(c)(2)(A), concerning election dates for board of directors of conservation districts, is amended to read as follows:

(A) On the first Tuesday in March, 2000, and ~~on the first Tuesday in March~~ every third year thereafter on the date the preferential primary is held or, if no preferential primary is held, on the Tuesday next after the first Monday in May, in those districts ~~which~~ that have the greatest amount of district territory in the following counties:

Boone	Little River
Carroll	Logan
Clark	Lonoke
Clay	Poinsett
Cleburne	Polk
Cleveland	Saline
Columbia	Scott
Conway	Searcy
Crawford	St. Francis
Cross	White
Fulton	Woodruff
Greene	Yell
Jefferson	

SECTION 23. Arkansas Code § 14-201-316(a), concerning election of members of the board of public utilities, is amended to read as follows:

(a) In all cities and towns where a board of public utilities ~~shall be~~ is created under ~~the provisions of~~ this subchapter, there shall be held, ~~on a day to be designated by the county board of election commissioners not less than thirty (30) days nor more than sixty (60) days~~ at the next special election date under § 7-11-304 before the expiration of the term of office of any member of the board of public utilities, an election for the purpose of electing a member of the board to succeed the outgoing member.

SECTION 24. Arkansas Code § 14-284-212(g)(2)(B), concerning elections to approve increased assessments in fire protection districts outside of cities and towns, is amended to read as follows:

(B) The election called by the elected board of commissioners for an increase in the flat fee assessment shall be held ~~within ninety (90) days~~ at the next special election date under § 7-11-304 after the board of commissioners' meeting that approves the assessment increase.

SECTION 25. Arkansas Code § 14-286-103(a), concerning special elections on the question of the establishment and financing of a red imported fire ant abatement district, is amended to read as follows:

(a) The special election called by the county court to submit the question of the establishment and financing of a red imported fire ant abatement district to the electors of the proposed district shall be held in accordance with § 7-11-201 et seq. ~~no later than ninety (90) days after the proclamation of the election~~ and at the next special election date under § 7-11-304.

SECTION 26. Arkansas Code § 14-386-403(a), concerning elections on enclosures in fencing districts, is amended to read as follows:

(a) The county court shall in the same publication prescribed by § 14-386-402 give notice of and cause an election to be held ~~within thirty (30) days of~~ on the next special election date under § 7-11-304 after the date of the filing of the petition, in the townships or parts of townships included in the petition, where the question of the creation of the proposed fencing district shall be submitted to the qualified electors living or owning land

in the proposed district.

SECTION 27. Arkansas Code § 15-43-204(a)(1), concerning local elections to redetermine doe killing areas, is amended to read as follows:

(a)(1) Whenever fifty (50) or more qualified electors residing within an area wholly or partly located within their particular county that has been designated by regulation of the Arkansas State Game and Fish Commission as a doe-killing area petition the appropriate county court, ~~praying~~ requesting that an election be held to determine whether or not such an area or portion thereof should remain a doe-killing area, the county court shall order a special election in accordance with § 7-11-201 et seq. to be held ~~not more than ninety (90) days after the date of filing of the petition~~ at the next special election date under § 7-11-304.

SECTION 28. Arkansas Code § 23-111-306(b)(1), concerning referendum elections on continuing greyhound racing, is amended to read as follows:

(b)(1) The date of the special election shall be fixed by the ~~board on a day not more than ninety (90) days following the date of filing the petitions~~ under § 7-11-304. The deposit of the funds as provided in subsection (a) of this section and the election shall be conducted and shall be subject to contest under the general election laws of this state.

SECTION 29. Arkansas Code § 23-113-201(a)(2)(E), concerning elections to conduct wagering on electronic games of skill, is amended to read as follows:

(E) The election shall be held ~~no earlier than thirty-one (31) calendar days, and no later than one hundred twenty (120) calendar days, after the effective date of the ordinance in which the election is called by the governing body~~ at the next special election date after the ordinance is filed under § 7-11-304.

SECTION 30. Arkansas Code § 26-52-605(b), concerning special election for equalization of taxes for border cities and towns, is amended to read as follows:

(b) The special election shall be called ~~not later than one hundred twenty (120) days~~ for the next special election date under § 7-11-304

following the adoption of the ordinance by the governing body of the city or town, or the filing of a petition requesting the special election.

SECTION 31. Arkansas Code § 26-73-111(c), concerning special local sales and use tax elections, is amended to read as follows:

(c) ~~The special election shall be called for a date not later than one hundred twenty (120) days from the date of the action of the governing body in establishing the date of the~~ next special election date under § 7-11-304.

SECTION 32. Arkansas Code § 26-74-207(a)(2), concerning special election on sales and use tax for capital improvements, is amended to read as follows:

(2) ~~The election shall be held within one hundred twenty (120) days of the ordinance calling the election~~ on the next special election date under § 7-11-304.

