

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  
4

*As Engrossed: H2/10/09*

# A Bill

HOUSE BILL 1380

5 By: Representative Lea  
6  
7

## For An Act To Be Entitled

8  
9 *AN ACT TO AMEND ARKANSAS LAW CONCERNING*  
10 *NONPARTISAN ELECTIONS; TO PROVIDE FOR THE*  
11 *NONPARTISAN ELECTION OF PROSECUTING ATTORNEYS;*  
12 *AND FOR OTHER PURPOSES.*  
13

## Subtitle

14  
15 *TO AMEND ARKANSAS LAW CONCERNING*  
16 *NONPARTISAN ELECTIONS.*  
17  
18

19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
20

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

23 (11) Administer reimbursement of election expenses to counties in  
24 accordance with § 7-7-201(a) for primary elections, statewide special  
25 elections, and nonpartisan ~~judicial~~ general elections.  
26

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

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

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



1 7-6-102. Political practices pledge – Penalty for falsification.

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

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

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

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

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

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

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

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

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

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

1 certificate of expunction from the court that convicted the prospective  
2 candidate.

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

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

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

16

17 SECTION 4. Arkansas Code § 7-7-306 is amended to read as follows:

18 7-7-306. Partisan and nonpartisan ~~judicial~~ general ballots only.

19 At each party primary and nonpartisan ~~judicial~~ general election each  
20 county board of election commissioners shall furnish separate ballots for  
21 each political party containing:

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

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

26

27 SECTION 5. Arkansas Code § 7-10-101 is amended to read as follows:

28 7-10-101. Definitions.

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

30 (1) "Nonpartisan ~~judicial~~ office" means the offices of Justice  
31 of the Supreme Court, Judge of the Court of Appeals, circuit judge, ~~and~~  
32 district judge, and prosecuting attorney; and

33 (2) "Political party" has the same meaning as provided in § 7-1-  
34 101.

35

36 SECTION 6. Arkansas Code § 7-10-102 is amended to read as follows:

1           7-10-102. Nonpartisan election of judges ~~and~~, justices, and  
2 prosecuting attorneys.

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

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

9           (2) The names of candidates for nonpartisan ~~judicial~~ offices  
10 shall be included on the ballots of the political parties and shall be  
11 designated as nonpartisan ~~judicial~~ candidates. However, separate ballots  
12 containing the names of nonpartisan ~~judicial~~ candidates shall be prepared and  
13 shall be made available to voters requesting the same.

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

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

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

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

28  
29           SECTION 7. Arkansas Code § 7-10-103 is amended to read as follows:

30           7-10-103. Filing as a candidate.

31           (a) A candidate for a nonpartisan ~~judicial~~ office may pay a filing fee  
32 as provided for in this chapter, file a petition in the manner provided for  
33 in this chapter, or file as a write-in candidate in the manner as provided  
34 for in this chapter.

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

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

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

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

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

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

25           (ii) Political practice pledges for nonpartisan  
26 ~~judicial~~ candidates filing by petition shall be filed at the same time as the  
27 petition.

28           (B) The petition shall be directed to the office with  
29 which it is to be filed and shall request that the name of the candidate be  
30 placed on the ballot for the election set forth in the petition. Candidates  
31 may begin circulating petitions not earlier than sixty (60) days prior to the  
32 filing deadline.

33           (C) The Secretary of State or the county clerk, as the  
34 case may be, shall determine within thirty (30) days whether the petition  
35 contains the names of a sufficient number of qualified electors. The  
36 Secretary of State or county clerk shall verify the sufficiency of the

1 petitions within thirty (30) days of filing. The sufficiency of any petition  
2 filed under ~~the provisions of~~ this section may be challenged in the same  
3 manner as provided by law for election contests, § 7-5-801 et seq.

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

9 (E) In determining the number of qualified electors in the  
10 state or in any court of appeals district or circuit court circuit, the total  
11 number of all votes cast therein for Governor in the immediately preceding  
12 general gubernatorial election shall be conclusive of the number of all  
13 qualified electors therein for purposes of this section.

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

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

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

28 (D) Candidates by petition for district judge shall file  
29 *petitions signed by at least ~~thirty (30) qualified electors who reside within~~*  
30 *~~the district for which the candidate seeks office~~ three percent (3%) of the*  
31 *qualified electors residing within the district for which the candidate seeks*  
32 *office, but in no event shall more than two thousand (2,000) signatures be*  
33 *required.*

34 (d)(1) No votes for a write-in candidate in a nonpartisan ~~judicial~~  
35 election shall be counted or tabulated unless the candidate or his or her  
36 agent gives notice in writing of his or her intention to be a write-in

1 candidate to the county board of election commissioners and either:

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

5 (B) A county clerk, if a candidate for a district  
6 judgeship.

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

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

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

14 (2) A candidate for district judge shall file with the county  
15 clerk.

16  
17 SECTION 8. Arkansas Code § 19-5-1225 is amended to read as follows:

18 19-5-1225. ~~Judicial~~ Nonpartisan Filing Fee Fund.

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

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

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

27  
28 SECTION 9. Arkansas Code § 21-2-102(a)(1) and (2), concerning the  
29 commission fee for certain offices, are amended to read as follows:

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

35 (2) All judges elected at the nonpartisan ~~judicial~~ general  
36 election without a runoff are required to forward the legal fee for their

1 commissions to the Secretary of State within sixty (60) days after the  
2 November general election.

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*/s/ Lea*