

# ARKANSAS REGISTER

## Proposed Rule Cover Sheet



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Name of Department \_\_\_\_\_

Agency or Division Name \_\_\_\_\_

Other Subdivision or Department, If Applicable \_\_\_\_\_

Previous Agency Name, If Applicable \_\_\_\_\_

Contact Person \_\_\_\_\_

Contact E-mail \_\_\_\_\_

Contact Phone \_\_\_\_\_

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Name of Rule \_\_\_\_\_

Newspaper Name \_\_\_\_\_

Date of Publishing \_\_\_\_\_

Final Date for Public Comment \_\_\_\_\_

Location and Time of Public Meeting \_\_\_\_\_



## **REQUEST FOR GOVERNOR'S APPROVAL OF PROPOSED RULES**

Please submit this form and all required documents in the checklist as a single pdf document. Failure to comply will result in the rule being denied.

Rules identified as mandatory promulgations in Form 2021A must be submitted to the Governor's Office for approval no later than December 31, 2021.

**Cabinet Department:** Independent Non-Cabinet Level Department

**Division/Commission/Board/Agency:** State Board of Election Commissioners

**Rule Number:** \_\_\_\_ **Short Title of Rule:** Rules for Poll Worker & County Clerk Training

**New Rule:** ☐ Yes ☒ No **Rule Amendment:** ☒ Yes ☐ No **Rule Repeal:** ☐ Yes ☒ No

**Proposed Effective Date:** March 22, 2022 **Date Rule Submitted:** November 24, 2021

**Emergency Rule:** ☐ Yes ☒ No **Expedited Request:** ☐ Yes ☒ No **Reason:** \_\_\_\_\_

**Drafted in Code of Rules Format** ☒ Yes ☐ No **If not, explain:** \_\_\_\_\_

**Please explain the need for an Emergency/Expedited Rule:** \_\_\_\_\_

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### **AUTHORITY TO PROMULGATE**

**State Mandate:** ☒ Yes ☐ No **Federal Mandate:** ☐ Yes ☒ No **Act No.:** \_\_\_\_\_

**Statutory Authority to Promulgate the Rule:** A.C.A. §7-4-101(f)(3) (Authorizes the SBEC to promulgate all necessary rules for the training of election officials.); A.C.A. 7-4-109(e)(2)(D) (Requires the SBEC to promulgate rules governing the training and testing of election officials):

**Department/Agency Legislation from Legislative Session:** ☐ Yes ☒ No **Act No.:** \_\_\_\_\_

**House Sponsor:** \_\_\_\_\_ **Senate Sponsor:** \_\_\_\_\_

**Cabinet Review:** ☐ Yes ☒ No **Secretary's Signature:** \_\_\_\_\_ **Date:** \_\_\_\_\_

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## **RULE SUMMARY**

**Purpose of Rule:** The purpose of this rule is to provide procedures for the training, testing, and training related compensation of certified poll worker trainers, county clerks or their designees, and county poll workers in each county.

**Reason for Creating or Amending the Rule:** This amendment is necessary in order to implement the testing requirement for poll workers established in Act 1051 of 2021. Pursuant to the Act, the compensation of election officials is contingent on the official's ability to pass a test of essential skills and thereby become certified. In addition, the amendment reverses current policy (which defines poll worker to exclude clerk appointed early voting election officials) by requiring election officials appointed by the county clerk to conduct clerk run early voting to be trained prior to serving as an election official.

**How does the Rule deviate from the Act:** In addition to requiring training for clerk appointed poll workers, this amendment increases the compensation of poll workers for attending training from \$25 for all poll workers to \$35 dollars for poll workers receiving the basic training and \$55 for poll workers receiving the advanced training. This two-tier training curriculum is also formalized in this rule requiring two advanced poll workers per poll and the remainder receiving the basic poll worker curriculum.

**Rule Based on a Rule From Different Jurisdictions:** ☐ Yes ☒ No **Jurisdictions:** \_\_\_\_\_

**Short Summary of New Rule or Rule Changes:** (explain in greater detail in your executive summary)

This amendment provides for the testing and certification of poll workers on a biennial basis prior to the preferential primary. This is an addition to the current training requirement and failure to pass the test only results in the poll worker being denied the cash stipend for attending training. The amendment also increased the training compensation of a poll worker to attend training from \$25 to a system where advanced poll workers receive more training and are compensated \$55 and all other poll workers receive \$35. Finally, the amendment increases the number of training sessions for which a certified poll worker trainer can be compensated from 2 session to 4 sessions.

**Applicable Federal Regulations:** ☐ Yes ☒ No **C.F.R. No:** \_\_\_\_\_

**Proposed Rule the Least Restrictive Alternative:** ☒ Yes ☐ No. **If not, why?** \_\_\_\_\_

**Does it Mirror Federal Regulations or Impose Additional Requirements:** ☐ Yes ☒ No

**Explain:** \_\_\_\_\_

**Note:** In addition to these explanations, the Department/Agency seeking to promulgate this rule shall submit the attached executive summary. Failure to include the summary will result in the rule being denied.

### CONTROVERSY

**Rule Controversial:** ☐ Yes ☒ No **Act Controversial in Legislative Session:** ☐ Yes ☒ No

**Known Interested Parties:** Local Election Officials

**Comments Made at Legislative Session:** The SBEC did not observe any noteworthy comments related to this Act.

**Public Hearing:** ☒ Yes ☐ No **Expect public comment from:** The SBEC's practice is to always schedule a public hearing. Whether there will be any public comment on either issue is unknown at this time.

### FINANCIAL IMPACT

**Financial Impact:** ☒ Yes ☐ No **Total Impact: FY2020:** \_\_\_\_\_ **FY2021:** Est. \$143,420

**Impact Mitigated by Federal Funding:** ☐ Yes ☒ No **FY2020:** \_\_\_\_\_ **FY2021:** \_\_\_\_\_

**Reasons for Financial Impact:** This amendment increased the stipend that poll workers may receive when attending training. This is necessary because the rate of \$25 had become inadequate over the last 19 years to account for the time and complexity of the training program. This was addressed by simplifying the training program for the basic poll workers and setting their stipend at \$35 and increasing the stipend for two poll workers in each poll who receive the full advanced curriculum to \$55.

Regarding the poll workers, the SBEC estimates there will be approximately 6,047 CBEC appointed poll workers in the next election cycle which, under the current rule, would be eligible for \$151,175 in training stipends. Of those, 2,400 are estimated to be one of the two advanced poll workers with the remaining estimated 3,647 serving as general poll workers. This represents an increase of \$72,000 in the compensation for advanced training and \$36,470 in the compensation of basic level poll workers. An additional 490 clerk run early voting training officials not previously required to be trained but would be trained under this amendment require an additional estimated training stipend of \$19,950.

The final \$15,000 represents the additional 2 \$50 payment of conducting county training by certified poll worker trainers authorized in this amendment to the rule.

The SBEC is confident that this biennial expense can be met with existing funding and appropriation therefore this rule will not have an impact on the budget.

