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FISCAL IMPACT REPORT

ORIGINAL DATE 2/15/15

SPONSOR Cook LAST UPDATED _____ HB HJR11

SHORT TITLE Nonpartisan Judicial Elections SB _____

ANALYST A. Sánchez

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY15	FY16	FY17	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total			>\$15.2	>\$15.2	Nonrecurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

- Administrative Office of the Courts (AOC)
- Attorney General’s Office (AGO)
- Public Defender Department (PDD)
- New Mexico Judicial Standards Commission (NMJSC)

SUMMARY

Synopsis of Bill

House Joint Resolution 11 proposes an amendment to Article 6, Section 33 of the Constitution of New Mexico, to provide for nonpartisan rather than partisan judicial elections for Supreme Court Justices, and judges of the Court of Appeals, District and Metropolitan Courts, prior to being eligible for a nonpartisan retention election.

HJR 11 requires the proposed amendment to be submitted to voters for the approval or rejection at the next general election or at any special election prior to that date that may be called for that purpose.

FISCAL IMPLICATIONS

Under Section 1-16-13 NMSA 1978 and the New Mexico constitution, the SOS is required to print samples of the text of each constitutional amendment, in both Spanish and English, in an amount equal to ten [percent of the registered voters in the state. The SOS is also required to publish them once a week for four weeks preceding the election in newspapers in every county in the state. In 2014, the SOS estimated the cost per constitutional amendment to be \$15,217.

However, if the ballot size is greater than on page, front and back, it would increase the costs of conducting the general election. In addition to the cost of the ballot, there will be added time for processing voters to vote and would mean additional ballot printing systems would be required to avoid having lines at voting convenience centers.

SIGNIFICANT ISSUES

AOC reports that 22 states conduct at least a portion of their judicial selection through nonpartisan elections. 13 states conduct all of their judicial selection through nonpartisan elections. 17 states conduct prescribed or *de facto* judicial runoff elections, of which Mississippi appears to be the only state that permits all qualified candidates to run in the general election, rather than a primary election, with a separate run-off election being held between the top two candidates if no candidate receives a majority of the vote. A survey of the various states' judicial election systems is attached.

AOC adds that Article 6 of the Constitution of Mississippi provides that judges shall be elected by qualified electors "at a time and in the manner provided by law" or "provided by the legislature." Mississippi's "Nonpartisan Judicial Election Act" is set out at Miss. Code Ann. Sections 23-15-974 through 23-15-985 (2014) et. seq... Section 23-15-981, governing runoff elections for judicial office provides:

§ 23-15-981. Two or more candidates qualify for judicial office; majority vote wins; runoff election

If two (2) or more candidates qualify for judicial office, the names of those candidates shall be placed on the general election ballot. If any candidate for such an office receives a majority of the votes cast for such office in the general election, he shall be declared elected. If no candidate for such office receives a majority of the votes cast for such office in the general election, the names of the two (2) candidates receiving the highest number of votes for such office shall be placed on the ballot for a second election to be held three (3) weeks later in accordance with appropriate procedures followed in other elections involving runoff candidates.

AOC also indicates that nowhere in the United States is there a judicial election system that is nonpartisan that does not include a runoff election if the candidate with the most votes does not get at least 50 percent of the vote. In all states except Mississippi with nonpartisan judicial election, a primary process results in two candidates in a runoff on the general election ballot. In Mississippi the runoff occurs after the general election.

AOC continues that the joint resolution, as drafted, would leave open the possibility of a statewide justice, judge or a district or metropolitan judge being elected with much less than the majority of the vote. Should there be eight or ten candidates, the winning total may be as low as 20-25 percent. The joint resolution retains the requirement for at least 57 percent supermajority in a retention election notwithstanding the potential for election to the office by significantly less than a 50 percent majority in the general election.

