



ELECTION LAWS

2009 LEGISLATIVE SESSION

ACT 1480

CLEANUP AND CLARIFICATION

- *The purpose of Act 1480 is to clarify and improve the language and procedures in the election code. The most significant changes include the following:*
- *The special election code is moved to its own section.*
- *Moves provisions related to paper ballots to a new section specifically for paper ballot issues*
- *Prohibits candidates from poll watching at the polling places*
- *For recounts, allows the election commission to either use the totals printed on the voter-verified paper trail or manually count the votes*
- *For voting machine recounts, clarifies that a voting machine's internal audit data is to be used if the voter-verified paper trail is damaged or if the voting machine is exempt from the requirement for voter-verified paper*
- *Requires all candidates to file affidavits of eligibility except for judicial candidates.*



ACT 1480

- **The following sections merely change the reference from a repealed code section to the new code section for special elections**
- *1, 2, 5, 6, 7-10, 12, 13, 45-49, 51-62, 64-81, 83-116 (total of 78 of 115 sections)*



ACT 1480

SCHOOLS AND COMMUNITY COLLEGES

- *6-14-106*
- Clarifies that that polling sites for each annual **school election** shall be the same as the last unless changed by the election commission
- Disqualifies employees of school elections from serving as commissioners or poll workers in **school elections**
- Provides for a substitute election commissioner in the event of such disqualification

- **Section 4**
- *6-14-111*
- Establishes a requirement for **school board** candidates to file affidavits of eligibility
- Requires petitions of candidates to state position they seek on board and does not allow position changes

- **Section 11**
- *6-61-520*
- Changes the deadline for **filing for certain community college board** positions from 45 days to 70 days before the election and requires filing with county clerk rather than election commission



ACT 1480

POLLS AND PRECINCTS

- *7-5-101*
- Clarifies process and responsibility for **establishing precincts and polling places**
- No change in unanimous vote requirement for designating polls



ACT 1480

CERTIFICATION DEADLINE

- *7-5-203*
- Requires **certification of candidate lists** by SOS and county clerks to election commissions 70 instead of 75 days before the general election
- Clarifies withdrawal (before certification by SOS or clerk)



ACT 1480

WRITE-INS

- *7-5-205*
- Clarifies **write-in** candidacy and changes the write-in filing period to begin on the last day of the party filing period.
- Requires a write-in to file an affidavit of eligibility
- Changes the write-in filing period to begin on the last day of the party filing period and end 90 days before the election.



ACT 1480

UNOPPOSED CANDIDATES AND BALLOT DRAW

- 7-5-207
- Clarifies that **unopposed municipal candidates** may be omitted from the general election ballot, consistent with current 14-14-206; excludes unopposed candidates for mayor
- Includes provision for ballot draw and the requirement to place the party name beside the candidate on the ballot; provides for **notice of ballot draw** to be published no later than 3 days before the draw; moves ballot draw and ballot name protocols language to here from 7-5-208



ACT 1480

PROVISIONAL BALLOTS

- **7-5-308**
- Clarifies that **provisional ballots** are to be counted if the election commission determines that the ballot was cast by a registered voter and is the correct ballot for the voter's precinct



ACT 1480

POLL WATCHERS

- 7-5-312
- Candidates as **poll watchers** limited to vote counting (no longer allowed at polls)
- Allows poll watchers to be close enough to hear voter's name, but repeals the requirement that they be close enough to see signature. Reason: poll watchers have been harassing voters on the pretext of seeing their signature and poll watchers are not handwriting experts
- Clarifies that the proper grounds for challenge is voter eligibility, including that the voter already voted



ACT 1480

RECOUNTS

- *7-5-319(c)*
- On **voting machine recounts**, allows election commission to either use totals printed on voter-verified tapes or count the votes on the tapes by hand
- Provides for use of internal audit data if tapes are damaged
- Provides for recounts for machines in Columbia, Ouachita and Union counties that do not have voter verified tapes



ACT 1480

TESTING

- *7-5-515(c)*
- Changes requirement for **testing voting machines** from 5 days before election day to 7 days before early voting
- *7-5-611*
- Changes requirement for **testing ballot scanners** from 5 days before election day to 7 days before early voting
- *7-5-516*
- Changes notice of **testing voting machines** from mail notice to each candidate to publish notice



ACT 1480

INDEPENDENTS

- *7-7-103*
- Requires **independent candidates** to file affidavits of eligibility and to state the position sought on the notice of candidacy
- Deletes redundant independent municipal candidate language and moves it to municipal election code, 14-42-206



ACT 1480

PARTY FILING

- *7-7-301*
- Strikes the requirement for the secretary of the party to determine **eligibility of candidates**
- Note that **affidavits of eligibility** continue to be filed with the party



