

1 HB340  
2 127771-1  
3 By Representative Newton (C)  
4 RFD: Constitution, Campaigns and Elections  
5 First Read: 24-MAR-11

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8 SYNOPSIS: Under existing law, candidates for circuit  
9 or district court judgeships are nominated by  
10 political parties and are included on the general  
11 election ballots in a column under the party name  
12 and emblem.

13 This bill would provide for the nonpartisan  
14 election of candidates for circuit and district  
15 court judgeships, would provide for a filing fee to  
16 be paid by the candidates to be deposited into the  
17 State General Fund, and would provide for filing  
18 with the Secretary of State an affidavit of  
19 indigency in lieu of payment of the filing fee.  
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21 A BILL  
22 TO BE ENTITLED  
23 AN ACT  
24

25 To amend Sections 17-6-20, 17-6-24, 17-6-25, and  
26 17-13-8, Code of Alabama 1975, relating to the election of  
27 judges, to provide for the nonpartisan election of candidates

1 for circuit and district court judgeships, provide for a  
2 filing fee to be paid by the candidates to be deposited into  
3 the State General Fund, and provide for filing with the  
4 Secretary of State an affidavit of indigency in lieu of  
5 payment of the filing fee.

6 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

7 Section 1. Sections 17-6-20, 17-6-24, 17-6-25, and  
8 17-13-8, Code of Alabama 1975, are amended to read as follows:

9 "§17-6-20.

10 "(a) In all elections held in this state on any  
11 subject which may be submitted by law to the vote of the  
12 people and for ~~all or~~ any state, county, district, or  
13 municipal officers, the voting shall be by official ballot  
14 prescribed by law, ~~but this.~~ This section shall not apply to  
15 elections held for trustees of public schools or other local  
16 elections which are otherwise specifically provided for by  
17 law.

18 "(b) The names of all candidates for circuit and  
19 district court judgeships shall be placed on the ballot  
20 without any type of party designation.

21 "§17-6-24.

22 "(a) All ballots shall be in accordance with ~~the~~  
23 ~~provisions of~~ this chapter and shall contain a party emblem  
24 for each political party represented on the ticket. The  
25 arrangement of the ballot shall in general conform  
26 substantially to the plan hereinafter given, and in all cases  
27 the party columns must be placed in alphabetical order,

1 beginning on the left of the ballot. The list of candidates of  
2 the several parties shall be printed in parallel and  
3 perpendicular columns, each column to be headed by the chosen  
4 device of such party and the party name or other designation  
5 in such order as the Secretary of State may direct. The number  
6 of columns shall exceed by one the number of separate tickets  
7 of candidates to be voted for at the polling place for which  
8 the ballot is provided, and in the appropriate place the words  
9 vote for one (or two or other number, as the case may be) to  
10 indicate the number which may be elected to each office. There  
11 shall be a separate column without any party device or symbol  
12 appearing which shall be designated only as "Official  
13 Nonpartisan Judicial Ballot" and which shall list all  
14 candidates seeking a circuit or district court judgeship. On  
15 the right of each ballot shall be a column in which shall be  
16 printed only the titles of the office for which candidates may  
17 be voted for by the electors at the polling places for which  
18 the ballot is printed. The column is designated as "blank  
19 column, " and in such column the voting spaces shall be  
20 omitted, but in all other respects such blank column shall be  
21 a duplicate of the political party columns upon such ballot.

22 (b) The ballot style and design shall be in  
23 substantial conformity with rules promulgated by the Secretary  
24 of State under the Administrative Procedure Act.

25 "§17-6-25.

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

4            "(1) President (if preference primary).

5            "(2) Delegate to national convention.

6            "(3) Governor.

7            "(4) Lieutenant Governor.

8            "(5) United States senator.

9            "(6) United States representative.

10           "(7) Attorney General.

11           "(8) State senator.

12           "(9) State representative.

13           "(10) Supreme Court justice.

14           "(11) Court of Civil Appeals judge.

15           "(12) Court of Criminal Appeals judge.

16           "(13) Secretary of State.

17           "(14) State Treasurer.

18           "(15) State Auditor.

19           "(16) Commissioner of Agriculture and Industries.

20           "(17) Public Service Commissioner.

21           "(18) State Board of Education member.

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

23           "~~(20)~~ (19) District attorney.

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

25           "~~(22)~~ (20) Circuit clerk.

26           "~~(23)~~ (21) Other public officers (to be listed in the  
27 order prescribed by the judge of probate).

1           "~~(24)~~(22) Other party officers (to be listed in the  
2 order prescribed by the judge of probate).

3           "§17-13-8.

4           "(a) Separate official ballots and other election  
5 stationery and supplies for each political party shall be  
6 printed and furnished for use at each election district or  
7 precinct and shall be of a different color for each of the  
8 political parties participating in such primary election. All  
9 ballots for the same political party shall be alike, except as  
10 herein otherwise provided, printed in plain type and upon  
11 paper so thick that the printing cannot be distinguished from  
12 the back. Across the top of the ballot shall be printed the  
13 party's emblem, if any, and the words, "Official Primary  
14 Election Ballot." Beneath this heading shall be printed the  
15 year in which the election is held and the words "Democratic  
16 Party" or "Republican Party" or other proper party  
17 designation. Each group of candidates to be voted on shall be  
18 preceded by the designation of the office for which the  
19 candidates seek nomination, and in the proper place shall be  
20 printed the words "Vote for one" or "Vote for two" (or more)  
21 according to the number to be elected to such office at the  
22 ensuing election.

