By: Ellis S.B. No. 207

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the nonpartisan election of appellate justices and

3 judges.

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

5 SECTION 1. Section 41.002, Election Code, is amended to

6 read as follows:

7 Sec. 41.002. GENERAL ELECTION FOR STATE AND COUNTY

8 OFFICERS. (a) The general election for state and county

9 officers, including the nonpartisan judicial general election,

10 shall be held on the first Tuesday after the first Monday in

11 November in even-numbered years.

12 (b) Any nonpartisan judicial runoff election shall be held

13 on the first Tuesday after the first Monday in December following

14 the general election.

15 SECTION 2. The Election Code is amended by adding Title 17

16 to read as follows:

17 TITLE 17. NONPARTISAN JUDICIAL ELECTIONS

18 CHAPTER 291. NONPARTISAN JUDICIAL ELECTION

19 SUBCHAPTER A. NONPARTISAN ELECTION OF JUDGES GENERALLY

20 Sec. 291.001. APPLICABILITY OF CHAPTER. The office of

21 appellate justice or judge is subject to nonpartisan election in

22 accordance with this chapter at the last nonpartisan judicial

23 general election to be held before the date the term of the office

24 expires.

1   Sec. 291.002. PARTY NOMINATION PROHIBITED. Nomination of a

2   candidate for election to a nonpartisan judicial office by a

3   political party is prohibited.

4   Sec. 291.003. VOTE REQUIRED FOR ELECTION. (a) To be

5   elected to a nonpartisan judicial office, a candidate must receive

6   a majority of the total number of votes received by all candidates

7   for the office.

8   (b) If no candidate for a particular office receives the

9   vote required for election, a runoff election for that office is

10   required. Except as otherwise provided by this chapter, Subchapter

11   B, Chapter 2, applies to a runoff election held under this chapter.

12   Sec. 291.004. APPLICABILITY OF OTHER PARTS OF CODE. The

13   other titles of this code apply to a nonpartisan judicial election

14   except provisions that are inconsistent with this title or that

15   cannot feasibly be applied in a nonpartisan judicial election.

16   Sec. 291.005. ADDITIONAL PROCEDURES. The secretary of state

17   shall prescribe any additional procedures necessary for the orderly

18   and proper administration of elections held under this chapter.

19   [Sections 291.006-291.020 reserved for expansion]

20   SUBCHAPTER B. APPLICATION FOR PLACE ON BALLOT

21   Sec. 291.021. APPLICATION REQUIRED. (a) To be entitled to

22   a place on the nonpartisan judicial election ballot, a candidate

23   must make an application for a place on the ballot.

24   (b) An application must, in addition to complying with

25   Section 141.031, be accompanied by the appropriate filing fee or,

26   instead of the filing fee, a petition that satisfies the

27   requirements prescribed by Section 141.062.

2

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

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

3 (d) A candidate for an office specified by Section

4 291.024(a)(3) who chooses to pay the filing fee must also accompany

5 the application with a petition that complies with the requirements

6 prescribed for the petition authorized by Subsection (b), except

7 that the minimum number of signatures that must appear on the

8 petition required by this subsection is 250. If the candidate

9 chooses to file the petition authorized by Subsection (b) instead

10 of the filing fee, the minimum number of signatures required for

11 that petition is increased by 250. Signatures on a petition filed

12 under this subsection or Subsection (b) by a candidate covered by

13 this subsection may not be obtained on the grounds of a county

14 courthouse or courthouse annex.

15 Sec. 291.022. AUTHORITY WITH WHOM APPLICATION FILED. An

16 application for a place on the nonpartisan judicial election ballot

17 must be filed with the secretary of state.

18 Sec. 291.023. REGULAR FILING DEADLINE. (a) An application

19 for a place on the nonpartisan judicial election ballot must be

20 filed not later than 5 p.m. of the 70th day before election day,

21 except as provided by Sections 291.053 and 202.008.

22 (b) An application may not be filed earlier than the 30th

23 day before the date of the regular filing deadline.

