INTERIM STUDY PROPOSAL 2009-070

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2   State of Arkansas

A Bill

3   87th General Assembly

4   Regular Session, 2009   HOUSE BILL   2116

5

6   By: Representative Lea

7

8   Filed with: House Interim Committee on State Agencies and Governmental Affairs

9   pursuant to A.C.A. §10-3-217.

10

11   **For An Act To Be Entitled**

12   AN ACT CONCERNING THE CONDUCT OF NONPARTISAN

13   MUNICIPAL ELECTIONS; AND FOR OTHER PURPOSES.

14

15   **Subtitle**

16   CONCERNING THE CONDUCT OF NONPARTISAN

17   MUNICIPAL ELECTIONS.

18

19

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

21

22   SECTION 1. Arkansas Code § 7-5-106 is amended to read as follows:

23   7-5-106. Runoff elections for county ~~and municipal~~ officers.

24   (a) Whenever there are more than two (2) candidates for election to

25   any county elected office, including the office of justice of the peace, ~~or~~

26   ~~for any municipal office at any general election held in this state and no~~

27   ~~candidate for the municipal or county office receives a majority of the votes~~

28   ~~cast for the office,~~ there shall be a runoff general election held in that

29   county ~~or municipality~~ three (3) weeks following the date of the general

30   election at which the names of the two (2) candidates receiving the highest

31   number of votes, but not a majority, shall be placed on the ballot to be

32   voted upon by the qualified electors of the county ~~or the municipality, as~~

33   ~~the case may be~~.

34   (b) In the event that two (2) candidates receive the highest number of

35   votes and receive the same number of votes, a tie shall be deemed to exist

36   and the names of the two (2) candidates shall be placed on the runoff general

1   election ballot to be voted upon by the qualified electors of the county ~~or~~

2   ~~the municipality, as the case may be~~.

3   (c)(1) If there is one (1) candidate who receives the highest number

4   of votes, but not a majority of the votes, and two (2) other candidates

5   receive the same number of votes for the next highest number of votes cast, a

6   tie shall be deemed to exist between the two (2) candidates.

7   (2) The county board of election commissioners shall determine

8   the runoff candidate by lot at a public meeting and in the presence of the

9   two (2) candidates.

10   (d) If one (1) of the two (2) candidates who received the highest

11 number of votes for an office but not a majority in the general election

12 withdraws prior to certification of the result of the general election, the

13 remaining candidate who received the most votes at the general election shall

14 be declared elected to the office and there shall be no general election

15 runoff.

16   (e)(1) The person receiving the majority of the votes cast for the

17 office at the runoff general election shall be declared elected.

18   (2) However, in the event that the two (2) candidates seeking

19 election to the same county ~~or municipal~~ office shall receive the same number

20 of votes in the runoff election, a tie shall be deemed to exist, and the

21 county board shall determine the winner by lot at an open public meeting and

22 in the presence of the two (2) candidates.

23   ~~(f)(1) For the purposes of this section, the term "municipal officers"~~

24 ~~shall include officers of cities of the first class and cities of the second~~

25 ~~class and incorporated towns and shall include aldermen, members of boards of~~

26 ~~managers, or other elective municipal offices elected by the voters of the~~

27 ~~entire municipality or from wards or districts within a municipality.~~

28   ~~(2) The term "municipal officers" shall not include officers of~~

29 ~~cities having a city manager form of government.~~

30   ~~(3) The provisions of this section shall not be applicable to~~

31 ~~election of members of the boards of directors and other officials of cities~~

32 ~~having a city manager form of government.~~

33   ~~(g)~~(f) The provisions of this section are intended to be in addition

34 to and supplemental to the laws of this state pertaining to the election of

35 county ~~and municipal~~ officers at general elections.

36

1   SECTION 2. Arkansas Code § 14-42-206 is amended to read as follows:

2   14-42-206. Municipal elections — Nominating petitions.

3   (a)(1) The city or town council of any city or town with the mayor-

4 council form of government, by resolution passed before January 1 of the year

5 of the election, may request the county party committees of recognized

6 political parties under the laws of the state to conduct party primaries for

7 municipal offices for the forthcoming year.

8   (2) The resolution shall remain in effect for ~~the~~ subsequent

9 elections unless revoked by the city or town council.

10   (3) When the resolution has been adopted, the clerk or recorder

11 shall mail a certified copy of the resolution to the chairs of the county

12 party committees and to the chairs of the state party committees.

13   (4) Candidates nominated for municipal office by political

14 primaries under this section shall be certified by the county party

15 committees to the county board of election commissioners and shall be placed

16 on the ballot at the general election.

17   (b)(1)(A) If a city or town council does not request party primaries

18 for municipal offices under subsection (a) of this section, the general

19 elections for municipal offices shall be held on the same dates and at the

20 same times and places as provided by law for preferential primary elections.

21   (B)(i) The names of candidates for municipal offices shall

22 be included on the ballots of the political parties and shall be designated

23 as nonpartisan municipal office candidates. However, separate ballots

24 containing the names of nonpartisan municipal candidates shall be prepared

25 and shall be made available to voters requesting the same.

26   (ii) The names of nonpartisan municipal office

27 candidates may be included on a ballot with the names of nonpartisan judicial

28 candidates.

29   (C) A voter shall not be required to vote in a political

30 party's preferential primary in order to be able to vote in nonpartisan

31 judicial elections.

32   (2)(A) A person shall not be elected to a nonpartisan municipal

33 office without receiving a majority of the votes cast at the election for the

34 office.

