

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 *As Engrossed: S3/27/01 S4/2/01 H4/12/01*

2 83rd General Assembly

# A Bill

3 Regular Session, 2001

SENATE BILL 789

4

5 By: Senator Everett

6 By: Representative Carson

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## For An Act To Be Entitled

10 AN ACT CONCERNING NONPARTISAN JUDICIAL ELECTIONS;

11 AND FOR OTHER PURPOSES.

12

13

## Subtitle

14 AN ACT CONCERNING NONPARTISAN JUDICIAL

15 ELECTIONS.

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

21

22 *SECTION 1. Definitions.*

23 *For the purposes of this act:*

24 *(1) "Nonpartisan judicial office" means the offices of Supreme Court*

25 *Justice, judge of the Court of Appeals, circuit judge and district judge; and*

26 *(2) "Political party" has the same meaning as provided in Arkansas Code*

27 *7-1-101.*

28

29 *SECTION 2. Nonpartisan election of judges and justices.*

30 *(a) The offices of Supreme Court Justice, judge of the Court of*

31 *Appeals, circuit judge, and district judge are declared to be nonpartisan*

32 *offices.*

33 *(b)(1) The general elections for nonpartisan judicial offices shall be*

34 *held on the same dates and at the same times and places as provided by law for*

35 *preferential primary elections.*

36 *(2) The names of candidates for nonpartisan judicial offices*

1 shall be included on the ballots of the political parties and shall be  
2 designated as nonpartisan judicial candidates. However, separate ballots  
3 containing only the names of nonpartisan judicial candidates shall be prepared  
4 and shall be made available to voters requesting the same.

5 (3) No voter shall be required to vote in a political party's  
6 preferential primary in order to be able to vote in nonpartisan judicial  
7 elections.

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

10 (2) In any nonpartisan judicial election in which no person  
11 receives a majority of the votes cast, the two (2) candidates receiving the  
12 highest and next highest number of votes shall be certified to a runoff  
13 election which shall be held on the same date, and at the same times and  
14 places as the November general election.

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

18  
19 SECTION 3. Filing as a candidate.

20 (a) Generally. A candidate for a nonpartisan judicial office may pay a  
21 filing fee as provided for in this act, file a petition in the manner provided  
22 for in this act, or file as a write-in candidate in the manner as provided for  
23 in this act.

24 (b) Filing fee deadlines.

25 (1) The State Board of Election Commissioners shall establish  
26 reasonable filing fees for nonpartisan judicial offices.

27 (2)(A) The filing fee for the offices of Supreme Court Justice,  
28 judge of the Court of Appeals, and circuit judge, shall be paid to the  
29 Secretary of State at the same time the candidate files his or her political  
30 practices pledge. A candidate for district judge shall pay the filing fee to  
31 the county Clerk at the same time the candidate files his or her political  
32 practices pledge.

33 (B) The filing period shall begin at 12:00 noon on the  
34 third Tuesday in March and end at 12:00 noon on the fourteenth day thereafter.

35 (3)(A) There is created on the books of the Treasurer of State,  
36 the Auditor of State, and the Chief Fiscal Officer of the State a fund to be

1 known as the "Judicial Filing Fee Fund".

2 (B) The filing fees shall be remitted to the Treasurer of  
3 State for deposit into the Judicial Filing Fee Fund for covering the cost of  
4 election expenses of the State Board of Election Commissioners.

5 (c) Alternative ballot access.

6 (1)(A) Any person desiring to have his or her name placed on the  
7 ballot for a nonpartisan judicial office without paying a filing fee may do so  
8 by filing a petition in the manner provided for under this section. Petitions  
9 for Supreme Court, Court of Appeals and circuit court positions shall be filed  
10 with the Secretary of State, and petitions for District Court positions shall  
11 be filed with the applicable county clerk beginning 12:00 noon forty-six (46)  
12 days before the third Tuesday in March and ending at 12:00 noon thirty-two  
13 (32) days before the third Tuesday in March.

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

19 (C) The Secretary of State or the county clerk, as the case  
20 may be, shall within thirty (30) days determine whether the petition contains  
21 the names of a sufficient number of qualified electors. The Secretary of State  
22 or County Clerk shall verify the sufficiency of the petitions within 30 days  
23 of filing. The sufficiency of any petition filed under the provisions of this  
24 section may be challenged in the same manner as provided by law for election  
25 contests, beginning at Arkansas Code 7-5-801.

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

31 (E) In determining the number of qualified electors in the  
32 state or in any court of appeals district or circuit court circuit, the total  
33 number of all votes cast therein for Governor in the immediately preceding  
34 general gubernatorial election shall be conclusive of the number of all  
35 qualified electors therein for purposes of this section.

36 (2)(A) Candidates by petition for the Arkansas Supreme Court

1 shall file petitions signed by at least ten thousand (10,000) qualified  
2 electors or three per cent (3%) of the qualified electors residing within the  
3 state, whichever is the lesser.

4 (B) Candidates by petition for the Arkansas Court of  
5 Appeals shall file petitions signed by three per cent (3%) of the qualified  
6 electors residing within the court of appeals district for which the candidate  
7 seeks office, but in no event shall more than two thousand (2,000) signatures  
8 be required.

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

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

16 (d) Write-in candidates.

17 (1) No votes for a write-in candidate in a nonpartisan judicial  
18 election shall be counted or tabulated unless the candidate or his or her  
19 agent, in writing, gives notice of his or her intention to be a write-in  
20 candidate to the county board of election commissioners and either:

21 (A) The Secretary of State, if a candidate for a Supreme  
22 Court, Court of Appeals, or a Circuit judgeship; or

23 (B) A county clerk, if a candidate for a district  
24 judgeship.

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

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

29 (e) Place of filing.