24 Sec. 291.024. FILING FEE. (a) The filing fee for a

25 nonpartisan judicial candidate is as follows:

26 (1) office elected statewide $3,000

27 (2) chief justice or justice, court of appeals, other

1 than a justice specified by Subdivision (3) 1,500

2 (3) chief justice or justice of a court of appeals that

3 serves a court of appeals district in which a county with a

4 population of more than one million is wholly or partly

5 situated. 2,000

6 (b) A filing fee received by the secretary of state shall be

7 deposited in the state treasury to the credit of the general revenue

8 fund.

9 Sec. 291.025. NUMBER OF PETITION SIGNATURES REQUIRED. The

10 minimum number of signatures that must appear on the petition

11 authorized by Section 291.021 is:

12 (1) for a statewide office, 5,000; or

13 (2) for a district office, the lesser of:

14 (A) 500; or

15 (B) two percent of the total vote received in the

16 district by all the candidates for governor in the most recent

17 gubernatorial general election.

18 Sec. 291.026. STATEMENT ON PETITION. The following

19 statement must appear at the top of each page of a petition to be

20 filed under Section 291.021: "I know that the purpose of this

21 petition is to entitle (insert candidate's name) to have his or her

22 name placed on the ballot for the office of (insert office title,

23 including any place number or other distinguishing number) for the

24 nonpartisan judicial election."

25 Sec. 291.027. CERTIFICATION OF NAMES FOR PLACEMENT ON

26 NONPARTISAN JUDICIAL GENERAL ELECTION BALLOT. (a) Except as

27 provided by Subsection (c), the secretary of state shall certify in

1   writing for placement on the nonpartisan judicial general election

2   ballot the name of each candidate who files with the secretary an

3   application that complies with Section 291.021(b).

4   (b) Not later than the 55th day before election day, the

5   secretary of state shall deliver the certification to the authority

6   responsible for having the official ballot prepared in each county

7   in which the candidate's name is to appear on the ballot.

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

9   (1) if, before delivering the certification, the

10 secretary of state learns that the name is to be omitted from the

11 ballot under Section 291.054; or

12   (2) for an office for which the candidate's

13 application is invalid under Section 141.033.

14   [Sections 291.028-291.050 reserved for expansion]

15 SUBCHAPTER C. WITHDRAWAL, DEATH, AND INELIGIBILITY OF CANDIDATE

16   Sec. 291.051. WITHDRAWAL, DEATH, OR INELIGIBILITY

17 GENERALLY. With respect to withdrawal, death, or ineligibility of a

18 candidate in a nonpartisan judicial election, this subchapter

19 supersedes Subchapter A, Chapter 145, to the extent of any

20 conflict.

21   Sec. 291.052. WITHDRAWAL FROM NONPARTISAN JUDICIAL GENERAL

22 ELECTION. (a) A candidate may not withdraw from the nonpartisan

23 judicial general election after the 65th day before election day.

24   (b) A withdrawal request must be filed with the authority

25 with whom the withdrawing candidate's application for a place on

26 the ballot is required to be filed.

27   Sec. 291.053. EXTENDED FILING DEADLINE. (a) The deadline

1 for filing an application for a place on the nonpartisan judicial

2 general election ballot is extended as provided by this section if a

3 candidate who has made an application that complies with the

4 applicable requirements:

5   (1) dies on or after the fifth day before the date of

6 the regular filing deadline and on or before the 65th day before

7 election day;

8   (2) holds the office for which the application was

9 made and withdraws or is declared ineligible on or after the date of

10 the regular filing deadline and on or before the 65th day before

11 election day; or

12   (3) withdraws or is declared ineligible during the

13 period prescribed by Subdivision (2), and at the time of the

14 withdrawal or declaration of ineligibility no other candidate has

15 made an application that complies with the applicable requirements

16 for the office sought by the withdrawn or ineligible candidate.

17   (b) If the deadline for filing applications for an office is

18 extended, an application must be filed not later than 5 p.m. of the

19 60th day before election day. Notice of the extended filing shall

20 be given in the same manner as provided for a primary election.