AOC provides information from Mississippi which has produced a "Non-Partisan Judicial Elections Guide," in which the state's statutes and Code of Judicial Conduct are referenced. Similarly, if the HJR11 amendment to Article 6, Section 33 of the Constitution of New Mexico

were to be approved by the voters, amendments to the following sections in Canon 4 of the Code of Judicial Conduct would be necessary, as no judges would be running a partisan election:

- Section 21-402, governing political and campaign activities of judicial candidates in public elections; and
- Section 21-404, governing campaign committees.

AOC opines that to successfully amend the constitution, a majority of legislators in both the house and the senate must vote in favor of the amendment. The secretary of state must publish the amendment in ways specified by Article 19, Section 1, and then a majority of voters must vote in favor of the amendment in the next general election.

The AGO believes it is unclear exactly what change in the judicial selection/election process will result from this Amendment. Only changing the modifying word “partisan” to “nonpartisan” in Article VI, Section 33 of the New Mexico Constitution may not achieve the type or extent of change intended or anticipated by those who advocate this change in language. “In construing a constitutional amendment, the true meaning and intent of the amendment as adopted by the people must be determined.” N.M. Att’y Gen. Op. 95-03 (1995) (citing *Flaska v. State*, 51 N.M. 13, 18, 177 P.2d 174 (1947)). Further, constitutional provisions are to be construed as a whole, rather than in isolation. *Id.* (citing *In re Generic Investigation into Cable Television Services in State of N.M.*, 103 N.M. 345, 349, 707 P.2d 1155 (1985)); *see also Incorporated County of Los Alamos v. Johnson*, 108 N.M. 633, 634, 776 P.2d 1252 (1989).

Additionally the AGO states that the Amendment does not appear to eliminate competitive elections of judges after a gubernatorial appointment. It appears only to eliminate the identification of a candidate’s political party affiliation in that contested election.

PERFORMANCE IMPLICATIONS

The courts are participating in performance-based budgeting. This bill may have an impact on the measures of the district courts in the following areas:

- Cases disposed of as a percent of cases filed
- Percent change in case filings by case type

ADMINISTRATIVE IMPLICATIONS

According to JSC, The amendment could change the number of complaints filed with the Commission, but the Commission cannot quantify the effect.

TECHNICAL ISSUES

The AGO provides the following:

Meaning of “Nonpartisan”: The word “*nonpartisan*” is already used in Article VI, Section 33 with reference to a subsequent referendum election. As applied in that context “*nonpartisan*” means only that the party affiliation of a sitting judge or justice is not identified on the ballot during a general election retention election. As used in connection with other elective offices, the term has the same meaning. *See e.g.*, NMSA 1978, §3-8-29 C (1985, amended 1999) (“No ticket designations or party affiliations shall be shown on the ballot. Municipal elections shall be nonpartisan.”); NMSA 1978, §1-22-10 D (1985, amended

2009) (“A school district election shall be a nonpartisan election, and the names of all candidates shall be listed on the ballot without party or slate designation.”)

Accordingly, using the term *nonpartisan* in Article VI, Section 33 with respect to the initial competitive general election of a judge or justice means the same thing as it presently does, i.e., only that the party affiliation of any and all candidates is not to be listed on the general election ballot.

Partisan Mechanisms for Inclusion of Name on General Election Ballot Not Affected by Amendment: What is not addressed or affected by the proposed change in HJR11 are the mechanisms by which a prospective candidate’s name will be allowed for inclusion on a general election ballot. Accordingly, the effect of the proposed change may mean only that the same “partisan” mechanisms will apply to determine whose name will be included on the general election ballot – the only difference being that their party affiliation may not be identified.

