

**RULES  
FOR  
APPOINTMENT OF  
CERTIFIED ELECTION MONITORS**  
(Effective November 8, 2013; Revised)



**STATE BOARD OF ELECTION COMMISSIONERS**  
501 Woodlane, Suite 401N  
Little Rock, AR 72201  
(501) 682-1834 or (800) 411-6996  
[www.arkansas.gov/sbec](http://www.arkansas.gov/sbec)

## **TABLE OF CONTENTS**

Scope of Rules.....	3
§ 1001 Requests for Monitors .....	3
§ 1002 Processing Requests for Monitors.....	3
§ 1003 Qualifications of Election Monitors.....	4
§ 1004 Certification of Election Monitors .....	4
§ 1005 Duties of Election Monitors .....	4
§1006 Compensation and Expense Reimbursement.....	5
Attachment A: Request Form for Appointment of a Certified Election Monitor.....	6
Attachment B: Authorization Form to Serve as a Certified Election Monitor.....	7

## **Scope of Rules**

Pursuant to Arkansas Code Annotated § 7-4-101, the State Board of Election Commissioners (State Board) has the duty to appoint at least one certified election monitor from each congressional district and the authority to appoint a monitor to any county upon a signed, written request under oath filed with the State Board and a determination by the State Board that appointing a monitor is necessary. Certified election monitors serve as observers and report to the State Board on the conduct of the election. The State Board may allow for reasonable compensation of certified election monitors assigned to a county by the State Board.<sup>1</sup>

These rules set forth the procedures for appointing, certifying and compensating certified election monitors, and set out the duties of monitors. These rules are in addition to and not a substitute for the laws of the state of Arkansas.

### **§ 1001 Requests for Monitors**

Any person alleging a violation of any election law under the investigative jurisdiction of the State Board may request appointment of a certified election monitor.

The request for appointment of a certified election monitor must be in writing and signed under oath by the requestor (see Attachment “A” for a sample format of a request for appointment of a certified election monitor).

The request must clearly state the specific alleged election irregularities or illegalities, when and where the alleged activity occurred, and provide any supporting facts surrounding the allegations.

All requests for monitors received within seven (7) calendar days of the beginning date for early voting or election day, will be processed only if exceptional circumstances are shown that prevented an earlier filing of the request with the State Board.

### **§ 1002 Processing Requests for Monitors**

Upon receipt by the State Board of a request for appointment of a certified election monitor, the Director shall determine if the request meets all requirements as set forth in § 1001.

If the request does not meet all requirements set forth in § 1001, the Requestor will be advised of such in writing.

If the Director determines that the request meets all requirements set forth in § 1001, the request for appointment of a certified election monitor will be fulfilled based upon the availability of certified election monitors and upon approval by the State Board.

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<sup>1</sup> A.C.A. § 7-4-101(f)(6) as amended by Act 1456 of 2013

### **§ 1003 Qualifications of Election Monitors**

Election monitors certified and appointed by the State Board shall be qualified electors of this state, able to read and write the English language, and shall not have been found guilty or pled guilty or nolo contendere to the violation of any election law of this state. No election monitor shall be a paid employee of any political party, a paid employee of any person running for any office, [an elected official, an active county election commissioner, an officer of a political party's county committee,](#) married to or related within the second degree of consanguinity to any candidate running for office in the current election, related by marriage to any candidate running for office in the current election or a candidate for any office to be filled at any election while serving as a monitor.

However, the Director may waive the qualifications that an election monitor may not be married to or related within the second degree of consanguinity to any candidate running for office in the current election, or related by marriage to any candidate running for office in the current election if the Director makes a determination in writing that the disqualifying person is not on the ballot in the county to be monitored and that there are no other factors relating to the relationship that would affect the election monitor's ability to fairly and accurately observe and report on the election in an impartial manner.

### **§ 1004 Certification of Election Monitors**

No person may serve as an election monitor without prior training, approval, and certification by the State Board. The executed "Authorization to Serve as a Certified Election Monitor for the State Board of Election Commissioners" form (Attachment "B") must be presented to the chief election official at the polling or counting location and shall serve as confirmation of certification by the State Board.

