

**RULES  
FOR  
REIMBURSEMENT OF EXPENSES  
FOR  
STATE-FUNDED ELECTIONS**

(Effective February 6, 2004; Revised ~~November 8, 2013~~)



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## Scope of Rules

These rules set forth general procedures for distribution of funds from the State to the counties for election expenses related to state-funded elections. These rules are in addition to and not a substitute for the laws of the State of Arkansas.

## § 500 Definitions

- (a) Canvassing - examining and counting the returns of votes cast at a public election to determine authenticity.<sup>1</sup>
- (b) County Board of Election Commissioners - the three-member board in each of the 75 counties in this State responsible for conducting all elections within their respective county, including two members elected by the county committee of the majority party and one member elected by the county committee of the minority party or persons appointed by the state chair of either the majority or minority party to fill a vacancy in that party's position.<sup>2</sup>
- (c) Election Expenses - for the purpose of these rules, costs incurred by a county for conducting a state-funded election, including poll workers pay, extra help pay, mileage expenses, election commissioners pay, supply costs, programming costs, ballot printing costs, legal advertising costs, and facility fees, as specified in the reimbursement rules and guidelines established by the State Board of Election Commissioners.
- (d) Election Official - a person who is a member of the county board of election commissioners, a person who performs election coordinator duties, ~~or~~ a person who is a poll worker designated by a county board of election commissioners to be an election clerk, election judge, or election sheriff, or a deputy county clerk or a person assigned by a county clerk to conduct early voting.<sup>3</sup>
- (e) Electronic Vote Tabulating Device - a device, commonly referenced as an optical scanner, used to electronically scan a marked paper ballot for the purpose of tabulation.<sup>4</sup>
- (f) Extra Help - temporary full-time, temporary part-time or contract labor employed by a county to assist the county board of election commissioners. For the purpose of these rules, a temporary county employee is defined as any person employed only during limited parts of the year to assist county election commissions in conducting elections.
- (g) Nonpartisan General Election - the regular biennial election held on the same date and at the same time and places as for a preferential primary election for election of Justice of the

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<sup>1</sup> A.C.A. § 7-1-101

<sup>2</sup> A.C.A. § 7-4-102(a), ~~as amended by Act 1056 of 2011~~

<sup>3</sup> A.C.A. § 7-1-101 as amended by Act 1042 of 2015

<sup>4</sup> A.C.A. § 7-1-101

Supreme Court, Judge of the Court of Appeals, circuit judge, prosecuting attorney, and district judge.<sup>5</sup>

- (h) Off-site Early Voting - additional polling sites for early voting that are located outside the office of the county clerk and under the direction and supervision of the county board of election commissioners.<sup>6</sup>
- (i) Permanent County Employee - any person, who is not “Extra Help” as defined by these rules, who is employed by the county on a permanent full-time or permanent part-time basis.
- (j) Polling Site - a location selected by the county board of election commissioners where votes are cast.<sup>7</sup>
- (k) Poll Worker - an election official designated by the county board of election commissioners to be an election clerk, election judge or election sheriff at a polling site.
- (l) Primary Election - any election held to select the nominees of a political party for election at any general or special election in this state.<sup>8</sup>
- (m) Public meeting - any gathering consistent with the definition established under the Arkansas Freedom of Information Act of 1967, A.C.A. § 25-19-101, et. seq.
- (n) Special election - any specially scheduled election to fill vacancies or to approve any measure.<sup>9</sup>
- (o) State-funded elections - preferential primary elections, general primary elections, special primary elections, nonpartisan general elections, and statewide special elections.
- (p) Voting machine — either a direct recording electronic voting machine that records votes by means of a ballot display provided with mechanical or electro-optical components that may be actuated by the voter, processes the data by means of a computer program, records voting data and ballot images in internal and external memory components, and produces a tabulation of the voting data stored in a removable memory component and in a printed copy or one (1) or more electronic devices that operate independently or as a combination of a ballot marking device and an electronic vote tabulating device.<sup>10</sup>
- (q) Voting system - the total combination of mechanical, electromechanical, or electronic equipment, including the software, firmware, and documentation required to program, control, and support the equipment that is used to define ballots, to cast and count votes, to report or display election results, and to maintain and produce any audit trail information. “Voting system” also includes the practices and documentation used to identify system components and versions of components; test the system during its development and

