

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

State of Arkansas  
94th General Assembly  
Regular Session, 2023

# A Bill

HOUSE BILL 1469

By: Representatives Wing, Achor, Andrews, Barker, Beaty Jr., Beck, Bentley, M. Berry, Breaux, Brooks, K. Brown, M. Brown, Burkes, Joey Carr, C. Cooper, Cozart, Evans, C. Fite, L. Fite, Fortner, Furman, Gazaway, Gonzales, Gramlich, Haak, Hawk, Hollowell, Jean, Ladyman, Long, Lundstrum, Lynch, McAlindon, McClure, McCollum, M. McElroy, McGrew, B. McKenzie, McNair, S. Meeks, Miller, Milligan, K. Moore, Pilkington, Puryear, R. Scott Richardson, Richmond, Rose, Rye, Tosh, Underwood, Vaught, Womack, Wooten

By: Senators Crowell, K. Hammer, Dees, M. McKee, J. Petty, Stone

## For An Act To Be Entitled

AN ACT TO AMEND THE ELECTION PROCEDURES OF MUNICIPALITIES; TO AMEND THE ELECTION PROCEDURE OF DIRECTORS AND THE MAYOR IN CITIES WITH A CITY ADMINISTRATOR FORM OF MUNICIPAL GOVERNMENT; TO AMEND THE LAW CONCERNING THE ELECTION OF A MEMBER OF THE BOARD OF DIRECTORS IN A CITY MANAGER FORM OF MUNICIPAL GOVERNMENT; TO AMEND THE ELECTION PROCEDURES CONCERNING NOMINATING PETITIONS FOR CANDIDATES FOR MUNICIPAL ELECTIONS; AND FOR OTHER PURPOSES.

## Subtitle

TO AMEND THE ELECTION PROCEDURES OF MUNICIPALITIES.

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

SECTION 1. Arkansas Code § 14-42-206(a)(1), concerning nominating petitions for municipal elections, is amended to read as follows:

(a)(1) The city or town council of any city or town with the mayor-council form of government, may request the county party committees of



recognized political parties under the laws of the state to conduct party primaries for municipal offices for the forthcoming year by resolution passed before August 31 of the calendar year before the election+

~~(A) Before January 1 of the year of the election, if the election will occur in a year in which the preferential primary election is held in May under § 7-7-203; and~~

~~(B) No less than sixty (60) days before the party filing period begins under § 7-7-203, if the election will occur in a year in which the preferential primary election is held in March under § 7-7-203.~~

SECTION 2. Arkansas Code § 14-42-206(a)(3), concerning nominating petitions for municipal elections, is amended to read as follows:

(3)(A) When the resolution has been adopted, the clerk or recorder shall:

(i) ~~mail~~ Mail a certified copy of the resolution to the chairs of the county party committees, ~~the county clerk,~~ and to the chairs of the state party committees; and

(ii) File a certified copy of the resolution with the county clerk.

(B) The county clerk shall forward a copy of the certified file-marked resolution to the county board of election commissioners.

SECTION 3. Arkansas Code § 14-42-206(b), concerning nominating petitions for municipal elections, is amended to read as follows:

(b)(1) Any person desiring to become an independent candidate for municipal office in cities and towns with the mayor-council form of government shall file his or her petition during a one-week period ending at 12:00 noon ninety (90) days before the general election with the county clerk.

(2) ~~the~~ The petition of nomination shall be in substantially the following forms:

(A) For all candidates except council members in cities of the first class and cities of the second class:

“PETITION OF NOMINATION

We, the undersigned qualified electors of the city (town) of \_\_\_\_\_, Arkansas, being in number not less than ten (10) for

incorporated towns and cities of the second class, and not less than thirty (30) for cities of the first class, do hereby petition that the name of \_\_\_\_\_ be placed on the ballot for the office of \_\_\_\_\_ (A candidate for council member in an incorporated town shall identify the position for which he or she is running) at the next election of municipal officials in 20\_\_\_\_\_.