21   Sec. 291.054. WITHDRAWN,   DECEASED,   OR   INELIGIBLE

22 CANDIDATE'S   NAME   OMITTED   FROM   NONPARTISAN   JUDICIAL   GENERAL

23 ELECTION BALLOT. A candidate's name shall be omitted from the

24 nonpartisan judicial general election ballot if the candidate

25 withdraws, dies, or is declared ineligible on or before the 65th day

26 before election day.

27   Sec. 291.055. DECEASED OR INELIGIBLE CANDIDATE'S NAME TO

1 APPEAR ON NONPARTISAN JUDICIAL GENERAL ELECTION BALLOT. If a

2 candidate who has made an application for a place on the nonpartisan

3 judicial general election ballot that complies with the applicable

4 requirements dies or is declared ineligible after the 65th day

5 before election day, the candidate's name shall be placed on the

6 nonpartisan judicial general election ballot.

7 Sec. 291.056. WITHDRAWAL FROM RUNOFF. (a) A candidate may

8 not withdraw from the nonpartisan judicial runoff election after 5

9 p.m. of the 10th day after the date of the nonpartisan judicial

10 general election.

11 (b) A withdrawal request for the runoff must be filed with

12 the authority with whom the withdrawing candidate's application for

13 a place on the ballot is required to be filed.

14 (c) If a runoff candidate withdraws, the remaining

15 candidate is the winner and the runoff election for that office is

16 not held.

17 Sec. 291.057. DECEASED OR INELIGIBLE CANDIDATE'S NAME TO

18 APPEAR ON RUNOFF BALLOT. If a candidate in the nonpartisan judicial

19 runoff election dies or is declared ineligible before runoff

20 election day, the candidate's name shall be placed on the ballot.

21 [Sections 291.058-291.070 reserved for expansion]

22 SUBCHAPTER D. CONDUCT OF ELECTION

23 Sec. 291.071. NONPARTISAN JUDICIAL ELECTION BALLOT. The

24 nonpartisan judicial offices and candidates shall be listed as a

25 separate ballot on the general election ballot following the

26 partisan offices under the heading "Election For Nonpartisan

27 Judicial Offices."

1 Sec. 291.072. GENERAL PROCEDURE FOR CONDUCT OF NONPARTISAN
2 JUDICIAL ELECTION. Except as otherwise provided by this code, the
3 nonpartisan judicial election shall be conducted and the results
4 canvassed, tabulated, and reported in the manner applicable to
5 partisan offices in the general election for state and county
6 officers.

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

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

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

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

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

1   (25) "Nonpartisan judicial candidate" means a

2   candidate in a nonpartisan judicial election.

3   (26) "Nonpartisan judicial election" means an

4   election held under Chapter 291.

5   SECTION 4. Section 52.092, Election Code, is amended by

6   amending Subsections (a), (c), (d), and (g)-(j) and by adding

7   Subsection (k) to read as follows:

8   (a) For an election at which offices regularly filled at the

9   general election for state and county officers, including the

10 nonpartisan judicial election, are to appear on the ballot, the

11 offices shall be listed in the following order:

12 (1) offices of the federal government;

13 (2) offices of the state government:

14 (A) statewide offices;

15 (B) district offices;

16 (3) offices of the county government:

17 (A) county offices;

18 (B) precinct offices.

19 (c) Statewide offices of the state government shall be

20 listed in the following order:

21 (1) governor;

22 (2) lieutenant governor;

23 (3) attorney general;

24 (4) comptroller of public accounts;

25 (5) commissioner of the General Land Office;

26 (6) commissioner of agriculture;

27 (7) railroad commissioner[+

9

1   [(8) chief justice, supreme court;

2   [(9) justice, supreme court;

3   [(10) presiding judge, court of criminal appeals;

4   [(11) judge, court of criminal appeals].

5   (d) District offices of the state government shall be listed

6   in the following order:

7   (1) member, State Board of Education;

8   (2) state senator;

9   (3) state representative;

10   (4) [chief justice, court of appeals;

11   [(5) justice, court of appeals;

12   [(6)] district judge;

13   (5) [(7)] criminal district judge;

14   (6) [(8)] family district judge;

15   (7) [(9)] district attorney;

16   (8) [(10)] criminal district attorney.