Current Mechanisms for Inclusion of Judicial Candidates on General Election Ballot: Under current law, the mechanisms for inclusion of a judicial candidate’s name on the general election ballot depend upon whether the judicial candidate is (1) a registered member of a *major* political party (i.e., through partisan primary election, *see* NMSA 1978, §1-8-1 A; (2003), or party convention designation, *see* NMSA 1978, §1-8-7; (1979); (2) a registered member of a *minor* political party (i.e., through political convention, *see* NMSA 1978, §1-8-2 (2007), or “other methods”; *see* NMSA 1978, §1-8-3; (1998); or (3) *not a registered member* of any qualified political party (i.e., through nominating petition, *see* NMSA 1978, §1-8-50 (2011), NMSA 1978, §1-8-51 C and E (1998)). These mechanisms for a judicial candidate to be included in the general election ballot are not changed or affected by the proposed amendment to Article VI, Section 33 of the New Mexico Constitution.

No Protection for Gubernatorial Interim Judicial Appointees: Additionally, the proposed amendment would not permit an interim judicial appointee of the governor to get on the general election ballot other than through the existing statutory mechanisms. Mere appointment by the governor to an interim judicial position has not and will not guarantee inclusion of that appointee’s name on the general election ballot; that person still must satisfy the current laws’ requirements to be listed on the ballot. The only certain change to result from HJR 11 seems to be that the candidates in a contested election would not be identified by their political party affiliation.

OTHER SUBSTANTIVE ISSUES

The AGO offers the following:

Apparently Incorrect Public Interpretations of the Amendment’s Intent: There appears to be an incorrect assumption in the public media that the proposed amendment will affect the selection *mechanism* by which a candidate’s name may be included on a general election ballot, either in a competitive election against other candidates or in a non-competitive retention election.

A recent letter to the Albuquerque Journal by District Court Judge Alan Malott appears incorrectly to suggest that this one word change would allow a governor’s interim judicial appointee to completely avoid the competitive election process and go straight into a non-

partisan retention election. See Alan M. Malott, *We Need to Keep Politics Out of the Courthouse* (Feb. 6, 2015), <http://www.abqjournal.com/537349/opinion/we-need-to-keep-politics-out-of-the-courthouse.html> (“Simply removing the requirement of a partisan election race after a judge’s initial appointment, it makes New Mexico a straight retention system in line with a number of other states.”)

Similarly, an Albuquerque Journal Editorial appears to incorrectly assess the effect of the proposed change as one that would protect an interim gubernatorial judicial appointee from political forces that would prevent the interim appointee from even getting on the general election ballot. See Editorial, *Make Judicial Elections Nonpartisan All the Way* (Feb. 9, 2015), <http://www.abqjournal.com/538656/opinion/make-judicial-elections-nonpartisan-all-the-way.html> (suggesting that the proposed change would prevent a major political party from selecting a general election candidate other than the person - also a member of that major political party - who had been selected by the governor to occupy the judicial position). To the contrary, changing Article VI, Section 33 by insertion of the word “nonpartisan” would not alter the effect of Article VI, Sections 35 to -37 of the New Mexico Constitution, which provide that “[a]ny [Supreme Court Justice, Court of Appeals Judge, District Court Judge, or Metropolitan Court Judge] appointed [by the governor] shall serve **until** the next general election.” (Emphasis added.)

ALTERNATIVES

The AGO opines as follows:

If the intent of HJR 11 is to allow a governor’s judicial appointments to avoid any contested election and stand only for a retention election, the Joint Resolution should be amended accordingly.

Similarly, if the intent of HJR11 is to automatically qualify a judge appointed by the governor to run as a nonpartisan candidate in the next general election after appointment, the Joint Resolution should also be amended to achieve that result.

ABS/aml/bb

STATES WITH NONPARTISAN JUDICIAL ELECTIONS

According to the American Judicature Society, 22 states conduct at least a portion of their judicial selection through nonpartisan elections. (See “D,” below for a detailed list.)

