

1 HB542
2 107470-1
3 By Representative McLaughlin
4 RFD: Constitution and Elections
5 First Read: 11-FEB-10

2
3
4
5
6
7
8 SYNOPSIS: Under existing law, candidates for state
9 judicial offices, including the offices of Chief
10 Justice and Associate Justice of the Supreme Court,
11 Judge of the Court of Criminal Appeals, Judge of
12 the Court of Civil Appeals, circuit court judge,
13 and district court judge, are nominated by
14 political parties and are included on the general
15 election ballots in a column under the party name
16 and emblem.

17 This bill would provide for the nonpartisan
18 election of candidates for state judicial office.
19 The bill would require a special ballot for state
20 judicial candidates. The bill would provide for a
21 filing fee to be paid by candidates for state
22 judicial office to the Secretary of State, to be
23 split between the parties. The bill would provide
24 for filing with the Secretary of State an affidavit
25 of indigency in lieu of payment of the filing fee.
26

27 A BILL

1 TO BE ENTITLED

2 AN ACT

3
4 To amend Sections 17-6-20, 17-6-24, 17-6-25, and
5 17-6-48, Code of Alabama 1975, relating to election of judges
6 and justices and election procedures; to provide for the
7 nonpartisan election of judges; to require a special ballot
8 for state judicial candidates; to provide for a filing fee to
9 be paid by judicial candidates, to be split between the
10 parties; to provide for filing with the Secretary of State of
11 an affidavit of indigency in lieu of payment of the filing fee
12 provided herein.

13 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

14 Section 1. Sections 17-6-20, 17-6-24, 17-6-25, and
15 17-6-48, Code of Alabama 1975, are amended to read as follows:

16 "§17-6-20.

17 "(a) In all elections held in this state on any
18 subject which may be submitted by law to the vote of the
19 people and for ~~all or~~ any state, county, district, or
20 municipal officers, the voting shall be by official ballot
21 prescribed by law; but this section shall not apply to
22 elections held for trustees of public schools or other local
23 elections which are otherwise specifically provided for.

24 "(b) The names of all candidates for state judicial
25 offices shall be placed on the ballot without any type of
26 party designation.

27 "§17-6-24.

1 "(a) All ballots shall be in accordance with the
2 provisions of this chapter and shall contain a party emblem
3 for each political party represented on the ticket. The
4 arrangement of the ballot shall in general conform
5 substantially to the plan hereinafter given, and in all cases
6 the party columns must be placed in alphabetical order,
7 beginning on the left of the ballot. The list of candidates of
8 the several parties shall be printed in parallel and
9 perpendicular columns, each column to be headed by the chosen
10 device of such party and the party name or other designation
11 in such order as the Secretary of State may direct. The number
12 of columns shall exceed by one the number of separate tickets
13 of candidates to be voted for at the polling place for which
14 the ballot is provided, and in the appropriate place the words
15 vote for one (or two or other number, as the case may be) to
16 indicate the number which may be elected to each office. There
17 shall be a separate section on the ballot without any party
18 device or symbol appearing which shall be designated only as
19 the "Official Nonpartisan Judicial Ballot" and which shall
20 list all candidates seeking state judicial office. On the
21 right of each ballot shall be a column in which shall be
22 printed only the titles of the office for which candidates may
23 be voted for by the electors at the polling places for which
24 the ballot is printed. The column is designated as "blank
25 column," and in such column the voting spaces shall be
26 omitted, but in all other respects such blank column shall be
27 a duplicate of the political party columns upon such ballot.

1 "(b) The ballot style and design shall be in
2 substantial conformity with rules promulgated by the Secretary
3 of State under the Administrative Procedure Act.

4 "§17-6-25.

5 "The names of candidates for each office shall be
6 listed on the ballot in alphabetical order by surname, and the
7 offices shall be listed in the following order:

8 "(1) President (if preference primary election).

9 "(2) Delegate to national convention.