### FINAL CHECKLIST

**Please note that the Governor's office will not begin the approval process of the foregoing rule if any of the following applicable documents are not enclosed in the order listed in a single PDF file.**

- ☐ Rule Request Form
- ☐ Executive Summary
- ☐ Mark-Up Version of the Proposed Rule
- ☐ Clean Version of the Proposed Rule
- ☐ BLR Questionnaire
- ☐ BLR Financial Impact Statement
- ☐ Copy of Act or Regulation



# STATE BOARD OF ELECTION COMMISSIONERS

501 Woodlane Street – Suite 122 South  
Little Rock, Arkansas 72201  
(501)682-1834 or (800)411-6996

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## Executive Summary of the 2021 Proposed Amendment to the RULES FOR POLL WORKER & COUNTY CLERK TRAINING

The State Board of Election Commissioners met on November 3, 2021 and approved changes to the “Rules for Poll Worker & County Clerk Training.”

### **PURPOSE**

This amendment is to update the current rule governing the poll worker training program to comply with the testing requirements of Act 1051 of 2021. The Rule also provides additional policies designed to ensure each poll worker who serves in a poll in the State of Arkansas has received the training necessary to lawfully conduct the election.

### **BACKGROUND**

The SBEC currently trains two certified poll worker trainers who are appointed by the CBEC in each county prior to the preferential primary every two years. In addition, the SBEC trains the county clerk or the clerk’s designee so that the clerk may train the poll workers appointed by the clerk to conduct early voting. Currently, there is no legal requirement that election officials appointed by the county clerk be trained prior to service in the election. With respect to the compensation of officials trained under this rule, the SBEC has repeatedly received requests for the number of training sessions for which the certified trainer can be compensated to be increased. In addition, given the length of training received by county officials, the SBEC has been asked on several occasion to increase the compensation to poll workers for attending training.

### **SUMMARY OF KEY PROVISIONS**

The substantive modification required by the changes in the law made by Act 1051 provide that poll workers are required to take a test of essential skills and shall be certified if they pass this test. Poll workers who fail to pass this test will still be eligible to serve as a poll worker but will not receive the compensation for attending the training.

An additional policy shift made in this proposed amendment changes the regulatory definition of poll worker to include early voting election officials who work the poll during county clerk run early voting. This will require that the early voting officials be trained and tested pursuant to the same requirements as the election day officials.

The amendment also increases the number of training sessions for which a certified trainer can be compensated from two session to four sessions. The rate per session will remain unchanged at \$50; however, this will represent a \$100 total increase in the amount which the certified trainer can be compensated. This change was made to encourage counties to offer smaller training sessions which tend to be more effective than a larger session. This will also help accommodate the larger counties that are required to train substantially more poll workers than the smaller counties.

The final component of this rule is the formalization of the two-tier training program including the basic poll worker training and an advanced poll worker training. Under the rule, all poll workers must receive the basic poll worker training. The rule further provides that the CBEC or county clerk must ensure no fewer than two poll workers in each poll have received the advanced training curriculum as well. Under the current rule, all poll workers receive \$25 dollars for being trained. The amendment provides that poll workers who receive the basic training will receive \$35 and up to two poll workers per polling site who attend the advanced training will receive \$55.

### **Additional Analysis of the Amendment**

The two-tier training program is designed to ensure the fundamental principles of the poll worker's responsibility, the processing of voters into the poll, and the operation of the voting equipment during voting hours as the focus of front-line poll worker's training. The advanced training curriculum addresses the remaining portions of the poll's operations including the process of provisional voting, the opening and closing of the poll, instruction on how to address problems that may arise, and other miscellaneous procedures for less common eventualities.

The increase in compensated trainings comes at the repeated request of counties to have more flexibility to hold more than two training sessions per certified trainer or for the two trainers to work as a team without the county being limited to two compensated trainings. It is the opinion of the SBEC that this is good policy and that the structure of compensation under the rule should encourage these practices.

The increase in the compensation to each poll worker is also increased at the request of county officials who have, for many years, noted that the current \$25 payment is insufficient to cover an hourly rate of compensation leaving the county with what amounts to an unfunded mandate to cover any difference or to violate the SBEC's rules regarding the content of the training. The increase is also designed to incentivize the passage of the test given that the failure to do so does not prohibit the commissioners from service. It also recognizes the indispensable role poll workers are called upon to play and acknowledges that, while the responsibilities of conducting elections covered in the training are ever increasing, the compensation level for training has remain unchanged since 2003.

**RULES  
FOR  
POLL WORKER & COUNTY CLERK  
TRAINING**

(Effective: March 17, 2002; Revised: \_\_\_\_\_)



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## Scope of Rules

These rules will set forth the methods for coordinating training on early voting and election day procedures for poll workers and county clerks in the 75 counties in the state. These rules are in addition to, and not a substitute for, the laws of the State of Arkansas.

### § ~~200~~ 201 Definitions

(a) Advanced Poll Worker Training – the curriculum developed and approved by the State Board of Election Commissioners which poll judges and poll sheriffs are required to complete.

(b) Basic Poll Worker Training – the curriculum developed and approved by the State Board of Election Commissioners which all poll workers are required to complete.

~~(a)~~(c)(1) Election Official - a person who is a member of the county board of election commissioners, a person who performs election coordinator duties, 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>+</sup>

(2) Election Official - includes a person who serves as:

(A) A member of the county board of election commissioners;

(B) A person who is appointed by the county board of election commissioners to serve as:

(i) an election coordinator;

(ii) a person appointed to preform tasks related to the election which require the handling of ballots or other election materials or equipment;

(iii) an election clerk;

(iv) an election judge;

(v) an election sheriff; or

(vi) an absentee ballot clerk; or

(C) A person assigned by a county clerk to conduct early voting administered by the county clerk.

~~(b)~~(d) Polling Site – a location selected by the county board of election commissioners where votes are cast.<sup>2</sup>

~~(e)~~(e) 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 or an election official

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

<sup>2</sup> A.C.A. § 7-1-101

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designated by the County Clerk to be an election clerk, election judge, or election sheriff at an early voting location.

~~(d)~~ (f) Precinct – a geographical area the boundaries of which are determined by a county board of election commissioners in order to facilitate voting by the registered voters from that geographical area.

~~(e) 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>3</sup>

## **§ ~~201~~ 202 Qualifications of Election Officials Designated as Poll Workers**

The qualifications<sup>4</sup> determined by the General Assembly<sup>5</sup> of an election official designated by the county board of election commissioners to serve as a poll worker are as follows:

- (a) Must be a qualified elector of this state;
- (b) Must be able to read and write the English language;
- (c) Must be a resident of a precinct permitted to vote at the polling site in which he or she serves at the time of his or her appointment, unless the county board determines unanimously that it is impossible to obtain qualified poll workers from the precinct, in which case, the poll worker shall be a qualified county resident;
- (d) Must not have been found guilty or pled guilty or nolo contendere to the violation of any criminal election law of this state;
- (e) Must not be a paid employee of any political party;
- (f) Must not be a paid employee of any person running for any office on the county's ballot;
- (h) Must not be a candidate for any office to be filled at an election while serving as a poll worker;
- (i) Must not be married to or related within the second degree of consanguinity to any candidate running for office in the current election if objection to the service is made to the county board of election commissioners within ~~ten (10)~~ seven (7) calendar days after the posting of the list of officials;
- (j) Must not be the spouse of a member of the county board of election commissioners if objection to the service is made to the county board of election commissioners within ten (10) calendar days after the posting of the list of officials; and
- (k) Must not be the chairman or the spouse of a chairman of a county political party if objection to the service is made to the county board of election commissioners within ten (10) calendar days after the posting of the list of officials.