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<sup>5</sup> A.C.A. § 7-10-102

<sup>6</sup> A.C.A. § 7-5-418(b)

<sup>7</sup> A.C.A. § 7-1-101

<sup>8</sup> A.C.A. § 7-1-101

<sup>9</sup> A.C.A. § 7-1-101

<sup>10</sup> A.C.A. § 7-1-101 [as amended by Act 1218 of 2015](#)

maintenance; maintain records of system errors and defects; determine specific system changes to be made to a system after the initial qualification of the system; and make available any materials to the voter, including without limitation notices, instructions, forms, or paper ballots.<sup>11</sup>

(g)

### **§ 501 State Funding of Elections**

The State Board of Election Commissioners, hereinafter referred to as the “State Board,” is statutorily charged with funding political party primary elections from funds appropriated to the State Board for election expenses of the State Board and the county boards of election commissioners, hereinafter referred to as the “county boards,” for conducting preferential primary elections, general primary elections, special primary elections, nonpartisan general elections, and statewide special elections.<sup>12</sup>

### **§ 502 Withholding of State Funding**

The State Board may withhold funding for eligible state-funded election expenses from any county that fails to comply with the rules developed by the State Board for the administration of primary elections or fails to comply with applicable state election laws, until all requirements are met to the satisfaction of the State Board.<sup>13</sup>

Failure to comply with the rules and guidelines for reimbursement of expenses for state-funded elections established by the State Board, or failure to deliver to the Secretary of State certified results of the election and any additional election information designated by the Secretary of State will result in withholding of funding for eligible state-funded election expenses to the county, until all requirements are met to the satisfaction of the State Board.<sup>14</sup>

### **§ 503 Advance Funding**

Following each regular legislative session, the State Board will establish an estimated average cost per registered voter by county for conducting statewide special elections and for conducting preferential primary elections based upon databases of comparative state-funded election costs maintained by the State Board.

A county is eligible to receive funding from the State Board before any statewide special election or preferential primary election upon proper request made to the State Board by the county board.

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<sup>11</sup> A.C.A. § 7-1-101

<sup>12</sup> A.C.A. §§ 7-4-101(f)(11); 7-7-201(a); ~~Act 578 of 2011~~

<sup>13</sup> A.C.A. § 7-7-201(b)(3)

<sup>14</sup> A.C.A. §§ 7-5-701(c)(2); 7-5-707, ~~as amended by Act 1238 of 2011~~

The request must be in writing under the signature of all three (3) commissioners and received by the State Board at least thirty (30) days before the statewide special election or preferential primary election.

Upon review and approval by staff, the county treasurer will receive funding from the State Board based upon one half (1/2) of the county's previously estimated cost per registered voter for conducting the election, or a minimum of two thousand five hundred dollars (\$2,500) for a statewide special election or five thousand dollars (\$5,000) for a preferential primary election, whichever is greater.

The respective county will disburse the funds allocated for election expenses and will establish a separate expense code to track and monitor payments made with State funds.

### **§ 504 Funding of Eligible Expenses**

Before each state-funded election, the State Board will furnish each county board with comprehensive guidelines, instructions and worksheets for requesting payment from the State Board for eligible state-funded election expenses.

After each state-funded election, the county board must submit to the State Board copies of invoices, receipts, and all other required documentation in support of eligible election expenses incurred in conducting the state-funded election.

A county is eligible to receive funding from the State Board after the state-funded election upon proper request made to the State Board by the county board. The county board may designate one or more persons to submit its county's request for reimbursement to the State Board.

A county must carefully follow all instructions and submit its request according to the State Board's rules and guidelines to maximize receipt of funding for eligible state-funded election expenses from the State Board.

Upon review by staff and approval by the State Board, each county treasurer will receive funding from the State Board for eligible state-funded election expenses as defined by rule. The respective county will disburse the funds allocated for election expenses and will establish a separate expense code to track and monitor payments made with State funds.

