

By: Garza

H.B. No. 1999

A BILL TO BE ENTITLED

AN ACT

relating to the nonpartisan election of district judges.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 41.002, Election Code, is amended to read as follows:

Sec. 41.002. GENERAL ELECTION FOR STATE AND COUNTY OFFICERS. (a) The general election for state and county officers, including the nonpartisan judicial general election, shall be held on the first Tuesday after the first Monday in November in even-numbered years.

(b) Any nonpartisan judicial runoff election shall be held on the first Tuesday after the first Monday in December following the general election.

SECTION 2. The Election Code is amended by adding Title 17 to read as follows:

TITLE 17. NONPARTISAN JUDICIAL ELECTIONS

CHAPTER 291. NONPARTISAN JUDICIAL ELECTION

SUBCHAPTER A. NONPARTISAN ELECTION OF JUDGES GENERALLY

Sec. 291.001. APPLICABILITY OF CHAPTER. The office of district judge is subject to nonpartisan election in accordance with this chapter at the last nonpartisan judicial general election to be held before the date the term of the office expires.

Sec. 291.002. PARTY NOMINATION PROHIBITED. Nomination of a candidate for election to the office of district judge by a

1 political party is prohibited.

2 Sec. 291.003. VOTE REQUIRED FOR ELECTION. (a) To be
3 elected to the office of district judge, a candidate must receive a
4 majority of the total number of votes received by all candidates for
5 the office.

6 (b) If no candidate for a particular office receives the
7 vote required for election, a runoff election for that office is
8 required. Except as otherwise provided by this chapter, Subchapter
9 B, Chapter 2, applies to a runoff election held under this chapter.

10 Sec. 291.004. APPLICABILITY OF OTHER PARTS OF CODE. The
11 other titles of this code apply to a nonpartisan judicial election
12 except provisions that are inconsistent with this title or that
13 cannot feasibly be applied in a nonpartisan judicial election.

14 Sec. 291.005. ADDITIONAL PROCEDURES. The secretary of
15 state shall prescribe any additional procedures necessary for the
16 orderly and proper administration of elections held under this
17 chapter.

18 [Sections 291.006-291.020 reserved for expansion]

19 SUBCHAPTER B. APPLICATION FOR PLACE ON BALLOT

20 Sec. 291.021. APPLICATION REQUIRED. (a) To be entitled to
21 a place on the nonpartisan judicial election ballot, a candidate
22 must make an application for a place on the ballot.

23 (b) An application must, in addition to complying with
24 Section 141.031, be accompanied by the appropriate filing fee or,
25 instead of the filing fee, a petition that satisfies the
26 requirements prescribed by Section 141.062.

27 (c) An application filed by mail is considered to be filed

1 at the time of its receipt by the appropriate authority.

2 (d) Signatures on a petition filed under Subsection (b) may
3 not be obtained on the grounds of a county courthouse or courthouse
4 annex.

5 Sec. 291.022. AUTHORITY WITH WHOM APPLICATION FILED. An
6 application for a place on the nonpartisan judicial election ballot
7 must be filed with the secretary of state.

8 Sec. 291.023. REGULAR FILING DEADLINE. (a) An application
9 for a place on the nonpartisan judicial election ballot must be
10 filed not later than 5 p.m. of the 30th day after runoff primary
11 election day, except as provided by Sections 291.053 and 202.008.

12 (b) An application may not be filed earlier than the 30th
13 day before the date of the regular filing deadline.

14 Sec. 291.024. FILING FEE. (a) The filing fee for a
15 nonpartisan judicial candidate is as follows:

16 (1) district judge, criminal district judge, or
17 family district judge, other than a judge specified by
18 Subdivision (2) 1,200

19 (2) district or criminal district judge of a court in a
20 judicial district wholly contained in a county with a population of
21 more than one million 2,000

22 (b) The secretary of state shall allocate the filing fee for
23 the office of district judge among the counties comprising the
24 district, with each county's allocation equal to the quotient
25 obtained by dividing the amount of the fee by the number of counties
26 wholly or partly in the district. The secretary of state shall
27 deliver each county's allocation to the county clerk not later than

1 the 20th day after the date of the filing deadline.