The Director shall determine the dates and times of training and the types of training that election monitors must complete.

### **§ 1005 Duties of Election Monitors**

Certified election monitors shall:

- Maintain strict impartiality in the conduct of duties and at no time express any bias or preference in relation to parties, candidates, or any issues in the election process,
- Undertake duties in an unobtrusive manner and not interfere with the election process, polling day procedures, or the vote count,
- Carry documentation prescribed and issued by the Director and present documentation to any election official or law enforcement officer upon request,
- Not display or wear any partisan symbols, colors, or banners,
- Base all observations on well documented, factual, and verifiable evidence,
- Refrain from making any comments about observations to the media or any other interested persons and limit all remarks to general information about the nature of the activity as an observer, and

- Prepare a post-election report for submission to the State Board in a form prescribed by the Director.

### **§1006 Compensation and Expense Reimbursement**

Each certified election monitor shall receive for the services listed herein under “Duties of Election Monitors” the sum of not more than one hundred dollars (\$100.00) per day, plus travel reimbursement at the rate prescribed for state employees in state travel regulations. No other compensation may be paid.

Reimbursement for mileage, meals, and/or overnight lodging may be paid only with advance approval of the director and in accordance with rules for reimbursement for state employees promulgated by the Department of Finance and Administration.

**REQUEST  
FOR APPOINTMENT OF A  
CERTIFIED ELECTION MONITOR**

**STATE OF ARKANSAS**

**COUNTY OF** \_\_\_\_\_

I, \_\_\_\_\_, the undersigned, hereby request that a monitor be sent to observe the administration of the election to be held on the \_\_\_\_\_ day of \_\_\_\_\_ in \_\_\_\_\_ County, Arkansas for the following reasons (attach additional sheets if needed and enclose any supporting documentation or relevant evidence):

**DECLARATION**

I, \_\_\_\_\_, hereby declare under penalty of perjury this \_\_\_\_\_ day of \_\_\_\_\_ that the foregoing statements, comments, and information contained herein are true and correct to the best of my knowledge.

Signature of Requestor: \_\_\_\_\_

Home Address: \_\_\_\_\_ Day Phone: \_\_\_\_\_  
( Street, City, State, Zip)

**Remit to:** State Board of Election Commissioners  
501 Woodlane, Suite 401N  
Little Rock, Arkansas 72201  
(501) 682-1834 (800) 411-6996

Attachment "B"

**AUTHORIZATION TO SERVE AS A  
CERTIFIED ELECTION MONITOR FOR  
THE STATE BOARD OF ELECTION COMMISSIONERS**

This is to certify that \_\_\_\_\_ is a certified election  
monitor representing the State Board of Election Commissioners pursuant to Arkansas Code  
Annotated § 7-4-101 in the \_\_\_\_\_ Election held  
\_\_\_\_\_, 2\_\_\_ for the purpose of serving as an observer and reporting to the State Board  
on the conduct of the election at the \_\_\_\_\_  
polling/counting location in \_\_\_\_\_  
County, Arkansas.

\_\_\_\_\_  
Signature of the Director  
State Board of Election Commissioners

\_\_\_\_\_  
Date

I have been provided, read, and agree to comply with the State Board of Election  
Commissioners' Rules for Appointment of Certified Election Monitors.

\_\_\_\_\_  
Signature of Certified Election Monitor

\_\_\_\_\_  
Date

**Authorized by:** State Board of Election Commissioners  
501 Woodlane, Suite 401N  
Little Rock, Arkansas 72201  
(501) 682-1834 (800) 411-6996

**QUESTIONNAIRE FOR FILING PROPOSED RULES AND REGULATIONS  
WITH THE ARKANSAS LEGISLATIVE COUNCIL AND JOINT INTERIM COMMITTEE**