10 "(3) Governor.

11 "(4) Lieutenant Governor.

12 "(5) United States senator.

13 "(6) United States representative.

14 "(7) Attorney General.

15 "(8) State senator.

16 "(9) State representative.

17 "~~(10) Supreme Court justice.~~

18 "~~(11) Court of Civil Appeals judge.~~

19 "~~(12) Court of Criminal Appeals judge.~~

20 "~~(13)~~ (10) Secretary of State.

21 "~~(14)~~ (11) State Treasurer.

22 "~~(15)~~ (12) State Auditor.

23 "~~(16)~~ (13) Commissioner of Agriculture and
24 Industries.

25 "~~(17)~~ (14) Public Service Commissioner.

26 "~~(18)~~ (15) State Board of Education member.

27 "~~(19) Circuit court judge.~~

1 "~~(20)~~ (16) District attorney.

2 "~~(21)~~ ~~District court judge.~~

3 "~~(22)~~ (17) Circuit clerk.

4 "~~(23)~~ (18) Other public officers (to be listed in
5 the order prescribed by the judge of probate).

6 "~~(24)~~ (19) Other party officers (to be listed in the
7 order prescribed by the judge of probate).

8 "§17-6-48.

9 "In all primary and general elections of ~~associate~~
10 ~~justices of the Supreme Court of Alabama, justices of the~~
11 ~~courts of appeals of Alabama, judges of the circuit and~~
12 ~~district courts, and~~ associate members of the public service
13 commission, wherein two or more of such ~~justices, judges, or~~
14 officers are to be elected at the same time, each of such
15 places to be filled shall be designated by number by the
16 Secretary of State."

17 Section 2. State judicial offices shall be
18 nonpartisan and candidates for those offices shall be elected
19 on a nonpartisan basis.

20 Section 3. (a) Not later than 60 days before the
21 date of the primary election as provided in Section 17-16-6,
22 Code of Alabama 1975, any candidate for a state judicial
23 office shall file a declaration of candidacy with the
24 Secretary of State. A candidate for any state judicial office
25 shall not designate any party affiliation in his or her
26 declaration for candidacy, or in any manner relating to his or
27 her candidacy.

1 (b) Each candidate at the time of the filing shall
2 pay to the Secretary of State a qualifying fee in an amount
3 equal to two percent of the annual salary paid at the time of
4 filing by the State of Alabama for the judicial office for
5 which the candidate seeks election. Any local supplements or
6 expense allowances which may be paid are not to be considered
7 salary for purposes of calculating the two percent qualifying
8 fee. The Secretary of State shall deposit the qualifying fee
9 as soon as practicable in equal amounts to the two political
10 parties receiving the most votes in the previous election. In
11 lieu of the filing fee required by this subsection, a
12 candidate for judicial office may file an affidavit of
13 indigency with the Secretary of State. The content of such
14 affidavit shall be as determined by the Secretary of State.

15 Section 4. The names of the candidates for each
16 state judicial office shall be listed on the ballot in
17 alphabetical order by surname and the offices shall be listed
18 in the following order:

- 19 (1) Supreme Court.
- 20 (2) Court of Civil Appeals.
- 21 (3) Court of Criminal Appeals.
- 22 (4) Circuit court.
- 23 (5) District court.

24 Section 5. If a state judicial office is to be
25 filled at any election or primary election, all state judicial
26 offices to be filled and the names of all candidates therefor
27 shall appear on the official nonpartisan judicial ballot. No

1 political party designation shall be included on the official
2 nonpartisan judicial ballot.