35   (B) In any nonpartisan municipal election in which a

36 person does not receive a majority of the votes cast, the two (2) candidates

1 receiving the highest and next highest number of votes shall be certified to

2 a runoff election that shall be held on the same date and at the same times

3 and places as the November general election.

4 (C) The names of the candidates in a nonpartisan municipal

5 runoff election shall be placed on the same ballots used for the November

6 general elections.

7 ~~(b)~~(c)(1) Any person desiring to become ~~an independent~~ a nonpartisan

8 candidate for municipal office in cities and towns with the mayor-council

9 form of government shall file not more than ninety (90) nor less than seventy

10 (70) days prior to the ~~general~~ preferential primary election by 12:00 noon

11 with the county clerk the petition of nomination in substantially the

12 following forms:

13 (A) For all candidates except aldermen in cities of the

14 first class and cities of the second class:

15

16 "PETITION OF NOMINATION

17 We, the undersigned qualified electors of the city (town) of . . . . .,

18 Arkansas, being in number not less than ten (10) for incorporated towns and

19 cities of the second (2nd) class, and not less than thirty (30) for cities of

20 the first (1st) class, do hereby petition that the name of _____ be placed on

21 the ballot for the office of _____ at the next election of municipal

22 officials in 20 _____.

23

24

25 Printed Name   Signature   Street Address   Date of Birth   Date of

26 Signing

27

28 _____ "

29

30 (B) For candidates for alderman elected by ward in cities

31 of the first class and cities of the second class, the nominating petitions

32 shall be signed only by qualified electors of the ward in the following

33 manner:

34

35 "PETITION OF NOMINATION

36 We, the undersigned qualified electors of Ward . . . . . of the city of

1   _____, Arkansas, being in number not less than ten (10) for incorporated
2   towns and cities of the second (2nd) class, and not less than thirty (30) for
3   cities of the first (1st) class, do hereby petition that the name of _____ be
4   placed on the ballot for the office of Alderman, Ward _____, position _____,
5   of the next election of municipal officials in 20 _____.
6
7
8   <u>Printed Name</u>   <u>Signature</u>   <u>Street Address</u>   <u>Date of Birth</u>   <u>Date of</u>
9   <u>Signing</u>
10
11   _____ ”
12
13   (C) For at-large candidates for alderman of a ward in
14   cities of the first class and cities of the second class, the nominating
15   petitions shall be signed by any qualified elector of the city in the
16   following manner:
17
18   “PETITION OF NOMINATION
19   We, the undersigned qualified electors of the city of . . . . ., Arkansas,
20   being in number not less than ten (10) for incorporated towns and cities of
21   the second (2nd) class, and not less than thirty (30) for cities of the first
22   (1st) class, do hereby petition that the name of _____ be placed on the
23   ballot for the office of Alderman, Ward _____, position _____, of the next
24   election of municipal officials in 20 _____.
25
26
27   <u>Printed Name</u>   <u>Signature</u>   <u>Street Address</u>   <u>Date of Birth</u>   <u>Date of</u>
28   <u>Signing</u>
29
30   _____ ”
31
32   (2) The county clerk shall determine whether the petition
33   contains a sufficient number of qualified electors.
34   (3) ~~Independent~~ Nonpartisan candidates for municipal office
35   shall file a political practices pledge at the time of filing their
36   petitions.

1   ~~(c)(1)(A)~~(d)(1)   ~~If no candidate receives a majority of the votes cast~~
2   ~~in the general election, the two (2) candidates receiving the highest number~~
3   ~~of votes cast for the office to be filled shall be the nominees for the~~
4   ~~respective offices, to be voted upon in a runoff election pursuant to § 7-5-~~
5   ~~106.~~
6   ~~(B)   In any case, except~~ <u>Except</u> for the office of mayor, ~~in~~
7   ~~which~~ <u>when</u> only one (1) candidate has filed and qualified for the office, the
8   candidate shall be declared elected and the name of the person shall be
9   certified as elected without the necessity of putting the person's name on
10   the ~~general~~ <u>preferential primary</u> election ballot for the office.
11   (2)   If the office of mayor is unopposed, then the candidate for
12   mayor shall be printed on the ~~general~~ <u>preferential primary</u> election ballot
13   and the votes for mayor shall be tabulated as in all contested races.
14   ~~(d)(1)(A)   The governing body of any city of the first class, city of~~
15   ~~the second class, or incorporated town may enact an ordinance requiring~~
16   ~~independent candidates for municipal office to file petitions for nomination~~
17   ~~as independent candidates with the county clerk:~~
18   ~~(i)   No earlier than twenty (20) days prior to the~~
19   ~~preferential primary election; and~~
20   ~~(ii)   No later than 12:00 noon on the day before the~~
21   ~~preferential primary election.~~
22   ~~(B)   The governing body may establish this filing deadline~~
23   ~~for municipal offices even if the municipal offices are all independent or~~
24   ~~otherwise nonpartisan.~~
25   ~~(2)(A)   The ordinance shall be enacted no later than ninety (90)~~
26   ~~days prior to the filing deadline.~~
27   ~~(B)   The ordinance shall be published at least one (1) time~~
28   ~~a week for two (2) consecutive weeks immediately following adoption of the~~
29   ~~ordinance in a newspaper having a general circulation in the city.~~
30   (e)   Nothing in this section shall repeal any law pertaining to the
31   city administrator form of government or the city manager form of government.
32   (f)   This section does not apply in any respect to the election of
33   district judges.
34
35
36   Filed Date: 04/06/2009   By: MBM\VJF