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<sup>3</sup> A.C.A. § 7-1-101

<sup>4</sup> A.C.A. § 7-4-109

<sup>5</sup> Art 3, § 10 of the Arkansas Constitution, as amended by Amendment 85

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## § ~~202~~ 203 Required Training for Certified Poll Worker Trainers

Each county board of election commissioners shall:

- (a) Designate at least two (2) qualified electors of the county to attend training conducted by the State Board of Election Commissioners before the regularly scheduled preferential primary election for the purpose of being certified by the State Board as poll worker trainers for the county. Each designee shall attend either a comprehensive training program conducted by the State Board of Election Commissioners before the regularly scheduled preferential primary election or an advanced training program conducted by the State Board of Election Commissioners after each regular legislative session. Any designee who has not served as a certified poll worker trainer during the previous two (2) preferential primary and general elections and previously attended the comprehensive training program conducted by the State Board of Election Commissioners must attend the comprehensive training program; and
- (b) Ensure that all poll workers at each preferential primary election polling site for a regularly scheduled election attended election training conducted locally by State Board-certified trainers and coordinated by the State Board prior to each regularly scheduled preferential primary election.<sup>6</sup>
  - (1) All poll workers appointed by the county election commission are required to receive the basic poll worker training curriculum approved by the State Board of Election Commissioners.
  - (2) At least two poll workers at each polling location are required to receive the advanced poll worker training curriculum approved by the State Board of Election Commissioners.
  - (3) The County Election commission may elect to administer the full training curriculum to all poll workers in the county.
- (c) For all elections following the regularly scheduled preferential primary election, county boards of election commissioners shall ensure that each poll worker has attended election training coordinated by the State Board within twelve (12) months prior to the election in which they are serving.<sup>7</sup>

## § ~~203~~ 204 Certification and Compensation of Poll Worker Trainers

- (a) Upon successful completion of training conducted by the State Board of Election Commissioners:
  - (1) Certification, valid for a period of two (2) years, shall be issued by the State Board to each designated trainee who successfully completes the training program;

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<sup>6</sup> A.C.A. §7-4-109(e)(1)

<sup>7</sup> A.C.A. § 7-4-107(b)(2)(C) as amended by Act 966 of 2019.

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- (2) A maximum of two (2) certified trainers per county are eligible to receive \$100 each, plus mileage reimbursement at the rate established for state employees by state travel regulations;
  - (3) The two (2) certified trainers per county are eligible to receive an additional \$50 each per training session up to a maximum of ~~two (2)~~ four (4) sessions each for conducting poll worker training locally before the preferential primary election; and
  - (4) Certified trainers' compensation will be paid by the State Board to the County Treasurer upon receipt of the reporting form approved and provided by the State Board to the county for that purpose.
- (b) Certification and compensation of additional county trainers will be considered by the State Board on a case by case basis based upon need and availability of sufficient resources and funding. The compensation of the certified trainers for more than two training sessions will also be considered by the State Board on a case by case basis based upon need and availability of sufficient resources and funding.
- (c) Request for additional certified trainers or compensation for additional training sessions in excess of the limitation established in this section must be made in writing and must describe the facts and circumstances that make the additional personnel and funding necessary for the effective training of county trainers.

## **§ 205 Examination of Poll Worker Trainers**

- (a) In order to complete this training program, the person designated as a poll worker trainer shall complete an examination of essential skills developed and administered by the State Board of Election Commissioners.
- (b) A person who fails to obtain a passing score on this examination shall not:
- (1) Be certified as a county poll worker trainer; or
  - (2) Receive compensation for attending the certified poll worker training.
- (c) The State Board of Election Commissioners shall issue a certification to each poll worker trainer designee who attended poll worker training and demonstrated competency in the skills essential for conducting an election through the examination process.
- (d) A poll worker trainer designee may take the examination up to three times.

## **§ 206 Examination of Poll Workers**

- (a) Each poll worker trained pursuant to this rule shall complete an examination of essential skills developed by the State Board of Election Commissioners and administered by a certified poll worker trainer for the county.

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- (1) The county board of election commissioners shall issue a certification to each poll worker who attended poll worker training and demonstrated competency in the skills essential for conducting an election through the examination process.
  - (A) Poll Workers shall take the examination corresponding with the level of training completed by the poll worker.
  - (B) A poll worker may take the examination up to three times prior to an election in which the poll worker has been appointed to serve.
- (2) The certification shall include the date the certification is issued and the date one year from issuance upon which the certification expires.
- (b) The certified poll worker trainers for the county shall certify to the Director under penalty of perjury the following information regarding poll worker training they conduct:
  - (1) The name of each poll worker certified;
  - (2) The date the poll worker was certified;
  - (3) The poll worker's score on the examination of essential skills;
  - (4) The name of the certified poll worker trainer(s) administering the training and examination to the poll worker;
  - (5) The number of election day and CBEC administered early voting polling sites in the county; and
  - (6) Whether the poll worker was appointed by the County Board of Election Commissioners or the County Clerk.

## **§ ~~204~~ 207 Compensation for Poll Worker Training Attendance**

- (a) A certified poll worker who attends the basic poll worker training curriculum ~~training~~ ~~conducted~~ administered by a State Board-certified poll worker trainer; and who works the preferential primary election immediately following the training is eligible to receive a maximum \$25 ~~\$35 additional~~ one-time payment for attending training.<sup>8</sup>
- (b) A certified poll worker who attends the advanced poll worker training curriculum administered by a State Board-certified poll worker trainer; and who works the preferential primary election immediately following the training is eligible to receive a maximum \$55 one-time payment for attending training.<sup>9</sup>
- (c) A county is eligible to receive compensation for poll workers attending the basic poll worker training up to a maximum of ~~six (6)~~ ten (10) eligible poll workers ~~per precinct~~ per polling site per preferential primary election.

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<sup>8</sup> A.C.A. § 7-4-109(e)(2)

<sup>9</sup> A.C.A. § 7-4-109(e)(2)

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- (d) A county is eligible to receive compensation for poll workers attending advanced poll worker training up to a maximum of two (2) eligible poll workers per polling site per preferential primary election.
- (e) Poll worker compensation will be paid by the State Board to the County Treasurer upon receipt of the information certified to the Director under §205(b). ~~suitable supporting documentation from the county, as determined by the State Board.~~
- (f) Under A.C.A. §7-4-109(e)(2)(B), an election official who does not pass an examination of essential skills is not eligible for compensation for attending an SBEC coordinated training.

