

State of Arkansas  
94th General Assembly  
Regular Session, 2023

# A Bill

HOUSE BILL 1771

By: Representative Beaty Jr.

By: Senator C. Penzo

## For An Act To Be Entitled

AN ACT TO AMEND THE LAW CONCERNING NONPARTISAN ELECTIONS; TO AMEND THE LAW CONCERNING MEMBERS OF LOCAL SCHOOL BOARDS OF DIRECTORS; TO AMEND THE LAW CONCERNING SCHOOL BOARD ELECTIONS; TO AMEND THE DATE ON WHICH AN ELECTION OF A SCHOOL DISTRICT BOARD OF DIRECTORS IS HELD; AND FOR OTHER PURPOSES.

## Subtitle

TO AMEND THE LAW CONCERNING NONPARTISAN ELECTIONS; TO AMEND THE LAW CONCERNING LOCAL SCHOOL BOARDS OF DIRECTORS AND SCHOOL BOARD ELECTIONS; AND TO AMEND THE DATE ON WHICH AN ELECTION OF A SCHOOL DISTRICT BOARD OF DIRECTORS IS HELD.

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

SECTION 1. Arkansas Code § 6-13-608 is amended to read as follows:

6-13-608. Length of directors' terms.

(a) All members of a school district board of directors shall be elected to a term of office of ~~not less than three (3) years nor more than five (5) years~~ four (4) years in length and with the expiration of such terms so arranged that, as nearly as possible, an equal number of positions are filled ~~each year~~ every school board election.

~~(b) Unless otherwise provided by law, members of a school district board of directors shall have terms of office of equal length.~~



~~(c)(1) A member of a school district board of directors shall not serve more than one (1) full term as a holdover.~~

~~(2) If at the expiration of the holdover term a person is not elected to fill the position at the annual school election or the person elected fails to subscribe to the director's oath of office within the time provided under § 6-13-617(a)(1), the position is vacant and the school district board of directors shall fill the vacancy as provided under § 6-13-611.~~

(b)(1) If an entire school district board of directors is elected during the same school board election, the members of the school district board of directors who are elected during the same school board election shall initially draw lots for two-year or four-year terms so that, as nearly as possible, an equal number of positions are filled in each subsequent school board election.

(2)(A) Initially, terms for members elected in May 2023 shall expire in 2026.

(B) All other members will draw for terms so, as nearly as possible, an equal number of positions are filled every school board election.

(3) For members of a school district board of directors currently holding terms, terms set to expire on or in:

(a) November 2023 shall expire in 2024;

(b) 2024 shall expire in 2024;

(c) 2025 shall expire in 2024;

(d) 2026 shall expire in 2026; and

(e) 2027 shall expire in 2026.

(4) If after rebalancing terms, there is not, as nearly as possible, an equal number of positions filled every school board election, the school district board of directors shall adjust the minimum number of terms necessary to ensure balance between those terms expiring in 2024 and 2026.

SECTION 2. Arkansas Code § 6-13-611(e), concerning vacancies generally of a school district board of directors, is amended to read as follows:

(e) An appointed director, except a director appointed to fill a vacancy under § 6-13-613, shall serve only to the next ~~annual~~ school board

election, at which time the electors shall select in the usual manner directors to serve the unexpired terms of the vacating directors.

SECTION 3. Arkansas Code § 6-13-615(d) and (e), concerning local option to elect school board directors from single-member zones, are amended to read as follows:

(d)(1) The members of the board of directors of the school district shall be elected for a ~~three-year~~ four-year term.

(2) ~~Provided, any~~ Any member of the board of directors shall hold office until his or her successor has been elected and qualified.

(3) A member of the board of directors who is qualified to serve the zone he or she represents may succeed himself or herself.

(e)(1) Following the election, the new school district board of directors at ~~their~~ its initial meeting shall, by lot, establish ~~their~~ its initial terms so that an equal number of positions are filled ~~each year and not more than three~~ (3) ~~members' terms expire each year~~ every school board election.

(2) The regular term of office for the school district board of directors elected after the initial election following the decision to elect from single-member zones shall be the same as the term of the school district board of directors of the school district before the change in the method of election of the school district board of directors.

SECTION 4. Arkansas Code § 6-13-631(d)(2)(A), concerning the effect of a minority population on an election, is amended to read as follows:

(2)(A) Except as provided in subsection (e) of this section, a member of a school district board of directors shall serve a ~~five-year~~ four-year term.