### **§ 505 Uniform and Consistent Funding**

This system of funding by the State Board has resulted in uniform and consistent distribution of funds from the State to the counties and provided information needed for the development of databases of comparative election costs, thus allowing the State to maintain a high level of fiscal accountability.<sup>15</sup>

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<sup>15</sup> A.C.A. § 7-7-201

## § 506 Eligible State-Funded Election Expenses

A county is eligible to receive funding from the State Board for eligible expenses incurred up to maximum amounts as detailed below.

### A. Poll Workers Pay

Eligible Poll Workers Pay includes funding for poll workers working polling sites on a state-funded election day, funding for poll workers working off-site early voting polling sites, and funding for poll workers who attend training as specified under separate rule.

A county is eligible to receive funding at the current federal or state minimum wage, whichever is greater at the time of the state-funded election, for the actual number of hours worked up to a maximum of fourteen (14) hours by a poll worker at an election day polling location. a maximum \$100 per poll worker who works at a polling site from opening until closing on election day of a state-funded election.<sup>16</sup>

In addition to the poll worker pay mentioned above, a county is eligible to receive a maximum \$25 payment for one election judge per poll on election day.

A county is eligible to receive a maximum \$50 per poll worker who works a split shift (half day) at a polling site on election day of a state-funded election.

A county is eligible to receive the current federal or state minimum wage, whichever is greater at the time of the state-funded election, and applicable overtime wages if required by law, for the actual number of hours worked by a poll worker at an off-site early voting polling site outside of the county clerks' office and under the direction and supervision of the county board.<sup>17</sup>

A county is eligible to receive a maximum \$25 additional one-time payment per poll worker who attends training conducted by a State Board-certified trainer and who works the preferential primary election immediately following the training (see the State Board's "Rules for Poll Worker Training").<sup>18</sup>

A county is eligible to receive funding for an average of six (6) eligible poll workers per precinct per state-funded election.

### B. Extra Help Pay

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<sup>16</sup> A.C.A. § 7-4-112(a)

<sup>17</sup> A.C.A. § 7-4-112(a)

<sup>18</sup> A.C.A. § 7-4-109(e)

Eligible Extra Help Pay includes funding for workers designated by the county board to prepare, package and deliver election materials to poll workers for each polling site, funding for poll workers designated to return election materials to the county board after the closing of the poll, funding for workers to unpack and store election materials after the election, funding for election clerks processing absentee ballots on election day, and funding for election officials designated to tabulate the vote.

A county is eligible to receive funding for eligible extra help at the current federal or state minimum wage, whichever is greater at the time of the state-funded election, for the actual number of hours worked.

#### C. Extra Deputy Pay

A county is eligible to receive funding for one (1) extra deputy to the county clerk, for the purpose of carrying out the requirements of absentee and early voting, at the current federal or state minimum wage, whichever is greater at the time of the state-funded election, and applicable overtime wages if required by law, for the actual number of hours worked per day up to the maximum number of hours per day allowable by law, for a period not to exceed thirty-five (35) days per state-funded election.<sup>19</sup>

#### D. Mileage Expenses

Eligible Mileage Expenses include funding for the mileage of personnel designated by the county board to deliver election materials to poll workers for each polling site and funding for poll workers designated by the county board to return election materials to the county board after the closing of the poll at the same mileage rate prescribed for state employees in state travel regulations.<sup>20</sup>

#### E. Election Commissioners Pay

A county is eligible to receive funding for election commissioners pay of not less than \$25 nor more than \$100 per public meeting attended when official business is conducted, up to a maximum of ten (10) public meetings per commissioner per state-funded election.<sup>21</sup>

Public meetings as defined under the Arkansas Freedom of Information Act include drawing of ballot position, certification of ballots, selection or alteration of location or boundaries of precincts or polling sites, designation of election officials, correction of errors or omissions of ballots, canvassing and certification of election results, canvassing and certification of a recount, and election day.

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<sup>19</sup> A.C.A. § 7-5-415

<sup>20</sup> A.C.A. § 7-4-112(b)

<sup>21</sup> A.C.A. § 7-4-111(b)



## F. Supply Costs

Eligible Supply Costs include funding for disposable supplies such as pens, pencils, pads, tape, magnifying sheets/glasses, spools of string for marking electioneering areas, ballot marking instruments/devices, envelopes, ballot boxes, seals, stub boxes, election kits, paper, postage for mailing absentee application requests and ballots and for official notice to poll workers and polling sites, RTAL paper for voting machines, and thermal printer paper for communication packs and scanners.

