

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 87th General Assembly
3 Regular Session, 2009

A Bill

HOUSE BILL 1380

4
5 By: Representative Lea

For An Act To Be Entitled

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8
9 AN ACT TO PROVIDE FOR THE NONPARTISAN ELECTION OF
10 PROSECUTING ATTORNEYS; AND FOR OTHER PURPOSES.

Subtitle

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12
13 AN ACT TO PROVIDE FOR THE NONPARTISAN
14 ELECTION OF PROSECUTING ATTORNEYS.

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

18
19 SECTION 1. Arkansas Code § 7-4-101(f)(11), concerning the authority of
20 the State Board of Election Commissioners, is amended to read as follows:

21 (11) Administer reimbursement of election expenses to counties in
22 accordance with § 7-7-201(a) for primary elections, statewide special
23 elections, and nonpartisan ~~judicial~~ general elections.

24
25 SECTION 2. Arkansas Code § 7-5-407(a), concerning the preparation and
26 delivery of absentee ballots, is amended to read as follows:

27 (a) The county board of election commissioners shall prepare official
28 absentee ballots and deliver them to the county clerk for mailing to all
29 qualified applicants as soon as practicable but in any event not later than
30 thirty-five (35) days before a preferential primary, general election, school
31 election, nonpartisan ~~judicial~~ general election, nonpartisan ~~judicial~~ runoff
32 election, or any special election.

33
34 SECTION 3. Arkansas Code § 7-6-102 is amended to read as follows:

35 7-6-102. Political practices pledge – Penalty for falsification.

36 (a)(1) Candidates for political party nominations for state or



1 district offices shall file with the Secretary of State and candidates for
 2 county, municipal, or township offices shall file with the county clerk of
 3 the county during the filing period set out in § 7-7-203 for the preferential
 4 primary election a pledge in writing stating that they are familiar with the
 5 requirements of §§ 7-1-103, 7-1-104, 7-3-108, 7-6-101, 7-6-103, 7-6-104, and
 6 this section and will comply in good faith with their terms.

7 (2) Persons seeking nomination as independent candidates and
 8 school district candidates shall file the political practices pledge at the
 9 time of filing the petition for nomination.

10 (3) Independent candidates for municipal office shall file the
 11 political practices pledge with the county clerk at the time of filing the
 12 petition for nomination.

13 (4) Persons who wish to be write-in candidates shall file the
 14 political practices pledge at the time of filing the notice to be a write-in
 15 candidate.

16 (5) Nonpartisan ~~judicial~~ candidates paying filing fees in
 17 accordance with § 7-10-103(b) shall file the political practices pledge at
 18 the time of filing for office.

19 (6) Nonpartisan ~~judicial~~ candidates filing by petition in
 20 accordance with § 7-10-103(c) shall file the political practices pledge at
 21 the time of filing the petition.

22 (b) All political practices pledge forms for state or district offices
 23 and county, municipal, or township offices shall be required to contain the
 24 following additional pledge:

25 “I hereby certify that I have never been convicted of a felony in Arkansas or
 26 in any other jurisdiction outside of Arkansas.”

27 (c) Any person who has been convicted of a felony and signs the pledge
 28 stating that he or she has not been convicted of a felony shall be guilty of
 29 a Class D felony.

30 (d) For purposes of this section, a person shall be qualified to be a
 31 candidate for a state, district, county, municipal, and township office and
 32 may certify that he or she has never been convicted of a felony if his or her
 33 record was expunged in accordance with §§ 16-93-301 – 16-93-303, or a similar
 34 expunction statute in another state, provided, the candidate presents a
 35 certificate of expunction from the court that convicted the prospective
 36 candidate.

1 (e)(1) The name of a candidate who fails to sign and file the pledge
 2 shall not appear on the ballot.

3 (2)(A) However, within five (5) days from which the pledge is
 4 required to be filed, the Secretary of State or the county clerk shall notify
 5 by certified mail that requires a return receipt signed by the candidate
 6 those candidates who have failed to file a signed political practice pledge.
 7 The notice shall include a copy of the written pledge required by this
 8 section.

9 (B) Failure of the state or district candidate to file
 10 with the Secretary of State or of the county, municipal, or township
 11 candidate to file with the county clerk within twenty (20) days of receipt or
 12 refusal of this notice shall prevent the candidate's name from appearing on
 13 the ballot.

14
 15 SECTION 4. Arkansas Code § 7-6-203(h)(2)(B), concerning affidavits
 16 filed by nonpartisan candidates, is amended to read as follows:

17 (B) For unopposed candidates for nonpartisan
 18 ~~judicial~~ office, the affidavit may be filed after the deadlines have passed
 19 to declare as a filing fee candidate, petition candidate, or write-in
 20 candidate under § 7-10-103.

