

1 State of Arkansas
2 93rd General Assembly
3 Regular Session, 2021
4

A Bill

SENATE BILL 556

5 By: Senators M. Johnson, K. Hammer
6 By: Representatives Lowery, Wing
7

For An Act To Be Entitled

9 AN ACT TO CREATE THE ARKANSAS ELECTION INTEGRITY ACT
10 OF 2021; AMEND ARKANSAS LAW CONCERNING ELECTIONS; TO
11 AMEND THE LAW CONCERNING THE STATE BOARD OF ELECTION
12 COMMISSIONERS; TO CREATE A PROCESS FOR THE STATE
13 BOARD OF ELECTION COMMISSIONERS TO CONDUCT AN
14 ELECTION; AND FOR OTHER PURPOSES.
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Subtitle

17
18 TO CREATE THE ARKANSAS ELECTION INTEGRITY
19 ACT OF 2021; TO AMEND THE LAW CONCERNING
20 THE STATE BOARD OF ELECTION
21 COMMISSIONERS; AND TO CREATE A PROCESS
22 FOR THE STATE BOARD OF ELECTION
23 COMMISSIONERS TO CONDUCT AN ELECTION.
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26 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
27

28 SECTION 1. DO NOT CODIFY. Title.

29 This act shall be known and may be cited as the "Arkansas Election
30 Integrity Act of 2021".
31

32 SECTION 2. Arkansas Code Title 7, Chapter 4, Subchapter 1, is amended
33 to add an additional section to read as follows:

34 7-4-122. State Board of Election Commissioners authorization to
35 conduct election on emergency basis.

36 (a)(1) A county board of election commissioners serving a county with



1 a population greater than fifty thousand (50,000) is authorized to request
2 the State Board of Election Commissioners to conduct an election in a county
3 on an emergency basis within the one hundred twenty (120) days before the
4 beginning of early voting for any election.

5 (2) A request by a county board of election commissioners to
6 conduct an election in a county on an emergency basis shall be:

7 (A) Made by written order of the county board of election
8 commissioners authorizing the chair of the county board of election
9 commissioners to make the request; and

10 (B) Approved by a majority of the county board of election
11 commissioners by a roll call vote.

12 (b) Before a county board of election commissioners may submit a
13 request to the State Board of Election Commissioners to conduct an election
14 in the county on an emergency basis, the county board of election
15 commissioners shall:

16 (1)(A) Make a minimum of two (2) separate written requests to
17 the county judge for remedial action.

18 (B) A request for remedial action shall be:

19 (i) Made upon a vote of the county board of election
20 commissioners;

21 (ii) Approved by a majority of the county board of
22 election commissioners;

23 (iii) Accurately recorded in the minutes of the
24 county board of election commissioners; and

25 (iv) Made at any time within the six (6) months
26 preceding the order of the county board of election commissioners.

27 (C) A request for remedial action may include without
28 limitation a request for:

29 (i) A change in personnel responsible for conducting
30 elections in the county, including the county board of election
31 commissioners' decertification of a person from conducting any part of an
32 election;

33 (ii) Additional in-kind support from the county,
34 including without limitation:

35 (a) Secure facilities;

36 (b) Additional information technology;

1 (c) Additional personnel acceptable to the
2 county board of election commissioners; and

3 (d) Other support that would enable the county
4 board of election commissioners to carry out its legal responsibility to
5 conduct free and equal elections in the county;

6 (iii) Legal representation and advice free from
7 conflicts of interest with the county judge, the county clerk, and other
8 officials elected in a partisan election in the county; or

9 (iv) Additional funding to carry out the legal
10 responsibility of the county board of election commissioners to conduct free
11 and equal elections in the county;

12 (2) Transmit a copy of the written requests under subdivision
13 (a)(1) of this section contemporaneously to the:

14 (A) County judge;

15 (B) State Board of Election Commissioners; and

16 (C) Quorum court of the county; and

17 (3) Determine by majority vote of the county board of election
18 commissioners that the county judge has failed to provide requested remedial
19 action that would allow the county board of election commissioners to conduct
20 free and equal elections in the county in a timely manner.