3 Section 6. In each nonpartisan primary election and
4 general election of a state judicial office, where two or more
5 justices or judges are to be elected at the same time, each of
6 the places shall be designated by number on the official
7 nonpartisan judicial ballot. Not less than 10 days before the
8 time for filing declarations of candidacy for election to any
9 state judicial office, the Secretary of State shall in each
10 case designate the positions to be filled by consecutive
11 number commencing with one. Each candidate for state judicial
12 office shall designate in the declaration of his or her
13 candidacy and in his or her request to have his or her name
14 placed on the official nonpartisan judicial election ballot
15 the number of the place for which he or she is a candidate.
16 The name of each qualified candidate shall be printed on the
17 official nonpartisan judicial ballot used at any election
18 beneath the title of the office and the number of the place
19 for which he or she is seeking election. The state judicial
20 offices so designated shall be dealt with as separate offices
21 for all election purposes and the candidates for each place
22 shall be separately elected, as the case may be. No person
23 shall be a candidate or be permitted to file a declaration for
24 more than one place. No ballot shall be counted for any
25 candidate except for the place and number designated in the
26 declaration of his or her candidacy.

1 Section 7. State judicial offices and the candidates
2 therefor shall appear separately on a nonpartisan ballot in
3 substantially the following form:

4 Official Nonpartisan Judicial Ballot

5 Chief Justice of Supreme Court

6 (in those years when a Chief Justice is to be
7 elected)

8 _____
9 _____
10 _____

11 Associate Justice of Supreme Court

12 __ to be nominated or elected

13 Place No. 1

14 _____
15 _____
16 _____

17 Place No. 2

18 _____
19 _____
20 _____

21 Place No. 3

22 _____
23 _____
24 _____

25 Judge of the Court of Civil Appeals

26 ___ to be nominated or elected

27 Place No. 1

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

Place No. 2

Place No. 3

Judge of the Court of Criminal Appeals

__ to be nominated or elected

Place No. 1

Place No. 2

Place No. 3

Circuit Court Judge

__ to be nominated or elected

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

Place No. 1

Place No. 2

District Court Judge
__ to be nominated or elected

Place No. 1

Place No. 2

Section 8. (a) The election for state judicial office shall be at the time and place provided by statute for holding first primary elections for nonjudicial offices.

(b) The names of all the candidates filing declarations for state judicial office shall appear on the official nonpartisan section of the election ballot for the office. The Secretary of State shall publicly determine and declare whether any candidate for a state judicial office has received a majority of the votes cast for the office. If a

1 candidate for state judicial office has received a majority of
2 the votes cast for the office, the candidate's name shall
3 appear on the general election ballot. If a candidate does not
4 receive a majority of the votes cast in the initial
5 nonpartisan election for a state judicial office, the
6 Secretary of State shall determine and declare the two persons
7 who received the highest number of votes in the initial
8 nonpartisan election for nomination for that office. The names
9 of the two persons who received the highest number of votes
10 shall appear on the general election ballot under the
11 designation for the office.

12 (c) If only one person files a declaration of
13 candidacy for a state judicial office, only the name of that
14 person shall be printed on the nonpartisan judicial ballot at
15 the general election under the designation for that office,
16 followed by a space for the writing in of any other name by a
17 voter. The Secretary of State shall determine and declare that
18 the candidate who has received the highest number of votes
19 cast in the general election is elected to that state judicial
20 office. In all elections where there is a tie between the two
21 candidates for the same state judicial office, the Chief
22 Justice of the Alabama Supreme Court, or if the Chief Justice
23 is a candidate in that election, then the senior Associate
24 Justice of the Supreme Court who is not a candidate in that
25 election, in the presence of the Governor, shall decide the
26 tie by lot.

1 (d) The certificates of the board of supervisors of
2 each county as to the election for state judicial office shall
3 be forwarded by the judge of probate to the Secretary of State
4 within 10 days after the election. The Secretary of State,
5 within 10 days after receiving the returns of election from
6 the judge of probate of each county, shall furnish, from a
7 count of the actual vote cast, as it appears by the return
8 certified to him or her, certificates of election to each
9 state judicial office to be filled at that election.

10 Section 9. This act shall become effective on the
11 first day of the third month following its passage and
12 approval by the Governor, or its otherwise becoming law.