

1 State of Arkansas
2 91st General Assembly
3 Regular Session, 2017
4

A Bill

SENATE BILL 368

5 By: Senator B. King
6

For An Act To Be Entitled

8 AN ACT TO TRANSFER THE STATE BOARD OF ELECTION
9 COMMISSIONERS TO THE OFFICE OF THE SECRETARY OF
10 STATE; TO AMEND THE LAW CONCERNING COMPLAINTS OF
11 ELECTION LAW VIOLATIONS; TO DECLARE AN EMERGENCY; AND
12 FOR OTHER PURPOSES.
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Subtitle

15 TO TRANSFER THE STATE BOARD OF ELECTION
16 COMMISSIONERS TO THE OFFICE OF THE
17 SECRETARY OF STATE; TO AMEND THE LAW
18 CONCERNING COMPLAINTS OF ELECTION LAW
19 VIOLATIONS; AND TO DECLARE AN EMERGENCY.
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23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
24

25 SECTION 1. DO NOT CODIFY. Transfer of the State Board of Election
26 Commissioners to the office of the Secretary of State.

27 (a) Effective July 1, 2017, the State Board of Election Commissioners
28 is transferred as a type 1 transfer under § 25-2-104 to the office of the
29 Secretary of State.

30 (b) The board shall be administered under the direction and
31 supervision of the Secretary of State, but shall retain the same prescribed
32 statutory powers, authorities, duties, and functions as the board had before
33 the transfer, including:

34 (1) Rulemaking, regulation, licensing, and registration;

35 (2) The promulgation of rules, rates, and standards; and

36 (3) The rendering of findings, orders, and adjudications.



1 (c) The board shall exercise those powers, authorities, duties, and
2 functions independently of the office of the Secretary of State.

3
4 SECTION 2. The introductory language of Arkansas Code § 7-4-101(a),
5 concerning the State Board of Election Commissioners, is amended to read as
6 follows:

7 (a) The State Board of Election Commissioners within the office of the
8 Secretary of State shall be composed of the following seven (7) persons, with
9 at least one (1) from each congressional district:

10
11 SECTION 3. The introductory language of Arkansas Code § 7-4-101(f) and
12 (f)(1), concerning the State Board of Election Commissioners, are amended to
13 read as follows:

14 (f) ~~The board~~ Secretary of State shall have the authority to:

15 (1) Publish a candidate’s election handbook, in conjunction with
16 ~~the office of the Secretary of State board~~ and the Arkansas Ethics
17 Commission, which outlines in a readable and understandable format the legal
18 obligations of a candidate and any other suggestions that ~~might~~ the Secretary
19 of State determines to be helpful to a candidate in complying with state
20 election law;

21
22 SECTION 4. Arkansas Code § 7-4-101(g) and (h), concerning the State
23 Board of Election Commissioners, are amended to read as follows:

24 ~~The Attorney General~~ An attorney designated by the Secretary of
25 State shall provide legal assistance to the board in answering questions
26 regarding election laws.

27 ~~(h)(1) The board may appoint a Director of the State Board of Election~~
28 ~~Commissioners, who may hire a staff.~~

29 ~~(2) The director shall serve at the pleasure of the board.~~

30 ~~(3) The board shall set the personnel policies in accordance~~
31 ~~with the Regular Salary Procedures and Restrictions Act, § 21-5-101 et seq.,~~
32 ~~and the Uniform Classification and Compensation Act, § 21-5-201 et seq.~~

33
34 SECTION 5. Arkansas Code § 7-4-120(c)(2), concerning complaints of
35 election law violations, is amended to read as follows:

36 (2) Except as provided in subdivisions (c)(3) and (4) of this

1 section, records under this section are exempt from disclosure under the
2 Freedom of Information Act of 1967, § 25-19-101 et seq., until:

3 (A) A hearing by the Chair of the State Board of Election
4 Commissioners is set; or

5 (B) The investigation by the State Board of Election
6 Commissioners is closed by the Chair of the State Board of Election
7 Commissioners.

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9 SECTION 6. Arkansas Code § 7-4-120(h)(4), concerning complaints of
10 election law violations, is amended to read as follows:

11 (4) All moneys received by the State Board of Election
12 Commissioners in payment of fines shall be deposited into the ~~State Treasury~~
13 ~~as general revenues~~ County Voting System Grant Fund under § 19-5-1247.

14
15 SECTION 7. DO NOT CODIFY. Legislative findings.

16 (a) The General Assembly finds that:

17 (1) Significant changes in the day-to-day operations of the
18 State Board of Election Commissioners before July 1, 2017, may impede the
19 ability of the board to transfer seamlessly to the Secretary of State; and

20 (2) Additional administrative guidance and operational
21 restrictions are necessary to assure a smooth transfer to the new
22 administrative structure for the board as established by this act.

23 (b) Except as provided under subsection (c) of this section, on and
24 after the effective date of this act and before July 1, 2017, the board shall
25 not:

26 (1) Change its policies or procedures;

27 (2) Terminate an employee of the board;

28 (3) Transfer an employee of the board to a different position;

29 (4) Hire a new employee of the board;

30 (5) Enter into any new contractual obligations; and

31 (6) Destroy, mutilate, or alter documents, records, or other
32 property maintained by the board or its employees unless the destruction,
33 mutilation, or alteration is made in the normal course of business and the
34 nature of and reason for the destruction, mutilation, or alteration are
35 recorded.

36 (c) If the board determines that performance of one (1) or more of the

1 actions prohibited under subsection (b) of this section is necessary to
2 appropriately perform the duties or functions of the board:

3 (1) The Executive Director of the State Board of Election
4 Commissioners may request that the Secretary of State permit performance of
5 the action; and

6 (2) The Secretary of State may grant or deny permission to
7 perform the requested action.

8 (d) On and after the effective date of this act and before July 1,
9 2017, the board shall provide to the Secretary of State or his or her
10 designee any document, record, testimony, explanation, or other information
11 maintained by the board or its employees upon the request of the Secretary of
12 State or his or her designee.

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14 SECTION 8. EMERGENCY CLAUSE. It is found and determined by the
15 General Assembly of the State of Arkansas that the State Board of Election
16 Commissioners is a substantial component of the election process; that
17 effective elections are essential to the preservation of a citizen's right to
18 vote; and that this act is immediately necessary to complete the transfer of
19 the State Board of Election Commissioners before the 2017 annual school
20 election. Therefore, an emergency is declared to exist, and this act being
21 immediately necessary for the preservation of the public peace, health, and
22 safety shall become effective on:

23 (1) The date of its approval by the Governor;

24 (2) If the bill is neither approved nor vetoed by the Governor,
25 the expiration of the period of time during which the Governor may veto the
26 bill; or

27 (3) If the bill is vetoed by the Governor and the veto is
28 overridden, the date the last house overrides the veto.