

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 86th General Assembly  
3 Regular Session, 2007

# A Bill

HOUSE BILL 1225

4  
5 By: Representative Lamoureux  
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7

## For An Act To Be Entitled

8  
9 AN ACT TO PROVIDE FOR THE NONPARTISAN ELECTION OF  
10 PROSECUTING ATTORNEYS; AND FOR OTHER PURPOSES.  
11

## Subtitle

12  
13 AN ACT TO PROVIDE FOR THE NONPARTISAN  
14 ELECTION OF PROSECUTING ATTORNEYS.  
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17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
18

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

21 (11) Administer reimbursement of election expenses to counties in  
22 accordance with § 7-7-201(a) for primary elections, statewide special  
23 elections, and nonpartisan ~~judicial~~ general elections;  
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25 SECTION 2. Arkansas Code § 7-5-407(a), concerning the preparation and  
26 delivery of absentee ballots, is amended to read as follows:

27 (a) The county board of election commissioners shall prepare official  
28 absentee ballots and deliver them to the county clerk for mailing to all  
29 qualified applicants as soon as practicable but in any event not later than  
30 twenty-five (25) days before a preferential primary, general election, school  
31 election, nonpartisan ~~judicial~~ general election, nonpartisan ~~judicial~~ runoff  
32 election, or any special election.  
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34 SECTION 3. Arkansas Code § 7-6-102 is amended to read as follows:

35 7-6-102. Political practices pledge - Penalty for falsification.  
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1 (a)(1) Candidates for state or district offices shall file with the  
2 Secretary of State and candidates for county, municipal, or township offices  
3 shall file with the county clerk of the county not later than 12:00 noon  
4 fourteen (14) days after the third Tuesday in March, before the preferential  
5 primary election, a pledge in writing stating that they are familiar with the  
6 requirements of §§ 7-1-103, 7-1-104, 7-3-108, and 7-6-101 - 7-6-104 and will,  
7 in good faith, comply with their terms.

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

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

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

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

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

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

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

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

34 (d) For purposes of this section, a person shall be qualified to be a  
35 candidate for a state, district, county, municipal, and township office and  
36 may certify that he has never been convicted of a felony if his record was

1 expunged in accordance with §§ 16-93-301 - 16-93-303, or a similar expunction  
 2 statute in another state, provided, the candidate presents a certificate of  
 3 expunction from the court that convicted the prospective candidate.

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

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

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

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

21 (B) For unopposed candidates for nonpartisan ~~judicial~~  
 22 office, the affidavit may be filed after the deadlines have passed to declare  
 23 as a filing fee candidate, petition candidate, or write-in candidate under §  
 24 7-10-103.

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 26 SECTION 5. Arkansas Code § 7-7-306 is amended to read as follows:

27 7-7-306. Partisan and nonpartisan ~~judicial~~ general ballots only.

28 At each party primary and nonpartisan ~~judicial~~ general election each  
 29 county board of election commissioners shall furnish separate ballots for  
 30 each political party containing:

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

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

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

1 7-10-101. Definitions.

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

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

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

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

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

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

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

18 (2) The names of candidates for nonpartisan ~~judicial~~ offices  
 19 shall be included on the ballots of the political parties and shall be  
 20 designated as nonpartisan ~~judicial~~ candidates. However, separate ballots  
 21 containing only the names of nonpartisan ~~judicial~~ candidates shall be  
 22 prepared and shall be made available to voters requesting the same.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

18 (E) In determining the number of qualified electors in the  
 19 state or in any court of appeals district or circuit court circuit, the total  
 20 number of all votes cast therein for Governor in the immediately preceding  
 21 general gubernatorial election shall be conclusive of the number of all  
 22 qualified electors therein for purposes of this section.

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

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

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

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

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

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

11 (B) A county clerk, if a candidate for a district  
12 judgeship.

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

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

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

20 (2) A candidate for district judge shall file with the county  
21 clerk.

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23 SECTION 9. Arkansas Code § 19-5-1225 is amended to read as follows:  
24 19-5-1225. Judicial Filing Fee Fund.

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

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

30 (2) The fund shall be used for covering the cost of election  
31 expenses of the State Board of Election Commissioners as set out in § 7-10-  
32 101 et seq.

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

36 21-2-102. Commission fee and duplicate oath to be forwarded to

1 Secretary of State.

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

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

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

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