

HOUSE BILL NO. 207

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A BILL FOR AN ACT ENTITLED: "AN ACT REVISING CANDIDATE FILING LAWS; REQUIRING  
CANDIDATES FOR LOCAL AND STATE OFFICE TO FILE FOR OFFICE PRIOR TO THE PRIMARY  
ELECTION; PROHIBITING UNSUCCESSFUL PRIMARY CANDIDATES FROM SEEKING NOMINATION IN  
THE GENERAL ELECTION; INCREASING THE SIGNATURE PERCENTAGE REQUIRED FOR A THIRD-  
PARTY OR INDEPENDENT CANDIDATE PETITION; AMENDING SECTIONS 13-1-403, 13-1-502, 13-10-201,  
13-10-211, 13-10-501, 13-10-502, AND 13-10-503, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE  
DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 13-1-403, MCA, is amended to read:

**"13-1-403. Election deadlines for candidate filing, write-in candidacy, and withdrawal -- election  
cancellation -- election by acclamation.** (1) Consistent with the candidate filing deadline in 13-10-201(7) for  
primary elections and except as provided in subsection (2) for a write-in candidate, the candidate filing deadline  
for election to a local government office is no sooner than ~~145~~105 days and no later than ~~85~~90 days before the  
election.

(2) (a) A declaration of intent to be a write-in candidate must be filed with the election administrator  
by 5 p.m. on the ~~65th~~90th day before the date of the election.

(b) An unsuccessful candidate for office at a primary election may not seek nomination by write-in

vote or petition for the same office at the general election.

(3) Consistent with the withdrawal deadline in 13-10-325 for primary elections, a candidate may not withdraw after the candidate filing deadline provided in subsection (1).

(4) Except as provided in subsection (5)(b) and unless otherwise specifically provided by law, if the number of candidates filing for election is equal to or less than the number of positions to be filled, the election administrator shall notify the governing body of the local government in writing that the election is not necessary and the governing body may by resolution cancel the election.

(5) (a) If an election has been canceled and there is only one candidate for a position, the governing body of the local government shall declare the candidate elected to the position by acclamation.

(b) If an election has been canceled and there are no regular or declared write-in candidates for a position, the governing body of the local government shall fill the position by appointment. The term of an appointed member must be the same as if the member were elected."

**Section 2.** Section 13-1-502, MCA, is amended to read:

**"13-1-502. Deadlines for candidate filing, write-in candidacy, and withdrawal -- election cancellation -- election by acclamation.** (1) Consistent with the candidate filing deadline in 13-10-201(7) for primary elections and except as provided in subsection (3) for a write-in candidate, the candidate filing deadline for election to a special purpose district office is no sooner than ~~145~~ 105 days and no later than ~~85~~ 90 days before the election.

(2) Consistent with the withdrawal deadline in 13-10-325 for primary elections, a candidate may not withdraw after the candidate filing deadline provided in subsection (1).

(3) (a) A declaration of intent to be a write-in candidate must be filed with the election administrator by 5 p.m. on the ~~65th~~ 90th day before the date of the election.

(b) An unsuccessful candidate for office at a primary election may not seek nomination by write-in vote or petition for the same office at the general election.

(4) (a) Except as provided in subsection (4)(b), if by the write-in candidate deadline in subsection (3) the number of candidates is equal to or less than the number of positions to be filled at the election, the election administrator shall cancel the election and, pursuant to 13-1-304, immediately notify the governing

body of the local government in writing of the cancellation. However, the governing body of the local government may by resolution require that the election be held.

(b) For an election of conservation district supervisors held in conjunction with a federal primary or federal general election, if by the candidate filing deadline under subsection (1) the number of candidates is equal to or less than the number of positions to be filled at the election, the election administrator shall cancel the election and immediately notify the governing body of the conservation district in writing of the cancellation. However, the governing body of the conservation district may, by no later than 10 days after the candidate filing deadline, pass a resolution to require that the election be held.

(5) (a) If an election has been canceled and there is only one candidate for a position, the governing body of the local government or, if appropriate, of the conservation district shall declare the candidate elected to the position by acclamation.

(b) Except as otherwise provided by law:

(i) if an election has been canceled and there are no regular or declared write-in candidates for a position, the governing body of the local government or, if appropriate, of the conservation district shall fill the position by appointment;

(ii) an appointed member shall serve the same term as if the member were elected."

**Section 3.** Section 13-10-201, MCA, is amended to read:

**"13-10-201. Declaration for nomination -- term limitations.** (1) Each candidate in the primary election, except nonpartisan candidates filing under the provisions of Title 13, chapter 14, shall file a declaration for nomination with the secretary of state or election administrator. Except for a candidate under 13-38-201(4) or a candidate covered under 7-1-205, a candidate may not file for more than one public office. Each candidate for governor shall file a joint declaration for nomination with a candidate for lieutenant governor.

