

**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.**

INTERIM STUDY PROPOSAL 2007-028

State of Arkansas  
86th General Assembly  
Regular Session, 2007

**A Bill**

HOUSE BILL 1225

By: Representative Lamoureux

Referred to  
State Agencies & Gov't Affairs- House  
by the House of Representatives  
on 03/21/2007

**For An Act To Be Entitled**

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

**Subtitle**

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

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

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

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

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

(a) The county board of election commissioners shall prepare official absentee ballots and deliver them to the county clerk for mailing to all qualified applicants as soon as practicable but in any event not later than twenty-five (25) days before a preferential primary, general election, school election, nonpartisan ~~judicial~~ general election, nonpartisan ~~judicial~~ runoff

1 election, or any special election.

2

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

4 7-6-102. Political practices pledge - Penalty for falsification.

5

6 (a)(1) Candidates for state or district offices shall file with the  
7 Secretary of State and candidates for county, municipal, or township offices  
8 shall file with the county clerk of the county not later than 12:00 noon  
9 fourteen (14) days after the third Tuesday in March, before the preferential  
10 primary election, a pledge in writing stating that they are familiar with the  
11 requirements of §§ 7-1-103, 7-1-104, 7-3-108, and 7-6-101 - 7-6-104 and will,  
12 in good faith, comply with their terms.

13 (2) Persons nominated as independent candidates shall file the  
14 political practices pledge at the time of filing the petition for nomination.

15 (3) Independent candidates for municipal office shall file their  
16 political practices pledges with the county clerk not fewer than ninety (90)  
17 calendar days before the general election by 12:00 noon.

18 (4) Persons who wish to be write-in candidates shall file the  
19 political practices pledge at the time of filing the notice to be a write-in  
20 candidate. A write-in candidate shall file the political practices pledge  
21 with the Secretary of State if a candidate for a state or district office or  
22 with the county clerk if a candidate for a county, township, or municipal  
23 office.

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

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

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

33

34 "I hereby certify that I have never been convicted of a felony in Arkansas  
35 or in any other jurisdiction outside of Arkansas."

36 (c) Any person who has been convicted of a felony and signs the pledge

1 stating that he has not been convicted of a felony shall be guilty of a Class  
 2 D felony.

3 (d) For purposes of this section, a person shall be qualified to be a  
 4 candidate for a state, district, county, municipal, and township office and  
 5 may certify that he has never been convicted of a felony if his record was  
 6 expunged in accordance with §§ 16-93-301 - 16-93-303, or a similar expunction  
 7 statute in another state, provided, the candidate presents a certificate of  
 8 expunction from the court that convicted the prospective candidate.

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

11 (2)(A) However, within five (5) days following the first Tuesday  
 12 in April before the preferential primary election or within five (5) days  
 13 from which the pledge is required to be filed, the Secretary of State or the  
 14 county clerk shall notify by certified mail which requires a return receipt  
 15 signed by the candidate those candidates who have failed to file a signed  
 16 political practice pledge. The notice shall include a copy of the written  
 17 pledge required by this section.

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

23  
 24 SECTION 4. Arkansas Code § 7-6-203(h)(2)(B), concerning affidavits  
 25 filed by nonpartisan candidates, is amended to read as follows:

26 (B) For unopposed candidates for nonpartisan ~~judicial~~  
 27 office, the affidavit may be filed after the deadlines have passed to declare  
 28 as a filing fee candidate, petition candidate, or write-in candidate under §  
 29 7-10-103.

30  
 31 SECTION 5. Arkansas Code § 7-7-306 is amended to read as follows:  
 32 7-7-306. Partisan and nonpartisan ~~judicial~~ general ballots only.

33 At each party primary and nonpartisan ~~judicial~~ general election each  
 34 county board of election commissioners shall furnish separate ballots for  
 35 each political party containing:

36 (1) The names of persons seeking offices to be voted on as a

1 nominee or candidate of that political party; and

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

4  
5 SECTION 6. Arkansas Code § 7-10-101 is amended to read as follows:  
6 7-10-101. Definitions.

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

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

11 (2) "Political party" has the same meaning as provided in § 7-1-  
12 101.

13  
14 SECTION 7. Arkansas Code § 7-10-102 is amended to read as follows:  
15 7-10-102. Nonpartisan election of judges ~~and~~ justices, and

16 prosecuting attorneys.