**DEPARTMENT/AGENCY** State Board of Election Commissioners  
**DIVISION** \_\_\_\_\_  
**DIVISION DIRECTOR** Justin Clay  
**CONTACT PERSON** Justin Clay  
**ADDRESS** 501 Woodlane, Suite 401N, Little Rock, AR 72201  
**PHONE NO.** 501-682-1834 **FAX NO.** 501-682-1782 **E-MAIL** clay.sbec@sos.arkansas.gov  
**NAME OF PRESENTER AT COMMITTEE MEETING** Justin Clay  
**PRESENTER E-MAIL** clay.sbec@sos.arkansas.gov

**INSTRUCTIONS**

- A. Please make copies of this form for future use.  
B. Please answer each question **completely** using layman terms. You may use additional sheets, if necessary.  
C. If you have a method of indexing your rules, please give the proposed citation after "Short Title of this Rule" below.  
D. Submit two (2) copies of this questionnaire and financial impact statement attached to the front of two (2) copies of the proposed rule and required documents. Mail or deliver to:

**Donna K. Davis  
Administrative Rules Review Section  
Arkansas Legislative Council  
Bureau of Legislative Research  
One Capitol Mall, 5<sup>th</sup> Floor  
Little Rock, AR 72201**

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1. What is the short title of this rule? Rules for Appointment of Certified Election Monitors 108.00.10
2. What is the subject of the proposed rule? General procedures for appointing certified election monitors
3. Is this rule required to comply with a federal statute, rule, or regulation? Yes ☐ No ☒  
If yes, please provide the federal rule, regulation, and/or statute citation. \_\_\_\_\_
4. Was this rule filed under the emergency provisions of the Administrative Procedure Act? Yes ☐ No ☒  
If yes, what is the effective date of the emergency rule? N/A

When does the emergency rule expire? N/A



Will this emergency rule be promulgated under the permanent provisions of the Administrative Procedure Act?

Yes ☐

No ☐

5. Is this a new rule? Yes ☐ No ☒

If yes, please provide a brief summary explaining the regulation. N/A

Does this repeal an existing rule? Yes ☐ No ☒

If yes, a copy of the repealed rule is to be included with your completed questionnaire. If it is being replaced with a new rule, please provide a summary of the rule giving an explanation of what the rule does. N/A

Is this an amendment to an existing rule?

Yes ☒

No ☐

If yes, please attach a mark-up showing the changes in the existing rule and a summary of the substantive changes. **Note: The summary should explain what the amendment does, and the mark-up copy should be clearly labeled "mark-up."**

6. Cite the state law that grants the authority for this proposed rule? If codified, please give the Arkansas Code citation. 7-4-101(f)(6)

7. What is the purpose of this proposed rule? Why is it necessary? To prohibit elected officials, active county election commissioners, and officers of political party committees from serving as an election monitor.

8. Please provide the address where this rule is publicly accessible in electronic form via the Internet as required by Arkansas Code § 25-19-108(b). www.arkansas.gov/sbec

9. Will a public hearing be held on this proposed rule? Yes ☐ No ☒

If yes, please complete the following:

Date: N/A

Time: N/A

Place: N/A

10. When does the public comment period expire for permanent promulgation? (Must provide a date.)

August 10, 2015

11. What is the proposed effective date of this proposed rule? (Must provide a date.)

October 4, 2015

12. Do you expect this rule to be controversial? Yes ☐ No ☒

If yes, please explain.

\_\_\_\_\_

13. Please give the names of persons, groups, or organizations that you expect to comment on these rules?  
Please provide their position (for or against) if known.
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## FINANCIAL IMPACT STATEMENT

**PLEASE ANSWER ALL QUESTIONS COMPLETELY**

**DEPARTMENT** State Board of Election Commissioners

## DIVISION

**PERSON COMPLETING THIS STATEMENT** Justin Clay

**TELEPHONE NO.** 501-682-1834 **FAX NO.** 501-682-1782 **EMAIL:** clay.sbec@sos.arkansas.gov

To comply with Ark. Code Ann. § 25-15-204(e), please complete the following Financial Impact Statement and file two copies with the questionnaire and proposed rules.