(2) A declaration for nomination must be filed in the office of:

(a) the secretary of state for placement of a name on the ballot for the presidential preference primary, a congressional office, a state or district office to be voted for in more than one county, a member of the legislature, or a judge of the district court; or

(b) the election administrator for a county, municipal, precinct, or district office (other than a

member of the legislature or a judge of the district court) to be voted for in only one county.

(3) Each candidate shall sign the declaration and send with it the required filing fee or, in the case of an indigent candidate, send with it the documents required by 13-10-203. Unless filed electronically with the secretary of state, the declaration for nomination must be acknowledged by an officer empowered to acknowledge signatures or by the officer of the office at which the filing is made.

(4) The declaration for nomination must include an oath of the candidate that includes wording substantially as follows: "I hereby affirm that I possess, or will possess within constitutional and statutory deadlines, the qualifications prescribed by the Montana constitution and the laws of the United States and the state of Montana." The candidate affirmation included in this oath is presumed to be valid unless proven otherwise in a court of law.

(5) The declaration, when filed, is conclusive evidence that the elector is a candidate for nomination by the elector's party. For a partisan election, an elector may not file a declaration for more than one party's nomination.

(6) (a) The declaration for nomination must be in the form and contain the information prescribed by the secretary of state.

(b) A person seeking nomination to the legislature shall provide the secretary of state with a street address, legal description, or road designation to indicate the person's place of residence. If a candidate for the legislature changes residence, the candidate shall, within 15 days after the change, notify the secretary of state on a form prescribed by the secretary of state.

(c) The secretary of state and election administrator shall furnish declaration for nomination forms to individuals requesting them.

(7) Except as provided in 13-10-211, a candidate's declaration for nomination must be filed no sooner than ~~145~~ 105 days before the election in which the office first appears on the ballot and no later than 5 p.m., ~~85~~ 90 days before the date of the primary election.

(8) A properly completed and signed declaration for nomination form may be sent by facsimile transmission, electronically mailed, delivered in person, or mailed to the election administrator or to the secretary of state.

(9) For the purposes of implementing Article IV, section 8, of the Montana constitution, the

1 secretary of state shall apply the following conditions:

2 (a) A term of office for an official serving in the office or a candidate seeking the office is  
3 considered to begin on January 1 of the term for which the official is elected or for which the candidate seeks  
4 election and to end on December 31 of the term for which the official is elected or for which the candidate seeks  
5 election.

6 (b) A year is considered to start on January 1 and to end on the following December 31.

7 (c) "Current term", as used in Article IV, section 8, of the Montana constitution, has the meaning  
8 provided in 2-16-214."

9

10 **Section 4.** Section 13-10-211, MCA, is amended to read:

11 **"13-10-211. Declaration of intent for write-in candidates.** (1) A Except as provided in 13-1-  
12 403(2)(b), 13-1-502(3)(b), and subsection (2) of this section, a person seeking to become a write-in candidate  
13 for an office in any election shall file a declaration of intent. Except for a candidate under 13-38-201(4) or a  
14 candidate covered under 7-1-205, a candidate may not file for more than one public office. The declaration of  
15 intent must be filed with the secretary of state or election administrator, depending on where a declaration of  
16 nomination for the desired office is required to be filed under 13-10-201, or with the school district clerk for a  
17 school district office. When a county election administrator is conducting the election for a school district, the  
18 school district clerk or school district office that receives the declaration of intent shall notify the county election  
19 administrator of the filing. Except as provided in 13-1-403, 13-1-503, 20-3-305(3)(b), and subsection ~~(2)-(3)~~ of  
20 this section, the declaration must be filed no later than 5 p.m. on the 40<sup>th</sup> 90<sup>th</sup> day before the ~~earliest date~~  
21 ~~established under 13-13-205 on which a ballot must be available~~ election and must contain:

22 (a) the candidate's name, including:

23 (i) the candidate's first and last names;

24 (ii) the candidate's initials, if any, used instead of a first name, or first and middle name, and the  
25 candidate's last name;

26 (iii) the candidate's nickname, if any, used instead of a first name, and the candidate's last name;

27 and

28 (iv) a derivative or diminutive name, if any, used instead of a first name, and the candidate's last

1 name;

2 (b) the candidate's mailing address;

3 (c) a statement declaring the candidate's intention to be a write-in candidate;

4 (d) the title of the office sought;

5 (e) the date of the election;

6 (f) the date of the declaration; and

7 (g) the candidate's signature.