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

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

23 (2) The names of candidates for nonpartisan ~~judicial~~ offices  
24 shall be included on the ballots of the political parties and shall be  
25 designated as nonpartisan ~~judicial~~ candidates. However, separate ballots  
26 containing only the names of nonpartisan ~~judicial~~ candidates shall be  
27 prepared and shall be made available to voters requesting the same.

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

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

34 (2) In any nonpartisan ~~judicial~~ election in which no person  
35 receives a majority of the votes cast, the two (2) candidates receiving the  
36 highest and next highest number of votes shall be certified to a runoff

1 election which shall be held on the same date and at the same times and  
 2 places as the November general election.

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

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 7 SECTION 8. Arkansas Code § 7-10-103 is amended to read as follows:  
 8 7-10-103. Filing as a candidate.

9 (a) A candidate for a nonpartisan ~~judicial~~ office may pay a filing fee  
 10 as provided for in this chapter, file a petition in the manner provided for  
 11 in this chapter, or file as a write-in candidate in the manner as provided  
 12 for in this chapter.

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

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

21 (B) The period for paying filing fees and filing political  
 22 practice pledges shall begin at 12:00 noon on the third Tuesday in March and  
 23 end at 12:00 noon on the fourteenth day thereafter.

24 (3)(A) There is created on the books of the Treasurer of State,  
 25 the Auditor of State, and the Chief Fiscal Officer of the State a fund to be  
 26 known as the Judicial Filing Fee Fund.

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

30 (c)(1)(A)(i) Any person desiring to have his or her name placed on the  
 31 ballot for a nonpartisan ~~judicial~~ office without paying a filing fee may do  
 32 so by filing a petition in the manner provided for under this section.  
 33 Petitions for Supreme Court, Court of Appeals, ~~and~~ circuit court, and  
 34 prosecuting attorney positions shall be filed with the Secretary of State,  
 35 and petitions for district court positions shall be filed with the applicable  
 36 county clerk beginning at 12:00 noon forty-six (46) days before the third

1 Tuesday in March and ending at 12:00 noon thirty-two (32) days before the  
2 third Tuesday in March.

3 (ii) Political practice pledges for nonpartisan  
4 ~~judicial~~ candidates filing by petition shall be filed at the same time as the  
5 petition.

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

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

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

23 (E) In determining the number of qualified electors in the  
24 state or in any court of appeals district or circuit court circuit, the total  
25 number of all votes cast therein for Governor in the immediately preceding  
26 general gubernatorial election shall be conclusive of the number of all  
27 qualified electors therein for purposes of this section.

28 (2)(A) Candidates by petition for the Supreme Court shall file  
29 petitions signed by at least ten thousand (10,000) qualified electors or  
30 three ~~per cent~~ percent (3%) of the qualified electors residing within the  
31 state, whichever is the lesser.

32 (B) Candidates by petition for the Court of Appeals shall  
33 file petitions signed by three ~~per cent~~ percent (3%) of the qualified  
34 electors residing within the court of appeals district for which the  
35 candidate seeks office, but in no event shall more than two thousand (2,000)  
36 signatures be required.

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

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

9 (d)(1) No votes for a write-in candidate in a nonpartisan ~~judicial~~  
10 election shall be counted or tabulated unless the candidate or his or her  
11 agent gives notice in writing of his or her intention to be a write-in  
12 candidate to the county board of election commissioners and either:

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

16 (B) A county clerk, if a candidate for a district  
17 judgeship.

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

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

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

25 (2) A candidate for district judge shall file with the county  
26 clerk.

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28 SECTION 9. Arkansas Code § 19-5-1225 is amended to read as follows:  
29 19-5-1225. Judicial Filing Fee Fund.

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

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

35 (2) The fund shall be used for covering the cost of election  
36 expenses of the State Board of Election Commissioners as set out in § 7-10-

1 101 et seq.

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3 SECTION 10. Arkansas Code § 21-2-102(a), concerning the commission fee  
4 for certain offices, is amended to read as follows:

5 21-2-102. Commission fee and duplicate oath to be forwarded to  
6 Secretary of State.

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

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

16 (3) Within fifteen (15) days after the commissions have been  
17 received, the officers shall forward their duplicate oaths to the Secretary  
18 of State to be recorded and filed in his or her office.

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