A county may only receive funding for quantities applicable to the specific state-funded election for which it seeks funding.

## G. Programming Costs

Eligible Programming Costs include funding for programming and testing of voting machines and electronic vote tabulating devices for state-funded elections, funding for technical support and funding for labor, mileage, and truck rental, if necessary, for transportation of voting machines and precinct tabulating devices to and from polling sites.<sup>22</sup>

A county is eligible to receive a maximum \$25 per hour for testing voting machines and electronic vote tabulating devices.

A county is eligible to receive a maximum \$1,080 per state-funded election for contracted technical support.<sup>23</sup>

A county is eligible to receive the current federal or state minimum wage, whichever is greater at the time of the state-funded election, for the actual number of hours worked by extra help designated by the county board to transport voting machines and electronic vote tabulating devices to and from the polling sites, plus truck rental fees or mileage expenses at the same mileage rate prescribed for state employees in state travel regulations.

## H. Ballot Printing Costs

Eligible Ballot Printing Costs include funding for the cost of ballot stock and printing of ballots up to the maximum allowed by law and State Board rule.

A county using paper ballots counted by hand or by electronic vote tabulating devices (whether centrally located or at each polling site) in combination with one (1) voting machine per poll accessible to voters with disabilities is eligible to receive funding for printing a number of ballots equivalent to one and one half (1.5) times the number of electors voting on

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<sup>22</sup> A.C.A. §§ 7-5-301(m)(2); 7-5-515(a), (b); 7-5-611(a)(1)

<sup>23</sup> A.C.A. § 7-5-301(g)

paper ballots at the last preceding comparable election, up to a maximum of one hundred five percent (105%) of the total number of registered voters.<sup>24</sup>

A county using all voting machines is eligible to receive funding for printing a number of ballots equivalent to one and one half (1.5) times the number of electors voting on paper ballots at the last preceding comparable election, up to a maximum of one half of the total number of electors voting at the last preceding comparable election.

Regardless of the type of voting system in use, a county is eligible to receive funding for printing a number of separate nonpartisan/special election ballots for the nonpartisan general election and any special election that is held on the same dates, times, and places as the preferential primary election equivalent to one and one half (1.5) times the number of electors voting a separate nonpartisan/special election paper ballot at the last preceding comparable election.<sup>25</sup>

No voter is required to vote in a political party's primary to be able to vote in a nonpartisan or special election.<sup>26</sup>

For each preferential primary election, a county board must provide a special absentee ballot marked "special runoff ballot" to be sent by the county clerk along with the absentee ballot for the preferential primary election to members of the uniformed services of the United States and members of the Merchant Marine while in active duty or service, and their spouses and dependents who, by reason of the active duty or service of the member, are absent from the place of residence where the spouse or dependent is otherwise qualified to vote and to citizens of the United States residing or temporarily outside the territorial limits of the United States and the District of Columbia.<sup>27</sup>

A county is eligible to receive funding for printing a number of "special runoff ballots" equivalent to a maximum of one and one half (1.5) times the total number of overseas absentee ballot requests received at the last preceding comparable election or one and one half (1.5) times the total number of overseas absentee voters voting on paper ballots at the last preceding comparable election, whichever is greater.

## I. Legal Advertising Costs

Eligible Legal Advertising Costs include funding for two (2) publications of the public notice of the date of the election, the hours of voting on election day, the places and times for early voting, polling sites for holding the elections, the candidates and offices to be elected, and the time and location of the opening, processing, canvassing, and counting of ballots, funding for one (1) publication of the notice of the time and place the voting machines will be prepared, funding for one (1) publication of the time and place of testing of voting machines and electronic vote tabulating devices, funding for one (1) publication of the public notice of

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<sup>24</sup> A.C.A. § 7-5-602(a)

<sup>25</sup> A.C.A. §§ 7-10-102(b)(2); 7-11-105(d)(3); 7-11-106(b); 7-11-205(a)(3)

<sup>26</sup> A.C.A. §§ 7-11-105(d)(4)(A); 7-11-205(a)(4)

<sup>27</sup> A.C.A. § 7-5-406(a),(c), ~~as amended by Act 1188 of 2011~~

ballot position drawing for the May preferential primary or special primary elections, and funding for one (1) publication of the calling document for statewide special elections and special primary elections.<sup>28</sup>

A county must provide a copy of the proof of publication provided by the publisher to be eligible to receive payment for eligible advertising costs.