Printed Name: \_\_\_\_\_

Signature: \_\_\_\_\_

Street Address: \_\_\_\_\_

Date of Birth: \_\_\_\_\_

Date of Signing: \_\_\_\_\_”;

(B) For candidates for council member elected by ward in cities of the first class and cities of the second class, the nominating petitions shall be signed only by qualified electors of the ward in the following manner:

“PETITION OF NOMINATION

We, the undersigned qualified electors of Ward \_\_\_\_\_ of the city of \_\_\_\_\_, Arkansas, being in number not less than ten (10) for cities of the second class, and not less than thirty (30) for cities of the first class, do hereby petition that the name of \_\_\_\_\_ be placed on the ballot for the office of council member, Ward \_\_\_\_\_, position \_\_\_\_\_, of the next election of municipal officials in 20\_\_\_\_\_.

Printed Name: \_\_\_\_\_

Signature: \_\_\_\_\_

Street Address: \_\_\_\_\_

Date of Birth: \_\_\_\_\_

Date of Signing: \_\_\_\_\_”;

(C) For at-large candidates for council member of a ward in cities of the first class and cities of the second class, the nominating petitions shall be signed by a qualified elector of the city in the following manner:

“PETITION OF NOMINATION

We, the undersigned qualified electors of the city of \_\_\_\_\_, Arkansas, being in number not less than ten (10) for cities of the second class, and not less than thirty (30) for cities of the first

class, do hereby petition that the name of \_\_\_\_\_ be placed on the ballot for the office of council member, Ward \_\_\_\_\_, position \_\_\_\_\_, of the next election of municipal officials in 20 \_\_\_\_\_.

Printed Name: \_\_\_\_\_  
 Signature: \_\_\_\_\_  
 Street Address: \_\_\_\_\_  
 Date of Birth: \_\_\_\_\_  
 Date of Signing: \_\_\_\_\_”.

~~(2)(A)~~(3)(A) An independent candidate for municipal office may qualify by a petition to be circulated for no longer than ninety (90) days of not fewer than ten (10) electors for incorporated towns and cities of the second class and not fewer than thirty (30) electors for cities of the first class of the ward or city in which the election is to be held.

(B)(i) The county clerk shall determine no later than ~~ten~~ ~~(10)~~ fourteen (14) days from filing whether the petition contains the names of a sufficient number of qualified electors and certify that no signatures are dated more than ninety (90) days before the filing of the petition.

(ii) The county clerk’s determination shall be made no less than seventy-five (75) days before the general election.

(C) The county clerk promptly shall notify the candidate of the result.

~~(3)~~(4) Independent candidates for municipal office shall file a political practices pledge and an affidavit of eligibility at the time of filing their petitions.

~~(4)(A)~~(5)(A) An independent candidate shall state the position, including the position number, if any, on his or her petition.

(B) When a candidate has identified the position sought on the notice of candidacy, the candidate shall not be allowed to change the position but may withdraw a notice of candidacy and file a new notice of candidacy designating a different position before the deadline for filing.

~~(5)~~(6) The sufficiency of a petition filed under this section may be challenged in the same manner as election contests under § 7-5-801 et seq.

~~(6)~~(7) A person who has been defeated in a party primary shall not file as an independent candidate in the general election for the office

for which he or she was defeated in the party primary.

SECTION 4. Arkansas Code § 14-42-206(d), concerning nominating petitions for municipal elections, is repealed.

~~(d)(1)(A) The governing body of any city of the first class, city of the second class, or incorporated town may enact an ordinance requiring independent candidates for municipal office to file petitions for nomination as independent candidates with the county clerk;~~

~~(i) No earlier than twenty (20) days prior to the preferential primary election; and~~

~~(ii) No later than 12:00 noon on the day before the preferential primary election.~~

~~(B) The governing body may establish this filing deadline for municipal offices even if the municipal offices are all independent or otherwise nonpartisan.~~

~~(2)(A) The ordinance shall be enacted no later than ninety (90) days prior to the filing deadline.~~

