

ARKANSAS REGISTER

Proposed Rule Cover Sheet



Secretary of State
John Thurston
500 Woodlane Street, Suite 026
Little Rock, Arkansas 72201-1094
(501) 682-5070
www.sos.arkansas.gov



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 _____

Name of Rule _____

Newspaper Name _____

Date of Publishing _____

Final Date for Public Comment _____

Location and Time of Public Meeting _____

**QUESTIONNAIRE FOR FILING PROPOSED RULES WITH
THE ARKANSAS LEGISLATIVE COUNCIL**

DEPARTMENT _____
 BOARD/COMMISSION _____
 BOARD/COMMISSION DIRECTOR _____
 CONTACT PERSON _____
 ADDRESS _____
 PHONE NO. _____ EMAIL _____
 NAME OF PRESENTER(S) AT SUBCOMMITTEE MEETING _____
 PRESENTER EMAIL(S) _____

INSTRUCTIONS

In order to file a proposed rule for legislative review and approval, please submit this Legislative Questionnaire and Financial Impact Statement, and attach (1) a summary of the rule, describing what the rule does, the rule changes being proposed, and the reason for those changes; (2) both a markup and clean copy of the rule; and (3) all documents required by the Questionnaire.

If the rule is being filed for permanent promulgation, please email these items to the attention of Rebecca Miller-Rice, miller-ricer@blr.arkansas.gov, for submission to the Administrative Rules Subcommittee.

If the rule is being filed for emergency promulgation, please email these items to the attention of Director Marty Garrity, garritym@blr.arkansas.gov, for submission to the Executive Subcommittee.

Please answer each question completely using layman terms.

1. What is the official title of this rule?

2. What is the subject of the proposed rule? [The rules concerned a prohibition on displaying of campaign literature on vehicles of candidates or public official while on state capitol grounds. The underlying law has been repealed.](#)
3. Is this rule being filed under the emergency provisions of the Arkansas Administrative Procedure Act? Yes No

If yes, please attach the statement required by Ark. Code Ann. § 25-15-204(c)(1).

If yes, will this emergency rule be promulgated under the permanent provisions of the Arkansas Administrative Procedure Act? Yes No

4. Is this rule being filed for permanent promulgation? Yes No

If yes, was this rule previously reviewed and approved under the emergency provisions of the Arkansas Administrative Procedure Act? Yes No

If yes, what was the effective date of the emergency rule? _____

On what date does the emergency rule expire? _____

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

If yes, please provide the federal statute, rule, and/or regulation citation.

6. Is this rule required to comply with a *state* statute or rule? Yes No

If yes, please provide the state statute and/or rule citation.

7. Are two (2) rules being repealed in accord with Executive Order 23-02? Yes No

If yes, please list the rules being repealed.

If no, please explain.

8. Is this a new rule? Yes No

Does this repeal an existing rule? Yes No

If yes, the proposed repeal should be designated by strikethrough. If it is being replaced with a new rule, please attach both the proposed rule to be repealed and the replacement rule.

Is this an amendment to an existing rule? Yes No

If yes, all changes should be indicated by strikethrough and underline. In addition, please be sure to label the markup copy clearly as the markup.

9. What is the state law that grants the agency its rulemaking authority for the proposed rule, outside of the Arkansas Administrative Procedure Act? Please provide the specific Arkansas Code citation(s), including subsection(s).

10. Is the proposed rule the result of any recent legislation by the Arkansas General Assembly?
Yes No

If yes, please provide the year of the act(s) and act number(s).

11. What is the reason for this proposed rule? Why is it necessary?

12. Please provide the web address by which the proposed rule can be accessed by the public as provided in Ark. Code Ann. § 25-19-108(b)(1).

13. Will a public hearing be held on this proposed rule? Yes No

If yes, please complete the following:

Date: TBD

Time: _____

Place: _____

Please be sure to advise Bureau Staff if this information changes for any reason.

14. On what date does the public comment period expire for the permanent promulgation of the rule? Please provide the specific date. TBD

15. What is the proposed effective date for this rule? TBD-ASAP

16. Please attach (1) a copy of the notice required under Ark. Code Ann. § 25-15-204(a)(1) and (2) proof of the publication of that notice.

17. Please attach proof of filing the rule with the Secretary of State, as required by Ark. Code Ann. § 25-15-204(e)(1)(A).

18. Please give the names of persons, groups, or organizations that you anticipate will comment on these rules. Please also provide their position (for or against), if known.

19. Is the rule expected to be controversial? Yes No

If yes, please explain.