#### J. Facility Fees

Eligible Facility Fees include fees charged to a county by a facility to offset the cost of using the facility as an election day or off-site early voting polling site for a state-funded election. A county is eligible to receive a maximum of \$40 per each facility that requests payment from the county for its use as an election day polling site. For those counties that combine multiple polling sites within a single facility such as an auditorium, each separate location within the single facility where voters identify themselves to poll workers for the purpose of casting a ballot would constitute a polling site.

A county is eligible to receive \$40 per day per each facility that requests payment from the county for its use as an off-site early voting polling site, up to a maximum of \$4,000 per county per state-funded election.

A county must provide the State Board with a copy of an invoice from each facility to be eligible to receive funding from the State Board.

### **§ 507 Ineligible State-Funded Election Expenses**

#### A. Poll Workers Pay

The State Board will not provide funding for a volunteer election page for serving as a poll worker on election day.<sup>29</sup>

#### B. County Employee Pay

The State Board will not provide funding to reimburse wages or salary of a permanent full-time or permanent part-time county employee.

#### C. Mileage Expenses

The State Board will not provide funding for mileage expenses incurred by a county election commissioner for travel to and from public meetings or for a poll worker's travel to and from

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<sup>28</sup> A.C.A. §§ 7-5-202(a), (b); 7-5-207(c)(2); 7-5-416(a); 7-5-515(c)(2); 7-5-516; 7-5-611(a)(3); 7-11-103(b); 7-11-104(b); 7-11-202(b); 7-11-203(b)

<sup>29</sup> A.C.A. § 7-4-116(c)(3)

the polling site, except as provided by law for delivery of election materials and voting equipment.

#### D. Election Commissioners Pay

The State Board will not compensate a county election commissioner for election-related duties, except as provided by law for public meetings.

#### E. Supply Costs

The State Board will not provide funding for capital or leasehold improvements to polling sites.

The State Board will not provide funding for non-expendable equipment and supplies such as voting booths, electric pencil sharpeners, thermal binding machines, pagers, outlet strips, extension cords, adapters, phone cords, and expensive metal signage.

The State Board will not provide funding for expendable supplies such as batteries, copier toner, printer toner cartridges, printer ribbons, diskettes, hanging file folders, manila file folders, binders, and flags.

The State Board will not provide funding for the cost of binding voter books, for reproduction of poll worker training material, for phone lines, phone services or internet services, for portable toilet rental, for furniture rentals, for return postage, or for food.

#### F. Voting System Costs

The State Board will not provide funding for the purchase of new or used voting systems or for leasing, rental, maintenance, or depreciation of voting systems.

#### G. Programming Costs

The State Board will not provide funding for re-programming due to county or vendor error.

#### G.H. Ballot Printing Costs

The State Board will not provide funding for ballot printing reruns due to county or vendor error.

The State Board will not provide funding for overages in ordering and printing ballots, except by prior written request to the State Board with prior written approval by the State Board.

The county and/or the vendor will be financially responsible for excessive printing of paper ballots.

## H.I. Legal Advertising Costs

The State Board will not provide funding for advertising the list of appointed election officials,<sup>30</sup> advertising for poll worker training, advertising in excess of that required by law as defined previously, re-advertising due to county error, or for any costs related to radio or television broadcasting or colored advertising.

### I. Facility Fees

The State Board will not provide funding for reimbursing individuals hired to clean facilities used as polling sites.

### J. Other

The State Board will not provide funding for any penalties assessed to a county by any vendor, such as a surcharge assessed to a county by a vendor for missing deadlines established by the vendor.

The State Board will not consider requests for advance funding for state-funded general primary (run-off) elections or special primary elections.

The State Board will review all shipping and handling fees in excess of \$500 for consideration of payment on a case-by-case basis.

County funds must be used for funding any election-related expenses incurred by the county in conducting a state-funded election that fall outside the scope of funding by the State Board as defined by rule.