SECTION 5. Arkansas Code § 6-13-631(e) and (f), concerning the effect of a minority population on an election, are amended to read as follows:

(e) At the first meeting of a new board of directors, the members shall establish initial terms by lot so that, to the extent possible, an equal number of positions are filled ~~each year and not more than two~~ (2) ~~members' terms expire each year~~ every school board election.

(f)(1) At least ninety (90) days before the filing deadline for the

annual school election held in the second year after each federal decennial census, the school district board of directors, with the approval of the county board of election commissioners of the county where the school district is administratively domiciled, shall:

(A) Divide each school district having a ten percent (10%) or greater minority population into single-member zones; and

(B)(i) File a copy of the plan with the county clerk of the county where the school district is administratively domiciled.

(ii) The plan filed with the clerk shall include a map showing the boundaries of the zones and documentation showing the population by race in each zone.

(2) The zones shall be based on the most recent federal decennial census information and be substantially equal in population.

(3) At the ~~annual~~ school board election following the rezoning, a new school district board of directors shall be elected in accordance with procedures set forth in this section.

SECTION 6. Arkansas Code § 6-13-634(d), concerning the size of a school district board of directors, is amended to read as follows:

(d) Any change in the number of directors serving on a school district board of directors under this section is effective upon the directors' taking office following the next regular ~~annual~~ school board election.

SECTION 7. Arkansas Code § 6-13-1415(e)(1)(B), concerning an interim school district board of directors following an involuntary consolidation or annexation, is amended to read as follows:

(B) All the members of the permanent board of directors of the resulting district or receiving district are elected at large, then the state board may stagger the terms of the interim board of directors, which shall be determined by lot so that, ~~no more than two (2) members' terms expire during any one (1) year~~ as nearly as possible, an equal number of positions are filled during each school board election.

SECTION 8. Arkansas Code § 6-13-1417(a)(3), concerning the formation of a school district board of directors following an involuntary consolidation or annexation, is amended to read as follows:

(3) At the first meeting of the permanent board of directors, the members shall determine the terms of the board of directors by lot so that, ~~not more than two (2) members' terms expire during any one (1) year~~ as nearly as possible, an equal number of positions are filled during each school board election.

SECTION 9. Arkansas Code § 6-14-102(c)(1), concerning the annual school election date and special school elections, is amended to read as follows:

(c)(1) When the annual school election is not held at the same time as a preferential primary or general election, if ~~no more than one (1) candidate for a school district director position presents a petition or notice as required by § 6-14-111 and if~~ there are no other ballot issues to be submitted to school district electors for consideration, with the exception of the local tax rate if that rate is not being changed or restructured, the board of directors of a school district, by resolution, may request the county board of election commissioners to:

- (A) Reduce the number of polling places;
- (B) Open no polling places on election day so that the election can be conducted by absentee ballot and early voting only; or
- (C)(i) Declare an election by candidate to be held;
  - (ii) Open no polling places; and
  - (iii) Allow the candidate to cast a ballot for himself or herself at a designated time and location on election day or during the period that would otherwise be designated for early voting.

SECTION 10. Arkansas Code § 6-14-102, concerning the annual school election date and special school elections, is amended to add an additional subsection to read as follows:

(d) The election of a school district board of directors not elected entirely during the same election shall be held in each public school district of this state on the date of the preferential primary election.

SECTION 11. Arkansas Code § 6-14-111(a), concerning the candidate filing procedures, is amended to read as follows:

(a)(1) All candidate filings under this subchapter shall be with the

county clerk of the county in which the school district is domiciled for administrative purposes.

(2) A district school board member shall be elected at the preferential primary election.

~~(2)(A)(i)~~(3)(A)(i) In a special school election or an annual school election not held with the preferential primary or general election, all actions required of county boards of election commissioners shall be performed by the county board of election commissioners of the county in which the school district is domiciled for administrative purposes.

(ii) However, if one of that school district's nondomicile counties is holding a special election on the same date as a school election and at least one (1) qualified elector in the county is eligible to vote in both the special election and the school election, each county in which the school district has territory shall conduct the school district's school election as if it were held with the preferential primary or general election.