<b>SHORT TITLE OF THIS RULE</b>	Rules for Appointment of Certified Election Monitors 108.00.10
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1. Does this proposed, amended, or repealed rule have a financial impact? Yes ☐ No ☒
2. Is the rule based on the best reasonably obtainable scientific, technical, economic, or other evidence and information available concerning the need for, consequences of, and alternatives to the rule? Yes ☒ No ☐
3. In consideration of the alternatives to this rule, was this rule determined by the agency to be the least costly rule considered? Yes ☒ No ☐

If an agency is proposing a more costly rule, please state the following:

- (a) How the additional benefits of the more costly rule justify its additional cost;  
N/A

- (b) The reason for adoption of the more costly rule;  
N/A

- (c) Whether the more costly rule is based on the interests of public health, safety, or welfare, and if so, please explain; and;  
N/A

- (d) Whether the reason is within the scope of the agency's statutory authority; and if so, please explain.  
N/A

4. If the purpose of this rule is to implement a federal rule or regulation, please state the following:

- (a) What is the cost to implement the federal rule or regulation?

### Current Fiscal Year

General Revenue	N/A
Federal Funds	N/A
Cash Funds	N/A
Special Revenue	N/A
Other (Identify)	N/A

## Next Fiscal Year

General Revenue	N/A
Federal Funds	N/A
Cash Funds	N/A
Special Revenue	N/A
Other (Identify)	N/A

Total                      0.00

Total                      0.00

(b) What is the additional cost of the state rule?

**Current Fiscal Year**

General Revenue	<u>N/A</u>
Federal Funds	<u>N/A</u>
Cash Funds	<u>N/A</u>
Special Revenue	<u>N/A</u>
Other (Identify)	<u>N/A</u>
Total	<u>0.00</u>

**Next Fiscal Year**

General Revenue	<u>N/A</u>
Federal Funds	<u>N/A</u>
Cash Funds	<u>N/A</u>
Special Revenue	<u>N/A</u>
Other (Identify)	<u>N/A</u>
Total	<u>0.00</u>

5. What is the total estimated cost by fiscal year to any private individual, entity and business subject to the proposed, amended, or repealed rule? Identify the entity(ies) subject to the proposed rule and explain how they are affected.

**Current Fiscal Year**

\$ 0.00

N/A

**Next Fiscal Year**

\$ 0.00

6. What is the total estimated cost by fiscal year to state, county, and municipal government to implement this rule? Is this the cost of the program or grant? Please explain how the government is affected.

**Current Fiscal Year**

\$ 0.00

N/A

**Next Fiscal Year**

\$ 0.00

7. With respect to the agency's answers to Questions #5 and #6 above, is there a new or increased cost or obligation of at least one hundred thousand dollars (\$100,000) per year to a private individual, private entity, private business, state government, county government, municipal government, or to two (2) or more of those entities combined?

Yes ☐      No ☒

If YES, the agency is required by Ark. Code Ann. § 25-15-204(e)(4) to file written findings at the time of filing the financial impact statement. The written findings shall be filed simultaneously with the financial impact statement and shall include, without limitation, the following:

- (1) a statement of the rule's basis and purpose;
- (2) the problem the agency seeks to address with the proposed rule, including a statement of whether a rule is required by statute;
- (3) a description of the factual evidence that:
  - (a) justifies the agency's need for the proposed rule; and

- (b) describes how the benefits of the rule meet the relevant statutory objectives and justify the rule's costs;
- (4) a list of less costly alternatives to the proposed rule and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (5) a list of alternatives to the proposed rule that were suggested as a result of public comment and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (6) a statement of whether existing rules have created or contributed to the problem the agency seeks to address with the proposed rule and, if existing rules have created or contributed to the problem, an explanation of why amendment or repeal of the rule creating or contributing to the problem is not a sufficient response; and
- (7) an agency plan for review of the rule no less than every ten (10) years to determine whether, based upon the evidence, there remains a need for the rule including, without limitation, whether:
  - (a) the rule is achieving the statutory objectives;
  - (b) the benefits of the rule continue to justify its costs; and
  - (c) the rule can be amended or repealed to reduce costs while continuing to achieve the statutory objectives.