

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

State of Arkansas
93rd General Assembly
Regular Session, 2021

As Engrossed: S3/17/21
A Bill

SENATE BILL 496

By: Senator Rapert
By: Representative Hawks

For An Act To Be Entitled

AN ACT TO AMEND ARKANSAS ELECTION LAW; TO AMEND THE LAW CONCERNING SPECIAL ELECTIONS; TO ESTABLISH UNIFORM DATES FOR HOLDING SPECIAL ELECTIONS; AND FOR OTHER PURPOSES.

Subtitle

TO AMEND ARKANSAS ELECTION LAW; TO AMEND THE LAW CONCERNING SPECIAL ELECTIONS; AND TO ESTABLISH UNIFORM DATES FOR HOLDING SPECIAL ELECTIONS.

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

SECTION 1. Arkansas Code § 6-14-102(a)(1)(A)(ii)(a) and (b), concerning the annual school election date and special school elections, are amended to read as follows:

(a) ~~First~~ Second Tuesday ~~following the first~~ ~~Monday~~ in November; or

(b) ~~Third~~ Second Tuesday in May.

SECTION 2. Arkansas Code § 6-14-102(b), concerning the annual school election date and special school elections, is amended to read as follows:

(b) The board of directors of any school district shall have the authority to hold a special school election concerning the tax rate or debt issues ~~on a date other than that fixed by law under § 7-11-205~~ provided that:

(1) All constitutional and statutory requirements for the annual



school election are met, notwithstanding subsection (a) of this section;

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

~~(3) The Commissioner of Elementary and Secondary Education approves the date of the election; and~~

(3) The board of directors of a school district files a document calling for the special school election with the district's domiciled county clerk not less than seventy (70) days before the date of the special school election.

SECTION 3. Arkansas Code § 6-14-111(k), concerning candidate filing procedures, is amended to read as follows:

(k) The order in which the names of the respective candidates are to appear on the ballot shall be determined by lot at the public meeting of the county board of election commissioners held not later than ~~seventy-two (72) days before the annual school election;~~

(1) The deadline to conduct the ballot draw for the preferential primary or general election for an annual school election held in even-numbered years;

(2) The seventh day of March for an annual school election held on the second Tuesday in May of an odd-numbered year; and

(3) Seventy-two (72) days before an annual school election held on the second Tuesday of November of an odd-numbered year.

SECTION 4. Arkansas Code § 6-14-122(b), concerning 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 Elementary and Secondary 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 § 7-11-205~~, provided only one (1) annual school election may be held in any school district in one (1) calendar year.

SECTION 5. Arkansas Code § 6-53-602(b)(2), concerning the formation of a proposed technical college district, 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 ninety (90) days after the publication of the proclamation~~

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

SECTION 6. Arkansas Code § 6-53-603(a)(2), concerning a tax levy for a technical college district, is amended to read as follows:

(2) ~~It~~ A tax levy 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 § 7-11-205.

SECTION 7. Arkansas Code § 6-53-604(b), concerning the dissolution of a technical college district and reduction of millage tax, is amended to read as follows:

(b) ~~The petitions shall be filed with the~~ The Secretary of State, ~~who,~~ within ten (10) days of the receipt and verification ~~by the Secretary of State~~ of the sufficiency of the ~~petitions~~ 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~~ on the next special election date under § 7-11-205.

SECTION 8. Arkansas Code § 7-11-105 is amended to read as follows:

7-11-105. Special elections to be held on the second Tuesday of a month – Exceptions – Separate ballots.

(a)(1) Except as provided in this chapter, all special elections to fill vacancies in office and associated special primary elections shall be held on the second Tuesday of ~~any month~~:

(A) March, May, August, or November in a year when a presidential election is held; and

(B) February, May, August, or November of all other years.

(2) Elections called by proclamation of the Governor may be called in any month.

(b) A special election scheduled to occur in a month in which the second Tuesday of the month is a legal holiday shall be held on the third Tuesday of the month.

(c)(1) Special elections held in months in which a preferential primary election, ~~general primary election~~, or general election is scheduled to occur shall be held on the date of the ~~general primary election~~, preferential primary election, or general election.