ACT 1480

WITHDRAWAL

- *7-7-304*
- Clarifies procedure for **withdrawal of candidates** prior to primary election in event of resignation and death
- Restates current law that if candidate's name is certified to the primary ballot, a dead person or a person who unsuccessfully attempted to withdraw can be on the runoff ballot and can be the "nominee"



ACT 1480

SPECIAL ELECTIONS

- 7-11-101+
- New Section regarding **special elections**
- All special election language is moved to this new chapter
- Provides procedures for vacancies filled pursuant to Amendment 29
- Technical cleanup of special elections
- Requires cbec to publish the ordinance, resolution or other document calling the special the special election
- Requires that special elections where the second Tuesday falls on a holiday shall be on the third Tuesday
- Special elections in June of even-numbered years will be on fourth Tuesday (to avoid having them at same time as runoff)
- Allows no-poll special elections to fill vacancy if only one candidate files
- Allows use of paper ballots (no machines required) in unopposed candidate elections
- Requires entities calling elections to notify cbec of SOS as soon as possible



ACT 1480

COUNTY BALLOT MEASURES

- *14-14-915*
- Establishes a deadline of 90 days before an election to file a citizen's **county initiative or referendum petition**, up from 60 days. The purpose is to help meet the 35-day absentee ballot deadline. Petitions must be certified 70 days before the election.



ACT 1480

DEADLINE FOR CLERK

- *14-42-206*
- Establishes a deadline of 10 days after filing for clerk to determine sufficiency of **municipal candidate petitions**
- Language regarding municipal independent candidates from 7-7-203 moved to here.



ACT 959

SIMPLE CLEANUP

- *The most significant changes are included in:*
- *Section 1, allowing schools to wait an additional year after the census to draw school zones;*
- *Section 24, allowing county boards to publish notice of testing of voting machines, rather than mail notice to each candidate;*
- *Section 31, repealing the provision allowing ballot stubs to be destroyed 30 days after certification or after an election contest.*
- *Section 39, allowing county election commissions to abbreviate titles for candidates if space considerations require it*



ACT 959

SCHOOL REDISTRICTING

- *6-13-631(f)*
- Allows **school districts** that elect boards by zone to delay redistricting until 2012
- Reason: Census arrives in February or March of 2011 and there is not enough time to draw new zones in time for county clerks to sort voters into new zones in time for the September school elections in 2011



ACT 959

DATE OF QUALIFICATION OF CANDIDATE

- *7-5-207(b)*
- Technical cleanup
- Reason: current code section provides that **candidates must be qualified** at time of filing, but this is not the case because of constitutional requirements for certain offices (legislature, county judge, perhaps others)



ACT 959

PAPER BALLOT NUMBER

- 7-5-602
- Changes the requirement for the **number of paper ballots** to be printed to be based on number of paper ballots used in the last comparable election for counties that allow both voting machine and paper use.



ACT 959

CBEC AND ABSENTEE COUNTING

- 7-5-414
- Cleanup and clarifies that processing of **absentee ballots** is under direction of election commission
- 7-5-416(b)(1)(F)(ii)
- Clarifies that it is cbec that makes the determination of whether the voter's information on **absentee ballot** application and voter statement does not compare and whether absentee ballots should be counted.



ACT 959

BALLOT STUBS

- *7-5-702*
- Repeals the provision allowing ballot stubs to be destroyed 30 days after certification or after an election contest. Recent events have shown election crimes are often investigated after the 30-days or the time for election contests have passed.



ACT 959

CBEC CERTIFICATION

- *7-5-707*
- Requires **election commission to report** certification-related information to the Secretary of State



ACT 959

LIST OF CANDIDATES

- *7-7-203(d)*
- Provides for county clerk to certify **list of candidates** to county board – a step that had been missing



ACT 959

TITLES ON BALLOT

- *7-7-305 and 306*
- Technical cleanup
- Allows election commissions to abbreviate the **title** a candidate requests to appear with her name on the **ballot** if space concerns on the ballot require it



ACT 959

PAPER ONLY FOR NO-POLL SCHOOL ELECTIONS

- *6-14-102*
- Allows use of **paper ballots** only (no voting machines) in school elections if no opposed candidates and no change in millage



ACTS 292 AND 1294

PAYING FOR SCHOOL ELECTIONS AND ESTABLISHMENT OF POLLING PLACES

- **Act 292**
- *6-14-106(a)* and *6-14-118(a)*
- The act provides that the county board of election commissioners shall consult with each school district concerning the number and location of polling sites for school elections.
- Each polling site shall be located within the school district.
- The act provides that expenses incurred for election officials at individual polling places shall be paid by the school district in which the polling place is located.
- **Act 1294**
- *6-14-106*
- The act requires a polling site in each county for a contested school election in which a school district has territory and the school district territory in that county contains a city of second class.