~~(B) The ordinance shall be published at least one (1) time a week for two (2) consecutive weeks immediately following adoption of the ordinance in a newspaper having a general circulation in the city, and shall be filed with the county clerk.~~

SECTION 5. Arkansas Code § 14-47-110(a)(2), concerning the election of directors, is amended to read as follows:

(2) The petition mentioned in subdivision (a)(3) of this section supporting the candidacy of each candidate to be voted upon at any general or special election shall be filed with the city clerk or recorder ~~not more than one hundred two (102) days nor fewer than eighty one (81)~~ during a one-week period ending at 12:00 noon ninety (90) days before the election ~~by 12:00 noon;~~

SECTION 6. Arkansas Code § 14-47-110(a)(3)(A)(i), concerning the election of directors, is amended to read as follows:

(3)(A)(i) (a) In respect to both special and general elections, the name of each candidate shall be supported by a petition, signed by at least fifty (50) qualified electors of the municipality, requesting the

candidacy of the candidate.

(b) The petition under subdivision (a)(3)(A)(i)(a) of this section may be circulated for no longer than ninety (90) days before it is filed with the city clerk.

SECTION 7. Arkansas Code § 14-48-109 is amended to read as follows:

14-48-109. Election of directors and mayor – Oath.

(a) Candidates for the office of director and mayor shall be nominated and elected as follows:

(1)(A)(i) A special election for the election of the initial membership of the board of directors and mayor shall be called by the Secretary of State as provided in § 14-48-108.

(ii) The proclamation shall be published in accordance with § 7-11-101 et seq.

(iii) For the initial election of directors and mayor, any person desiring to become a candidate shall file within twenty (20) days following the date of the proclamation by the Secretary of State with the city clerk or recorder a statement of candidacy in the form and with the supporting signatures as provided in this section. In all other respects, the initial elections shall be governed by the provisions of this chapter for holding municipal elections.

(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 § 7-11-105.

(ii) A proclamation of the election shall be signed by the mayor and published in accordance with § 7-11-101 et seq. in some newspaper having a bona fide circulation in the municipality;

(2)(A) Candidates to be voted on at all elections to be held under the provisions of this chapter shall be ~~nominated by primary election, and no names shall be placed upon the general election ballot except those selected in the manner prescribed in this chapter~~ elected during the general election or, if necessary, general runoff election.

(B)(i) ~~The primary elections, other than the initial primary, for those nominations for offices to be filled at the municipal general election shall be held on the second Tuesday of August preceding the municipal general election.~~

~~(ii)(a) The elections shall be under the supervision of the county board of election commissioners, and the election judges and clerks appointed for the general election shall be the judges and clerks of the primary elections.~~

~~(b) Primary elections shall be held in the same places as are designated for the general election, so far as possible, and shall be conducted, so far as practicable, in the same manner as other elections under the laws of this state;~~

(ii) Elections for the office of director and mayor during the general election shall be:

(a) Held in the same polling sites designated by the county board of election commissioners or as identified as early voting locations; and

(b) Conducted under the laws governing elections in this state;

(3) Any person desiring to become a candidate for mayor or director shall file ~~with the city clerk not less than seventy five (75) days nor more than ninety (90) days prior to the primary election by 12:00 noon~~ a statement of his or her candidacy in substantially the following form:

“STATE OF ARKANSAS

COUNTY OF ..... I, ....., being first duly sworn, state that I reside at ..... Street, City of ....., County and State aforesaid; that I am a qualified elector of said city and the ward in which I reside; that I am a candidate for nomination to the office of (Mayor) (Director), to be voted upon at the ~~primary~~ general election to be held on the ..... day of ....., 20....., and I hereby request that my name be placed upon the official ~~primary~~ general election ballot for nomination by such ~~primary~~ general election for such office ~~and I herewith deposit the sum of ten dollars (\$10.00), the fee prescribed by law.”;~~

(4) The statement of candidacy and the petition for nomination supporting the candidacy of each candidate to be voted upon at any general or special election shall be filed with the city clerk or recorder ~~not less than seventy five (75) days nor more than ninety (90) days before the election by 12:00 noon~~ during the one-week period ending at 12:00 noon ninety (90) days before the general election;

(5)(A) The name of each candidate shall be supported by a petition for nomination signed by at least fifty (50) qualified electors of the municipality requesting the candidacy of the candidate.