A. Judicial Selection Through Nonpartisan Elections

The following states conduct *all* of their judicial selection through nonpartisan elections:

- Arkansas
- Georgia
- Idaho
- Kentucky
- Michigan
- Minnesota
- Mississippi
- Montana
- Nevada
- North Carolina
- Oregon
- Washington
- Wisconsin

B. Prescribed or *De Facto* Judicial Run-Off Elections

Additionally, the following states conduct prescribed or *de facto* judicial run-off elections:

- **Arkansas**

(Judicial candidates run in a nonpartisan primary election. If no candidate receives a majority of the vote, there is a runoff in the general election.)
- **California**

(If no candidate receives a majority of the vote in the primary election, there is a general-election runoff between the top two candidates.)
- **Florida**

(If two or more candidates qualify for the ballot, they compete in the first primary election. If no candidate receives a majority of the vote, the top two candidates run in the general election.)

- **Georgia**

(If no candidate wins a plurality of the vote in the primary election, there is a runoff in the general election.)

- **Idaho**

(If no candidate in the primary election wins a majority of the vote, the top two vote getters compete in a runoff election in the general election.)

- **Kentucky**

(The two candidates receiving the highest number of votes in the primary election compete in the general election.)

- **Minnesota**

(The two candidates receiving the most votes in the primary election are placed on the ballot for the general election.)

- **Mississippi***

(Judicial candidates run in the general election. If no candidate receives a majority of the vote, a runoff election between the top two candidates is held.)

- **Montana**

(The two candidates receiving the most votes in the primary election run in the general election.)

- **Nevada**

(In the non-partisan primary, the two candidates who receive the greatest number of votes advance to the general election. Though Nevada has a closed primary system, where voters may only vote for members of their own political party, this does not impact the non-partisan judicial elections. Voters registered with either major party, or those who are not registered with any political party, may still vote for all judicial candidates in the primaries.)

- **North Carolina**

(If there are more than two candidates for a position, a nonpartisan primary election is held. The top two vote getters in the primary compete in the general election.)

- **North Dakota**

(The two candidates receiving the highest number of votes in the primary election run in the general election, provided that each candidate receives at least as many votes as the number of signatures required to be placed on the primary ballot.)

- **Oklahoma**

(A nonpartisan primary is held if more than two candidates file for a district court judgeship. If a candidate wins a majority of votes in the primary, the candidate is elected and does not run in the general election.)

- **Oregon**

(The two candidates receiving the greatest number of votes in the primary election compete in the general election.)

- **South Dakota**

(If more than two candidates file for a judicial position, the two candidates receiving the highest number of votes in the primary election run in the general election. If no more than two candidates file for a judicial position, no primary election is held for the position.)

- **Washington**

(Judicial candidates run in a primary election. If no candidate receives a majority of the vote, the names of the top two vote getters are placed on the general election ballot.)

- **Wisconsin**

(If there are more than two candidates for a judicial position, a nonpartisan primary election is held. The top two vote getters in the primary compete in the general election.)

* Mississippi appears to be the only state that permits all qualified candidates to run in the general election, rather than a primary election, with a separate run-off election being held between the top two candidates if no candidate receives a majority of the vote. (See "C," below, for details on Mississippi law.)

(For a complete description of judicial selection among the 50 states and the District of Columbia, see http://www.judicialselection.us/judicial_selection/methods/selection_of_judges.cfm?state=)

C. Mississippi Judicial Election Law

Article 6 of the Constitution of Mississippi governs the Judiciary, and provides that judges shall be elected by qualified electors “at a time and in the manner provided by law” or “provided by the legislature.”

Mississippi’s “Nonpartisan Judicial Election Act” is set out at Miss. Code Ann. Sections 23-15-974 through 23-15-985 (2014) et. seq.

Section 23-15-981, governing runoff elections for judicial office provides:

§ 23-15-981. Two or more candidates qualify for judicial office; majority vote wins; runoff election

If two (2) or more candidates qualify for judicial office, the names of those candidates shall be placed on the general election ballot. If any candidate for such an office receives a majority of the votes cast for such office in the general election, he shall be declared elected. If no candidate for such office receives a majority of the votes cast for such office in the general election, the names of the two (2) candidates receiving the highest number of votes for such office shall be placed on the ballot for a second election to be held three (3) weeks later in accordance with appropriate procedures followed in other elections involving runoff candidates.

