

SENATE BILL NO. 391

INTRODUCED BY BRUEGGEMAN

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING PROVISIONS REGARDING WHEN A CANDIDATE MAY WITHDRAW BEFORE A PRIMARY ELECTION; AND AMENDING SECTIONS 13-10-208, 13-10-325, AND 13-10-326, MCA."

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

Section 1. Section 13-10-208, MCA, is amended to read:

"13-10-208. ~~Certificate of Secretary of state to certify~~ CERTIFICATION OF primary ballot -- preparing ballot. (1) ~~(A) Not more than 75 69 days and not less than 67 days before the date of the primary election, the~~ THE secretary of state shall certify to the election administrators the names and designations of candidates, except as provided in 13-37-126, and any ballot issues as shown in the official records of the secretary of state's office in the manner provided in 13-10-209 and chapter 12, part 2, of this title.

(B) THE CERTIFICATION MUST BE COMPLETED WITHIN 5 CALENDAR DAYS AFTER THE LAST DAY ON WHICH A CANDIDATE MAY WITHDRAW FROM NOMINATION PURSUANT TO 13-10-325.

(2) ~~(A) Not more than 67 days and not less than 62 days before the date of the primary election, the~~ THE election administrator shall certify the names and designations of candidates, except as provided in 13-37-126, and any ballot issues as shown in the official record of the election administrator's office and must have the official ballots prepared in the manner provided in 13-10-209 and chapter 12, part 2, of this title.

(B) THE CERTIFICATION MUST BE COMPLETED BY THE LATER OF:

(i) 5 CALENDAR DAYS AFTER THE SECRETARY OF STATE CERTIFIES THE NAMES AND DESIGNATIONS OF CANDIDATES AS PROVIDED IN SUBSECTION (1); OR

(ii) 5 CALENDAR DAYS AFTER THE LAST DATE ON WHICH A CANDIDATE MAY WITHDRAW FROM NOMINATION PURSUANT TO 13-10-325.

(3) ~~if Subject to 13-10-325, if~~ a candidate for the legislature is no longer eligible under Article V, section 4, of the Montana constitution to seek the office for which the candidate has filed because the candidate has changed residence, the secretary of state shall notify the candidate that the candidate is required to withdraw ~~as provided in 13-10-325.~~



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2 **Section 2.** Section 13-10-325, MCA, is amended to read:

3 **"13-10-325. Withdrawal from nomination.** (1) A candidate for nomination or candidate for election to
4 an office may withdraw from the election by sending a statement of withdrawal to the officer with whom ~~his~~ the
5 candidate's declaration, petition, or acceptance of nomination was filed. The statement must contain all
6 information necessary to identify the candidate and the office sought and the reason for withdrawal. ~~It shall~~ The
7 statement must be sworn or affirmed before an officer empowered to administer oaths.

8 (2) A candidate may not withdraw later than 85 days before a general election or 75 ~~70~~ days before a
9 primary election MORE THAN 5 CALENDAR DAYS AFTER THE DATE ON WHICH THE DECLARATIONS FOR NOMINATION
10 CLOSED FOR THE OFFICE FOR WHICH THE CANDIDATE FILED.

11 ~~(2)~~(3) Filing fees paid by the candidate may not be refunded."

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13 **Section 3.** Section 13-10-326, MCA, is amended to read:

14 **"13-10-326. Vacancy prior to primary election.** (1) If a candidate for nomination for a partisan office
15 dies or withdraws ~~75 70 days or more before the primary election~~ BETWEEN THE DATE ON WHICH THE CANDIDATE
16 FILED A DECLARATION FOR NOMINATION AND 5 CALENDAR DAYS AFTER THE DATE ON WHICH DECLARATIONS FOR
17 NOMINATION CLOSED FOR THE OFFICE FOR WHICH THE CANDIDATE FILED, the affected political party may appoint
18 someone to replace the candidate after the primary by the procedure provided in 13-10-327.

19 (2) If a candidate for nomination for a partisan office dies less than ~~75 70~~ days before the primary, the
20 affected political party shall appoint a candidate after the primary as provided in 13-10-327 if a candidate for that
21 office for that party was not nominated at the primary election.

22 (3) This section does not allow a political party to appoint a candidate for an office if ~~no~~:

23 (A) a candidate for nomination by that party ~~filed~~ did not file for the office before the primary election; OR

24 (B) AT LEAST ONE CANDIDATE FOR THE PARTY'S NOMINATION FOR THE OFFICE WAS NOMINATED AT THE PRIMARY
25 ELECTION."

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27 COORDINATION SECTION. SECTION 4. COORDINATION INSTRUCTION. IF [THIS ACT] AND SENATE BILL NO.
28 156 ARE BOTH PASSED AND APPROVED AND BOTH AMEND 13-10-208, THEN THE SECTION IN EACH BILL THAT AMENDS
29 13-10-208 IS VOID AND 13-10-208 IS AMENDED TO READ:

30 **"13-10-208. Certificate Certification of primary ballot -- preparing ballot.** (1) (a) Not more than 75

1 ~~days and not less than 67 days before the date of the primary election, the~~ The secretary of state shall certify to
 2 the election administrators the names and designations of candidates, except as provided in 13-37-126, and any
 3 ballot issues as shown in the official records of the secretary of state's office in the manner provided in 13-10-209
 4 and Title 13, chapter 12, part 2, of this title.

5 (b) The certification must be completed within 5 calendar days after the last day on which a candidate
 6 may withdraw from nomination pursuant to 13-10-325.

7 ~~(2) (a) Not more than 67 days and not less than 62 days before the date of the primary election, the~~ The
 8 election administrator shall certify the names and designations of candidates, except as provided in 13-37-126,
 9 and any ballot issues as shown in the official record of the election administrator's office and must have the official
 10 ballots prepared in the manner provided in 13-10-209 and Title 13, chapter 12, part 2, of this title.

11 (b) The certification must be completed by the later of:

12 (i) 5 calendar days after the secretary of state certifies the names and designations of candidates as
 13 provided in subsection (1); or

14 (ii) 5 calendar days after the last date on which a candidate may withdraw from nomination pursuant to
 15 13-10-325.

16 (3) If a candidate for the legislature is no longer eligible under Article V, section 4, of the Montana
 17 constitution to seek the office for which the candidate has filed because the candidate has changed residence,
 18 the secretary of state shall notify the candidate that the candidate is required to withdraw as provided in
 19 13-10-325."

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 21 COORDINATION SECTION. SECTION 5. COORDINATION INSTRUCTION. IF [THIS ACT] AND SENATE BILL NO.
 22 156 ARE BOTH PASSED AND APPROVED AND EACH AMENDS 13-10-325, THEN THE SECTION IN SENATE BILL NO. 156 THAT
 23 AMENDS 13-10-325 IS VOID.

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 25 COORDINATION SECTION. SECTION 6. COORDINATION INSTRUCTION. IF [THIS ACT] AND SENATE BILL NO.
 26 156 ARE BOTH PASSED AND APPROVED AND EACH AMENDS 13-10-326, THEN THE SECTION IN SENATE BILL NO. 156 THAT
 27 AMENDS 13-10-326 IS VOID.

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