21
 22 SECTION 5. Arkansas Code § 7-7-306 is amended to read as follows:

23 7-7-306. Partisan and nonpartisan ~~judicial~~ general ballots only.

24 At each party primary and nonpartisan ~~judicial~~ general election each
 25 county board of election commissioners shall furnish separate ballots for
 26 each political party containing:

27 (1) The names of persons seeking offices to be voted on as a
 28 nominee or candidate of that political party; and

29 (2) The names of all qualified candidates for the general
 30 election to nonpartisan ~~judicial~~ offices pursuant to § 7-10-101.

31
 32 SECTION 6. Arkansas Code § 7-10-101 is amended to read as follows:

33 7-10-101. Definitions.

34 ~~For the purposes of~~ As used in this chapter:

35 (1) "Nonpartisan ~~judicial~~ office" means the offices of Justice
 36 of the Supreme Court, Judge of the Court of Appeals, circuit judge, ~~and~~

1 district judge, and prosecuting attorney; and

2 (2) "Political party" has the same meaning as provided in § 7-1-
3 101.

4
5 SECTION 7. Arkansas Code § 7-10-102 is amended to read as follows:

6 7-10-102. Nonpartisan election of judges ~~and~~, justices, and
7 prosecuting attorneys.

8 (a) The offices of Justice of the Supreme Court, Judge of the Court of
9 Appeals, circuit judge, ~~and~~ district judge, and prosecuting attorney are
10 declared to be nonpartisan offices.

11 (b)(1) The general elections for nonpartisan ~~judicial~~ offices shall be
12 held on the same dates and at the same times and places as provided by law
13 for preferential primary elections.

14 (2) The names of candidates for nonpartisan ~~judicial~~ offices
15 shall be included on the ballots of the political parties and shall be
16 designated as nonpartisan ~~judicial~~ candidates. However, separate ballots
17 containing the names of nonpartisan ~~judicial~~ candidates shall be prepared and
18 shall be made available to voters requesting the same.

19 (3) No voter shall be required to vote in a political party's
20 preferential primary in order to be able to vote in nonpartisan ~~judicial~~
21 elections.

22 (c)(1) No person shall be elected to a nonpartisan ~~judicial~~ office
23 without receiving a majority of the votes cast at the election for the
24 office.

25 (2) In any nonpartisan ~~judicial~~ election in which no person
26 receives a majority of the votes cast, the two (2) candidates receiving the
27 highest and next highest number of votes shall be certified to a runoff
28 election which shall be held on the same date and at the same times and
29 places as the November general election.

30 (3) The names of the candidates in a nonpartisan ~~judicial~~ runoff
31 election shall be placed on the same ballots as used for the November general
32 elections.

33
34 SECTION 8. Arkansas Code § 7-10-103 is amended to read as follows:

35 7-10-103. Filing as a candidate.

36 (a) A candidate for a nonpartisan ~~judicial~~ office may pay a filing fee

1 as provided for in this chapter, file a petition in the manner provided for
 2 in this chapter, or file as a write-in candidate in the manner as provided
 3 for in this chapter.

4 (b)(1) The State Board of Election Commissioners shall establish
 5 reasonable filing fees for nonpartisan ~~judicial~~ offices.

6 (2)(A) The filing fee for the offices of Justice of the Supreme
 7 Court, Judge of the Court of Appeals, ~~and~~ circuit judge, and prosecuting
 8 attorney shall be paid to the Secretary of State at the same time that the
 9 candidate files his or her political practices pledge. A candidate for
 10 district judge shall pay the filing fee to the county clerk at the same time
 11 that the candidate files his or her political practices pledge.

12 (B) The period for paying filing fees and filing political
 13 practice pledges shall begin at 12:00 noon on the first weekday in March and
 14 end at 12:00 noon on the seventh day thereafter.

15 (3)(A) There is created on the books of the Treasurer of State,
 16 the Auditor of State, and the Chief Fiscal Officer of the State a fund to be
 17 known as the ~~Judicial~~ “Nonpartisan Filing Fee Fund”.

18 (B) The filing fees shall be remitted to the Treasurer of
 19 State for deposit into the fund for covering the cost of election expenses of
 20 the ~~state~~ board.

21 (c)(1)(A)(i) Any person desiring to have his or her name placed on the
 22 ballot for a nonpartisan ~~judicial~~ office without paying a filing fee may do
 23 so by filing a petition in the manner provided for under this section.
 24 Petitions for Supreme Court, Court of Appeals, ~~and~~ circuit court, and
 25 prosecuting attorney positions shall be filed with the Secretary of State,
 26 and petitions for district court positions shall be filed with the applicable
 27 county clerk beginning at 12:00 noon forty-six (46) days before the first
 28 weekday in March and ending at 12:00 noon thirty-two (32) days before the
 29 first weekday in March.