HISTORY: SOURCES: Laws, 1994, ch 564, § 83; Laws, 2007, ch. 434, § 3, eff June 15, 2007 (the date the United States Attorney General interposed no objection under Section 5 of the Voting Rights Act of 1965, to the amendment of this section.)

D. The 22 states conducting nonpartisan judicial elections:

I. Arizona

Method of Selection (full term)

Supreme Court:	gubernatorial appointment from nominating commission
Court of Appeals:	gubernatorial appointment from nominating commission
Superior Court:	partisan primary; nonpartisan general election/gubernatorial appointment

nominating commission**

Selection and retention methods and term lengths are prescribed by Article 6 of the Arizona Constitution.

**The Arizona Constitution provides for merit selection and retention of judges in counties with populations of 250,000 or greater. Currently, this includes Maricopa, Pima and Pinal Counties. Counties whose populations are less than 250,000 may adopt merit selection through ballot initiative.

II. Arkansas

Method of Selection (full term)

Supreme Court: nonpartisan election*+
Court of Appeals: nonpartisan election*+
Circuit Court: nonpartisan election*+

Selection and retention methods and term lengths are prescribed by Amendment 80 of the Arkansas Constitution.

*Judicial candidates run in a nonpartisan primary election. If no candidate receives a majority of the vote, there is a runoff in the general election.

+Incumbency is designated on the ballot by including the current title of a judge.

III. California

Method of Selection (full term)

Supreme Court: gubernatorial appointment; **confirmation by commission on judicial ap
Court of Appeals: gubernatorial appointment; **confirmation by commission on judicial ap
Superior Court: nonpartisan election****+

Selection and retention methods and term lengths are prescribed by Article VI of the California Constitution.

****If no candidate receives a majority of the vote in the primary election, there is a general-election runoff between the top two candidates. If an incumbent judge is unopposed, s/he is automatically reelected; the judge's name does not appear on the ballot. The constitution provides that electors in each county may, by majority vote, opt for the selection of superior court judges by the method used for appellate court judges. To date, no counties have adopted an appointive process.

+Incumbency designations on the ballot are determined by each county.

IV. Florida

Method of Selection (full term)

Supreme Court: gubernatorial appointment from nominating commission
District Courts of Appeal: gubernatorial appointment from nominating commission
Circuit Court: nonpartisan election*

Selection and retention methods and term lengths are prescribed by Article V of the Florida Constitution and Title V, Section 43.291.

*If two or more candidates qualify for the ballot, they compete in the first primary election. If no candidate receives a majority of the vote, the top two candidates run in the general election. The voters in each circuit may exercise a local option for merit selection and retention of circuit court judges. A circuit may initiate the local option by filing with the secretary of state a petition signed by a number of voters equal to at least 10% of the votes cast in the circuit in the most recent presidential election. The measure must then be approved by a majority of circuit voters.

V. Georgia

Method of Selection (full term)

Supreme Court: nonpartisan election*+
Court of Appeals: nonpartisan election*+
Superior Court: nonpartisan election*+

Selection and retention methods and term lengths are prescribed by Article VI of the Georgia Constitution.

*If no candidate wins a plurality of the vote in the primary election, there is a runoff in the general election.

+Incumbency is designated on the ballot by the name of the previous occupant of the position, assuming that judge runs for reelection.

VI. Idaho

Method of Selection (full term)

Supreme Court: nonpartisan election*+
Court of Appeals: nonpartisan election*+
District Court: nonpartisan election*+

Selection and retention methods and term lengths are prescribed by Article V of the Idaho Constitution and Sec. 1-2404 of the Idaho Code.

*If no candidate in the primary election wins a majority of the vote, the top two vote getters compete in a runoff election in the general election.

+Incumbency is designated on the ballot by the name of the previous occupant of the position, assuming that judge runs for reelection.

VII. Indiana

Selection and retention methods and term lengths for appellate judges and circuit court judges are prescribed by Article 7 of the Indiana Constitution. For superior court judges, see Title 33 of the Indiana Code.