21 (c)(1) The county board of election commissioners shall transmit a
22 written order requesting the State Board of Election Commissioners to conduct
23 an election in their county if the remedial actions requested by the county
24 board of election commissioners to the county judge was not met to their
25 satisfaction and under the requirements of this section.

26 (2) A copy of the request for the State Board of Election
27 Commissioners to conduct an election on an emergency basis in the county
28 shall be transmitted contemporaneously to:

29 (A) The county judge;

30 (B) Each member of the county quorum court;

31 (C) The prosecuting attorney for the county; and

32 (D) The State Board of Election Commissioners.

33 (d) The State Board of Election Commissioners shall meet within ten
34 (10) calendar days of receipt of a written request to conduct an election on
35 an emergency basis from a county board of election commissioners to evaluate
36 the request.

1 (e) If the State Board of Election Commissioners finds that the county
2 board of election commissioners has complied with this section, the State
3 Board of Election Commissioners may take one or more of the following
4 actions:

5 (1) Direct the Director of the State Board of Election
6 Commissioners to conduct an analysis of all of the county board of election
7 commissioners' systems and make recommendations for action by the State Board
8 of Election Commissioners;

9 (2) Find that an emergency exists;

10 (3) Find that emergency actions are necessary to administer and
11 conduct a free and equal election within the time frame established by law in
12 the affected county; or

13 (4) Assume immediate authority of the county board of election
14 commissioners and take one (1) or more of the following actions at any time
15 after the request to conduct an election on an emergency basis has been made:

16 (A) Remove permanently, reassign, or suspend on a
17 temporary basis the county election coordinator and:

18 (i) Appoint a person, who shall become a special
19 employee of the State Board of Election Commissioners, in place of the county
20 election coordinator, or in place of the primary executive employee for
21 conducting an election in the county, to operate all administrative functions
22 of the county board of election commissioners under the supervision and
23 approval of the director;

24 (ii) Authorize a person to remove, replace,
25 reassign, or suspend any staff, or any other county personnel, or any other
26 state employees, assigned to work on any part of the forthcoming election in
27 that county;

28 (iii) Compensate from State Board of Election
29 Commissioners funds, or other funds of the state designated for delivery to
30 the county, the person appointed to operate the administrative functions of
31 the county board of election commissioners, and other individuals authorized
32 by the director;

33 (iv) Authorize a person to secure any facilities
34 necessary to ensure the security of election machinery, processes, and ballot
35 materials;

36 (v) Authorize a person to retain the professional

1 services of information technology personnel, security personnel, and legal
2 support personnel, sufficient to conduct a free and fair election;

3 (vi) Authorize a person to operate the
4 administrative functions of the county board of election commissioners using
5 State Board of Election Commissioners funds, or other funds of the state
6 designated for delivery to the county;

7 (vii) Authorize a person to obtain legal advice from
8 the office of the Attorney General, that is free from conflicts of interest
9 with any county elected officials; or

10 (viii) Authorize a person to prohibit county elected
11 officials, and employees of county elected officials, from access to:

12 (a) Election materials;

13 (b) Physical locations where election
14 materials are maintained; and

15 (c) Electronic systems and processes
16 concerning elections;

17 (B) Prohibit county elected officials from interfering in
18 any way with the conduct of the election;

19 (C) Remove, on a temporary basis, some or all of the
20 powers and duties granted to the county board of election commissioners but
21 allow the county board of election commissioners to operate under the
22 direction and approval of the director;

23 (D) Require the reassignment or removal of some or all of
24 the administrative, operational, security, information technology, and other
25 support staff of the county board of election commissioners;

26 (E) Restrict, proscribe, or limit on a temporary basis
27 some or all of the powers and duties granted to the county clerk concerning
28 the:

29 (i) Conduct of early voting;

30 (ii) Processing of any absentee ballot materials
31 returned to the county from any voter;

32 (iii) Transmission of election results to the
33 Secretary of State; and

34 (iv) Retention of election materials after the
35 election is concluded until any runoff or general primary has taken place or
36 until the period for the conduct of any election contest has expired;

1 (F) Seek reimbursement for election expenses under § 7-5-
2 104 and deposit the reimbursement into an account established with the
3 Auditor of the State of Arkansas for this purpose.