30 (ii) Political practice pledges for nonpartisan
 31 ~~judicial~~ candidates filing by petition shall be filed at the same time as the
 32 petition.

33 (B) The petition shall be directed to the office with
 34 which it is to be filed and shall request that the name of the candidate be
 35 placed on the ballot for the election set forth in the petition. Candidates
 36 may begin circulating petitions not earlier than sixty (60) days prior to the

1 filing deadline.

2 (C) The Secretary of State or the county clerk, as the
 3 case may be, shall determine within thirty (30) days whether the petition
 4 contains the names of a sufficient number of qualified electors. The
 5 Secretary of State or county clerk shall verify the sufficiency of the
 6 petitions within thirty (30) days of filing. The sufficiency of any petition
 7 filed under ~~the provisions of~~ this section may be challenged in the same
 8 manner as provided by law for election contests, § 7-5-801 et seq.

9 (D) Qualified electors signing the petitions must be
 10 registered voters in the geographic area applicable to the position at the
 11 time they sign the petition. Each qualified elector shall provide his or her
 12 printed name, signature, address, date of birth, and date of signing on the
 13 petition.

14 (E) In determining the number of qualified electors in the
 15 state or in any court of appeals district or circuit court circuit, the total
 16 number of all votes cast therein for Governor in the immediately preceding
 17 general gubernatorial election shall be conclusive of the number of all
 18 qualified electors therein for purposes of this section.

19 (2)(A) Candidates by petition for the Supreme Court shall file
 20 petitions signed by at least ten thousand (10,000) qualified electors or
 21 three percent (3%) of the qualified electors residing within the state,
 22 whichever is the lesser.

23 (B) Candidates by petition for the Court of Appeals shall
 24 file petitions signed by three percent (3%) of the qualified electors
 25 residing within the court of appeals district for which the candidate seeks
 26 office, but in no event shall more than two thousand (2,000) signatures be
 27 required.

28 (C) Candidates by petition for circuit judge and
 29 prosecuting attorney shall file petitions signed by three percent (3%) of the
 30 qualified electors residing within the circuit for which the candidate seeks
 31 office, but in no event shall more than two thousand (2,000) signatures be
 32 required.

33 (D) Candidates by petition for district judge shall file
 34 petitions signed by at least thirty (30) qualified electors who reside within
 35 the district for which the candidate seeks office.

36 (d)(1) No votes for a write-in candidate in a nonpartisan ~~judicial~~

1 election shall be counted or tabulated unless the candidate or his or her
 2 agent gives notice in writing of his or her intention to be a write-in
 3 candidate to the county board of election commissioners and either:

4 ~~(1)~~(A) The Secretary of State, if a candidate for a Justice of
 5 the Supreme Court, Judge of the Court of Appeals, or a circuit judgeship
 6 judge, or prosecuting attorney; or

7 (B) A county clerk, if a candidate for a district
 8 judgeship.

9 (2) The written notice must be given not later than sixty (60)
 10 days before the nonpartisan ~~judicial~~ election.

11 (3) Write-in candidates shall file a political practices pledge
 12 at the same time as filing a notice of intention.

13 (e)(1) A candidate for Justice of the Supreme Court, Judge of the
 14 Court of Appeals, ~~or circuit judge, or prosecuting attorney~~ shall file with
 15 the Secretary of State.

16 (2) A candidate for district judge shall file with the county
 17 clerk.

18
 19 SECTION 9. Arkansas Code § 19-5-1225 is amended to read as follows:
 20 19-5-1225. ~~Judicial~~ Nonpartisan Filing Fee Fund.

21 (a) There is established on the books of the Treasurer of State, the
 22 Auditor of State, and the Chief Fiscal Officer of the State a fund to be
 23 known as the "~~Judicial~~ Nonpartisan Filing Fee Fund".

24 (b)(1) The fund shall consist of nonpartisan ~~judicial~~ office filing
 25 fees as set out in § 7-10-103.

26 (2) The fund shall be used for covering the cost of election
 27 expenses of the State Board of Election Commissioners as set out in § 7-10-
 28 101 et seq.

29
 30 SECTION 10. Arkansas Code § 21-2-102(a)(1) and (2), concerning the
 31 commission fee for certain offices, are amended to read as follows:

32 (a)(1) With the exception of judges elected at the nonpartisan
 33 ~~judicial~~ general election without a runoff, all civil and military state and
 34 county officers who are required by law to be commissioned by the Governor
 35 are required to forward the legal fee for their commissions to the Secretary
 36 of State within sixty (60) days after their election.

1 (2) All judges elected at the nonpartisan ~~judicial~~ general
2 election without a runoff are required to forward the legal fee for their
3 commissions to the Secretary of State within sixty (60) days after the
4 November general election.

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