

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

State of Arkansas
94th General Assembly
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A Bill

SENATE BILL 293

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

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

For An Act To Be Entitled

AN ACT TO AMEND THE LAW CONCERNING THE CORRECTION OF ERRORS ON BALLOTS; TO AMEND THE LAW CONCERNING ELECTION PROCEDURES; TO CREATE A PROCEDURE FOR CANDIDATE REVIEW OF BALLOTS; AND FOR OTHER PURPOSES.

Subtitle

TO AMEND THE LAW CONCERNING THE CORRECTION OF ERRORS ON BALLOTS; TO AMEND THE LAW CONCERNING ELECTION PROCEDURES; AND TO CREATE A PROCEDURE FOR CANDIDATE REVIEW OF BALLOTS.

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

SECTION 1. Arkansas Code § 7-5-209 is amended to read as follows:
7-5-209. Ballots – Correction of errors.

(a) Whenever it shall appear by affidavit that an If the county board of election commissioners learns that an error or omission has occurred in the publication of the names or description of candidates nominated for office or in the preparation of ballots, the county board of election commissioners shall in a public meeting announce the error or omission and



immediately correct the error or omission or show cause why the correction should not be done.

(b) If an error in the preparation of the ballots has occurred, the error shall be corrected unless the county board of election commissioners determines by unanimous vote that the error:

(1) Cannot be corrected prior to the conclusion of voting; or

(2) Is of a nature that:

(A) It can be effectively mitigated; and

(B) The costs to the county do not justify the correction

based on the:

(i) Cost of correcting the error;

(ii) Disruption to the election process; and

(iii) Fiscal impact to the county.

(c) As soon as possible, a county board of election commissioners shall correct a ballot error in which there is an omission from the ballot of:

(1) A contested race;

(2) A candidate omitted from a race; or

(3) An issue other than a school millage issue in which no change is proposed in the rate of the millage.

(d)(1) When an error is identified, the applicable mitigation measures shall be implemented and these measures shall remain in place until the error is corrected or the election concludes.

(2) Errors in the rendering of the candidate's name on the ballot shall be mitigated by:

(A) Posting a notice on each ballot marking device or voting booth that:

(i) Informs voters that an error is present on the ballot; and

(ii) Provides the correct rendering of the race including each candidate's name on the ballot as it should have appeared on the ballot for that race in the order in which the candidates appear on the ballot; and

(B) Providing a copy of the notice under subdivision (d)(2)(A) of this section to the county clerk who shall include the notice under subdivision (d)(2)(A) of this section in the materials delivered with

all absentee ballots sent after the error is discovered.

(3) A notice posted under subdivision (d)(2)(A) of this section regarding an error in the rendering of a candidate’s name on the ballot shall not identify the specific candidate affected by the error.

(4) Errors in the rendering of a ballot issue shall be mitigated by:

(A) Posting a notice on each ballot marking device or voting booth which informs voters that an error is present on the ballot and provides the correct text of the ballot issue in question; and

(B) Providing a copy of the notice under subdivision (d)(4)(A) of this section in the materials delivered with all absentee ballots sent after the error is discovered.

(5) Omission of a race or issue on the ballot shall be mitigated by:

(A) The assignment of voters to another ballot style if another ballot style is available in the county which has the same issues and races which should have been included on the ballot containing the error; or

(B) The creation by the county board of election commissioners of a special error correction ballot that shall be provided to voters to allow the voters to vote in the omitted race or issue contest.

(e) A special error correction ballot shall be governed by the following provisions:

(1) The county board of election commissioners shall work with the county clerk to develop a list of voters effected by the error who require access to the special error correction ballot in addition to their assigned regular ballot;

(2)(A) Each voter who has previously cast a ballot that did not include the race or issue omitted shall be contacted by the county board of election commissioners using any contact information provided in the voter’s voter registration records;

(B) Each voter who has previously cast a ballot that did not include the race or issue omitted may cast the special error correction ballot;

(3) When a special error correction ballot is in use, the poll workers shall:

(A) Review the list of voters affected by the error when

checking in a voter to the poll to vote;

(B) Issue the special error correction ballot assigned to each voter identified on the list of affected voters;

(C) Note each voter who cast a special error correction ballot on the list of voters; and

(D) Ensure each voter deposits the special error correction ballot cast as a regular ballot into a separate sealed ballot box or the emergency bin of the tabulator if no additional ballot box is available; and

(4)(A) Poll workers shall allow a voter to cast the special error correction ballot as a provisional ballot if no list of affected voters is available or if a voter believes he or she is entitled to vote in the omitted race but has not been identified on the list of voters affected by the error.

(B) A voter who is eligible to cast his or her assigned ballot as a regular ballot and has not been designated as requiring a special error correction ballot may cast a special error correction ballot as a provisional ballot while casting his or her assigned ballot as a regular ballot.

(C) If the voter under subdivision (e)(4)(B) of this section is also casting a provisional ballot for any reason not related to the error addressed by the special error correction ballot, the special error correction ballot shall be included in the same provisional envelope as the assigned ballot which is cast provisionally.

SECTION 2. Arkansas Code Title 7, Chapter 5, Subchapter 2, is amended to add an additional section to read as follows:

7-5-213. Counting votes when special error correction ballots are utilized – Procedures.

(a) In the event that special error correction ballots are utilized under § 7-5-209, a county board of election commissioners shall count all special error correction ballots cast as regular ballots under the following procedures:

(1) The special error correction ballots shall be counted at the time designated in the notice of election for the canvassing and counting of absentee ballots on election day; and

(2) The vote totals shall be included with the vote totals for the issue or race which appeared on the special error correction ballots.

(b) In the event that a special error correction ballot is utilized under § 7-5-209, county board of election commissioners shall count all special error correction ballots cast as provisional ballots under the following procedures:

(1) The special error correction ballots shall be canvassed at the time and location as other provisional ballots;

(2) The ballot shall be counted if:

(A) The voter was a qualified elector for the issue or race that was the subject of the special error correction ballot;

(B) The voter cast a ballot that was affected by the error necessitating the special error correction ballot; and

(C) The county board of election commissioners does not determine that the provisional ballot is invalid and should not be counted based on other grounds.

(3) The provisional special error correction ballots that are approved by the county board of election commissioners shall be hand counted at the time other provisional ballots are counted; and

(4) The vote totals shall be manually included with the vote totals for the issue or race which appeared on the special error correction ballots.

SECTION 3. Arkansas Code Title 7, Chapter 5, Subchapter 2, is amended to add an additional section to read as follows:

7-5-214. Candidate review of ballot content.

(a) The political practices pledge shall contain a request that a candidate provide an email address at which the campaign can be contacted.

(b) No less than forty-two (42) days before an election, the county board of election commissioners shall submit the one (1) of the following information by email to a candidate that filed for office and that included an email address on their political practices pledge:

(1) A proof copy of each ballot style for the county; or

(2) A report generated from the ballot programming software which includes the following information:

(A) The name of the candidate as it appears on the ballot;

(B) The ballot contest that the candidate is assigned; and

(C) The precincts or precinct parts that the race is

assigned.