2 (c) On receipt of an allocation under Subsection (b), the
3 county clerk shall deposit it in the county treasury to the credit
4 of the county general fund.

5 Sec. 291.025. NUMBER OF PETITION SIGNATURES REQUIRED. The
6 minimum number of signatures that must appear on the petition
7 authorized by Section 291.021 is the lesser of:

8 (1) 500; or

9 (2) two percent of the total vote received in the
10 district by all the candidates for governor in the most recent
11 gubernatorial general election, unless that number is under 50, in
12 which case the required number of signatures is the lesser of:

13 (A) 50; or

14 (B) 20 percent of that total vote.

15 Sec. 291.026. STATEMENT ON PETITION. The following
16 statement must appear at the top of each page of a petition to be
17 filed under Section 291.021: "I know that the purpose of this
18 petition is to entitle (insert candidate's name) to have his or her
19 name placed on the ballot for the office of (insert office title,
20 including any place number or other distinguishing number) for the
21 nonpartisan judicial election."

22 Sec. 291.027. CERTIFICATION OF NAMES FOR PLACEMENT ON
23 NONPARTISAN JUDICIAL GENERAL ELECTION BALLOT. (a) Except as
24 provided by Subsection (c), the secretary of state shall certify in
25 writing for placement on the nonpartisan judicial general election
26 ballot the name of each candidate who files with the secretary an
27 application that complies with Section 291.021(b).

1 (b) Not later than the 62nd day before election day, the
2 secretary of state shall deliver the certification to the authority
3 responsible for having the official ballot prepared in each county
4 in which the candidate's name is to appear on the ballot.

5 (c) A candidate's name may not be certified:

6 (1) if, before delivering the certification, the
7 secretary of state learns that the name is to be omitted from the
8 ballot under Section 291.054; or

9 (2) for an office for which the candidate's
10 application is invalid under Section 141.033.

11 [Sections 291.028-291.050 reserved for expansion]

12 SUBCHAPTER C. WITHDRAWAL, DEATH, AND INELIGIBILITY

13 OF CANDIDATE

14 Sec. 291.051. WITHDRAWAL, DEATH, OR INELIGIBILITY
15 GENERALLY. With respect to withdrawal, death, or ineligibility of
16 a candidate in a nonpartisan judicial election, this subchapter
17 supersedes Subchapter A, Chapter 145, to the extent of any
18 conflict.

19 Sec. 291.052. WITHDRAWAL FROM NONPARTISAN JUDICIAL GENERAL
20 ELECTION. (a) A candidate may not withdraw from the nonpartisan
21 judicial general election after the 74th day before election day.

22 (b) A withdrawal request must be filed with the authority
23 with whom the withdrawing candidate's application for a place on
24 the ballot is required to be filed.

25 Sec. 291.053. EXTENDED FILING DEADLINE. (a) The deadline
26 for filing an application for a place on the nonpartisan judicial
27 general election ballot is extended as provided by this section if a

1 candidate who has made an application that complies with the
2 applicable requirements:

3 (1) dies on or after the fifth day before the date of
4 the regular filing deadline and on or before the 74th day before
5 election day;

6 (2) holds the office for which the application was
7 made and withdraws or is declared ineligible on or after the date of
8 the regular filing deadline and on or before the 74th day before
9 election day; or

10 (3) withdraws or is declared ineligible during the
11 period prescribed by Subdivision (2), and at the time of the
12 withdrawal or declaration of ineligibility no other candidate has
13 made an application that complies with the applicable requirements
14 for the office sought by the withdrawn or ineligible candidate.

15 (b) If the deadline for filing applications for an office is
16 extended, an application must be filed not later than 5 p.m. of the
17 69th day before election day.

18 (c) Notice of the extended filing shall be given in the same
19 manner as provided for a primary election.

20 Sec. 291.054. WITHDRAWN, DECEASED, OR INELIGIBLE
21 CANDIDATE'S NAME OMITTED FROM NONPARTISAN JUDICIAL GENERAL
22 ELECTION BALLOT. A candidate's name shall be omitted from the
23 nonpartisan judicial general election ballot if the candidate
24 withdraws, dies, or is declared ineligible on or before the 65th day
25 before election day.