## **§ ~~205~~ 208 Required Training for County Clerks**

- (a) A county clerk or his or her designee shall attend training for poll worker trainers conducted by the State Board of Election Commissioners before the regularly scheduled preferential primary election. Each county clerk or designee shall attend either a comprehensive training program conducted by the State Board of Election Commissioners before the regularly scheduled preferential primary election or an advanced training program conducted by the State Board of Election Commissioners.
- (b)(1) Advanced training will be made available if the Director of the State Board determines that, based on the amount of changes in law and procedure from the previous election cycle, an advanced training program is appropriate for experienced County Clerks. Advanced trainings are to only be utilized for clerks or designees who are unable to attend the comprehensive training and may be conducted remotely. Advanced trainings may not include a detailed review of all basic laws and procedures which are unchanged from the previous two election cycles but will address all aspects of the duties of the county clerk's office in conducting an election.
- (2) Any county clerk or designee who has not served as an election official during the previous two (2) preferential primary and general elections and previously attended the comprehensive training program conducted by the State Board of Election Commissioners must attend the comprehensive training program.
- (c) A county clerk or a county clerk's designee may train any poll worker appointed by the county clerk to conduct clerk administered early voting; however, a county clerk or a county clerk's designee may not train election officials appointed by the CBEC unless they or a county clerk's designee is designated as a certified poll worker trainer by the CBEC.
- (d) A county clerk or his or her designee shall be administered the same examination as the county's certified poll worker trainers. In the event a county clerk has sent a designee to this training, the Director shall notify the Clerk if the designee fails to demonstrate competency in the skills essential for conducting an election through the examination process.

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- (e) County clerks or clerk designees who attend training under this section are eligible to receive mileage reimbursement at the rate established for state employees by state travel regulations and are not eligible to receive any additional compensation; and
- (f) Any reimbursement will be paid by the State Board to the County Treasurer upon receipt of the reporting form approved and provided by the State Board to the county for that purpose.

## **§ 209 Required Training for Poll Workers in Clerk Administered Early Voting**

- (a) The county clerk shall ensure poll workers selected by the county clerk to conduct early voting have been trained by a person authorized to conduct poll worker training pursuant to this rule.
- (b) The examination of poll workers appointed by the county clerk to conduct early voting administered by the county clerk shall conducted pursuant to §206.
- (c) Poll Workers appointed by the county clerk to conduct early voting administered by the county clerk are eligible for compensation pursuant to the requirements of §207.
- (d) An election official who is appointed by the county clerk and the county board of election commissioners may not receive more than one compensation payment for attending training under this rule.
- (e) The county clerk, with the consent of the county board of election commissioners, may:
  - (1) Allow the certified poll worker trainers appointed by the county board of election commissioners to train the county clerk's early voting election staff; and
  - (2) Designate a certified poll worker trainer appointed by the county board of election commissioners as the county clerk's designee under A.C.A. 7-4-109(e)(1)(B).
- (f) For all elections following the regularly scheduled preferential primary election, the county clerk shall ensure that each poll worker appointed by the clerk has attended election training coordinated by the State Board within twelve (12) months prior to the election in which they are serving.<sup>10</sup>

## **§ ~~206~~ 210 Noncompliance**

The State Board may withhold funding for poll worker and county clerk training attendance from any county that fails to comply with the rules and guidelines developed by the State Board for the administration of poll worker training, until all requirements are met to the satisfaction of the State Board.<sup>11</sup>

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<sup>10</sup> A.C.A. § 7-4-107(b)(2)(C) as amended by Act 966 of 2019.

<sup>11</sup> A.C.A. § 7-7-201(b)(3)



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## § ~~207~~ 211 Training Materials

- (a) The State Board of Election Commissioners will provide training materials for local poll worker training to each of the seventy-five (75) counties.
- (b) Poll worker training shall be conducted only by State Board-certified trainers. Trainers are required to use materials provided by the State Board. This requirement includes the presentation of all multi-media provided by the State Board.
- (c) Any exception to the requirements of this section must be by prior written request to the State Board with prior written approval by the State Board. Approval by the State Board is not required for materials related to voting system training or supplemental procedures not addressed by materials provided by the State Board.

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Agency #108.00

**RULES  
FOR  
POLL WORKER & COUNTY CLERK  
TRAINING**

**(Effective: March 17, 2002; Revised: \_\_\_\_\_)**



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## Scope of Rules

These rules will set forth the methods for coordinating training on early voting and election day procedures for poll workers and county clerks in the 75 counties in the state. These rules are in addition to, and not a substitute for, the laws of the State of Arkansas.

## § 201 Definitions

- (a) Advanced Poll Worker Training – the curriculum developed and approved by the State Board of Election Commissioners which poll judges and poll sheriffs are required to complete.
- (b) Basic Poll Worker Training – the curriculum developed and approved by the State Board of Election Commissioners which all poll workers are required to complete.
- (c)(1) Election Official - a person who is a member of the county board of election commissioners, a person who performs election coordinator duties, 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.
  - (2) Election Official - includes a person who serves as:
    - (A) A member of the county board of election commissioners;
    - (B) A person who is appointed by the county board of election commissioners to serve as:
      - (i) an election coordinator;
      - (ii) a person appointed to perform tasks related to the election which require the handling of ballots or other election materials or equipment;
      - (iii) an election clerk;
      - (iv) an election judge;
      - (v) an election sheriff; or
      - (vi) an absentee ballot clerk; or
    - (C) A person assigned by a county clerk to conduct early voting administered by the county clerk.
- (d) Polling Site – a location selected by the county board of election commissioners where votes are cast.
- (e) 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 or an election official designated by the County Clerk to be an election clerk, election judge, or election sheriff at an early voting location.

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- (f) Precinct – a geographical area the boundaries of which are determined by a county board of election commissioners in order to facilitate voting by the registered voters from that geographical area.

## § 202 Qualifications of Election Officials Designated as Poll Workers

The qualifications<sup>1</sup> determined by the General Assembly<sup>2</sup> of an election official designated by the county board of election commissioners to serve as a poll worker are as follows:

- (a) Must be a qualified elector of this state;
- (b) Must be able to read and write the English language;
- (c) Must be a resident of a precinct permitted to vote at the polling site in which he or she serves at the time of his or her appointment, unless the county board determines unanimously that it is impossible to obtain qualified poll workers from the precinct, in which case, the poll worker shall be a qualified county resident;
- (d) Must not have been found guilty or pled guilty or nolo contendere to the violation of any criminal election law of this state;
- (e) Must not be a paid employee of any political party;
- (f) Must not be a paid employee of any person running for any office on the county's ballot;
- (h) Must not be a candidate for any office to be filled at an election while serving as a poll worker;
- (i) Must not be married to or related within the second degree of consanguinity to any candidate running for office in the current election if objection to the service is made to the county board of election commissioners within ~~ten (10)~~ seven (7) calendar days after the posting of the list of officials;
- (j) Must not be the spouse of a member of the county board of election commissioners if objection to the service is made to the county board of election commissioners within ten (10) calendar days after the posting of the list of officials; and
- (k) Must not be the chairman or the spouse of a chairman of a county political party if objection to the service is made to the county board of election commissioners within ten (10) calendar days after the posting of the list of officials.

