

HOUSE BILL NO. 318

INTRODUCED BY F. GARNER

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4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS RELATED TO POLITICAL PARTY
5 CENTRAL COMMITTEES; REQUIRING THAT A PRECINCT COMMITTEE REPRESENTATIVE POSITION
6 BECOME VACANT ON THE EXPIRATION OF THE TERM; REQUIRING THAT CERTAIN CENTRAL
7 COMMITTEE RULES BE EFFECTIVE ONLY UPON FILING WITH THE ELECTION ADMINISTRATOR;
8 REVISING VACANCY PROVISIONS; PROVIDING REQUIREMENTS CONCERNING THE PROXIES OF
9 PRECINCT COMMITTEE REPRESENTATIVES; PROHIBITING ANYONE BUT A CITY, COUNTY, OR STATE
10 CENTRAL COMMITTEE FROM REGISTERING AN ASSUMED BUSINESS NAME OR TRADEMARK FOR THE
11 RELEVANT POLITICAL PARTY CENTRAL COMMITTEE; AMENDING SECTIONS 13-38-105; AND 13-38-202,
12 AND 13-38-205; MCA; AND PROVIDING EFFECTIVE DATES AND A RETROACTIVE APPLICABILITY DATE."

13
14 WHEREAS, THE OFFICE OF COMMITTEE REPRESENTATIVE IS A POSITION CREATED BY THE MONTANA
15 LEGISLATURE PURSUANT TO SECTION 13-38-201, MCA; AND

16 WHEREAS, THE COMMITTEE REPRESENTATIVES IN EACH PRECINCT CONSTITUTE THE CITY OR COUNTY CENTRAL
17 COMMITTEE OF THEIR RESPECTIVE POLITICAL PARTIES; AND

18 WHEREAS, THE LEGISLATURE HAS DELEGATED THE POWER OF THE STATE OF MONTANA TO PARTY CENTRAL
19 COMMITTEES TO PARTICIPATE IN THE PROCESS OF FILLING VACANCIES FOR LEGISLATIVE AND COUNTY COMMISSION
20 POSITIONS; AND

21 WHEREAS, THE STATE OF MONTANA HAS THE POWER TO REGULATE POLITICAL PARTIES TO ENSURE ELECTIONS
22 ARE ORDERLY, FAIR, AND HONEST; AND

23 WHEREAS, OTHER COURTS HAVE RECOGNIZED THAT WHEN A STATE DELEGATES POWER TO A POLITICAL PARTY
24 COMMITTEE TO FILL VACANCIES, THE STATE MAY REQUIRE COMPLIANCE WITH STATE LAW; AND

25 WHEREAS, THE STATE OF MONTANA HAS AN INTEREST IN LIMITING OPPORTUNITIES FOR FRAUD AND
26 CORRUPTION BY PARTY LEADERSHIP; AND

27 WHEREAS, THE MONTANA SUPREME COURT HAS RECOGNIZED THE POWER TO INTERVENE IN THE AFFAIRS OF
28 A POLITICAL PARTY WHEN THE RIGHTS OF INDIVIDUALS ARE INVOLVED; AND

29 WHEREAS, THE ENACTMENT OF SECRET RULES GOVERNING COMMITTEE REPRESENTATIVES, THE USE OF
30 FRAUDULENT PROXIES OF COMMITTEE REPRESENTATIVES, THE ARBITRARY REMOVAL OF COMMITTEE REPRESENTATIVES,



1 AND THE FILING OF FALSE TRADE AND SERVICE MARKS WITH THE MONTANA SECRETARY OF STATE ARE FRAUDULENT AND
2 CORRUPT PRACTICES; AND

3 WHEREAS, THE ENACTMENT OF SECRET RULES GOVERNING COMMITTEE REPRESENTATIVES, THE USE OF
4 FRAUDULENT PROXIES OF COMMITTEE REPRESENTATIVES, AND THE REMOVAL OF COMMITTEE REPRESENTATIVES BEFORE
5 THE CONCLUSION OF A TERM MAY RESULT IN A DISORDERLY, UNFAIR, AND DISHONEST ELECTION TO FILL A VACANCY IN A
6 LEGISLATIVE OR COUNTY COMMISSION POSITION; AND

7 WHEREAS, IT IS IN THE INTEREST OF THE STATE OF MONTANA TO PREVENT FRAUD AND CORRUPTION AND TO
8 ENSURE FAIR, HONEST, AND ORDERLY ELECTIONS CONDUCTED BY COMMITTEE REPRESENTATIVES AND TO PROTECT THE
9 RIGHTS OF INDIVIDUALS BY SETTING CLEAR EXPECTATIONS AND GUIDELINES FOR THE OFFICE OF COMMITTEE
10 REPRESENTATIVE.

11
12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13
14 **Section 1.** Section 13-38-105, MCA, is amended to read:

15 **"13-38-105. County City and county central committee rules to be filed with election**
16 **administrator.** The city and county committee central committees of each political party of this state ~~must~~ SHALL
17 file a current copy of its their rules of government with the election administrator. Rules adopted by a city or
18 county central committee are effective only upon filing with the election administrator."

19
20 **Section 2.** Section 13-38-202, MCA, is amended to read:

21 **"13-38-202. Committee representatives as party representatives -- county and city central**
22 **committees.** (1) Each committee representative shall represent the representative's political party for the precinct
23 in all ward or subdivision committees formed.

24 (2) The committee representatives in each precinct constitute the county central committee of the
25 respective political parties.

26 (3) Committee representatives who reside within the limits of a city are ex officio the city central
27 committee of their respective political parties and have the power to make their own rules not inconsistent with
28 those of the county central committee. However, the county central committee has the power to fill vacancies in
29 the city central committee.