26 Sec. 291.055. DECEASED OR INELIGIBLE CANDIDATE'S NAME TO
27 APPEAR ON NONPARTISAN JUDICIAL GENERAL ELECTION BALLOT. If a

1 candidate who has made an application for a place on the nonpartisan
2 judicial general election ballot that complies with the applicable
3 requirements dies or is declared ineligible after the 74th day
4 before election day, the candidate's name shall be placed on the
5 nonpartisan judicial general election ballot.

6 Sec. 291.056. WITHDRAWAL FROM RUNOFF. (a) A candidate may
7 not withdraw from the nonpartisan judicial runoff election after 5
8 p.m. of the 10th day after the date of the nonpartisan judicial
9 general election.

10 (b) A withdrawal request for the runoff must be filed with
11 the authority with whom the withdrawing candidate's application for
12 a place on the ballot is required to be filed.

13 (c) If a runoff candidate withdraws, the remaining
14 candidate is the winner and the runoff election for that office is
15 not held.

16 Sec. 291.057. DECEASED OR INELIGIBLE CANDIDATE'S NAME TO
17 APPEAR ON RUNOFF BALLOT. If a candidate in the nonpartisan judicial
18 runoff election dies or is declared ineligible before runoff
19 election day, the candidate's name shall be placed on the ballot.

20 [Sections 291.058-291.070 reserved for expansion]

21 SUBCHAPTER D. CONDUCT OF ELECTION

22 Sec. 291.071. NONPARTISAN JUDICIAL ELECTION BALLOT. The
23 nonpartisan judicial offices and candidates shall be listed as a
24 separate ballot on the general election ballot following the
25 partisan offices under the heading "Election For Nonpartisan
26 Judicial Offices."

27 Sec. 291.072. GENERAL PROCEDURE FOR CONDUCT OF NONPARTISAN

1 JUDICIAL ELECTION. Except as otherwise provided by this code, the
2 nonpartisan judicial election shall be conducted and the results
3 canvassed, tabulated, and reported in the manner applicable to
4 partisan offices in the general election for state and county
5 officers.

6 Sec. 291.073. CERTIFICATION OF CANDIDATES FOR PLACEMENT ON
7 RUNOFF BALLOT. (a) The secretary of state shall certify in writing
8 for placement on the nonpartisan judicial runoff election ballot
9 the name of each candidate who is to be a candidate in the runoff.

10 (b) The secretary of state shall deliver the certification
11 to the authority responsible for having the official ballot
12 prepared in each affected county as soon as practicable after the
13 state canvass of the nonpartisan judicial general election is
14 completed.

15 Sec. 291.074. GENERAL PROCEDURE FOR CONDUCT OF NONPARTISAN
16 JUDICIAL RUNOFF ELECTION. The nonpartisan judicial runoff election
17 shall be conducted and the results canvassed, tabulated, and
18 reported in the same manner as the nonpartisan judicial general
19 election.

20 SECTION 3. Section 1.005, Election Code, is amended by
21 amending Subdivision (9) and adding Subdivisions (25) and (26) to
22 read as follows:

23 (9) "Independent candidate" means a candidate in a
24 nonpartisan election or a candidate in a partisan election who is
25 not the nominee of a political party. The term does not include a
26 nonpartisan judicial candidate.

27 (25) "Nonpartisan judicial candidate" means a

1 candidate in a nonpartisan judicial election.

2 (26) "Nonpartisan judicial election" means an
3 election held under Chapter 291.

4 SECTION 4. Section 52.092, Election Code, is amended by
5 amending Subsections (a) and (d) and adding Subsection (f-1) to
6 read as follows:

7 (a) For an election at which offices regularly filled at the
8 general election for state and county officers, including the
9 nonpartisan judicial election, are to appear on the ballot, the
10 offices shall be listed in the following order:

- 11 (1) offices of the federal government;
- 12 (2) offices of the state government:
 - 13 (A) statewide offices;
 - 14 (B) district offices;
- 15 (3) offices of the county government:
 - 16 (A) county offices;
 - 17 (B) precinct offices.

