

# HOUSE BILL REPORT

## HB 1001

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*As Reported By House Committee on:  
State Government*

**Title:** An act relating to nonpartisan elections.

**Brief Description:** Requiring the top two vote getters in nonpartisan elections to appear on the general election ballot.

**Sponsor(s):** Representatives Locke, Ballard, Appelwick, Peery, Ludwig, Belcher, Prince, H. Myers, Tate, Vance, D. Sommers, Morton, Wineberry, Mitchell, Beck, Forner, McLean, Brough, Edmondson, Chandler, P. Johnson, Moyer, Hochstatter, Lisk, Wood, Paris, Casada, Nealey, Brekke, Silver, Wynne, Fraser, May and Anderson.

**Brief History:**

Reported by House Committee on:  
State Government, January 30, 1991, DPS.

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**HOUSE COMMITTEE ON  
STATE GOVERNMENT**

**Majority Report:** *That Substitute House Bill No. 1001 be substituted therefore, and the substitute bill do pass.*  
Signed by 10 members: Representatives Anderson, Chair; Pruitt, Vice Chair; McLean, Ranking Minority Member; Bowman, Assistant Ranking Minority Member; Chandler; R. Fisher; Grant; Moyer; O'Brien; and Sheldon.

**Staff:** Kenneth Hirst (786-7105).

**Background:**

Statutory Provisions. In general, a primary must be conducted for local nonpartisan offices if three or more candidates file for the office. The names of the candidates receiving the greatest number of votes and the next greatest number of votes for the office at the primary advance to the general election. If only one or two persons file for such an office, no primary is conducted for the office; the candidates for the office automatically advance to the general election. A primary and a general election must be conducted for the office of district court judge.

State law provides a different set of rules for elections for justices of the Supreme Court, for judges of the Court of Appeals and Superior Court, and for the Superintendent of Public Instruction. If any candidate for these offices receives a majority of the votes cast at the primary for the office, only the name of the person receiving that majority vote advances to the general election.

As is the case with local nonpartisan offices, if only one or two candidates file for the office of Superintendent of Public Instruction, no primary is conducted for the office and the candidates advance to the general election. In such a case which occurs before July 1, 1992, the names of the candidates appear on the ballot in alphabetical order. Beginning July 1, 1992, the names of the candidates appear on the general election ballot in an order determined by lot.

Constitutional Provisions for Superior Court Judges.

Article IV, Section 29 of the state's Constitution establishes procedures which apply only to the election of judges of the Superior Court. In a county with a population of 100,000 or more, if only one person has applied for a superior court position, no primary or election may be held for the position. The unopposed candidate is issued a certificate of election.

If, following a contested primary in any county, only one candidate is entitled to have his or her name printed on the general election ballot for a superior court position, no election may be held for the position and a certificate of election is issued to that candidate. However, such a certificate is not issued if, within 10 days after the primary, a write-in candidacy is filed for the position.

***Summary of Substitute Bill:***

A primary must be held for each elective judicial office unless: the Constitution requires otherwise; or not more than two people have filed as candidates for the office. In the latter case, the county auditor must notify the candidates for the office that a primary will not be conducted. In such a case, the names of the candidates for the office will appear on the general election ballot in an order determined by lot.

If a primary is conducted for the office, the name of the candidate receiving the greatest number of votes for the office and the name of the candidate receiving the next greatest number will appear on the general election ballot in that order.

A provision of state law is repealed which requires that if, at a primary for a state judicial office or for the office of the Superintendent of Public Instruction, a candidate receives a majority of the votes cast for the office, only the name of that candidate may be printed on the general election ballot for the office.

If no primary is conducted for the office of Superintendent of Public Instruction, the names of the candidates will appear on the general election ballot in the order determined by lot (as will be the case under current law after July 1, 1992).

**Substitute Bill Compared to Original Bill:** Added by the substitute bill are provisions which prohibit conducting a primary for a judicial position if only one or two candidates file for the position or if the state's Constitution expressly prohibits conducting a primary for the position. The substitute bill also adds provisions requiring the names of candidates for the office of Superintendent of Public Instruction to appear on the general election ballot in an order determined by lot if a primary is not conducted for the office.

**Fiscal Note:** Requested January 19, 1991.

**Effective Date of Substitute Bill:** Ninety days after adjournment of session in which bill is passed.

**Testimony For:** (1) Too few people vote in a primary and too little media attention is focused on a primary to permit an election for these important offices to be decided in a primary. (2) There should be more contact between the public and the judiciary; this change in judicial elections will foster that contact. (3) U.S. Senators and other elected officials manage to campaign for office while also conducting the important business of their offices; the same should be true for judges. (4) The current system of electing judges in the primary is confusing to voters.

**Testimony Against:** (1) Moving judicial elections to the general election ballot increases the politicalization of judicial races. (2) Doubling the length of time during which judicial candidates must campaign for office will detract from the ability of judges who are candidates to hear cases. It will slow the processing of cases on already crowded calendars. (3) Moving judicial elections to the general election will increase the costs of campaigns for judicial offices and increase the fund raising requirements for these campaigns. This may erode the independence of the judiciary. (4) The current system works without significant problems; no one aspect of electing judges should be altered

without studying the means by which change can be accomplished through the coordinated actions of both the legislative and judicial branches of government. (5) Persons who vote in primaries are more informed than those who vote in general elections; overcoming the name familiarity enjoyed by an opposing candidate would be very difficult in a general election.

**Witnesses:** Representative Locke (in favor); Karen Flynn, County Auditors' Association (in favor); Don Whiting, Office of the Secretary of State (in favor); Ron Gould, State Bar Association (opposed); and Michelle Radosevich (opposed).