



AN ACT CHANGING THE BEGINNING AND ENDING DATES THAT A CANDIDATE MAY FILE FOR CERTAIN ELECTIONS; CLARIFYING PROVISIONS FOR SPECIAL ELECTIONS CALLED TO FILL A VACANCY IN CONGRESSIONAL OFFICES; AND AMENDING SECTIONS 13-10-201, 13-10-208, 13-10-325, 13-10-326, 13-10-405, 13-10-503, 13-10-601, 13-12-201, 13-14-112, 13-14-113, 13-25-203, 13-25-205, 13-26-103, 13-35-107, AND 13-37-126, MCA.

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

Section 1. Section 13-10-201, MCA, is amended to read:

"13-10-201. Declaration for nomination. (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. 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;

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

(5) (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.

(6) ~~(a) Declarations~~ Except as provided in subsection (6)(b) and 13-10-211, a candidate's declaration for nomination must be filed no sooner than 135 days before the election in which the office first appears on the ballot and no later than 5 p.m., 75 days before the date of the primary election.

(b) For an election held pursuant to 13-1-104(1)(a) or 13-1-107(1), a candidate's declaration for nomination must be filed no sooner than 145 days before the election in which the office first appears on the ballot and no later than 5 p.m., 85 days before the date of the primary election.

(7) A declaration for nomination form may be sent by facsimile transmission if a facsimile facility is available for use by the election administrator or by the secretary of state, delivered in person, or mailed to the election administrator or to the secretary of state."

Section 2. Section 13-10-208, MCA, is amended to read:

"13-10-208. Certificate of primary ballot -- preparing ballot. (1) Not more than ~~75~~ 85 days and not less than ~~67~~ 75 days before the date of the primary election, 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 Title 13, chapter 12, part 2, of this title.

(2) ~~(a) Not~~ Except as provided in subsection (2)(b), not more than 67 days and not less than 62 days before the date of the primary election, 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 Title 13, chapter 12, part 2, of this title.

(b) For a primary election conducted pursuant to 13-1-107(1) the election administrator shall, not more than 75 days and not less than 70 days before the date of the primary election, 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 Title 13, chapter 12, part 2.

(3) 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."

Section 3. Section 13-10-325, MCA, is amended to read:

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

(b) ~~A~~ Except as provided in subsection (1)(c), a candidate may not withdraw later than 85 days before a general election or 75 days before a primary election.

(c) A candidate may not withdraw later than 85 days before a general election conducted pursuant to 13-1-104(1)(a) or a primary election conducted pursuant to 13-1-107(1).

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

Section 4. Section 13-10-326, MCA, is amended to read:

"13-10-326. Vacancy prior to primary election. (1) Except as provided in subsection (2):

(a) ~~if~~ if a candidate for nomination for a partisan office dies or withdraws 75 days or more before the primary election, the affected political party may appoint someone to replace the candidate by the procedure provided in 13-10-327; ~~or~~

~~(2)(b)~~ if a candidate for nomination for a partisan office dies less than 75 days before the primary election, the affected political party shall appoint a candidate after the primary election as provided in 13-10-327

if a candidate for that office for that party was not nominated at the primary election.

(2) For an election conducted pursuant to 13-1-104(1)(a) or 13-1-107(1):

(a) if a candidate for nomination for a partisan office dies or withdraws 85 days or more before the primary election, the affected political party may appoint someone to replace the candidate by the procedure provided in 13-10-327; or

(b) if a candidate for nomination for a partisan office dies less than 85 days before the primary election, the affected political party shall appoint a candidate after the primary election as provided in 13-10-327 if a candidate for that office for that party was not nominated at the primary election.

(3) This section does not allow a political party to appoint a candidate for an office if no candidate for nomination by that party filed for the office before the primary election."

Section 5. Section 13-10-405, MCA, is amended to read:

"13-10-405. Submission and verification of petition. Petitions of nomination for the presidential preference primary election and the affidavits of circulation required by 13-27-302 must be presented to the election administrator of the county in which the signatures are gathered at least 1 week before the primary election filing deadline prescribed in 13-10-201(6)(b). A filing fee is not required. The election administrator shall verify the signatures in the manner prescribed in 13-27-303 through 13-27-308 and must forward the petitions to the secretary of state."