SECTION 33. Arkansas Code § 26-74-307(a)(2), concerning special elections on sales tax for capital improvements, is amended to read as follows:

(2) ~~The election shall be held within one hundred twenty (120) days of the ordinance calling the election~~ on the next special election date under § 7-11-304.

SECTION 34. Arkansas Code § 26-74-402(a), concerning special elections for sales and use tax for counties without an existing tax, is amended to read as follows:

(a) The county quorum court of any county not having a countywide one percent (1%) sales and use tax on March 14, 1991, may call an election for the levy of a one-half percent (0.5%) countywide sales and use tax for any purpose for which the county general fund or county road fund may be used including allocating portions of this tax to the municipalities located therein. ~~The election shall be held within one hundred twenty (120) days of the ordinance calling the election~~ on the next special election date under § 7-11-304.

SECTION 35. Arkansas Code § 26-74-502(a), concerning special elections

for sales and use tax for counties without an existing tax, is amended to read as follows:

(a) If petitions are filed requesting an election for an initiated ordinance levying the tax authorized under this subchapter, the quorum court shall submit the question of the levying of the tax to the electors. The petitions must be signed by not less than five hundred (500) electors of the county. The election shall be held ~~within one hundred twenty (120) days of~~ on the next special election date under § 7-11-304 after the filing of the petitions. The tax shall be levied upon approval of a majority of the qualified electors voting on the issue at the election.

SECTION 36. Arkansas Code § 26-75-208(a)(2), concerning special elections on sales and use taxes, is amended to read as follows:

(2) The special election shall be called ~~for a date no later than one hundred twenty (120) days from after the date of action of the governing body in establishing the date of the special election~~ for the next special election date under § 7-11-304.

SECTION 37. Arkansas Code § 26-75-213(a)(3)(B), concerning municipal sales and use taxes, is amended to read as follows:

(B) If the petition is found to be sufficient, the question shall be submitted to the electors ~~at a special election on a date as may be requested by the petition~~ the next special election date under § 7-11-304 after certification of the sufficiency of the petition to the governing body of the city.

SECTION 38. Arkansas Code § 26-75-213(a)(4), concerning municipal sales and use taxes, is amended to read as follows:

(4) The special election shall be called in accordance with § 7-11-201 et seq. ~~for a date not more than ninety (90) days from after the date on which the city clerk certifies the sufficiency of the petition to the governing body of the city.~~

SECTION 39. Arkansas Code § 26-75-308(a)(2), concerning municipal sales and use taxes, is amended to read as follows:

(2) ~~The special election shall be called for a date no later than one hundred twenty (120) days from the date of action of the governing body in establishing the date of special election~~ the next special election date under § 7-11-304.

SECTION 40. Arkansas Code § 26-75-404(a)(2), concerning calling of a special election for a temporary tax for acquisition, construction, or improvement of parks, is amended to read as follows:

(2) If the ordinance provides for submitting the question at a special election, the election shall be called in accordance with § 7-11-201 et seq. ~~for a date not more than ninety (90) days from the date of the adoption of the ordinance calling the special election~~ the next special election date under § 7-11-304.

SECTION 41. Arkansas Code § 26-75-503(b), concerning special elections on a gross receipts tax, is amended to read as follows:

(b) An election shall be held in the levying city on the question of whether the ordinance shall become effective ~~within sixty (60) days after the receipt of a certified copy of the ordinance~~ on the next special election date under § 7-11-304 and shall be conducted in the manner prescribed by law for holding state, county, or municipal elections, so far as the manner may be applicable.

SECTION 42. Arkansas Code § 26-78-103(b)(1), concerning county and municipal motor vehicle tax, is amended to read as follows:

(b)(1) Notwithstanding other provisions of this chapter, before the tax levied by any county quorum court upon owners residing everywhere in the county or only upon owners residing within the county but outside the corporate boundaries of all municipalities in the county may be collected, the county court shall call a special election in accordance with § 7-11-201 et seq. upon the first levy of the tax by the county quorum court, to be held ~~not more than ninety (90) days from the date of the adoption of the levy of the tax by the quorum court~~ on the next special election date under § 7-11-304, at which election the qualified electors of the area to be affected by the tax shall vote on the question of the levy of the tax.

SECTION 43. Arkansas Code § 26-78-111(c), concerning special elections on county and municipal motor vehicle tax, is amended to read as follows:

(c) The ordinance or order shall specifically state the purpose for which the bonds are to be issued, the total amount of the issue, and the date upon which the election is to be held, which date shall ~~not occur earlier than thirty (30) days after the passage of the ordinance or the entering of the order~~ be on the next special election date under § 7-11-304.

SECTION 44. DO NOT CODIFY. Applicability.

This act shall become effective contingent upon sufficient appropriation and funding, and the implementation of adequate and updated voting equipment throughout the counties of this state.

/s/Gonzales