ACT 812

NO POLL PRIMARIES

- Act 812 (SB901)
- 7-7-313
- The act provides that if there is a primary election in which only one (1) candidate has filed for the position by a filing deadline and there are no other ballot issues to be submitted for consideration, the county board of election commissioners may reduce the number of polling places or open no polling places on election day so that the election is conducted by absentee ballot and early voting only.



ACTS 362 AND 1454

RECALL - MUNICIPAL

- Act 362 (SB432)
- *14-42-119*
- The act establishes a procedure for a recall election of certain elected municipal officers in a mayor-council form of government.
- Act 1454 (HB2187)
- *14-61-119*
- The act adds more requirements to the procedure for the removal of a director in a recall election in a city manager form of government.



ACT 1407

DISTRICT JUDGE PETITION REQUIREMENT

- Act 1407 (HB2266)
- *7-10-103(c)(1)(E)* and *7-10-103(c)(2)(D)*
- The act provides that candidates by petition for district judge shall file petitions signed by at least one percent (1%) of the qualified electors residing within the district for which the candidate seeks office, but in no event shall more than two thousand (2,000) signatures be required.



ACT 188

INDEPENDENT PETITIONS

- Act 188 (HB1246)
- 7-7-103(b)(3) and 7-7-205(a)(4)
- The act extends the period of time in which petitions may be circulated for certification of independent candidates and formation of new political parties.



ACT 281

ORDER OF MEASURES ON BALLOT

- *7-9-110(a)* and *7-9-116*
- The act specifies the order and manner that constitutional amendments, statewide initiated acts, referred acts of the General Assembly, and questions referred by the General Assembly shall appear on the ballot.
- The act addresses the ballot presentation of measures submitted by municipalities, counties, and other political subdivisions.



ACT 420

DATE OF 3RD ANNEXATION ELECTION

- *14-40-303(f)*
- Act 420 (HB1717) - The act provides that if the date of a third annexation election, necessary when two (2) cities hold annexation elections on the same land and held three (3) weeks after the second annexation election, falls on a legal holiday, the election shall be held four (4) weeks after the second annexation election.
- If the election date in the fourth week is also a legal holiday, the election shall be held five (5) weeks after the second annexation election.



ACT 703

NO IR BALLOT FOR JUDGES

- Act 703 (7-5-406) - The act states that the county boards of election commissioners shall not prepare a special absentee ballot for nonpartisan judicial elections for members of the uniformed services of the United States and other citizens residing outside the United States.



ACT 658

VOTE FRAUD

- *7-5-103, 7-5-104, 7-5-310*
- Restricts absentee vote harvesting
- **The problem in some counties is that “vote harvesters” avoid the bearer two-ballot limit by gathering up scores of absentee ballots and mailing them. This provision gives some leeway to people like family members and church groups to legitimately help up to 10 voters get their ballots to the mailbox but creates a legal presumption of fraud if more than 10 ballots are “harvested”.**
- Creates a felony to possess another person’s absentee ballot with intent to defraud and provides a rebuttable presumption that possession of more than 10 ballots during an election is evidence of such intent
- Restricts hauling and assisting
- **In some counties “haulers” bring vanloads of voters to the polls and “assist” the voters in voting claiming they are disabled and unable to cast their ballots without assistance. This provision makes it illegal for any one person to assist more than six voters.**
- Creates a misdemeanor to assist more than 6 disabled or illiterate persons at the polls



ACT 353

AMENDMENT 51

- *Am. 51 Sec. 6(a)(2)(B) and (6)(E) and (b)(1)(F)*
- Clarifies that applicants for voter registration are giving up their right to vote in another state or county
- *Am. 51 Sec. 6(a)(6)*
- Makes references to felon disqualification (use of the word “convicted” instead of “pleaded guilty or nolo...”) match with Sec. 11(a)
- *Am. 51 Sec. 7*
- Cleans up language no longer applicable because the state can now match drivers license numbers and Social Security numbers
- *Am. 51, Section 9(a)*
- Clarifies qualifications to register
- *Section 9(i)*
- Allows overseas voters to vote absentee without prior registration by submitting a federal postcard application which is both an application for absentee ballot and voter registration
- Makes state law consistent with federal law



ACT 353

CONTINUED

- *Am. 51 Sec. 10(b)(2)(B)*
- Clarifies that a registered voter who transfers from one county to another must have updated registration in the clerk's office by the fourth day before the election. Under current law, the mailbox rule applies and the date of mailing would be considered rather than the date it actually arrived in the clerk's office.
- *Am. 51 Sec.11(a)(4)*
- Cleanup to make it consistent ("a felony" rather than "felonies") with Sec.6(a)(6)(D)
- *7-1-101(15), (25)*
- To clarify and make definitions regarding certain overseas voters consistent with federal law
- *7-5-406(a)*
- Clarifies and makes state law consistent with federal law on overseas voters