17   (g) The nonpartisan judicial offices shall be listed in the

18 following order:

19   (1) chief justice, supreme court;

20   (2) justice, supreme court;

21   (3) presiding judge, court of criminal appeals;

22   (4) judge, court of criminal appeals;

23   (5) chief justice, court of appeals;

24   (6) justice, court of appeals.

25   (h) If two or more offices having the same title except for a

26 place number or other distinguishing number are to appear on the

27 ballot, the number shall appear as part of the office title and the

1 offices shall be listed in numerical order.

2   (i) [(h)] The secretary of state shall assign a place number

3 to each position to be filled at the nonpartisan judicial [general]

4 election [for state and county officers] for each full or unexpired

5 term in the following offices:

6   (1) justice, supreme court;

7   (2) judge, court of criminal appeals; and

8   (3) justice, court of appeals in a court having a

9 membership in excess of three, if distinguishing the positions to

10 be filled is necessary.

11   (j) [(i)] The secretary of state shall designate the

12 position of new offices on the ballot.

13   (k) [(j)] The office of judge of a multicounty statutory

14 county court created under Subchapter D, Chapter 25, Government

15 Code, is considered to be a county office for purposes of listing

16 the office on the ballot and to be a district office for all other

17 purposes under this code.

18   SECTION 5.   Section 141.001(a), Election Code, is amended

19 to read as follows:

20   (a) To be eligible to be a candidate for, or elected or

21 appointed to, a public elective office in this state, a person must:

22   (1) be a United States citizen;

23   (2) be 18 years of age or older on the first day of the

24 term to be filled at the election or on the date of appointment, as

25 applicable;

26   (3) have not been determined mentally incompetent by a

27 final judgment of a court;

1   (4) have not been finally convicted of a felony from

2 which the person has not been pardoned or otherwise released from

3 the resulting disabilities;

4   (5) have resided continuously in the state for 12

5 months and in the territory from which the office is elected for six

6 months immediately preceding the following date:

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

8 general primary election ballot, the date of the regular filing

9 deadline for a candidate's application for a place on the ballot;

10   (B) for an independent candidate or a nonpartisan

11 judicial candidate, the date of the regular filing deadline for a

12 candidate's application for a place on the ballot;

13   (C) for a write-in candidate, the date of the

14 election at which the candidate's name is written in;

15   (D) for a party nominee who is nominated by any

16 method other than by primary election, the date the nomination is

17 made; and

18   (E) for an appointee to an office, the date the

19 appointment is made; and

20   (6) satisfy any other eligibility requirements

21 prescribed by law for the office.

22   SECTION 6. Section 145.003(b), Election Code, is amended

23 to read as follows:

24   (b) A candidate in the general election for state and county

25 officers, including the nonpartisan judicial general election, may

26 be declared ineligible before the 30th day preceding election day

27 by:

1   (1) the party officer responsible for certifying the

2   candidate's name for placement on the general election ballot, in

3   the case of a candidate who is a political party's nominee; or

4   (2) the authority with whom the candidate's

5   application for a place on the ballot is required to be filed, in

6   the case of an independent candidate or a nonpartisan judicial

7   candidate, as applicable.

8   SECTION 7.   Section 145.005(a), Election Code, is amended

9   to read as follows:

10   (a) If the name of a deceased or ineligible candidate

11   appears on the ballot [under this chapter], the votes cast for the

12   candidate shall be counted and entered on the official election

13   returns in the same manner as for the other candidates.

14   SECTION 8.   Section 146.021, Election Code, is amended to

15   read as follows:

16   Sec. 146.021. APPLICABILITY   OF   SUBCHAPTER. This

17   subchapter applies to a write-in candidate for an office that is to

18   be voted on at the general election for state and county officers,

19   including the nonpartisan judicial general election.