23           "(b) At the option of a political party, at the  
24 bottom of the ballot and after the name of the last candidate  
25 shall be printed the following: "By casting this ballot I do  
26 pledge myself to abide by the result of this primary election

1 and to aid and support all the nominees thereof in the ensuing  
2 general election."

3 "(c) Should any voter scratch out, deface, or in any  
4 way mutilate or change the pledge printed on the ballot, the  
5 voter shall not be considered or held to have repudiated or to  
6 have refused to take the pledge, but shall, conclusively, be  
7 presumed and held to have scratched out, defaced, or mutilated  
8 or changed the same for the sole purpose of identifying the  
9 ballot; and, accordingly, such ballot shall be marked "spoiled  
10 ballot" and shall not be counted.

11 "(d) There shall also be a separate, nonpartisan  
12 judicial column listing all candidates seeking a circuit or  
13 district court judgeship. Across the top of the nonpartisan  
14 judicial column shall appear the words "Official Nonpartisan  
15 Judicial Ballot."

16 Section 2. Circuit and district court judgeships  
17 shall be nonpartisan and candidates for those offices shall be  
18 elected on a nonpartisan basis.

19 Section 3. (a) Not later than 60 days before the  
20 date of the primary election as provided in Section 17-13-3,  
21 Code of Alabama 1975, any candidate for a circuit or district  
22 court judgeship shall file a declaration of candidacy with the  
23 Secretary of State. A candidate for any circuit or district  
24 judgeship shall not designate any party affiliation in his or  
25 her declaration for candidacy, or in any manner relating to  
26 his or 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 to the State General Fund. In lieu of  
10 the filing fee required by this subsection, a candidate for  
11 the judicial office may file an affidavit of indigency with  
12 the Secretary of State. The content of such affidavit shall be  
13 as determined by the Secretary of State.

14           Section 4. The names of the candidates for each  
15 circuit and district court judgeship office shall be listed on  
16 the ballot in alphabetical order by surname and the offices  
17 shall be listed in the following order:

18           (1) Circuit court.

19           (2) District court.

20           Section 5. If a circuit or district court judgeship  
21 is to be filled at any election or primary election, a section  
22 of the ballot shall be designated "Official Nonpartisan  
23 Judicial Ballot" and the position to be filled and the names  
24 of all candidates therefor shall appear on that ballot. No  
25 political party designation shall be included on the official  
26 nonpartisan judicial ballot.

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

25           Section 7. The judicial offices and the candidates  
26 therefor shall appear separately on a nonpartisan ballot in  
27 substantially the following form:

1 Official Nonpartisan Judicial Ballot

2 Circuit Court Judge

3 \_\_\_to be nominated or elected

4 Place No. 1

5 \_\_\_\_\_

6 \_\_\_\_\_

7 \_\_\_\_\_

8 Place No. 2

9 \_\_\_\_\_

10 \_\_\_\_\_

11 \_\_\_\_\_

12 District Court Judge

13 \_\_\_to be nominated or elected

14 Place No. 1

15 \_\_\_\_\_

16 \_\_\_\_\_

17 \_\_\_\_\_

18 Place No. 2

19 \_\_\_\_\_

20 \_\_\_\_\_

21 \_\_\_\_\_

22 Section 8. (a) The election for circuit and district  
23 court judge shall be at the time and place provided by statute  
24 for holding first primary elections for nonjudicial offices.

25 (b) The names of all the candidates filing  
26 declarations for a circuit or district court judgeship shall  
27 appear on the primary election ballot for the office. If only

1 one person files a declaration for a judgeship, his or her  
2 name shall not appear on the primary election ballot, but his  
3 or her name shall appear on the general election ballot. The  
4 Secretary of State shall publicly determine and declare  
5 whether any candidate for a circuit or district court  
6 judgeship has received a majority of the votes cast for the  
7 office. Even if a candidate for a circuit or district court  
8 judgeship has received a majority of the votes cast for the  
9 office, the candidate's name must appear on the general  
10 election ballot. If a candidate does not receive a majority of  
11 the votes cast in the initial nonpartisan election for a  
12 circuit or district court judgeship, the Secretary of State  
13 shall determine and declare the two persons who received the  
14 highest number of votes in the initial nonpartisan election  
15 for nomination for that office. The names of the two persons  
16 who received the highest number of votes shall appear on the  
17 general election ballot under the designation for the office.

18 (c) The Secretary of State shall determine and  
19 declare that the candidate who has received the highest number  
20 of votes cast in the general election is elected to that  
21 circuit or district court judgeship. In all elections where  
22 there is a tie between the two candidates for the same circuit  
23 or district court judgeship, the Chief Justice of the Alabama  
24 Supreme Court, in the presence of the Governor, shall decide  
25 the tie by lot.

26 (d) The certificates of the board of supervisors of  
27 each county as to the election for circuit or district court

1 judgeship shall be forwarded by the judge of probate to the  
2 Secretary of State within 10 days after the election. The  
3 Secretary of State, within 10 days after receiving the returns  
4 of election from the judge of probate of each county, shall  
5 furnish, from a count of the actual votes cast, as it appears  
6 by the return certified to him or her, certificates of  
7 election to each circuit or district court judgeship to be  
8 filled at that election.

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