18 (d) District offices of the state government shall be listed
19 in the following order:

- 20 (1) member, State Board of Education;
- 21 (2) state senator;
- 22 (3) state representative;
- 23 (4) chief justice, court of appeals;
- 24 (5) justice, court of appeals;
- 25 (6) ~~district judge,~~
- 26 ~~[(7) criminal district judge,~~
- 27 ~~[(8) family district judge,~~

1 ~~[(9)]~~ district attorney;

2 (7) ~~[(10)]~~ criminal district attorney.

3 (f-1) The nonpartisan judicial offices shall be listed in
4 the following order:

5 (1) district judge;

6 (2) criminal district judge;

7 (3) family district judge.

8 SECTION 5. Section 141.001(a), Election Code, is amended to
9 read as follows:

10 (a) To be eligible to be a candidate for, or elected or
11 appointed to, a public elective office in this state, a person must:

12 (1) be a United States citizen;

13 (2) be 18 years of age or older on the first day of the
14 term to be filled at the election or on the date of appointment, as
15 applicable;

16 (3) have not been determined by a final judgment of a
17 court exercising probate jurisdiction to be:

18 (A) totally mentally incapacitated; or

19 (B) partially mentally incapacitated without the
20 right to vote;

21 (4) have not been finally convicted of a felony from
22 which the person has not been pardoned or otherwise released from
23 the resulting disabilities;

24 (5) have resided continuously in the state for 12
25 months and in the territory from which the office is elected for six
26 months immediately preceding the following date:

27 (A) for a candidate whose name is to appear on a

1 general primary election ballot, the date of the regular filing
2 deadline for a candidate's application for a place on the ballot;

3 (B) for an independent candidate or a nonpartisan
4 judicial candidate, the date of the regular filing deadline for a
5 candidate's application for a place on the ballot;

6 (C) for a write-in candidate, the date of the
7 election at which the candidate's name is written in;

8 (D) for a party nominee who is nominated by any
9 method other than by primary election, the date the nomination is
10 made; and

11 (E) for an appointee to an office, the date the
12 appointment is made; and

13 (6) satisfy any other eligibility requirements
14 prescribed by law for the office.

15 SECTION 6. Section 145.003(b), Election Code, is amended to
16 read as follows:

17 (b) A candidate in the general election for state and county
18 officers, including the nonpartisan judicial general election, may
19 be declared ineligible before the 30th day preceding election day
20 by:

21 (1) the party officer responsible for certifying the
22 candidate's name for placement on the general election ballot, in
23 the case of a candidate who is a political party's nominee; or

24 (2) the authority with whom the candidate's
25 application for a place on the ballot is required to be filed, in
26 the case of an independent candidate or a nonpartisan judicial
27 candidate, as applicable.

1 SECTION 7. Section 145.005(a), Election Code, is amended to
2 read as follows:

3 (a) If the name of a deceased or ineligible candidate
4 appears on the ballot [~~under this chapter~~], the votes cast for the
5 candidate shall be counted and entered on the official election
6 returns in the same manner as for the other candidates.

7 SECTION 8. Section 146.021, Election Code, is amended to
8 read as follows:

9 Sec. 146.021. APPLICABILITY OF SUBCHAPTER. This subchapter
10 applies to a write-in candidate for an office that is to be voted on
11 at the general election for state and county officers, including
12 the nonpartisan judicial general election.

13 SECTION 9. Section 172.021(e), Election Code, is amended to
14 read as follows:

15 (e) A candidate for an office specified by Section
16 172.024(a)(8) [~~7~~] or (10) [~~7, or (12)~~], or for justice of the peace in
17 a county with a population of more than 850,000, who chooses to pay
18 the filing fee must also accompany the application with a petition
19 for a place on the primary ballot as a candidate for judicial office
20 that complies with the requirements prescribed for the petition
21 authorized by Subsection (b), except that the minimum number of
22 signatures that must appear on the petition required by this
23 subsection is 250. If the candidate chooses to file the petition
24 authorized by Subsection (b) in lieu of the filing fee, the minimum
25 number of signatures required for that petition is increased by
26 250. Signatures on a petition filed under this subsection or
27 Subsection (b) by a candidate covered by this subsection may not be

1 obtained on the grounds of a county courthouse or courthouse annex.