A county may appeal to the State Board for reconsideration of any otherwise eligible expense that is disqualified by the State Board for exceeding maximums established by State Board rules and guidelines.

If a court orders a new election as a result of a contested election, the State Board will consider the criteria for funding the expenses of the new court-ordered election, on a case-by-case basis.

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<sup>30</sup> A.C.A. § 7-5-202(b)(2)

**(1) a statement of the rule's basis and purpose;**

The State Board of Election Commissioners (SBEC) *Rules for Reimbursement of Expenses for State-Funded Elections* set forth uniform procedures for distribution of funds from the State to the counties for election expenses related to state-funded elections. The rule-making authority is laid out in A.C.A. §§ 7-4-101(f)(5), (11) and 7-7-201.

**(2) the problem the agency seeks to address with the proposed rule, including a statement of whether a rule is required by statute;**

The change from flat rate payment to hourly payment is required due to the minimum wage increase to \$8.00 per hour as a result of the *Arkansas Minimum Wage Act of 2014*. It is likely that many poll workers would receive less than minimum wage for their actual hours worked if a \$100 flat rate payment method is continued. Moving to an hourly rate of pay creates an additional maximum cost of approximately \$207,000 for poll worker pay (based on a 14 hour day) that would be paid by the state to reimburse county governments for the costs of conducting preferential primary and subsequent runoff elections (these figures assume payment for a statewide runoff election). These hourly rates of pay would continue to increase in line with minimum wage increases. In addition, it is the consensus of the State Board to allow reimbursement for one election judge, or "chief judge", per poll at a higher rate of pay by either increasing the maximum allowable hours worked or by allowing an additional flat payment. This concept is to be reviewed by the State Board after input during the 30-day public comment period and a study of the impact on the board's current funding allotments. The proposed rule in its current form allows for a \$25 payment for one election judge per poll for each state-funded election. Initial estimates indicate that an increased expense of \$75,000 may be incurred for the preferential primary and subsequent runoff elections if this concept is implemented. These additional expenses are based on data from statewide elections and can be absorbed within the agency's current appropriation and funding allotments.

Pursuant to A.C.A. § 7-4-112, poll workers are required to receive a minimum of the prevailing federal minimum wage for holding an election, or such greater amount as may be appropriated. Section 506 of the State Board's rules allows payment based on the current state or federal minimum wage, whichever is greater.

**(3) a description of the factual evidence that:**

**(a) justifies the agency's need for the proposed rule; and**

Because of recent increases in the minimum wage, counties will be required to pay poll workers and other election workers beyond the reimbursable rates currently established by the State. Also, regarding the increase for election judges, those election officials are in charge of the polling places and the additional payments are a way of attracting and keeping qualified and dedicated workers to supervise the polls. The State Board of Election

Commissioners is charged with reimbursing counties for the costs associated with state-funded elections and the proposed rule is necessary to accurately reimburse for actual costs. The change from flat rate payment to hourly payment is required due to the minimum wage increase to \$8.00 per hour as a result of the Arkansas Minimum Wage Act of 2014. It is likely that many poll workers would receive less than minimum wage for their actual hours worked if a \$100 flat rate payment method is continued.

**(b) describes how the benefits of the rule meet the relevant statutory objectives and justify the rule's cost**

Established and clear procedures for reimbursable election expenses are vital to counties for budgeting purposes. Payment for actual hours worked and a separate stipend for those individuals willing to perform extra duties at the poll provide incentive for attracting qualified individuals to serve as poll workers.

**(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;**

POLL WORKER MINIMUM WAGE INCREASE:

A.C.A.7-4-107(b)(2) states that each polling site shall have a minimum of four (4) poll workers. To address larger polling sites and ensure there are a sufficient number of election officials at each site, SBEC currently allows reimbursement for a maximum of up to six poll workers per site. SBEC could reduce the allowable maximum poll workers from six (6) to four (4).

Although this reduction may slightly decrease the projected expense related to the minimum wage increase, it could greatly diminish the efficient election process within the counties or, if the county chooses to continue utilizing more poll workers than the maximum allowed for reimbursement, this change in procedure could drastically increase the counties' non-reimbursable expenses.