Section 6. Section 13-10-503, MCA, is amended to read:

"13-10-503. Filing deadlines. (1) A petition for nomination and the affidavits of circulation required by 13-27-302, accompanied by the required filing fee, must be filed with the same officer with whom other nominations for the office sought are filed. Petitions must be submitted, at least 1 week before the deadline for filing, to the election administrator in the county where the signer resides for verification and certification by the procedures provided in 13-27-303 through 13-27-306. If there are insufficient signatures on the petition, additional signatures may be submitted before the deadline for filing. If sufficient signatures are verified and certified pursuant to 13-10-502, the county election administrator shall file the petition for nomination with the same officer with whom other nominations for the office sought are filed.

(2) Except as provided in 13-10-504, each petition for nomination, accompanied by the required filing

fee, must be filed by the applicable deadline established in 13-10-201(6)(a) or (6)(b)."

Section 7. Section 13-10-601, MCA, is amended to read:

"13-10-601. Parties eligible for primary election -- petitions by minor parties. (1) Each political party that had a candidate for a statewide office in either of the last two general elections who received a total vote that was 5% or more of the total votes cast for the most recent successful candidate for governor shall nominate its candidates for public office, except for presidential electors, by a primary election as provided in this chapter.

(2) (a) A political party that does not qualify to hold a primary election under subsection (1) may qualify to nominate its candidates by primary election by presenting a petition, in a form prescribed by the secretary of state, requesting the primary election.

(b) The petition must be signed by a number of registered voters equal to 5% or more of the total votes cast for the successful candidate for governor at the last general election or 5,000 electors, whichever is less, ~~which~~ The number must include the registered voters in more than one-third of the legislative districts equal to 5% or more of the total votes cast for the successful candidate for governor at the last general election in those districts or 150 electors in those districts, whichever is less.

(c) At least 1 week before the ~~filing~~ deadline provided in subsection (2)(d), the petition and the affidavits of circulation required by 13-27-302 must be presented to the election administrator of the county in which the signatures were gathered to be verified under the procedures provided in 13-27-303 through 13-27-306.

(d) The election administrator shall forward the verified petition to the secretary of state at least ~~75~~ 85 days before the date of the primary."

Section 8. Section 13-12-201, MCA, is amended to read:

"13-12-201. Secretary of state to certify ballot. (1) Seventy-five days or more before ~~an~~ a federal general election, ~~except as provided in 13-10-208,~~ the secretary of state shall certify to the election administrators the name and party or other designation of each candidate entitled to appear on the ballot and the ballot issues as shown in the official records of the secretary of state's office, which must include the notification specified in 13-37-126.

(2) The election administrator shall certify the name and party or other designation of each candidate entitled to appear on the ballot and the ballot issues as shown in the official records of the election administrator's

office, which must include the notification specified in 13-37-126, and shall have the official ballots prepared.

(3) 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."

Section 9. Section 13-14-112, MCA, is amended to read:

"13-14-112. Declarations for nomination -- fee -- filing. (1) Nonpartisan candidates shall file declarations for nomination as required by the primary election laws in a form prescribed by the secretary of state except as provided in 13-14-113. A candidate may not file for more than one public office.

(2) Declarations may not indicate political affiliation. The candidate may not state in the declaration any principles or measures that the candidate advocates or any slogans.

(3) Each individual filing a declaration shall pay the fee prescribed by law for the position office that the individual seeks.

(4) Declarations must be filed:

(a) in the office of the secretary of state or the appropriate election administrator as provided in 13-10-201. ~~Time of filing must be the same as; and~~

(b) within the applicable filing period provided in 13-10-201 (6)(a) or (6)(b) for the office that the individual seeks."

Section 10. Section 13-14-113, MCA, is amended to read:

"13-14-113. Filing for offices without salary or fees. (1) Candidates for nonpartisan offices for which a salary or fees are not paid shall file with the appropriate official a petition for nomination containing the same information and the oath of the candidate required for a declaration of nomination in a form prescribed by the secretary of state.

(2) The petition must contain the signatures of registered electors of the election district in which the office will be on the ballot. The number of signatures must be equal to 5% of the total vote cast for the successful candidate for that office at the last general election, but may not be less than five signatures.

(3) The number of signatures necessary for a petition for nomination for an office not previously on the

ballot or for which the election district boundaries have changed since the last general election must be determined by the secretary of state.

(4) Petitions for nomination must be filed ~~at the same time~~ within the applicable filing period provided in 13-10-201(6)(a) or (6)(b) ~~for other candidates and offices.~~

(5) A candidate may not file for more than one public office."

Section 11. Section 13-25-203, MCA, is amended to read:

"13-25-203. Vacancy in office of United States representative. (1) If a vacancy occurs in the office of United States representative, the governor shall immediately order an election to be held to fill the vacancy, except as provided in subsection (3).