(B) A petition for nomination may be circulated for no longer than ninety (90) days before a candidate filing the petition for nomination with the city clerk or recorder.

(C) The petition shall show the residence address of each signer and carry an affidavit signed by one (1) or more persons in which the affiant or affiants shall vouch for the eligibility of each signer of the petition. Each petition shall be substantially in the following form:

“The undersigned, duly qualified electors of the City of ....., Arkansas, each signer ~~hereof residing at the address set opposite his or her signature, hereby requests~~ herein petitions that the name of ..... be placed on the ballot as a candidate for election to Position No. .... on the Board of Directors (or Mayor) of said City of ..... at the next general election for the office of director or mayor to be held in such city on the..... day of ..... 20..... We further state that we know said person to be a qualified elector of said city and a person of good moral character and qualified in our judgment for the duties of such office.

Printed Name: .....

Signature .....

Residential Street Address .....

Date of Birth.....

Date of Signing.....”;

(6)(A) A petition for nomination shall not show the name of more than one (1) candidate.

(B) The city clerk or recorder shall determine no later than fourteen (14) days from filing whether the petition contains the names of a sufficient number of qualified electors and certify that no signatures are dated more than ninety (90) days before the filing of the petition.

(C) The name of the candidate mentioned in each petition, together with a copy of the election proclamation if the election is a special election, shall be certified by the city clerk or recorder to the county board of election commissioners not less than ~~seventy (70)~~ seventy-five (75) days before the election unless the clerk or recorder finds that

the petition fails to meet with the requirements of this chapter.

~~(C)-(i)~~(D)(i) Whether the names of the candidates so certified to the county board of election commissioners are to be submitted at a biennial general election or at a special election held on a different date, the county board of election commissioners shall have general supervision over the holding of each municipal election.

(ii)(a) In this connection, the election board shall post the nominations, print the ballots, establish the voting precincts, appoint the election judges and clerks, determine and certify the results of the election, and determine the election expense chargeable to the city, all in the manner prescribed by law in respect to general elections. It is the intention of this chapter that the general election machinery of this state shall be utilized in the holding of all general and special elections authorized under this chapter.

(b) The result of the election shall be certified by the ~~election board~~ county board of election commissioners to the city clerk or recorder;

(7) The names of all candidates at the election shall be printed upon the ballot in an order determined by draw. ~~If more than two (2) candidates qualify for an office, the names of all candidates shall appear on the ballot at the primary election;~~

(8)(A) If no candidate receives a majority of the votes cast in the primary general election, the two (2) candidates receiving the highest number of votes for mayor and for each director position to be filled shall be the ~~nominees~~ candidates for those respective offices to be voted upon in the general runoff election.

~~(B) If no more than two (2) persons qualify as candidates for the office of mayor or for any director position to be filled, no municipal primary election shall be held for these positions, and the names of the two (2) qualifying candidates for each office or position shall be placed upon the ballot at the municipal general election as the nominees for the respective positions. Primary elections shall be omitted in wards in which no primary contest is required.~~

~~(C)~~ In any case in which only one (1) candidate shall have filed and qualified for the office of mayor or any director position, or if a candidate receives a clear majority of the votes cast in a ~~primary~~ the

general election, that candidate shall be declared elected. The name of the person shall be certified as elected without the necessity of putting the person's name on the general municipal election ballot for the office; and

(9) Any candidate defeated at any ~~municipal primary~~ general election or ~~municipal~~ general runoff election may contest it in the manner provided by law for contesting other elections.

(b) Each member of the board of directors, before entering upon the discharge of his or her duties, shall take the oath of office required by Arkansas Constitution, Article 19, § 20.