2 SECTION 10. Section 172.024(a), Election Code, is amended
3 to read as follows:

4 (a) The filing fee for a candidate for nomination in the
5 general primary election is as follows:

6 (1) United States senator \$5,000

7 (2) office elected statewide, except United States
8 senator 3,750

9 (3) United States representative 3,125

10 (4) state senator 1,250

11 (5) state representative 750

12 (6) member, State Board of Education 300

13 (7) chief justice or justice, court of appeals, other
14 than a justice specified by Subdivision (8) 1,875

15 (8) chief justice or justice of a court of appeals that
16 serves a court of appeals district in which a county
17 with a population of more than 750,000 is wholly or partly
18 situated 2,500

19 ~~(9) [district judge or judge specified by Section~~
20 ~~52.092(d) for which this schedule does not otherwise prescribe a~~
21 ~~fee 1,500~~

22 ~~[(10) district or criminal district judge of a court~~
23 ~~in a judicial district wholly contained in a county with a~~
24 ~~population of more than 850,000 2,500~~

25 ~~[(11)]~~ judge, statutory county court, other than a
26 judge specified by Subdivision (12) 1,500

27 (10) ~~[(12)]~~ judge of a statutory county court in a

1 county with a population of more than 850,0002,500

2 (11) [~~(13)~~] district attorney, criminal district
3 attorney, or county attorney performing the duties of a district
4 attorney1,250

5 (12) [~~(14)~~] county commissioner, district clerk,
6 county clerk, sheriff, county tax assessor-collector, county
7 treasurer, or judge, constitutional county court:

8 (A) county with a population of 200,000
9 or more1,250

10 (B) county with a population of
11 under 200,000750

12 (13) [~~(15)~~] justice of the peace or constable:

13 (A) county with a population of 200,000
14 or more1,000

15 (B) county with a population of
16 under 200,000375

17 (14) [~~(16)~~] county surveyor 75

18 (15) [~~(17)~~] office of the county government for which
19 this schedule does not otherwise prescribe a fee750

20 SECTION 11. Chapter 202, Election Code, is amended by
21 amending Section 202.002 and adding Section 202.008 to read as
22 follows:

23 Sec. 202.002. VACANCY FILLED AT GENERAL ELECTION. (a) If a
24 vacancy occurs on or before the 74th day before the date of the
25 general election for state and county officers, including the
26 nonpartisan judicial general election, held in the next-to-last
27 even-numbered year of a term of office, the remainder of the

1 unexpired term shall be filled at the next such general election
2 [~~for state and county officers~~], as provided by this chapter.

3 (b) If a vacancy occurs after the 74th day before the
4 applicable [~~a~~] general election day, an election for the unexpired
5 term may not be held at that general election. The appointment to
6 fill the vacancy continues until the next succeeding applicable
7 general election and until a successor has been elected and has
8 qualified for the office.

9 Sec. 202.008. FILING DEADLINE FOR APPLICATION OF
10 NONPARTISAN JUDICIAL CANDIDATE. (a) If a vacancy in a nonpartisan
11 judicial office occurs on or before the 10th day before the date of
12 the regular deadline for filing an application for a place on the
13 nonpartisan judicial general election ballot, an application for
14 the unexpired term must be filed by the regular filing deadline.

15 (b) If the vacancy occurs after the 10th day before the date
16 of the regular filing deadline, an application for the unexpired
17 term must be filed not later than 5 p.m. of the 15th day after the
18 date the vacancy occurs or 5 p.m. of the 60th day before election
19 day, whichever is earlier.

20 (c) The filing fee or petition requirements for a candidate
21 for an unexpired term are the same as for a candidate for a full
22 term.

23 SECTION 12. Each judge in office on the effective date of
24 this Act, unless otherwise removed as provided by law, continues in
25 office for the term to which elected or for the period for which
26 appointed, as applicable.

27 SECTION 13. This Act takes effect September 1, 2011.