

State of Arkansas
89th General Assembly
Regular Session, 2013

A Bill

SENATE BILL 872

By: Senator J. Key

For An Act To Be Entitled

AN ACT TO ESTABLISH A PROCEDURE FOR A NONPARTISAN
JUDICIAL SPECIAL RUNOFF ELECTION IN THE EVENT OF A
TIE VOTE; AND FOR OTHER PURPOSES.

Subtitle

TO ESTABLISH A PROCEDURE FOR A
NONPARTISAN JUDICIAL SPECIAL RUNOFF
ELECTION IN THE EVENT OF A TIE VOTE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 7-5-704 is amended to read as follows:

7-5-704. Votes for legislative, judicial, and executive officers –
Returns – Tie vote.

(a)(1) It shall be the duty of the Secretary of State, in the presence of the Governor, within thirty (30) days after the time allowed in this subchapter to make returns of elections by the county board of election commissioners, or sooner, if all the returns have been received, to cast up and arrange the votes from the several counties for each person who received votes for any legislative, judicial, or executive office, except the offices named in Arkansas Constitution, Article 6, § 3.

(2) The persons who have received the greatest number of legal votes for ~~Justice~~ Justices of the Supreme Court and Commissioner of State Lands, within the state; ~~judges~~ Judges of the Court of Appeals, ~~and judges~~ of the circuit courts, judges of the district courts, and prosecuting attorneys, in their respective districts or circuits; ~~judges of the county and probate courts, circuit~~ county judge, circuit clerk, county clerk, sheriff, coroner,



surveyor, and assessor, in their respective counties; and all other officers required by law, shall be commissioned by the Governor.

(b)(1) If two (2) or more persons have an equal number of votes for the same office and a higher number than any other person, the names of the two (2) candidates receiving the highest number of votes for ~~any a~~ legislative or executive office, except those offices named in Arkansas Constitution, Article 6, § 3, and constables, shall be certified to a special runoff election.

(2) The special runoff election ~~which~~ shall be held three (3) weeks from the day ~~on which~~ the general election is held.

(3) The special runoff election shall be conducted in the ~~same~~ manner ~~as is now~~ provided by law, and the election results ~~thereof~~ shall be canvassed and certified in the manner provided by law.

(c) Subsection (b) of this section ~~shall~~ does not apply to the offices of Justice of the Supreme Court, Judge of the Court of Appeals, ~~circuit~~ judge of the circuit court, or ~~district~~ judge of the district court.

SECTION 2. Arkansas Code Title 7, Chapter 10, is amended to add additional sections to read as follows:

7-10-104. Nonpartisan election of judges and justices – Tie vote.

(a) A tie exists in a nonpartisan judicial general or special election if:

(1) Two (2) or more candidates receive the highest number of votes and receive the same number of votes in the election; or

(2) One (1) candidate receives the highest number of votes, but not a majority of the votes, and two (2) or more other candidates receive the same number of votes for the next highest number of votes cast.

(b) If a tie exists under subsection (a) of this section, the appropriate county board of election commissioners shall hold a nonpartisan judicial special runoff election in accordance with § 7-10-105.

(c)(1) If a tie exists under subdivision (a)(1) of this section, the candidates who received the highest number of votes and received the same number of votes in the election shall be certified to the nonpartisan judicial special runoff election.

(2) If a tie exists under subdivision (a)(2) of this section:

(A) The candidate who received the highest number of

votes, but not the majority, shall be certified to the nonpartisan judicial special runoff election; and

(B) The county board of election commissioners shall determine the candidate of the two (2) candidates who received the same number of votes and the next highest number of votes cast to be certified to the nonpartisan judicial special runoff election by lot at a public meeting in the presence of the two (2) candidates.

7-10-105. Timing of nonpartisan judicial special runoff elections – Separate ballots.

(a)(1) Except as provided in this section, a nonpartisan judicial special runoff election shall be held three (3) weeks from the day the general election is held.

(2) If the date for a nonpartisan judicial special runoff election three (3) weeks after the general election is a legal holiday, the Secretary of state shall set another date for the nonpartisan judicial special runoff election.

(b)(1)(A) If a nonpartisan judicial special runoff election is held on the date of a primary election, the names of candidates for nonpartisan judicial offices shall be:

(i) Included on the ballots of the political parties; and

(ii) Designated as nonpartisan judicial candidates.

(B) Separate ballots containing the names of nonpartisan judicial candidates shall be prepared and made available to voters requesting a separate ballot.

(2) A voter is not required to vote in a political party's preferential primary in order to vote in a nonpartisan judicial election.