## § 203 Required Training for Certified Poll Worker Trainers

Each county board of election commissioners shall:

- (a) Designate at least two (2) qualified electors of the county to attend training conducted by the State Board of Election Commissioners before the regularly scheduled preferential primary election for the purpose of being certified by the State Board as poll worker trainers for the county. Each designee shall attend either a comprehensive training program conducted by the State Board of Election Commissioners before the regularly scheduled preferential primary election or an advanced training program conducted by the State Board of Election Commissioners after each regular legislative session. Any designee who has not served as a

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<sup>1</sup> A.C.A. § 7-4-109

<sup>2</sup> Art 3, § 10 of the Arkansas Constitution, as amended by Amendment 85

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certified poll worker trainer during the previous two (2) preferential primary and general elections and previously attended the comprehensive training program conducted by the State Board of Election Commissioners must attend the comprehensive training program; and

- (b) Ensure that all poll workers at each preferential primary election polling site for a regularly scheduled election attended election training conducted locally by State Board-certified trainers and coordinated by the State Board prior to each regularly scheduled preferential primary election.<sup>3</sup>
  - (1) All poll workers appointed by the county election commission are required to receive the basic poll worker training curriculum approved by the State Board of Election Commissioners.
  - (2) At least two poll workers at each polling location are required to receive the advanced poll worker training curriculum approved by the State Board of Election Commissioners.
  - (3) The County Election commission may elect to administer the full training curriculum to all poll workers in the county.
- (c) For all elections following the regularly scheduled preferential primary election, county boards of election commissioners shall ensure that each poll worker has attended election training coordinated by the State Board within twelve (12) months prior to the election in which they are serving.<sup>4</sup>

## **§ 204 Certification and Compensation of Poll Worker Trainers**

- (a) Upon successful completion of training conducted by the State Board of Election Commissioners:
  - (1) Certification, valid for a period of two (2) years, shall be issued by the State Board to each designated trainee who successfully completes the training program;
  - (2) A maximum of two (2) certified trainers per county are eligible to receive \$100 each, plus mileage reimbursement at the rate established for state employees by state travel regulations;
  - (3) The two (2) certified trainers per county are eligible to receive an additional \$50 each per training session up to a maximum of four (4) sessions each for conducting poll worker training locally before the preferential primary election; and
  - (4) Certified trainers' compensation will be paid by the State Board to the County Treasurer upon receipt of the reporting form approved and provided by the State Board to the county for that purpose.
- (b) Certification and compensation of additional county trainers will be considered by the State Board on a case by case basis based upon need and availability of sufficient resources and funding. The compensation of the certified trainers for more than two training sessions will

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<sup>3</sup> A.C.A. §7-4-109(e)(1)

<sup>4</sup> A.C.A. § 7-4-107(b)(2)(C) as amended by Act 966 of 2019.

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also be considered by the State Board on a case by case basis based upon need and availability of sufficient resources and funding.

- (c) Request for additional certified trainers or compensation for additional training sessions in excess of the limitation established in this section must be made in writing and must describe the facts and circumstances that make the additional personnel and funding necessary for the effective training of county trainers.

## **§ 205 Examination of Poll Worker Trainers**

- (a) In order to complete this training program, the person designated as a poll worker trainer shall complete an examination of essential skills developed and administered by the State Board of Election Commissioners.
- (b) A person who fails to obtain a passing score on this examination shall not:
  - (1) Be certified as a county poll worker trainer; or
  - (2) Receive compensation for attending the certified poll worker training.
- (c) The State Board of Election Commissioners shall issue a certification to each poll worker trainer designee who attended poll worker training and demonstrated competency in the skills essential for conducting an election through the examination process.
- (d) A poll worker trainer designee may take the examination up to three times.

## **§ 206 Examination of Poll Workers**

- (a) Each poll worker trained pursuant to this rule shall complete an examination of essential skills developed by the State Board of Election Commissioners and administered by a certified poll worker trainer for the county.
  - (1) The county board of election commissioners shall issue a certification to each poll worker who attended poll worker training and demonstrated competency in the skills essential for conducting an election through the examination process.
    - (A) Poll Workers shall take the examination corresponding with the level of training completed by the poll worker.
    - (B) A poll worker may take the examination up to three times prior to an election in which the poll worker has been appointed to serve.
  - (2) The certification shall include the date the certification is issued and the date one year from issuance upon which the certification expires.

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(b) The certified poll worker trainers for the county shall certify to the Director under penalty of perjury the following information regarding poll worker training they conduct:

- (1) The name of each poll worker certified;
- (2) The date the poll worker was certified;
- (3) The poll worker's score on the examination of essential skills;
- (4) The name of the certified poll worker trainer(s) administering the training and examination to the poll worker;
- (5) The number of election day and CBEC administered early voting polling sites in the county; and
- (6) Whether the poll worker was appointed by the County Board of Election Commissioners or the County Clerk.

## **§ 207 Compensation for Poll Worker Training Attendance**

- (a) A certified poll worker who attends the basic poll worker training curriculum administered by a State Board-certified poll worker trainer; and who works the preferential primary election immediately following the training is eligible to receive a maximum \$35 one-time payment for attending training.<sup>5</sup>
- (b) A certified poll worker who attends the advanced poll worker training curriculum administered by a State Board-certified poll worker trainer; and who works the preferential primary election immediately following the training is eligible to receive a maximum \$55 one-time payment for attending training.<sup>6</sup>
- (c) A county is eligible to receive compensation for poll workers attending the basic poll worker training up to a maximum of ten (10) eligible poll workers per polling site per preferential primary election.
- (d) A county is eligible to receive compensation for poll workers attending advanced poll worker training up to a maximum of two (2) eligible poll workers per polling site per preferential primary election.
- (e) Poll worker compensation will be paid by the State Board to the County Treasurer upon receipt of the information certified to the Director under §205(b).
- (f) Under A.C.A. §7-4-109(e)(2)(B), an election official who does not pass an examination of essential skills is not eligible for compensation for attending an SBEC coordinated training.

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<sup>5</sup> A.C.A. § 7-4-109(e)(2)

<sup>6</sup> A.C.A. § 7-4-109(e)(2)



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## § 208 Required Training for County Clerks

- (a) A county clerk or his or her designee shall attend training for poll worker trainers conducted by the State Board of Election Commissioners before the regularly scheduled preferential primary election. Each county clerk or designee shall attend either a comprehensive training program conducted by the State Board of Election Commissioners before the regularly scheduled preferential primary election or an advanced training program conducted by the State Board of Election Commissioners.
- (b)(1) Advanced training will be made available if the Director of the State Board determines that, based on the amount of changes in law and procedure from the previous election cycle, an advanced training program is appropriate for experienced County Clerks. Advanced trainings are to only be utilized for clerks or designees who are unable to attend the comprehensive training and may be conducted remotely. Advanced trainings may not include a detailed review of all basic laws and procedures which are unchanged from the previous two election cycles but will address all aspects of the duties of the county clerk's office in conducting an election.
- (2) Any county clerk or designee who has not served as an election official during the previous two (2) preferential primary and general elections and previously attended the comprehensive training program conducted by the State Board of Election Commissioners must attend the comprehensive training program.
- (c) A county clerk or a county clerk's designee may train any poll worker appointed by the county clerk to conduct clerk administered early voting; however, a county clerk or a county clerk's designee may not train election officials appointed by the CBEC unless they or a county clerk's designee is designated as a certified poll worker trainer by the CBEC.
- (d) A county clerk or his or her designee shall be administered the same examination as the county's certified poll worker trainers. In the event a county clerk has sent a designee to this training, the Director shall notify the Clerk if the designee fails to demonstrate competency in the skills essential for conducting an election through the examination process.
- (e) County clerks or clerk designees who attend training under this section are eligible to receive mileage reimbursement at the rate established for state employees by state travel regulations and are not eligible to receive any additional compensation; and
- (f) Any reimbursement will be paid by the State Board to the County Treasurer upon receipt of the reporting form approved and provided by the State Board to the county for that purpose.