POLL WORKER MINIMUM WAGE INCREASE:

Maintain reimbursement at current flat rate of \$100 per poll worker. This procedure would place the burden of meeting minimum wage requirements solely on the county which, in turn, would be an out of pocket expense for the county and non-reimbursable above the flat fee of \$100.

ELECTION JUDGE INCREASE: In lieu of an additional fee of \$25 dollars above the current or proposed established pay for poll workers, SBEC could stay with current procedure where all poll workers, no matter what title or duty, receive the same amount allowed. Many counties already pay election judges a higher amount, and those counties should, within reason, be reimbursed for the actual expenses incurred for the state-funded election.

- (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;**

This rule has not yet been presented for the 30 day public comment period. However, public comment was received at the 06/23/15 SBEC Board meeting where board and audience members alike expressed the desire for reimbursement for actual hours worked and the importance of recognizing the additional work and responsibility of the Election Judge through additional payment.

- (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**

Existing rules have not created or contributed to the problem the agency seeks to address with this proposed rule.

- (7) an agency plan for the 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 the costs; and**
- (c) the rule can be amended or repealed to reduce costs while continuing to achieve the statutory objectives.**

Upon the completion of each election cycle (every two years), SBEC will conduct an analysis of expenditures to ensure that state funds are being utilized in the best and most efficient way to meet each county's fiscal responsibilities in relation to state-funded elections. Due to the Arkansas Minimum Wage Act, the state will see an additional minimum wage increase for the 2018 election cycle. A thorough examination will be conducted on the procedure utilized for reimbursement of poll worker expenses for the 2016 election cycle to determine if additional changes are needed.



**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 Reimbursement of Expenses for State-Funded Elections  
108.00.05
2. What is the subject of the proposed rule? General procedures for reimbursing counties the expenses of state-funded elections
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)(11); 7-7-201

7. What is the purpose of this proposed rule? Why is it necessary? To amend definitions as a result of legislative changes, to amend the allowable poll worker pay from a flat \$100 payment to an hourly rate (up to a maximum of 14 hours) in line with minimum wage increases and pursuant to 7-4-112, and to clarify that payment for re-programming due to county or vendor error is not a reimbursable expense. In addition, this rule allows reimbursement for a \$25 payment for one election judge per poll per state-funded election. It is the consensus of the State Board to allow reimbursement for one Election Judge per poll at a higher rate of pay by either increasing the maximum allowable hours worked or by allowing an additional flat payment. This concept is to be reviewed by the State Board after input during the 30 day public comment period and a study of the impact on the board's current funding allotments.

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

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.

## 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 Reimbursement of Expenses for State-Funded Elections 108.00.05
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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>\$282,000 for FY16</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                      \$282,000 for FY16

**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                      0.00

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**

282,000 for  
\$ FY16

**Next Fiscal Year**

\$ 0.00

The change from flat rate payment to hourly payment is required due to the minimum wage increase to \$8.00 per hour as a result of the Arkansas Minimum Wage Act of 2014. It is likely that many poll workers would receive less than minimum wage for their actual hours worked if a \$100 flat rate payment method is continued. Moving to an hourly rate of pay creates an additional maximum cost of approximately \$207,000 for poll worker pay (based on a 14 hour day) that would be paid by the state to reimburse county governments for the costs of conducting preferential primary and subsequent runoff elections (these figures assume payment for a statewide runoff election). These hourly rates of pay would continue to increase in line with minimum wage increases. In addition, it is the consensus of the State Board to allow reimbursement for one election judge, or "chief judge", per poll at a higher rate of pay by either increasing the maximum allowable hours worked or by allowing an additional flat payment. This concept is to be reviewed by the State Board after input during the 30-day public comment period and a study of the impact on the board's current funding allotments. The proposed rule in its current form allows for a \$25 payment for one election judge per poll for each state-funded election. Initial estimates indicate that an increased expense of \$75,000 may be incurred for the preferential primary and subsequent runoff elections if this concept is implemented. These additional expenses are based on data from statewide elections and can be absorbed within the agency's current appropriation and funding allotments for FY16-17.

Pursuant to A.C.A. § 7-4-112, poll workers are required to receive a minimum of the prevailing federal minimum wage for holding an election, or such greater amount as may be appropriated. Section 506 of the State Board's rules allows payment based on the current state or federal minimum wage, whichever is greater.

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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.