

1 State of Arkansas  
2 89th General Assembly  
3 Regular Session, 2013  
4

# A Bill

SENATE BILL 872

5 By: Senator J. Key  
6

## For An Act To Be Entitled

8 AN ACT TO ESTABLISH A PROCEDURE FOR A NONPARTISAN  
9 JUDICIAL SPECIAL RUNOFF ELECTION IN THE EVENT OF A  
10 TIE VOTE; AND FOR OTHER PURPOSES.  
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### Subtitle

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13 TO ESTABLISH A PROCEDURE FOR A  
14 NONPARTISAN JUDICIAL SPECIAL RUNOFF  
15 ELECTION IN THE EVENT OF A TIE VOTE.  
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19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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21 SECTION 1. Arkansas Code § 7-5-704 is amended to read as follows:

22 7-5-704. Votes for legislative, judicial, and executive officers –  
23 Returns – Tie vote.

24 (a)(1) It shall be the duty of the Secretary of State, in the presence  
25 of the Governor, within thirty (30) days after the time allowed in this  
26 subchapter to make returns of elections by the county board of election  
27 commissioners, or sooner, if all the returns have been received, to cast up  
28 and arrange the votes from the several counties for each person who received  
29 votes for any legislative, judicial, or executive office, except the offices  
30 named in Arkansas Constitution, Article 6, § 3.

31 (2) The persons who have received the greatest number of legal  
32 votes for ~~Justice~~ Justices of the Supreme Court and Commissioner of State  
33 Lands, within the state; ~~judges~~ Judges of the Court of Appeals, ~~and judges~~  
34 the circuit courts, judges of the district courts, and prosecuting attorneys,  
35 in their respective districts or circuits; ~~judges of the county and probate~~  
36 ~~courts, circuit~~ county judge, circuit clerk, county clerk, sheriff, coroner,



1 surveyor, and assessor, in their respective counties; and all other officers  
2 required by law, shall be commissioned by the Governor.

3 (b)(1) If two (2) or more persons have an equal number of votes for  
4 the same office and a higher number than any other person, the names of the  
5 two (2) candidates receiving the highest number of votes for ~~any a~~  
6 legislative or executive office, except those offices named in Arkansas  
7 Constitution, Article 6, § 3, and constables, shall be certified to a special  
8 runoff election.

9 (2) The special runoff election ~~which~~ shall be held three (3)  
10 weeks from the day ~~on which~~ the general election is held.

11 (3) The special runoff election shall be conducted in the ~~same~~  
12 manner ~~as is now~~ provided by law, and the election results ~~thereof~~ shall be  
13 canvassed and certified in the manner provided by law.

14 (c) Subsection (b) of this section ~~shall~~ does not apply to the offices  
15 of Justice of the Supreme Court, Judge of the Court of Appeals, ~~circuit~~ judge  
16 of the circuit court, or ~~district~~ judge of the district court.

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18 SECTION 2. Arkansas Code Title 7, Chapter 10, is amended to add  
19 additional sections to read as follows:

20 7-10-104. Nonpartisan election of judges and justices – Tie vote.

21 (a) A tie exists in a nonpartisan judicial general or special election  
22 if:

23 (1) Two (2) or more candidates receive the highest number of  
24 votes and receive the same number of votes in the election; or

25 (2) One (1) candidate receives the highest number of votes, but  
26 not a majority of the votes, and two (2) or more other candidates receive the  
27 same number of votes for the next highest number of votes cast.

28 (b) If a tie exists under subsection (a) of this section, the  
29 appropriate county board of election commissioners shall hold a nonpartisan  
30 judicial special runoff election in accordance with § 7-10-105.

31 (c)(1) If a tie exists under subdivision (a)(1) of this section, the  
32 candidates who received the highest number of votes and received the same  
33 number of votes in the election shall be certified to the nonpartisan  
34 judicial special runoff election.

35 (2) If a tie exists under subdivision (a)(2) of this section:

36 (A) The candidate who received the highest number of

1 votes, but not the majority, shall be certified to the nonpartisan judicial  
2 special runoff election; and

3 (B) The county board of election commissioners shall  
4 determine the candidate of the two (2) candidates who received the same  
5 number of votes and the next highest number of votes cast to be certified to  
6 the nonpartisan judicial special runoff election by lot at a public meeting  
7 in the presence of the two (2) candidates.

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9 7-10-105. Timing of nonpartisan judicial special runoff elections -  
10 Separate ballots.

11 (a)(1) Except as provided in this section, a nonpartisan judicial  
12 special runoff election shall be held three (3) weeks from the day the  
13 general election is held.

14 (2) If the date for a nonpartisan judicial special runoff  
15 election three (3) weeks after the general election is a legal holiday, the  
16 Secretary of state shall set another date for the nonpartisan judicial  
17 special runoff election.

18 (b)(1)(A) If a nonpartisan judicial special runoff election is held on  
19 the date of a primary election, the names of candidates for nonpartisan  
20 judicial offices shall be:

21 (i) Included on the ballots of the political  
22 parties; and

23 (ii) Designated as nonpartisan judicial candidates.

24 (B) Separate ballots containing the names of nonpartisan  
25 judicial candidates shall be prepared and made available to voters requesting  
26 a separate ballot.

27 (2) A voter is not required to vote in a political party's  
28 preferential primary in order to vote in a nonpartisan judicial election.

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