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## **§ 209 Required Training for Poll Workers in Clerk Administered Early Voting**

- (a) The county clerk shall ensure poll workers selected by the county clerk to conduct early voting have been trained by a person authorized to conduct poll worker training pursuant to this rule.
- (b) The examination of poll workers appointed by the county clerk to conduct early voting administered by the county clerk shall be conducted pursuant to §206.
- (c) Poll Workers appointed by the county clerk to conduct early voting administered by the county clerk are eligible for compensation pursuant to the requirements of §207.
- (d) An election official who is appointed by the county clerk and the county board of election commissioners may not receive more than one compensation payment for attending training under this rule.
- (e) The county clerk, with the consent of the county board of election commissioners, may:
  - (1) Allow the certified poll worker trainers appointed by the county board of election commissioners to train the county clerk's early voting election staff; and
  - (2) Designate a certified poll worker trainer appointed by the county board of election commissioners as the county clerk's designee under A.C.A. 7-4-109(e)(1)(B).
- (f) For all elections following the regularly scheduled preferential primary election, the county clerk shall ensure that each poll worker appointed by the clerk has attended election training coordinated by the State Board within twelve (12) months prior to the election in which they are serving.<sup>7</sup>

## **§ 210 Noncompliance**

The State Board may withhold funding for poll worker and county clerk training attendance from any county that fails to comply with the rules and guidelines developed by the State Board for the administration of poll worker training, until all requirements are met to the satisfaction of the State Board.<sup>8</sup>

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<sup>7</sup> A.C.A. § 7-4-107(b)(2)(C) as amended by Act 966 of 2019.

<sup>8</sup> A.C.A. § 7-7-201(b)(3)

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## § 211 Training Materials

- (a) The State Board of Election Commissioners will provide training materials for local poll worker training to each of the seventy-five (75) counties.
- (b) Poll worker training shall be conducted only by State Board-certified trainers. Trainers are required to use materials provided by the State Board. This requirement includes the presentation of all multi-media provided by the State Board.
- (c) Any exception to the requirements of this section must be by prior written request to the State Board with prior written approval by the State Board. Approval by the State Board is not required for materials related to voting system training or supplemental procedures not addressed by materials provided by the State Board.

State of Arkansas As Engrossed: S4/8/21 S4/15/21 H4/22/21

93rd General Assembly

# A Bill

Regular Session, 2021

SENATE BILL 582

By: Senators K. Hammer, M. Johnson

By: Representatives Ladyman, Barker, Beaty Jr., Beck, Bentley, M. Berry, S. Berry, Boyd, Bragg, Brooks, Brown, Carr, Cavanaugh, Christiansen, Cloud, Coleman, C. Cooper, Cozart, Crawford, Dalby, M. Davis, Eaves, Eubanks, Evans, L. Fite, Gazaway, Gonzales, M. Gray, Haak, Hawks, Hollowell, Lowery, Lundstrum, Maddox, McCollum, McGrew, McNair, S. Meeks, Payton, Penzo, Pilkington, Richmond, Rye, B. Smith, S. Smith, Speaks, Vaught, Warren, Watson, Wing, Wooten

## For An Act To Be Entitled

AN ACT TO AMEND ARKANSAS LAW CONCERNING COUNTY BOARDS OF ELECTION COMMISSIONERS; TO AMEND HOW COUNTY BOARDS OF ELECTION COMMISSIONERS TAKE THE OATH; TO AMEND ARKANSAS LAW CONCERNING ELECTIONS; TO AMEND THE LAW CONCERNING POLL WORKERS; AND FOR OTHER PURPOSES.

## Subtitle

TO AMEND ARKANSAS LAW CONCERNING COUNTY BOARDS OF ELECTION COMMISSIONERS; TO AMEND HOW COUNTY BOARDS OF ELECTION COMMISSIONERS TAKE THE OATH; AND TO AMEND ARKANSAS LAW CONCERNING ELECTIONS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 7-4-102(b)(2) and (3), concerning the oath and election of members of county boards of election commissioners, are amended to read as follows:

(2)(A) Upon receipt of the notice, the county clerk shall send to each of the county election commissioners, by registered mail, ~~notice to appear before the clerk~~ within thirty (30) days of selection as a county election commissioner, a notice to take and subscribe to the oath prescribed



1 by the Arkansas Constitution.

2 (B) A county election commissioner shall take the oath  
3 before:

4 (1) A justice or judge of the:

5 (i) Supreme Court;

6 (ii) Court of Appeals;

7 (iii) Circuit court;

8 (iv) District court; or

9 (v) County court;

10 (2) The county clerk;

11 (3) The clerk of the circuit court; or

12 (4) A justice of the peace.

13 (3) The oath shall be filed in the office of the county clerk  
14 and the county clerk shall forward a duplicate ~~forwarded~~ to the Secretary of  
15 State.

16  
17 SECTION 2. Arkansas Code § 7-4-109(e)(1)(C) and (D), concerning the  
18 qualifications of state and county commissioners, election officials, poll  
19 workers, and certified election monitors, are amended to read as follows:

20 (C) A poll worker; ~~and~~

21 (D) A certified election monitor; and

22 (E) A county election coordinator.

23  
24 SECTION 3. Arkansas Code § 7-4-109(e)(2), concerning the  
25 qualifications of state and county commissioners, election officials, poll  
26 workers, and certified election monitors, is amended to read as follows:

27 (2)(A) The State Board of Election Commissioners shall determine  
28 the method and amount of compensation for attending the training.

29 (B) A person required to receive the training shall take  
30 and pass an examination of essential skills as determined by the State Board  
31 of Election Commissioners to receive compensation.

32 (C) A person who passes an examination under subdivision  
33 (e)(2)(B) of this section shall receive a certificate of completion.

34 (D) The State Board of Election Commissioners shall  
35 promulgate rules under the Administrative Procedures Act, § 25-15-201 et  
36 seq., concerning the training requirements, materials, and examination of

1 essential skills.