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY.

DEPARTMENT _____
BOARD/COMMISSION _____
PERSON COMPLETING THIS STATEMENT _____
TELEPHONE NO. _____ **EMAIL** _____

To comply with Ark. Code Ann. § 25-15-204(e), please complete the Financial Impact Statement and email it with the questionnaire, summary, markup and clean copy of the rule, and other documents. Please attach additional pages, if necessary.

TITLE OF THIS RULE [Rules on Display of Campaign Literature on Vehicle of Candidate or Public Official While on State Capitol Grounds](#)

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 no, please explain:

- (a) how the additional benefits of the more costly rule justify its additional cost;

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

- (c) whether the reason for adoption of the more costly rule is based on the interests of public health, safety, or welfare, and if so, how; and

- (d) whether the reason for adoption of the more costly rule is within the scope of the agency’s statutory authority, and if so, how.

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 _____
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other (Identify) _____

Total _____

Next Fiscal Year

General Revenue _____
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other (Identify) _____

Total _____

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

Current Fiscal Year

General Revenue _____
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other (Identify) _____

Total _____

Next Fiscal Year

General Revenue _____
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other (Identify) _____

Total _____

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

Current Fiscal Year

\$ _____

Next Fiscal Year

\$ _____

6. What is the total estimated cost by fiscal year to a state, county, or 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

\$ _____

Next Fiscal Year

\$ _____

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.



STATE OF ARKANSAS
SARAH HUCKABEE SANDERS
GOVERNOR

Request for Governor's Approval of Proposed Rule or Regulation

Department /Agency: Arkansas Ethics Commission

Short Title of Rule: Rules on Display of Campaign Literature on Vehicle of Candidate or Public Official While on State Capitol Grounds

New Rule: Yes No

Amendment to Existing Rule: Yes No

State Mandate: Yes No

Federal Mandate: Yes No

If yes, please provide the legal citation of the mandate:

Legal Authority for Rule: Ark. Code Ann. § 7-6-217 (g) and the repeal of 7-1-114

Proposed Effective Date: ASAP

Emergency Rule: Yes No

Expedited Rule Requested: Yes No

Summary of Proposed New Rule or Proposed Amendment to Existing Rule:

Act 456 repealed Ark. Code Ann. § 7-1-114, which had provided as follows:

(a) It is unlawful for a candidate or a public official, as defined in § 21-8-402, to display one (1) or more campaign banners, campaign signs, or other campaign literature larger than twelve inches by twelve inches (12" x 12") on a car, truck, tractor, or other vehicle belonging to the candidate or public official while on the State Capitol grounds.

(b) The Arkansas Ethics Commission shall promulgate rules concerning the enforcement of this section, including without limitation providing for the imposition of a fine for violations of this section that shall not exceed one hundred fifty dollars (\$150)."

Since this law was repealed, the Rules should likewise be repealed to bring the Rules into conformity with legislation passed during the 2023 General Assembly session.

Financial Impact: Yes No Unknown; **If yes or unknown, please explain:**

Public Hearing Occurred on Rule: Yes No TBD for date

Controversial: Yes No

Two Rules Repealed:

Exception from the Governor: Requested

The Commission is seeking that an exemption be granted to the provision requiring that the agency must submit two (2) rules for repeal for every one (1) rule presented for rulemaking. It is the position of the Commission that this proposed amendment would not create a new rule, so much as it is a statutorily mandated adjustment for inflation. If this is considered a new rule, then the Commission respectfully requests the exemption be granted.

Likewise, the Commission does seek to repeal these rules, which it requests to be considered as substantial compliance with the goal of repealing rules whenever possible.

First Rule Repealed: Brief explanation of why repeal is appropriate:

Second Rule Repealed: Brief explanation of why repeal is appropriate:

Documents Required for Approval Process

Please note that the Governor's office will not begin the approval process if any of the following applicable documents are not enclosed with the approval request.