4 (G) Draw funds from the account established with the
5 Auditor of the State of Arkansas for expenses collected under § 7-5-104 and
6 use those funds for the State Board of Election Commissioners' authorization
7 to conduct an elections under this section;

8 (H) Conduct all other activity normally assigned to the
9 county board of election commissioners, including the redrawing of boundary
10 lines for any maps required as part of redistricting, during the time the
11 State Board of Election Commissioners conducts an election; or

12 (I) Take any other necessary and proper action, as
13 determined by the State Board of Election Commissioners.

14 (f)(1) The State Board of Election Commissioners may conduct the
15 election on an emergency basis as requested by the county board of election
16 commissioners.

17 (2) If the State Board of Election Commissioners conducts an
18 election on an emergency basis as requested by the county board of election
19 commissioners, the State Board of Election Commissioners shall conduct an
20 associated runoff election, including a general primary election.

21 (g) The emergency power of the State Board of Election Commissioners
22 shall terminate:

23 (1) Upon the conclusion of the time for an election contest that
24 may arise from the runoff or general primary election associated with the
25 requested election unless the State Board of Election Commissioners:

26 (A) Determines by majority vote that the State Board of
27 Election Commissioners' continued involvement is required; and

28 (B)(i) Received a formal complaint involving the county;
29 and

30 (ii) The complaint against the county has not been
31 resolved by the State Board of Election Commissioners;

32 (2) Upon the resolution of all pending formal complaints to the
33 State Board of Election Commissioners concerning the requested conduct of the
34 election on an emergency basis unless a written resolution of the county
35 board of election commissioners is submitted to the State Board of Election
36 Commissioners requesting that the State Board of Election Commissioners

1 continue conducting elections on an emergency basis, and operating all other
2 activities assigned to the county board of election commissioners in the
3 county; or

4 (3) Two (2) calendar years from the date of final certification
5 of the first election conducted on an emergency basis, originally requested
6 by the county board of election commissioners for the State Board of Election
7 Commissioners to conduct an election.

8 (h)(1) The State Board of Election Commissioners shall charge the
9 county for all fees, costs, and expenses, including personnel expenses, and
10 matching personnel services, from the time the State Board of Election
11 Commissioners makes a finding that an emergency basis exists until the State
12 Board of Election Commissioners terminates the emergency basis.

13 (2) The State Board of Election Commissioners shall recover from
14 the county all of its fees, costs, and expenses from those funds to reimburse
15 the county for any election expenses under § 7-7-201.

16 (3) The State Board of Election Commissioners shall be entitled
17 to recover from funds collected under § 7-5-109, all of the fees, costs, and
18 expenses from those funds reimbursed by other governmental entities.

19 (4) The State Board of Election Commissioners shall recover any
20 unrecovered fees, costs, and expenses from the county.

21 (5) Payment from the county shall be due no later than twenty-
22 one (21) days after submission of any invoice, bill, or statement from the
23 State Board of Election Commissioners, or its designee.

24 (6)(A) The State Board of Election Commissioners shall be
25 entitled to notify the Department of Finance and Administration of a county's
26 failure to pay for unrecovered fees, costs, and expenses of the State Board
27 of Election Commissioners under this section.

28 (B) The State Board of Election Commissioners shall notify
29 the department of a county's failing to reimburse the State Board of Election
30 Commissioners for fees, costs, and expenses incurred if a county fails to
31 remit appropriate payment more than thirty (30) days after billing from the
32 State Board of Election Commissioners.

33 (C) Upon notification, the department shall withhold all
34 funds due and owing to the county as revenue from the State of Arkansas until
35 an order from the State Board of Election Commissioners authorizing delivery
36 of those funds.

1 (i) Except as provided in subsection (j) of this section, the State
2 Board of Election Commissioners is not required to comply with the
3 requirements of the Arkansas Administrative Procedure Act, § 25-15-201 et
4 seq.

5 (j) The State Board of Election Commissioners shall adopt rules to
6 implement this section in accordance with the Arkansas Administrative
7 Procedure Act, § 25-15-201 et seq.

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