8 (2) An unsuccessful candidate for office at a primary election may not seek nomination by write-in  
9 vote or petition for the same office at the general election.

10 ~~(2)~~(3) A declaration of intent may be filed after the deadline provided for in subsection (1) but no later  
11 than 5 p.m. on the day before the election if, after the deadline prescribed in subsection (1), a candidate for the  
12 office that the write-in candidate is seeking dies or is charged with a felony offense and if the election has not  
13 been canceled as provided by law.

14 ~~(3)~~(4) The secretary of state shall notify each election administrator of the names of write-in  
15 candidates who have filed a declaration of intent with the secretary of state. Each election administrator shall  
16 notify the election judges in the county or district of the names of write-in candidates who have filed a  
17 declaration of intent.

18 ~~(4)~~(5) A properly completed and signed declaration of intent may be provided to the election  
19 administrator or secretary of state:

20 (a) by facsimile transmission;

21 (b) in person;

22 (c) by mail; or

23 (d) by electronic mail.

24 ~~(5)~~(6) A declaration is not valid until the filing fee required pursuant to 13-10-202 is received by the  
25 secretary of state or the election administrator.

26 ~~(6)~~(7) A write-in candidate who files a declaration of intent for a general election may not file with a  
27 partisan, nonpartisan, or independent designation."

28

**Section 5.** Section 13-10-501, MCA, is amended to read:

**"13-10-501. Petition for nomination by independent candidates or political parties not eligible to participate in primary election.** (1) Except as provided in 13-10-504, nominations for public office by an independent candidate or a political party that does not meet the requirements of 13-10-601 may be made by filing a declaration of intent and paying the filing fee in accordance with 13-10-201 and by circulating a petition for nomination.

(2) The petition must contain the same information and the oath of the candidate required for a declaration for nomination.

(3) If a petition is filed by a political party, it must contain the party name and, in five words or less, the principle that the body represents.

(4) The form of the petition must be prescribed by the secretary of state, and the secretary of state shall furnish sample copies to the election administrators and on request to any individual.

(5) Each sheet of a petition must contain signatures of electors residing in only one county.

(6) An unsuccessful candidate for office at a primary election may not seek nomination by write-in vote or petition for the same office at the general election."

**Section 6.** Section 13-10-502, MCA, is amended to read:

**"13-10-502. Signature requirements for petition.** (1) The petition for nomination must be signed by active electors as defined in 13-1-101 residing within the state and district or political subdivision in which the officer or officers are to be elected. Each signature line must contain spaces for the signature, post-office address, and printed last name of the signer.

(2) (A) The FOR STATEWIDE AND FEDERAL OFFICES, THE number of signatures must be 5% 15% 5% or more of the total vote cast for the successful candidate for the same office at the last general election.

(B) FOR LEGISLATIVE DISTRICTS AND OTHER RACES NOT INCLUDED IN SUBSECTION (2)(A), THE NUMBER OF SIGNATURES MUST BE 10% 5% OR MORE OF THE TOTAL VOTE CAST FOR THE SUCCESSFUL CANDIDATE FOR THE SAME OFFICE AT THE LAST GENERAL ELECTION.

(3) If the office sought is a new office or the boundaries of the district or political subdivision in which the election is to be held have changed since the last election for the office, the officer with whom

1 nominations for the office sought are filed shall determine the number of signatures required for a petition of  
2 nomination for that office. The number of signatures may not be less than is required in subsection (2)."

3  
4 **Section 7.** Section 13-10-503, MCA, is amended to read:

5 **"13-10-503. Filing deadlines.** (1) (a) A petition for nomination, and the affidavits of circulation  
6 required by 13-27-302, ~~and the required filing fee~~ must be filed with the same officer with whom other  
7 nominations for the office sought are filed. Petitions must be submitted, at least 1 week before the deadline for  
8 filing, to the election administrator in the county where the signer resides for verification and certification by the  
9 procedures provided in 13-27-303 through 13-27-306.

10 (b) If sufficient signatures are verified and certified pursuant to 13-10-502, the county election  
11 administrator shall file the petition for nomination with the same officer with whom other nominations for the  
12 office sought are filed.

13 (c) If the petition for nomination is not certified, the county election administrator shall refund the  
14 filing fee paid in accordance with 13-10-201.

15 (2) Except as provided in 13-10-504, each petition for nomination ~~and the required filing fee~~ must  
16 be filed before the scheduled primary election or the filing deadline for the special or general election if a  
17 primary election is not scheduled."

18  
19 **NEW SECTION. Section 8. Effective date.** [This act] is effective on passage and approval.

20 - END -