(B) When a county clerk of a school district's nondomicile county becomes aware that a special election will be held on the same date as a school district's annual or special school election and at least one (1) qualified elector in the county is eligible to vote in both the special election and the school election, the county clerk of the nondomicile county shall immediately notify the county clerk of the county in which the school district is domiciled for administrative purposes in writing that the school district's school election shall be conducted under subdivision ~~(a)(3)~~(a)(4) of this section.

(C) The county clerk of the county in which the school district is domiciled for administrative purposes shall then immediately notify the county clerks of any other nondomicile counties that the school district's election will be conducted under subdivision ~~(a)(3)~~(a)(4) of this section.

~~(3)(4)~~ In a school election held with the preferential primary or general election, all actions required of county boards of election commissioners shall be performed by the county board of election commissioners of the county in which the electors reside.

SECTION 12. Arkansas Code § 6-14-111(e)(1), concerning the candidate

filing procedures, is amended to read as follows:

(e)(1) The petition, affidavit of eligibility, and the candidate's political practices pledge shall be filed with the county clerk ~~as follows:~~

~~(A)(i) For even numbered years, during the party filing period as set forth in § 7-7-203 for school elections held concurrently with a preferential primary election; and~~

~~(ii) For odd numbered years, during the dates that would be the filing period as set forth in § 7-7-203 if a preferential primary and general election were to be held in that year; or~~

~~(B) During during a one-week period ending at 12:00 noon ninety (90) days before a ~~general~~ school board election.~~

SECTION 13. Arkansas Code § 6-14-111(h)(2), concerning candidate filing procedures, is amended to read as follows:

(2) The county board of election commissioners shall not place the name of an unopposed candidate for school district director on the ballot during a school board election held concurrently with the ~~preferential primary election or general election~~ school board election.

SECTION 14. Arkansas Code § 6-14-111(k), concerning the 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:

~~(1) The 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 15. Arkansas Code § 6-14-121(a)-(c), concerning candidate filing procedures, are amended to read as follows:

(a)(1) Whenever there are more than two (2) candidates for election to any position on a board of directors at any election held in this state and

whenever no candidate for any school district position receives a majority of the votes cast for the office or whenever there is a tie vote, there shall be a runoff election held in the school district.

(2) The names of the two (2) candidates receiving the highest number of votes, but not a majority, shall be placed on the ballot to be voted upon by the qualified electors for that position on a school district board of directors.

(3) The runoff election shall be held at the same time as the general election.

~~(A) Four (4) weeks following the date of an election held in any odd-numbered year;~~

~~(B) On the date designated for the general primary election if the annual school election is held with the preferential primary election; or~~

~~(C) On the date designated for the general runoff election if the annual school election is held with the general election.~~

(b) The person receiving the majority of the votes cast for the position at the runoff election shall be declared elected.

(c) If one (1) of the two (2) candidates who received the highest number of votes for a position withdraws before certification of the result of the school election, the remaining candidate who received the most votes at the school election shall be declared elected to the office and there shall be no school board election runoff.

SECTION 16. Arkansas Code § 7-10-102, concerning the nonpartisan election of judges, justices, and prosecuting attorneys, is amended to read as follows:

7-10-102. Nonpartisan election of judges, justices, ~~and~~ prosecuting attorneys, and school board members.

(a) The offices of Justice of the Supreme Court, Judge of the Court of Appeals, circuit judge, district judge, ~~and~~ prosecuting attorney, and a member of a school district board of directors are nonpartisan offices.

(b)(1) The general elections for nonpartisan offices shall be held on the same date and at the same times and places as provided by law for preferential primary elections.

(2)(A) The names of nonpartisan candidates shall be:

(i) Included on the ballots of the political parties; and

(ii) Designated as nonpartisan candidates.

(B) Separate ballots containing the names of nonpartisan candidates shall be:

(i) Prepared; and

(ii) Made available to voters requesting a separate ballot.

(3) A voter shall not be required to vote in a political party's preferential primary to be able to vote in a nonpartisan election.

(c)(1) A person shall not be elected to the office of Justice of the Supreme Court, Judge of the Court of Appeals, circuit judge, district judge, ~~or~~ prosecuting attorney, or a member of a school district board of directors unless the person receives a majority of the votes cast at the election for the office.

(2) In a nonpartisan election in which no person receives a majority of the votes cast, the two (2) candidates receiving the highest and next highest number of votes shall be certified to a runoff election, which shall be held on the same date and at the same times and places as the November general election.

(3) The names of the candidates in a nonpartisan runoff election shall be placed on the same ballots as used for the November general elections.