(2) The election to fill the unexpired term ~~shall~~ must be held no less than ~~75~~ 85 or more than ~~90~~ 100 days from the ~~time~~ date on which the vacancy occurs, except that if the vacancy occurs 150 days or less before a primary election or between the primary and general elections in odd-numbered years, the election ~~shall~~ must be held with the primary or general election.

(3) If the vacancy occurs between the primary and general election in even-numbered years, the candidate elected to the office for the succeeding full term shall immediately take office to fill the unexpired term."

Section 12. Section 13-25-205, MCA, is amended to read:

"13-25-205. Nominations for special election. (1) When a special election is ordered to fill a vacancy in the office of ~~United States senator or~~ United States representative, each political party shall choose a candidate according to the rules of the party. Nominations by parties ~~shall~~ must be made no later than ~~75~~ 85 days before the date set for the election.

(2) Nominating petitions may be filed by independent candidates for the office up to 5:00 p.m. of the ~~75th~~ 85th day before the election."

Section 13. Section 13-26-103, MCA, is amended to read:

"13-26-103. Nomination of delegates. (1) Nominations for the office of delegate ~~shall~~ must be made:

(a) by petition signed by not less than 100 voters of the district;

~~(2)(b) Nominations shall be without political designation but shall be;~~ and

(c) as "in favor of" or "opposed to" ratification of the proposed amendment.

~~(3)~~(2) Petitions and acceptances ~~shall~~ must be filed not less than ~~75~~ 85 days prior to the election."

Section 14. Section 13-35-107, MCA, is amended to read:

"13-35-107. Voiding election. (1) (a) If a court finds that the violation of any provision of this title by any person probably affected the outcome of any election, the result of that election may be held void and a special election held:

(i) except as provided in subsection (1)(a)(ii), within 75 days of that the finding; or

(ii) if the election was held pursuant to 13-1-104(1)(a) or 13-1-107(1), within 85 days of the finding.

(b) If the violation occurred during a primary election, the court may direct the selection of a new candidate according to the provisions of state law relating to the filling of vacancies on the general election ballot. Except as provided in subsection (2), an action to void an election ~~shall~~ must be commenced within 1 year of the date of the election in question.

(2) An action to void a bond election ~~shall~~ must be commenced within 60 days of the date of the election in question."

Section 15. Section 13-37-126, MCA, is amended to read:

"13-37-126. Names not to appear on ballot. (1) The name of a candidate may not appear on the official ballot for an election if the candidate or a treasurer for a candidate fails to file any statement or report as required by this chapter.

(2) A vacancy on an official ballot under this section may be filled in the manner provided by law, but not by the name of the same candidate.

(3) (a) In carrying out the mandate of this section, the commissioner shall, by a written statement, notify the secretary of state or the election administrator that a candidate or a candidate's treasurer has not complied with the provisions of this chapter, as described in subsection (1), and that a candidate's name ~~should~~ may not appear on the official ballot.

(b) The commissioner shall provide ~~this the~~ the notification; ~~by the ballot certification deadline~~

(i) within 8 calendar days after the close of the certification deadline provided in 13-10-208(1) for primary elections held pursuant to 13-1-107(1); or

(ii) by the earliest date specified under 13-10-208(2) for the county election administrator to certify the ballot for primary elections held pursuant to 13-1-107(2) or (3); and

(iii) by no later than 7 days before the ballot certification deadline provided in 13-12-201 for general elections."

- END -

I hereby certify that the within bill,
SB 0156, originated in the Senate.

Secretary of the Senate

President of the Senate

Signed this _____ day
of _____, 2009.

Speaker of the House

Signed this _____ day
of _____, 2009.

SENATE BILL NO. 156
INTRODUCED BY M. COONEY
BY REQUEST OF THE SECRETARY OF STATE

AN ACT CHANGING THE BEGINNING AND ENDING DATES THAT A CANDIDATE MAY FILE FOR CERTAIN ELECTIONS; CLARIFYING PROVISIONS FOR SPECIAL ELECTIONS CALLED TO FILL A VACANCY IN CONGRESSIONAL OFFICES; AND AMENDING SECTIONS 13-10-201, 13-10-208, 13-10-325, 13-10-326, 13-10-405, 13-10-503, 13-10-601, 13-12-201, 13-14-112, 13-14-113, 13-25-203, 13-25-205, 13-26-103, 13-35-107, AND 13-37-126, MCA.