**Elections for circuit court judges in Vanderburgh County are nonpartisan.

VIII. Kentucky

Method of Selection (full term)

Supreme Court:	nonpartisan election*
Court of Appeals:	nonpartisan election*
Circuit Court:	nonpartisan election*

Selection and retention methods and term lengths are prescribed by Sections 117, 118, and 119 of the Kentucky Constitution.

*The two candidates receiving the highest number of votes in the primary election compete in the general election.

VIII. Maryland

Method of Selection (full term)

Court of Appeals:	gubernatorial appointment from nominating commission with senate co
Court of Special Appeals:	gubernatorial appointment from nominating commission with senate co
Circuit Court:	gubernatorial appointment from nominating commission and/or nonpar

Method of Retention

Court of Appeals:	retention election
Court of Special Appeals:	retention election
Circuit Court:	nonpartisan election*

Selection and retention methods and term lengths are prescribed by Article IV of the Maryland Constitution and Executive Order 01.01.2007.08.

*The names of incumbent judges and challengers appear without party affiliation on both the Republican and Democratic primary ballots. The top votegetters in each primary compete in the general election. Ballots do not denote incumbents.

IX. Michigan

Method of Selection (full term)

Supreme Court:	partisan nomination; nonpartisan election*+
Court of Appeals:	nonpartisan election*+
Circuit Court:	nonpartisan election*+

Selection and retention methods and term lengths are prescribed by Article VI of the Michigan Constitution.

*Candidates for open seats on the supreme court or who want to challenge incumbent justices must be nominated at party conventions or by nominating petition. Incumbent justices may file an affidavit of candidacy, asking to be placed on the ballot. Candidates for other courts are nominated in nonpartisan primary elections or by nominating petition. Incumbent judges may file an affidavit of candidacy. Candidates appear without party affiliation on the general election ballot, with incumbent judges designated as such.

+Incumbency is designated on the ballot by including the current title of the judge up for reelection. The elections are also marked as incumbent positions.

X. Minnesota

Method of Selection (full term)

Supreme Court:	nonpartisan election*+
Court of Appeals:	nonpartisan election*+
District Court:	nonpartisan election*+

Selection and retention methods and term lengths are prescribed by Article VI of the Minnesota Constitution.

*The two candidates receiving the most votes in the primary election are placed on the ballot for the general election.

+Incumbency is designated on the ballot by the word 'Incumbent' underneath the name of the current judge in the position up for reelection.

XI. Mississippi

Method of Selection (full term)

Supreme Court: nonpartisan election*
Court of Appeals: nonpartisan election*
Circuit Court: nonpartisan election*

Selection and retention methods and term lengths are prescribed by Article 6 of the Mississippi Constitution and Section 9-4-5 of the Mississippi Code.

*Judicial candidates run in the general election. If no candidate receives a majority of the vote, a runoff election between the top two candidates is held.

XII. Montana

Method of Selection (full term)

Supreme Court: nonpartisan election*
District Court: nonpartisan election*

*The two candidates receiving the most votes in the primary election run in the general election. If an incumbent judge is unopposed, voters are asked whether the judge should be retained in office.

XIII. Nevada

Method of Selection (full term)

Supreme Court: nonpartisan election
District Court: nonpartisan election

Selection and retention methods and term lengths are prescribed by Article 6 of the Nevada Constitution.

In the non-partisan primary, the two candidates who receive the greatest number of votes advance to the general election. Though Nevada has a closed primary system, where voters may only vote for members of their own political party, this does not impact the non-partisan judicial elections. Voters registered with either major party, or those who are not registered with any political party, may still vote for all judicial candidates in the primaries.

(For more information, see http://judgepedia.org/Nevada_judicial_elections,_2014)

XIV. North Carolina

Method of Selection (full term)

Supreme Court: nonpartisan election**

Court of Appeals: nonpartisan election**
Superior Court: nonpartisan election**

Selection and retention methods and term lengths are prescribed by Article IV of the North Carolina Constitution.