- BLR Questionnaire
- BLR Financial Impact Statement
- Proposed Rule - clean version
- Mark-Up of Rule, if amended from previous version
- Copy of Act or Regulation, if Rule is pursuant to State or Federal mandate

Contact Information

Department POC for Rules Process: Graham F. Sloan

Department POC for this Rule: Graham F. Sloan

NOTE: All documents must be returned to the Governor's Counsel as a single PDF file

~~ARKANSAS ETHICS COMMISSION~~

~~RULES ON DISPLAY OF CAMPAIGN LITERATURE ON VEHICLE OF CANDIDATE OR PUBLIC OFFICIAL WHILE ON STATE CAPITOL GROUNDS~~

~~ARKANSAS ETHICS COMMISSION~~

~~Post Office Box 1917~~

~~Little Rock, Arkansas 72203-1917~~

~~(501) 324-9600 or (800) 422-7773~~

~~Facsimile (501) 324-9606~~

TABLE OF CONTENTS

§ 100 Definitions	1
§ 101 Prohibition	1
§ 102 Enforcement	1
§ 103 Penalties	2

~~§ 100 Definitions~~

- ~~(a) **Candidate**—As used in these rules, the term “candidate” means any individual who has knowingly and willingly taken affirmative action, including solicitation of funds, for the purpose of seeking nomination for or election to any public office.~~
- ~~(b) **Governmental Body**—As used in these rules, the term “governmental body” means any office, department, commission, council, board, committee, legislative body, agency, or other establishment of the executive, judicial, or legislative branch of the state, municipality, county, school district, improvement district, or any political district or subdivision thereof.~~
- ~~(c) **Public Office**—As used in these rules, the term “public office” means any office created by or under authority of the laws of the State of Arkansas or of a subdivision thereof that is filled by the voters, except a federal office.~~
- ~~(d) **Public Official**—As used in these rules, the term “public official” means a legislator or any other person holding an elective office of any governmental body, whether elected or appointed to the office, and shall include such persons during the time period between the day they were elected and the date they took office.~~

~~§ 101 Prohibition~~

~~It is unlawful for a candidate or a public official to display one (1) or more campaign banners, campaign signs, or other campaign literature larger than twelve inches by twelve inches (12” x 12”) on a car, truck, tractor, or other vehicle belonging to the candidate or public official on the State Capitol grounds.~~

~~§ 102 Enforcement~~

~~In accordance with Ark. Code Ann. § 7-6-218, a complaint alleging a violation of Ark. Code Ann. § 7-1-114(a) may be filed with the Arkansas Ethics Commission. The complaint process is the subject of Sections (V)–(X) of the Arkansas Ethics Commission’s Rules of Practice and Procedure.~~

~~§ 103 Penalties~~

~~If the Ethics Commission finds that a candidate or a public official has committed a violation of Ark. Code Ann. § 7-1-114(a), then it may impose a fine that shall not exceed one hundred fifty dollars (\$150). The following schedule serves as a guideline in determining the amount of fine:~~

First Time Violation	\$ 75.00
Second Time Violation	\$ 100.00
Further Repeated Violation(s)	\$ 150.00

SUMMARY

Proposed Amendments to the Rules on Display of Campaign Literature on Vehicle of Candidate or Public Official While on State Capitol Grounds

Purpose & Discussion:

The purpose of these proposed amendments is to bring the Rules on Display of Campaign Literature on Vehicle of Candidate or Public Official While on State Capitol Grounds into conformity with the legislation passed during the 94th General Assembly of the Arkansas Legislature. Act 456 of 2023 repealed the prohibition found in these rules; for that reason, these rules need to be repealed.

NOTICE OF RULE MAKING AND PUBLIC HEARING ARKANSAS ETHICS COMMISSION

NOTICE is hereby given that the Arkansas Ethics Commission intends to amend its existing Rules on Ballot and Legislative Question Committees, Rules on Campaign Finance & Disclosure, Rules on Conflicts, Rules on Display of Campaign Literature on Vehicle of Candidate or Public Official While on State Capitol Grounds (seeking to repeal), Rules on Independent Expenditures, Rules on Local-Option Ballot Question Committees, Rules on Political Committees, and Rules of Practice & Procedure. The proposed amendments to the rules are intended to implement and administer the provisions of Acts 85, 307, 455, 456, 552, 753, and 883 of the 2023 Regular Session of the 94th General Assembly, and to further implement and administer applicable provisions of the laws under the Commission's jurisdiction. Copies of the proposed amended rules may be obtained from the Commission, which is located at 501 Woodlane, Suite 301N, Little Rock, Arkansas, 72201, telephone (501) 324-9600, and may also be found at www.ArkansasEthics.com.

Interested parties should forward written comments to Graham F. Sloan, Director, Post Office Box 1917, Little Rock, Arkansas 72203-1917, by 5:00 p.m. on Wednesday, September 20, 2023. The Commission will hold a public hearing on Friday, September 22, 2023, beginning at 9:00 a.m. at the Commission's office in Little Rock to consider the written submissions and receive oral comments on the aforementioned sets of rules.