2  
3 SECTION 4. Arkansas Code § 7-4-109(e), concerning the qualifications  
4 of state and county commissioners, election officials, poll workers, and  
5 certified election monitors, is amended to add additional subdivisions to  
6 read as follows:

7 (4)(A) A county board of election commissioners by a majority  
8 vote shall designate a person to attend the required training as a county  
9 election coordinator.

10 (B) The State Board of Election Commissioners shall not  
11 provide training or compensation for attending training to a county election  
12 coordinator if the county election coordinator has not been designated to  
13 take the required training by a county board of election commissioners.

14 (5)(A) The State Board of Election Commissioners shall identify  
15 at least one (1) person not employed by a county in any capacity each year,  
16 who shall receive the same training as a county election coordinator, and who  
17 shall receive compensation for attending training.

18 (B) The person identified by the State Board of Election  
19 Commissioners may be a state employee being cross-trained, or a person who is  
20 not a state employee that the State Board of Election Commissioners considers  
21 qualified to become an acting county election coordinator as a special  
22 employee of the State Board of Election Commissioners.

23  
24 SECTION 5. Arkansas Code § 7-5-202(a)(2), concerning service as an  
25 election official, deputy county clerk, or additional deputy, is amended to  
26 read as follows:

27 (2) A person shall not serve as an election official if:

28 (A) The person is:

29 (i) Married to or related within the second degree  
30 of consanguinity to a candidate running for office in the election;

31 (ii) The spouse of a member of a county board of  
32 election commissioners, except the spouse of a member of a county board of  
33 election commissioners may work as a poll worker if no objection is made to  
34 his or her service as a poll worker to the county board of election  
35 commissioners within ten (10) calendar days after posting the list of  
36 officials; or

1 (iii) A county party chair or his or her spouse,  
2 except the county party chair or his or her spouse may work as a poll worker  
3 if no objection is made to his or her service to the county board of election  
4 commissioners within ten (10) calendar days after posting the list of  
5 officials; and

6 (B) Another person makes an objection to his or her  
7 service to the county board of election commissioners within ten (10)  
8 calendar days after posting the list of officials.

9  
10  
11 /s/K. Hammer  
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14 **APPROVED: 4/29/21**  
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**QUESTIONNAIRE FOR FILING PROPOSED RULES AND REGULATIONS**  
**WITH THE ARKANSAS LEGISLATIVE COUNCIL**

**DEPARTMENT/AGENCY** State Board of Election Commissioners  
**DIVISION** N/A  
**DIVISION DIRECTOR** Daniel J. Shults  
**CONTACT PERSON** Richard Chris Madison  
**ADDRESS** 501 Woodlane St. Ste. 122S, Little Rock, AR 72201  
**PHONE NO.** 501-682-1447 **FAX NO.** 501-682-1782  
**E-MAIL** Chris.madison@arkansas.gov  
**NAME OF PRESENTER AT COMMITTEE MEETING** Daniel J. Shults, Director  
**PRESENTER E-MAIL** Daniel.Shults@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:

Jessica C. Sutton  
Administrative Rules Review Section  
Arkansas Legislative Council  
Bureau of Legislative Research  
One Capitol Mall, 5<sup>th</sup> Floor  
Little Rock, AR 72201

\*\*\*\*\*

1. What is the short title of this rule? Rules for Poll Worker & County Clerk Training

This rule is to provide procedures for the training program, testing, and (training related) compensation for poll workers in each county.

2. What is the subject of the proposed rule? \_\_\_\_\_

3. Is this rule required to comply with a federal statute, rule, or regulation? Yes No **X**  
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 **X**

If yes, what is the effective date of the emergency rule? \_\_\_\_\_

When does the emergency rule expire? \_\_\_\_\_

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 **X**  
If yes, please provide a brief summary explaining the regulation.

Does this repeal an existing rule?                      Yes                      No **X**  
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. \_\_\_\_\_

Is this an amendment to an existing rule?                      Yes **X**                      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."**

This amendment provides for the testing and certification of poll workers on a biennial basis prior to the preferential primary. This is an addition to the current training requirement and failure to pass the test only results in the poll worker being denied the cash stipend for attending training. The amendment also increased the training compensation of a poll worker to attend training from \$25 to a system where advanced poll workers receive more training and are compensated \$55 and all other poll workers receive \$35. Finally, the amendment increases the number of training session which a certified poll worker trainer can be compensated from 2 sessions to 4 sessions.

6. Cite the state law that grants the authority for this proposed rule? If codified, please give the Arkansas Code citation.

A.C.A. § 7-4-101(f)(3) (Authorizes the SBEC to promulgate all necessary rules for the training of election officials); and A.C.A. § 7-4-109(e)(2)(D) (Requires the SBEC to promulgate rules governing the training and testing of election officials).

7. What is the purpose of this proposed rule? Why is it necessary?

The purpose of this rule is to provide procedures for the training, testing, and training related compensation of certified poll worker trainers, county clerks or their designees, and county poll workers in each county.

This amendment is necessary in order to implement the testing requirement for poll worker's established in Act 1051 of 2021. Pursuant to the Act, the compensation of election officials is contingent on the official's ability to pass a test of essential skills and thereby become certified. In addition, the amendment reverses current policy (which defines poll worker to exclude clerk appointed early voting election officials) by requiring election officials appointed by the county clerk to conduct clerk run early voting to be trained prior to serving as an election official.

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](http://www.Arkansas.gov/sbec)

9. Will a public hearing be held on this proposed rule?                      Yes **X**                      No  
If yes, please complete the following:

Date: February 7, 2022

Time: 1:30 p.m.

Place: Timberlands Conference room, 501 Woodlane  
Street, Ste. GS-05, Little Rock, Arkansas 72201

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

4:30 p.m. on February 22, 2022

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

April 25, 2022

12. Please provide a copy of the notice required under Ark. Code Ann. § 25-15-204(a), and proof of the publication of said notice.

See Attached Exhibit A - Copy of Notice and Exhibit B - Email confirmation of publication dates.

13. Please provide proof of filing the rule with the Secretary of State and the Arkansas State Library as required pursuant to Ark. Code Ann. § 25-15-204(e).

See attached Exhibit C- Email transmitting Documents to SOS for publication. See attached Exhibit D – transmittal to Arkansas State Library.

14. 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.

None

## **FINANCIAL IMPACT STATEMENT**

### **PLEASE ANSWER ALL QUESTIONS COMPLETELY**

**DEPARTMENT** State Board of Election Commissioners

**DIVISION** N/A

**PERSON COMPLETING THIS STATEMENT** Daniel J. Shults, Director

**TELEPHONE** 501-682-1834 **FAX** 501-682-1782 **EMAIL:** Daniel.shults@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.

**SHORT TITLE OF THIS RULE** Rules for Poll Worker and County Clerk Training

- |   |              |             |
|---|--------------|-------------|
| 1. Does this proposed, amended, or repealed rule have a financial impact?   | Yes <b>X</b> | 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 <b>X</b> | 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 <b>X</b> |

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;

The compensation for attending training has remained unchanged for 19 years at \$25. This is despite the length and complexity of training increasing. Counties have repeatedly complained that the \$25 stipend is insufficient and is less than minimum wage for the roughly 5 hours of training that the State required. The rule cuts the length of the curriculum for basic poll workers and adds \$10 to the stipend. Each poll must also have a supervisor and a backup for which the curriculum cannot be shortened. Consequently, the stipend for these officials is increased by \$30.