30 (4) Each precinct committee representative serves a term of 2 years from the date of election or

1 appointment pursuant to 13-38-201. Once the term has expired, the position becomes vacant.

2 (5) Vacancies in the office of precinct committee representative occur only on the death; OR WRITTEN
 3 resignation, or felony conviction of the incumbent or when the incumbent is no longer a resident or registered
 4 voter of the precinct. A precinct committee representative may not otherwise be removed from office. If a vacancy
 5 occurs, the remaining members of the county central committee may select a precinct resident to fill the vacancy."

6
 7 ~~Section 3. Section 13-38-205, MCA, is amended to read:~~

8 ~~"13-38-205. Organization and operation of committee. (1) The committee shall meet prior to the state~~
 9 ~~convention of its political party and organize by electing a presiding officer and one or more vice presiding~~
 10 ~~officers. The gender of the presiding officer and the vice presiding officer may not be the same. The committee~~
 11 ~~shall elect a secretary and other officers as necessary. It is not necessary for the officers to be precinct committee~~
 12 ~~representatives.~~

13 ~~(2) The committee may select managing or executive committees and authorize subcommittees to~~
 14 ~~exercise all powers conferred upon the county, city, state, and congressional central committees by the election~~
 15 ~~laws of this state.~~

16 ~~(3) The presiding officer of the county central committee shall call the central committee meeting and~~
 17 ~~not less than 4 days before the date of the central committee meeting shall publish the call in a newspaper~~
 18 ~~published at the county seat and mail a copy of the call to each precinct committee representative. If party rules~~
 19 ~~permit the use of a proxy, a proxy may not be recognized unless it is held by an elector of the precinct of the~~
 20 ~~committee representative executing it.~~

21 ~~(4) The Unless the committee representatives elect another person to preside during a city or county~~
 22 ~~convention, the city or county presiding officer of the party shall preside presides at the a city or county~~
 23 ~~convention. No person other than a duly elected or appointed committee representative or officer of the~~
 24 ~~committee is entitled to participate in the proceedings of the committee.~~

25 ~~(5) If a committee representative is absent, the convention may fill the vacancy by appointing some~~
 26 ~~qualified elector of the party, resident in the precinct, to represent the precinct in the convention.~~

27 ~~(6) The county convention shall elect delegates and alternate delegates to the state convention under~~
 28 ~~rules of the state party. The presiding officer and secretary of the county convention shall issue and sign~~
 29 ~~certificates of election of the delegates."~~

30

1 **NEW SECTION. Section 3. Precinct committee representative proxies.** (1) If the use of a proxy by
 2 a precinct committee representative elected or appointed pursuant to 13-38-201 is authorized under party rules,
 3 the proxy must be:

4 (a) in writing;

5 (b) dated on a day or at a time prior to the meeting in which the proxy is used; and

6 (c) signed or electronically authorized by the precinct committee representative on whose behalf it will
 7 be cast.

8 (2) A precinct committee representative's proxy that is cast in violation of the provisions in this section
 9 is invalid, and the outcome of a vote or action determined by the use of a precinct committee representative's
 10 unauthorized proxy is void.

11
 12 **NEW SECTION. Section 4. Political party central committee assumed business name.** Only a city,
 13 county, or state central committee of a political party may register an assumed business name on behalf of the
 14 central committee. The secretary of state may not accept an application for an assumed business name of a city,
 15 county, or state central committee of a political party unless it is accompanied by a resolution of the relevant
 16 central committee attesting that it is the entity applying for an assumed business name.

17
 18 **NEW SECTION. Section 5. Political party central committee marks.** Only a city, county, or state
 19 central committee of a political party may register a mark on behalf of the central committee. The secretary of
 20 state may not accept an application identifying the mark of a city, county, or state central committee of a political
 21 party unless it is accompanied by a resolution of the relevant central committee attesting that it is the entity
 22 applying for the mark.

23
 24 **NEW SECTION. Section 6. Assumed business names and trademarks of central committees.** Only
 25 a city, county, or state central committee of a political party may register an assumed business name, trademark,
 26 or service mark for the central committee as provided by [sections ~~5 and 6~~ 4 AND 5].

27
 28 **NEW SECTION. Section 7. Codification instruction.** (1) [Sections ~~4 and 7~~ 3 AND 6] are intended to
 29 be codified as an integral part of Title 13, chapter 38, part 1, and the provisions of Title 13, chapter 38, part 1,
 30 apply to [sections ~~4 and 7~~ 3 AND 6].

1 (2) [Section 5 4] is intended to be codified as an integral part of Title 30, chapter 13, part 2, and the
2 provisions of Title 30, chapter 13, part 2, apply to [section 5 4].

3 (3) [Section 6 5] is intended to be codified as an integral part of Title 30, chapter 13, part 3, and the
4 provisions of Title 30, chapter 13, part 3, apply to [section 6 5].

5
6 **NEW SECTION. Section 8. Severability.** If a part of [this act] is invalid, all valid parts that are severable
7 from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part
8 remains in effect in all valid applications that are severable from the invalid applications.

9
10 **NEW SECTION. SECTION 9. EFFECTIVE DATES. (1) [SECTION 1] IS EFFECTIVE OCTOBER 1, 2019.**

11 **(2) [SECTIONS 2 THROUGH 10] ARE EFFECTIVE ON PASSAGE AND APPROVAL.**

12
13 **NEW SECTION. Section 10. Retroactive applicability.** [~~This act~~] applies [SECTIONS 2 THROUGH 6]
14 APPLY retroactively, within the meaning of 1-2-109, to ~~June 15~~ AUGUST 1, 2018.

15 - END -