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

(3) Separate ballots containing the names of the candidates to be voted on at the special election or nonpartisan election and any other measures or questions that may be presented for a vote shall be prepared and made available to voters requesting a separate ballot.

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

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

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

(d)~~(1)~~ A special election to fill a vacancy in office shall be held

not less than seventy (70) days following the date established in the proclamation, ordinance, resolution, order, or other authorized document for drawing for a ballot position ~~when the special election is to be held on the date of the preferential primary election, general primary election, or general election.~~

~~(2) If a special election to fill a vacancy in office is not held at the same time as a preferential primary election, general primary election, or general election, the special election shall be held not less than sixty (60) days following the date established in the proclamation, ordinance, resolution, order, or other authorized document for drawing for ballot position.~~

SECTION 9. Arkansas Code § 7-11-201 is amended to read as follows:

7-11-201. Calling special elections on measures or questions.

~~Except for special school elections, all~~ All special elections on measures or questions referred to the voters by governmental entities as authorized by law shall be called by proclamation, ordinance, statute, resolution, order, or other authorized document of the properly constituted authority as required by law.

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)~~(a)(2) of this section, all special elections on measures or questions referred to the voters by governmental entities as authorized by law 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;~~

(A) March, May, August, or November in a year when a presidential election is held; and

(B) February, May, August, or November of all other years.

~~(B)(2)(A)~~ 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.

(B) Special elections held in months in which a preferential primary election or general election is scheduled to occur shall be held on the date of the preferential primary election or general election.

(C) A special election on a measure or question may be scheduled on the second Tuesday of a month, other than the months provided in subdivision (a)(1) of this section, if necessary to comply with the requirements of Arkansas Constitution, Article 5 § 1.

(D) An emergency special election may be held on the second Tuesday of any month, other than the month following a preferential primary election or general election, when two-thirds (2/3) of all the members elected to the governing entity have determined that:

(i) An event has occurred that constitutes a substantial change in circumstances; and

(ii) A delay of the emergency special election until the next date under this section, would cause a substantial and undue hardship to the governing entity or a threat to the public peace, health, and safety.

(E)(i) A qualified elector for an emergency special election may file an action in the circuit court of the county in which the document calling for the emergency special election is filed to ask the court to determine if circumstances exist that permit the governing entity to call an emergency special election under subdivision (a)(1)(D) of this section.

(ii) If the court determines circumstances do not exist that permit the governing entity to call an emergency special election:

(a) The emergency special election shall not occur; or

(b) If the emergency special election has already occurred, any measure approved in the emergency special election shall be void.

(iii) A challenge filed under subdivision (a)(1)(E)(i) of this section may not be filed more than thirty (30) days from the date the document calling for the special election being challenged is filed with the county clerk.

~~(2)(A)~~(3)(A) 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) 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)~~(4) 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)~~(5) 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 under the Unemployment Trust Fund Financing Act of 2011, 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 § 7-11-205.

~~(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 initiative and referendum elections, 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 § 7-11-205.

SECTION 13. Arkansas Code § 14-40-303(a)(3), concerning annexation ordinance elections and procedures, is amended to read as follows:

(3) Fix the date for the annexation election under this section at the next special election date under § 7-11-205 after the ordinance is filed; and

SECTION 14. Arkansas Code § 14-47-140(d), concerning the powers and duties of mayors, 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 § 7-11-205 after the ordinance is filed.

SECTION 15. Arkansas Code § 14-48-104(b), concerning the submission of a governmental form question to electors, 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 § 7-11-201 et seq., and an election shall be held under § 7-11-201 et seq. a at the next special election date to be held not more than ninety (90) days from the date of the clerk's certification.

SECTION 16. Arkansas Code § 14-48-109(a)(1)(B)(i), concerning the election of directors and mayor, is amended to read as follows:

(B)(i) Special elections to fill any vacancy under § 14-48-115 shall be called through a resolution of the board and shall be held on the next special election date under § 7-5-105.