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

The increase in poll worker training compensation was adopted for the reasons described above. In addition, the new rule increases the number of training sessions for which a certified poll worker trainer can be compensated from 2 sessions to 4 sessions. This change is at the request of the counties and is necessary to ensure poll workers have reasonably sized classes in which they are trained and that they are able to work as a team. Each county has 2 certified trainers who receive \$50 per session making the theoretical maximum increase in expenditure due to this change \$15,000.

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

The rule is designed to benefit the public welfare by ensuring that each county has qualified, motivated, and well-trained poll workers to conduct the elections for that county. The rule also seeks to make the testing and certification process as effective as possible under the law through the monetary incentivization.

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

The SBEC is explicitly required to determine the "method and amount" of compensation under A.C.A 7-4-109.

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	\$0.00
Federal Funds	\$0.00
Cash Funds	\$0.00
Special Revenue	\$0.00
Other (Identify)	\$0.00
	\$0.00
Total	\$0.00

**Next Fiscal Year**

General Revenue	\$0.00
Federal Funds	\$0.00
Cash Funds	\$0.00
Special Revenue	\$0.00
Other (Identify)	\$0.00
	\$0.00
Total	\$0.00

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

**Current Fiscal Year**

General Revenue	\$143,420.00
Federal Funds	\$0.00
Cash Funds	\$0.00
Special Revenue	\$0.00
Other (Identify)	\$0.00
Total	\$143,420.00

**Next Fiscal Year**

General Revenue	\$0.00
Federal Funds	\$0.00
Cash Funds	\$0.00
Special Revenue	\$0.00
Other (Identify)	\$0.00
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

**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**

\$ \$143,420.00

**Next Fiscal Year**

\$ \$0.00

The full cost will be paid as a reimbursement to the county election officials through the county treasurer's office. Regarding the poll workers, the agency estimates there are 6,047 CBEC appointed poll workers and, of those, 2,400 are estimated to be one of the two advanced poll workers with the remaining estimated 3,647 serving as general poll workers. This represents an increase of \$72,000 in the compensation for advanced training and \$36,470 in the compensation of basic level poll workers. An additional 490 clerk run early voting training officials not previously required to be trained but would be trained under this amendment require an additional estimated training stipend of \$19,950. The final \$15,000 represents the additional 2 \$50 payment of conducting county training by certified poll worker trainers authorized in this amendment to the rule.

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 **X**      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:

**See attached Memorandum from SBEC to Bureau of Legislative Affairs, Dated November 30, 2021**

- (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.



## STATE BOARD OF ELECTION COMMISSIONERS

501 Woodlane, Suite 122 South  
Little Rock, Arkansas 72201  
(501) 682-1834 or (800) 411-6996

### MEMORANDUM

TO: Bureau of Legislative Research  
FROM: State Board of Election Commissioners  
DATE: November 30, 2021  
SUBJECT: Written Findings regarding the Financial Impact of the 2021  
Amendments to the *Rules for Poll Workers & County Clerk Training*

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**1) Statement of the Rule's Basis and Purpose:**

The purpose of this rule is to provide procedures for the training, testing, and training related compensation of certified poll worker trainers, county clerks or their designees, and county poll workers in each county. This direct and indirect training program coordinated by the SBEC operates to ensure the county's poll workers have the skills and knowledge necessary to provide a safe, secure, and lawful voting experience to Arkansans at the polls.

**2) The problem the agency seeks to address with the proposed amendment to the rule and statement regarding whether the rule is required by statute:**

While the underlying rule is required by statute, the amendment is not explicitly required by Arkansas law. There is some debate regarding whether state and federal labor laws constitute an unfunded mandate to the counties if this amendment is not enacted.

Regarding the compensations of poll worker training, the current rate which the SBEC compensates a poll worker for attending training is \$25. This rate was set in 2003 at which time the minimum wage in Arkansas was \$5.15 per hour. Over the last 19 years, the training for poll workers has become increasingly more complex to the point the full training approaches 5 hours. Consequently, it is the conclusion of the SBEC that the training stipend needed to be increased and that the training program restructured to ensure that the state funded compensation is sufficient to equal the minimum wage for the time period training is held.

Regarding the number of compensated trainings a certified poll worker trainer may conduct, the SBEC has found that training sessions with smaller classes are more effective than larger classes and that training is often more effective when there is more than one presenter involved. In addition, larger counties have often

noted to the SBEC that two sessions are insufficient which is certainly the case. Therefore, it is further the conclusion of the SBEC that the default number of trainings for which a certified trainer can be compensated should be increased from 2 to 4 sessions.

**3) The following is a list of 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:**

- The level of legal and technical complexity has significantly grown in the 19 years since the current provisions of the training rule that are modified by this amendment were put in place.
- The minimum wage has approximately doubled in the 19 years the training stipend has remained set at \$25.
- The training sessions which are targeted at the role the poll worker is expected to play are more effective than giving every poll worker the full curriculum of poll worker responsibilities.
- Training sessions which are limited in size to no more than 40 are more effective than sessions which include more than 40 poll workers.
- Several counties have complained that the length of the SBEC's required training curriculum led the county to conclude it was required to supplement the \$25 state funded stipend in order to ensure the poll workers were paid a minimum wage while attending training.
- Several counties have also complained that the expectation of the existing rule that a certified poll worker trainer will only be required to conduct two poll worker trainings is wholly unrealistic and constitutes an unfunded mandate on the county.

**4) The following is 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:**

The less costly alternatives regarding the poll worker training compensation range from no change to the current compensation to the compensation levels proposed in the rule. It is the determination of the SBEC that the proposed compensation level is the least costly while ensuring the minimum level of training necessary to provide effective poll workers to the county and while ensuring that the training compensation equals or exceeds the amount of compensation equaling the time spent in training multiplied by the Arkansas minimum wage.

Likewise, the less costly alternative regarding the increased number of sessions for which a certified county poll worker can be compensated could have been less costly by making no change, authorizing only three compensated sessions, or reducing the amount per session for which they are compensated. It was determined that two training sessions are insufficient in all but the smallest

of counties and four were found to be a reasonable alternative. This is also designed to encourage counties to opt for smaller class sizes which the SBEC finds to be more effective.

- 5) **The following is 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:**

Because the Financial Impact Statement is required to be filed prior to the public comment period, there have been no public comments at this time.

- 6) **The following is 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:**

It is the determination of the SBEC that no existing rule contributes to this problem.

- 7) **The following is 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.**

The agency will review this compensation regime prior to every two-year election cycle to determine whether:

- The relative increased or decreased complexity of the voting process as defined by the Acts of the General Assembly and of Congress permit the simplification of or require added elements to the training curriculum;
- Changes in the federal minimum wage or the state constitutionally mandated minimum wage require this formula to be revisited; and
- Changes in the voting systems selected by the Secretary of State and the Quorum Court of the counties permit the simplification of or require added elements to the training curriculum.