

1 State of Arkansas  
2 88th General Assembly  
3 Regular Session, 2011  
4

# A Bill

HOUSE BILL 2093

5 By: Representatives Shepherd, Vines  
6

## For An Act To Be Entitled

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

## Subtitle

12  
13 TO AMEND ARKANSAS LAW CONCERNING  
14 NONPARTISAN ELECTIONS.  
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17  
18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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20 SECTION 1. Arkansas Code § 7-4-101(f)(11), concerning the authority of  
21 the State Board of Election Commissioners, is amended to read as follows:

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

28 (a) The county board of election commissioners shall prepare official  
29 absentee ballots and deliver them to the county clerk for mailing to all  
30 qualified applicants as soon as practicable but in any event not later than  
31 thirty-five (35) days before a preferential primary, general election, school  
32 election, nonpartisan ~~judicial~~ general election, nonpartisan ~~judicial~~ runoff  
33 election, or any special election.  
34

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

36 7-6-102. Political practices pledge – Penalty for falsification.



1 (a)(1) Candidates for political party nominations for state or  
2 district offices shall file with the Secretary of State and candidates for  
3 county, municipal, or township offices shall file with the county clerk of  
4 the county during the filing period set out in § 7-7-203 for 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, 7-6-101, 7-6-103, 7-6-104, and  
7 this section and will comply in good faith with their terms.

8 (2) Persons seeking nomination as independent candidates and  
9 school district candidates shall file the political practices pledge at the  
10 time of filing the petition for nomination.

11 (3) Independent candidates for municipal office shall file the  
12 political practices pledge with the county clerk at the time of filing the  
13 petition for nomination.

14 (4) Persons who wish to be write-in candidates shall file the  
15 political practices pledge at the time of filing the notice to be a write-in  
16 candidate.

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

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

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

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

28 (c) Any person who has been convicted of a felony and signs the pledge  
29 stating that he or she has not been convicted of a felony shall be guilty of  
30 a Class D felony.

31 (d) For purposes of this section, a person shall be qualified to be a  
32 candidate for a state, district, county, municipal, and township office and  
33 may certify that he or she has never been convicted of a felony if his or her  
34 record was expunged in accordance with §§ 16-93-301 – 16-93-303, or a similar  
35 expunction statute in another state, provided, the candidate presents a  
36 certificate of expunction from the court that convicted the prospective

1 candidate.

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

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

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

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16 SECTION 4. Arkansas Code § 7-7-306 is amended to read as follows:

17 7-7-306. Partisan and nonpartisan ~~judicial~~ general ballots only.

18 (a) At each party primary and nonpartisan ~~judicial~~ general election  
19 each county board of election commissioners shall furnish separate ballots  
20 for each political party containing:

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

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

25 (3) All measures and questions, if any, to be decided by the  
26 voters.

27 (b) The county board of election commissioners shall also furnish a  
28 separate nonpartisan ballot containing the names of all qualified candidates  
29 for the general election to nonpartisan judicial offices and all measures, if  
30 any, to be decided by the voters.

31

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

33 7-10-101. Definitions.

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

35 (1) "Nonpartisan ~~judicial~~ office" means the offices of Justice  
36 of the Supreme Court, Judge of the Court of Appeals, circuit judge, and

1 district judge, and prosecuting attorney; and

2 (2) "Political party" has the same meaning as provided in § 7-1-  
3 101.

4  
5 SECTION 6. Arkansas Code § 7-10-102 is amended to read as follows:

6 7-10-102. Nonpartisan election of judges ~~and~~, justices, and  
7 prosecuting attorneys.

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

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

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

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

22 (c)(1) A person shall not be elected to a nonpartisan ~~judicial~~ office  
23 without receiving a majority of the votes cast at the election for the  
24 office.

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

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

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34 SECTION 7. Arkansas Code § 7-10-103 is amended to read as follows:

35 7-10-103. Filing as a candidate.

36 (a) A candidate for a nonpartisan ~~judicial~~ office may pay a filing fee

1 as provided for in this chapter, file a petition in the manner provided for  
2 in this chapter, or file as a write-in candidate in the manner as provided  
3 for in this chapter.

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

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

12 (B) The period for paying filing fees and filing political  
13 practice pledges shall begin at 12:00 noon on the first weekday in March and  
14 end at 12:00 noon on the seventh day thereafter.

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

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

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

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

33 (B) The petition shall be directed to the office with  
34 which it is to be filed and shall request that the name of the candidate be  
35 placed on the ballot for the election set forth in the petition. Candidates  
36 may begin circulating petitions not earlier than sixty (60) days prior to the

1 filing deadline.

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

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

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

19 (2)(A) Candidates by petition for the Supreme Court shall file  
20 petitions signed by at least ten thousand (10,000) qualified electors or  
21 three percent (3%) of the qualified electors residing within the state,  
22 whichever is the lesser.

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

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

33 (D) Candidates by petition for district judge shall file  
34 petitions signed by at least one percent (1%) of the qualified electors  
35 residing within the district for which the candidate seeks office, but in no  
36 event shall more than two thousand (2,000) signatures be required.

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

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

8 (B) A county clerk, if a candidate for a district  
 9 judgeship judge.

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

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

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

17 (2) A candidate for district judge shall file with the county  
 18 clerk.

19 (f)(1)(A) A candidate for nonpartisan ~~judicial~~ office may not use more  
 20 than three (3) given names, one (1) of which may be a nickname or any other  
 21 word used for the purpose of identifying the candidate to the voters.

22 (B)(i) A candidate for nonpartisan ~~judicial~~ office may add  
 23 as a prefix to his or her name the title or an abbreviation of an elective  
 24 public office the candidate currently holds.

25 (ii) A candidate may only use as the prefix the  
 26 title of a judicial office in an election for a judgeship if the candidate is  
 27 currently serving in a judicial position to which the candidate has been  
 28 elected or the title of prosecuting attorney in an election for prosecuting  
 29 attorney if the candidate is currently serving as prosecuting attorney.

30 (C) A nickname shall not include a professional or  
 31 honorary title.

32 (2) The names and titles as proposed to be used by each  
 33 candidate on the political practice pledge shall be reviewed no later than  
 34 one (1) business day after the filing deadline by the Secretary of State for  
 35 Supreme Court, Court of Appeals, ~~and~~ circuit court positions, and prosecuting  
 36 attorney and by the county board of election commissioners for district court

1 positions.

2 (3)(A) The name of every candidate shall be printed on the  
3 ballot in the form as certified by either the Secretary of State or the  
4 county board of election commissioners.

5 (B) However, the county board of election commissioners  
6 may substitute an abbreviated title if the ballot lacks space for the title  
7 requested by a candidate.

8 (C) The county board of election commissioners shall  
9 immediately notify a candidate whose requested title is abbreviated by the  
10 county board of election commissioners.

11 (4) A candidate shall not be permitted to change the form in  
12 which his or her name will be printed on the ballot after the deadline for  
13 filing the political practices pledge.

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15 SECTION 8. Arkansas Code § 19-5-1225(b)(1), concerning the Judicial  
16 Filing Fee Fund, is amended to read as follows:

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

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20 SECTION 9. Arkansas Code § 21-2-102(a)(1) and (2), concerning the  
21 commission fee for certain offices, are amended to read as follows:

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

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

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