**If there are more than two candidates for a position, a nonpartisan primary election is held. The top two vote getters in the primary compete in the general election.

XV. North Dakota

Method of Selection (full term)

Supreme Court: nonpartisan election**
Court of Appeals: chosen from among active and retired district judges, retired supreme and attorneys
District Court: nonpartisan election**

Selection and retention methods and term lengths are prescribed by Article VI of the North Dakota Constitution.

**The two candidates receiving the highest number of votes in the primary election run in the general election, provided that each candidate receives at least as many votes as the number of signatures required to be placed on the primary ballot.

XVI. Ohio

Method of Selection (full term)

Supreme Court: partisan primary; nonpartisan general election
Court of Appeals: partisan primary; nonpartisan general election
Court of Common Pleas: partisan primary; nonpartisan general election

Selection and retention methods and judicial term lengths are prescribed in Article 6 of the Ohio Constitution.

XVII. Oklahoma

Method of Selection (full term)

Supreme Court: gubernatorial appointment through nominating commission
Court of Criminal Appeals: gubernatorial appointment through nominating commission
Court of Civil Appeals: gubernatorial appointment through nominating commission

District Court: nonpartisan election**

Selection and retention methods and term lengths are prescribed by Articles 7 and 7B of the Oklahoma Constitution and Title 20, Section 30-18 of the Oklahoma Statutes.

**A nonpartisan primary is held if more than two candidates file for a district court judgeship. If a candidate wins a majority of votes in the primary, the candidate is elected and does not run in the general election.

XVIII. Oregon

Method of Selection (full term)

Supreme Court: nonpartisan election*+

Court of Appeals: nonpartisan election*+

Circuit Court: nonpartisan election*+

Selection and retention methods and term lengths are prescribed by Article VII (Amended) of the Oregon Constitution.

*The two candidates receiving the greatest number of votes in the primary election compete in the general election.

+Incumbency is designated on the ballot by the word 'Incumbent' underneath the name of the current judge in the position up for reelection.

XIX. South Dakota

Method of Selection (full term)

Supreme Court: gubernatorial appointment from nominating commission

Circuit Court: nonpartisan election*

Selection and retention methods and term lengths are prescribed by Article V of the South Dakota Constitution.

*If more than two candidates file for a judicial position, the two candidates receiving the highest number of votes in the primary election run in the general election. If no more than two candidates file for a judicial position, no primary election is held for the position.

XX. Tennessee

Method of Selection (full term)

Supreme Court:	gubernatorial appointment from nominating commission
Court of Appeals:	gubernatorial appointment from nominating commission
Court of Criminal Appeals:	gubernatorial appointment from nominating commission
Chancery Court:	partisan election*
Criminal Court:	partisan election*
Circuit Court:	partisan election*
Probate Court:	partisan election*

Selection and retention methods and term lengths are prescribed by Article VI of the Tennessee Constitution and Title 17, Chapter 4 of the Tennessee Code.

*Per statute, each county legislative body has the discretion to require elections to be conducted in a nonpartisan manner.

XXI. Washington

Method of Selection (full term)

Supreme Court:	nonpartisan election**
Court of Appeals:	nonpartisan election**
Superior Court:	nonpartisan election**

Selection and retention methods and term lengths are prescribed by Article IV of the Washington Constitution and Chapter 2.06 of the Revised Code of Washington.

**Judicial candidates run in a primary election. If no candidate receives a majority of the vote, the names of the top two vote getters are placed on the general election ballot.

XXII. Wisconsin

Method of Selection (full term)

Supreme Court:	nonpartisan election*
Court of Appeals:	nonpartisan election*
Circuit Court:	nonpartisan election*

Selection and retention methods and term lengths are prescribed by Article VII of the Wisconsin Constitution.

*If there are more than two candidates for a judicial position, a nonpartisan primary election is held. The top two vote getters in the primary compete in the general election.