20   SECTION 9.   Section 172.021(e), Election Code, is amended

21   to read as follows:

22   (e) A candidate for an office specified by Section

23   172.024(a)(8) or [,] (10) [, or (12)], or for justice of the peace

24   in a county with a population of more than 850,000, who chooses to

25   pay the filing fee must also accompany the application with a

26   petition that complies with the requirements prescribed for the

27   petition authorized by Subsection (b), except that the minimum

1 number of signatures that must appear on the petition required by
2 this subsection is 250. If the candidate chooses to file the
3 petition authorized by Subsection (b) instead of the filing fee,
4 the minimum number of signatures required for that petition is
5 increased by 250. Signatures on a petition filed under this
6 subsection or Subsection (b) by a candidate covered by this
7 subsection may not be obtained on the grounds of a county courthouse
8 or courthouse annex.

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

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

13   (1) United States senator. $4,000
14   (2) office elected statewide, except United States
15   senator .3,000
16   (3) United States representative 2,500
17   (4) state senator 1,000
18   (5) state representative 600
19   (6) member, State Board of Education 250
20   (7) [chief justice or justice, court of appeals, other
21   than a justice specified by Subdivision
22   (8). 1,500
23   [(8) chief justice or justice of a court of appeals
24   that serves a court of appeals district in which a
25   county with a population of more than 850,000 is
26   wholly or partly situated 2,000
27   [(9)] district judge or judge specified by Section

14

1   52.092(d) for which this schedule does not

2   otherwise prescribe a fee 1,200

3   (8) [(10)] district or criminal district judge of a

4   court in a judicial district wholly contained in a

5   county with a population of more than

6   850,000 .2,000

7   (9) [(11)] judge, statutory county court, other than a

8   judge specified by Subdivision (10) [(12)] .1,200

9   (10) [(12)] judge of a statutory county court in a

10   county with a population of more than

11   850,000 .2,000

12   (11) [(13)] district attorney, criminal district

13   attorney, or county attorney performing the

14   duties of a district attorney 1,000

15   (12) [(14)] county commissioner or judge,

16   constitutional county court:

17   (A) county with a population of 200,000 or

18   more .1,000

19   (B) county with a population of under 200,000 600

20   (13) [(15)] justice of the peace or constable:

21   (A) county with a population of 200,000 or

22   more .800

23   (B) county with a population of under

24   200,000 300

25   (14) [(16)] county surveyor, inspector of hides and

26   animals, or public weigher 50

27   (15) [(17)] office of the county government for which

1   this schedule does not otherwise prescribe a

2   fee............................ 600

3   SECTION 11. Chapter 202, Election Code, is amended by

4 amending Section 202.002 and by adding Section 202.008 to read as

5 follows:

6   Sec. 202.002. VACANCY FILLED AT GENERAL ELECTION. (a) If a

7 vacancy occurs on or before the 65th day before the date of the

8 general election for state and county officers, including the

9 nonpartisan judicial general election, held in the next-to-last

10 even-numbered year of a term of office, the remainder of the

11 unexpired term shall be filled at the next such general election

12 [for state and county officers], as provided by this chapter.

13   (b) If a vacancy occurs after the 65th day before the

14 applicable [a] general election day, an election for the unexpired

15 term may not be held at that general election. The appointment to

16 fill the vacancy continues until the next succeeding applicable

17 general election and until a successor has been elected and has

18 qualified for the office.

19   Sec. 202.008. FILING   DEADLINE   FOR   APPLICATION   OF

20 NONPARTISAN JUDICIAL CANDIDATE. (a) If a vacancy in a nonpartisan

21 judicial office occurs on or before the 10th day before the date of

22 the regular deadline for filing an application for a place on the

23 nonpartisan judicial general election ballot, an application for

24 the unexpired term must be filed by the regular filing deadline.

25   (b) If the vacancy occurs after the 10th day before the date

26 of the regular filing deadline, an application for the unexpired

27 term must be filed not later than 5 p.m. of the 15th day after the

1   date the vacancy occurs or 5 p.m. of the 60th day before election

2   day, whichever is earlier.

3   (c)   The filing fee or petition requirements for a candidate

4   for an unexpired term are the same as for a candidate for a full

5   term.

6   SECTION 12.   Each appellate justice or judge in office on

7   the   effective   date   of   this   Act,   unless   otherwise   removed   as

8   provided by law, continues in office for the term to which elected

9   or for the period for which appointed, as applicable.

10   SECTION 13.   This Act takes effect September 1, 2003.