**South Carolina General Assembly**

118th Session, 2009-2010

**S. 127**

**STATUS INFORMATION**

General Bill

Sponsors: Senators Sheheen and Massey

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Introduced in the Senate on January 13, 2009

Currently residing in the Senate Committee on **Judiciary**

Summary: County officials

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

12/10/2008 Senate Prefiled

12/10/2008 Senate Referred to Committee on **Judiciary**

1/13/2009 Senate Introduced and read first time [SJ](file:///h:\SJ%20Archive\2009\01-13-09.docx)‑129

1/13/2009 Senate Referred to Committee on **Judiciary** [SJ](file:///h:\SJ%20Archive\2009\01-13-09.docx)‑129

1/23/2009 Senate Referred to Subcommittee: L.Martin (ch), Rankin, Hutto, Bright, Davis

**VERSIONS OF THIS BILL**

[12/10/2008](file:///p:\pprever\2009-10\127_20081210.docx)

**A** **BILL**

TO AMEND SECTIONS 14‑17‑10 AND 14‑23‑1020, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE ELECTION OF CLERKS OF COURT AND PROBATE JUDGES, RESPECTIVELY, SO AS TO REQUIRE THE ELECTIONS OF THESE TWO COUNTY OFFICES TO BE NONPARTISAN, TO PROVIDE FOR NONPARTISAN SPECIAL ELECTIONS WHEN A VACANCY OCCURS, AND TO PROVIDE PROCEDURES FOR THE NOMINATION OF CANDIDATES AND THE CONDUCT OF THE NONPARTISAN ELECTIONS.

Whereas, the cornerstone of our state judicial system is an independent and impartial judiciary; and

Whereas, citizens of South Carolina should and do expect judges that are fair and impartial and court personnel free of potential political bias; and

Whereas, the election of both clerks of court and probate judges in this State should be removed from the pressures of politics to advance the appropriate nonpolitical function of the judiciary and foster the role of the judiciary as an unbiased and unprejudiced branch of government. Now, therefore,

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 14‑17‑10 of the 1976 Code is amended to read:

“Section 14‑17‑10. (A) There ~~shall~~ must be an election for clerk of the court of common pleas in each county by the qualified voters ~~thereof~~ of the county at each alternate general election, ~~reckoning from~~ beginning with the election in the year 1960.

(B) The clerk of the court of common pleas must be elected in a nonpartisan election in accordance with the provisions of subsection (A). Notwithstanding another provision of law, a vacancy in the office of clerk of the court of common pleas must be filled in a special election, and this special election must be nonpartisan as provided in this subsection.

(C) Nomination for the office of clerk of the court of common pleas is by petition pursuant to the provisions of Section 7‑11‑70. The results of the election must be determined by the nonpartisan election and runoff election method prescribed in Section 5‑15‑62, mutatis mutandis.”

SECTION 2. Section 14‑23‑1020 of the 1976 Code is amended to read:

“Section 14‑23‑1020. (A) There ~~shall~~ must be a judge of probate for each probate court. The probate judge of each county holding office on June 30, 1976, ~~shall continue~~ continues to be ~~such~~ the judge of probate until the expiration of his term of office at which time his successor ~~shall~~ must be selected as provided by law for a term of four years and until his successor is elected and qualifies. ~~Except as otherwise provided by this section, any vacancy in the office of probate judge shall be filled as provided by law.~~

(B) The probate judge of each county must be elected in a nonpartisan election in accordance with the provisions of subsection (A). Notwithstanding another provision of law, a vacancy in the office of probate judge must be filled in a special election, and this special election must be nonpartisan as provided in this subsection.

(C) Nomination for the office of probate judge is by petition pursuant to the provisions of Section 7‑11‑70. The results of the election must be determined by the nonpartisan election and runoff election method prescribed in Section 5‑15‑62, mutatis mutandis.”

SECTION 3. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

SECTION 4. This act takes effect upon approval of the Governor and applies to elections and special elections for the offices of clerk of the court of common pleas and probate judge held after 2008.

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