30 (1) A candidate for Supreme Court Justice or judge of the Court  
31 of Appeals, or circuit judge shall file with the Secretary of State.

32 (2) A candidate for district judge shall file with the county  
33 clerk.

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35 SECTION 4. Arkansas Code 7-5-205 is amended to read as follows:

36 7-5-205. Write-in candidates' votes - When counted.

1        (a) No votes for write-in candidates in general elections shall be  
2 counted or tabulated unless the candidate or his agent shall notify in writing  
3 the county board of election commissioners and either the Secretary of State,  
4 if a state or district candidate, or a county clerk, if a candidate for a  
5 county or township office, of his intention to be a write-in candidate not  
6 later than sixty (60) days before the election day.

7        (b) This section shall not apply to the offices of Justice of the  
8 Supreme Court, judge of the Court of Appeals, circuit judge, or district  
9 judge.

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11        SECTION 5. Arkansas Code 7-5-704, concerning returns and canvass, is  
12 amended to add an additional subsection to read as follows:

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

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17        SECTION 6. Arkansas Code 7-7-103, concerning independent candidates, is  
18 amended to add an additional subsection to read as follows:

19        (f) This section shall not apply to the offices of Justice of the  
20 Supreme Court, judge of the Court of Appeals, circuit judge, or district  
21 judge.

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23        SECTION 7. Arkansas Code 7-7-401(e), concerning certification of  
24 nominations, is amended to read as follows:

25        (e)(1) Nomination as a nonpartisan candidate for Supreme Court Justice,  
26 judge of the Court of Appeals, circuit judge, or district judge shall be  
27 deemed certified upon the candidate filing for office where a filing fee is  
28 paid, or upon determination by the appropriate officer that sufficient  
29 signatures were obtained where the candidate seeks alternative ballot access.

30        (2) For any other office, nomination ~~Nomination~~ as an independent  
31 candidate without political party affiliation for election to any office shall  
32 be certified by petition of electors in the manner provided in § 7-7-103.

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34        SECTION 8. Arkansas Code 14-42-206, concerning municipal primary  
35 elections, is amended to add a new subsection to read as follows:

36        (g) This section does not apply in any respect to the election of

1 district judges.

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3 SECTION 9. Arkansas Code 7-5-405 is amended to read as follows:

4 7-5-405. Application form.

5 Applications for absentee ballots may be made on a form furnished by the  
6 county clerk, and the county clerk shall supply a form substantially similar  
7 to the following form or an electronic facsimile of a substantially similar  
8 form via telephonic transmission on request at least sixty (60) days before  
9 the election:

10

11 "IF YOU PROVIDE FALSE INFORMATION ON THIS FORM, YOU MAY BE GUILTY OF  
12 PERJURY AND SUBJECT TO A FINE OF UP TO \$10,000 OR IMPRISONMENT FOR UP TO 10  
13 YEARS.

14

15 ..... Date

16

17 To: County Clerk

18

19 ..... County

20

21 ....., Arkansas .....

22

23 (1) I am a qualified elector of precinct ..... in  
24 ..... (City, Town), ..... County, Arkansas. Because I:

25

26 [check one]

27

28 [ ] Will be unavoidably absent from my polling site on election day, or

29

30 [ ] Will be unable to attend the polls on election day because of  
31 illness or physical disability,

32

33 I am requesting that you provide me with the appropriate absentee  
34 ballot(s) for the following elections: (check only one (1) political party):

35

36 [ ] Nonpartisan Judicial General Election

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- Preferential Primary*
- Democratic/ Nonpartisan Judicial General Election*
- Republican/ Nonpartisan Judicial General Election*
- General Primary (Runoff)       Democratic       Republican*

*Annual School Election*

*General Election*

*General Runoff*

*Special*  *School Runoff* ~~or~~

*All elections for calendar year ..... [designate party] (I understand that if I select all elections for the calendar year that the absentee ballots will be delivered to me only by mail.)*

*The application shall remain in effect for the current calendar year unless revoked by voter.*

*(2) I will receive my ballot(s): [check one]*

*By coming to the office of the county clerk by the time the county clerk's office regularly closes on the day before the election.*

*By mail. I request that you mail my ballot(s) to the following address:*

.....  
.....

*By bearer ..... (insert name of relative, agent, or designated bearer)*





1 ~~the general primary election not later than ten (10) days before all other~~  
2 ~~elections not included in subsection (a).~~

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4 SECTION 11. Section 4 of Act 74 of 2001 is amended to read as follows:

5 "SECTION 4. SPECIAL LANGUAGE. NOT TO BE INCORPORATED INTO THE ARKANSAS  
6 CODE NOR PUBLISHED SEPARATELY AS SPECIAL, LOCAL AND TEMPORARY LAW. USE OF  
7 ELECTION EXPENSES APPROPRIATION. The funds appropriated for Election Expenses  
8 may be used to cover the expenses of the State Board of Election Commissioners  
9 and the county election commissions to conduct preferential primary elections,  
10 general primary elections, special primary elections, nonpartisan judicial  
11 general elections, and statewide special elections.

12 The provisions of this section shall be in effect only from July 1, 2001  
13 through June 30, 2003."

14  
15 SECTION 12. EMERGENCY CLAUSE. It is found and determined by the  
16 General Assembly that Amendment 80 to the Arkansas Constitution becomes  
17 effective on July 1, 2001; that this implements the nonpartisan election of  
18 justices and judges as mandated by Amendment 80; and that to effectively  
19 implement Amendment 80, this act should become effective on July 1, 2001.  
20 Therefore, an emergency is declared to exist and this act being necessary for  
21 the immediate preservation of the public peace, health and safety shall become  
22 effective on July 1, 2001.

23 /s/ Everett  
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