SECTION 17. Arkansas Code § 14-48-114(b)(3), concerning the removal of mayors or directors, 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~~ the special election on the next special election date under § 7-11-205 after the date of the certification of the petitions by the clerk;

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

(2) This 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 § 7-11-205.~~

SECTION 19. Arkansas Code § 14-61-113(1)(C), concerning the petition process for special elections, 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 § 7-11-205 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 § 14-122-104 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 § 7-11-205.

SECTION 21. Arkansas Code § 14-201-316(a), concerning the election of succeeding members, term, conduct of election, and notice for a 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 § 7-11-105 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 22. Arkansas Code § 14-286-103(a), concerning the elections and ballots 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~~ at the next special election date under § 7-11-205.

SECTION 23. Arkansas Code § 15-43-204(a)(1), concerning local elections to redetermine a doe-killing area, 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 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 § 7-11-205.

SECTION 24. Arkansas Code § 23-111-306(b)(1), concerning subsequent referendum elections for continuing greyhound racing in the county, 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~~ at the next special election date under § 7-11-205. 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 25. Arkansas Code § 23-113-201(a)(2)(E), concerning wagering on electronic games of skill conducted by franchise holders and limitations on that wagering, 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 under § 7-11-205.~~

SECTION 26. Arkansas Code § 26-52-605(b) and (c), concerning special election proceedings for an Arkansas border city or town, are 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 § 7-11-205 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.

(c) Notice of the special election shall be given ~~by publication in some newspaper of general circulation within the Arkansas border city or town on two (2) occasions not more than thirty (30) days and not less than ten (10) days prior to the date of the special election~~ under § 7-5-202.

SECTION 27. Arkansas Code § 26-52-605(f), concerning special election proceedings for an Arkansas border city or town, is repealed.

~~(f) The voter shall cast the vote of his or her choice by placing an "X" opposite the issue of his or her choice.~~

SECTION 28. 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 special election~~ the next special election date under § 7-11-205.

SECTION 29. Arkansas Code § 26-74-207(a)(2), concerning the call for a tax election, 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 § 7-11-205.

SECTION 30. Arkansas Code § 26-74-307(a)(2), concerning the call for a tax election, is amended to read as follows:

(2) The election shall be held ~~within one hundred twenty (120) days of the ordinance calling for the election~~ on the next special election date under § 7-11-205.

SECTION 31. Arkansas Code § 26-74-402(a), concerning the call for a tax election, 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~~ five-tenths 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 § 7-11-205.

SECTION 32. Arkansas Code § 26-74-502(a), concerning petitions requesting an election, 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 § 7-11-205 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 33. Arkansas Code § 26-75-208(a)(2), concerning the requirement for a special election for levying a local sales and use tax, 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 the special election~~ on the next special election date under § 7-11-205.

SECTION 34. Arkansas Code § 26-75-213(a)(3)(B), concerning the resubmission of a question of levy or repeal of a city sales and use tax, 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~~ on the next special election date under § 7-11-205 after certification of the sufficiency of the petition to the governing body of the city.

SECTION 35. Arkansas Code § 26-75-213(a)(4), concerning the resubmission of a question of levy or repeal of a city sales and use tax, 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 the date on which the city clerk certifies the sufficiency of the petition to the governing body of the city.~~

SECTION 36. Arkansas Code § 26-75-308(a)(2), concerning a special election to approve a local sales and use tax, 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 § 7-11-205.

SECTION 37. Arkansas Code § 26-75-404(a)(2), concerning election requirements and procedure for a local sales and use tax, 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 § 7-11-205.

SECTION 38. Arkansas Code § 26-75-503(b), concerning election requirements for a city of the first class or a city of the second class levying a 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 § 7-11-205 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 39. Arkansas Code § 26-78-103(b)(1), concerning the procedure for levying a County and Municipality 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 § 7-11-205, 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 40. Arkansas Code § 26-78-111(c), concerning the requirement for an election on the question of issuing revenue bonds, 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 § 7-11-205.

SECTION 41. EFFECTIVE DATE. This act is effective on January 1, 2022.

/s/Rapert