

SENATE BILL NO. 161

INTRODUCED BY T. JACOBSON

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A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING A PERSON TO FILE FOR, BE ELECTED TO, AND CONCURRENTLY SERVE AS A DIRECTOR FOR A WATER AND SEWER DISTRICT AND AS A TRUSTEE OF A RURAL FIRE DISTRICT UNDER CERTAIN CIRCUMSTANCES; AMENDING SECTIONS 13-10-201, 13-10-211, 13-14-112, AND 13-14-113, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

NEW SECTION. **Section 1. Exemption from election restriction on holding one public office.** A

candidate may file for, be elected to, and concurrently serve on both the board of directors of a water and sewer district organized under Title 7, chapter 13, parts 22 and 23, and the board of trustees of a rural fire district organized under Title 7, chapter 33, part 21, if:

(1) the water and sewer district and the rural fire district lie wholly within the boundaries of an incorporated town or a city of the third class as defined in 7-1-4111 or wholly within an unincorporated area that would otherwise be classified as a town or city of the third class if it was incorporated; ~~and~~

(2) the person otherwise meets the requirements for a candidate for a director of a water and sewer district and a trustee of a rural fire district; AND

(3) THE PERSON RUNS UNOPPOSED FOR THE BOARD OF DIRECTORS OF A WATER AND SEWER DISTRICT POSITION AND THE BOARD OF TRUSTEES OF A RURAL FIRE DISTRICT POSITION. FOR THE PURPOSES OF THIS SUBSECTION, "UNOPPOSED" MEANS THE NUMBER OF CANDIDATES FOR EACH BOARD OF DIRECTORS OR BOARD OF TRUSTEES IS EQUAL TO OR LESS THAN THE NUMBER OF POSITIONS AVAILABLE ON EACH RESPECTIVE BOARD.

Section 2. 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 [section 1], 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.

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

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

5 (b) the election administrator for a county, municipal, precinct, or district office (other than a member of
6 the legislature or a judge of the district court) to be voted for in only one county.

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

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

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

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

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

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

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

30 (8) A properly completed and signed declaration for nomination form may be sent by facsimile

1 transmission, electronically mailed, delivered in person, or mailed to the election administrator or to the secretary
2 of state.

3 (9) For the purposes of implementing Article IV, section 8, of the Montana constitution, the secretary of
4 state shall apply the following conditions:

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

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

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

11

12 **Section 3.** Section 13-10-211, MCA, is amended to read:

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

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

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

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

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

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

29 (b) the candidate's mailing address;

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

- 1 (d) the title of the office sought;
2 (e) the date of the election;
3 (f) the date of the declaration; and
4 (g) the candidate's signature.

5 (2) A declaration of intent may be filed after the deadline provided for in subsection (1) but no later than
6 5 p.m. on the day before the election if, after the deadline prescribed in subsection (1), a candidate for the office
7 that the write-in candidate is seeking dies or is charged with a felony offense and if the election has not been
8 canceled as provided by law.

9 (3) The secretary of state shall notify each election administrator of the names of write-in candidates who
10 have filed a declaration of intent with the secretary of state. Each election administrator shall notify the election
11 judges in the county or district of the names of write-in candidates who have filed a declaration of intent.

12 (4) A properly completed and signed declaration of intent may be provided to the election administrator
13 or secretary of state:

- 14 (a) by facsimile transmission;
15 (b) in person;
16 (c) by mail; or
17 (d) by electronic mail.

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

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

22 (7) Except as provided in 13-38-201(4)(b), the requirements in subsection (1) do not apply if:

- 23 (a) an election is held;
24 (b) a person's name is written in on the ballot;
25 (c) the person is qualified for and seeks election to the office for which the person's name was written
26 in; and
27 (d) no other candidate has filed a declaration or petition for nomination or a declaration of intent."
28

29 **Section 4.** Section 13-14-112, MCA, is amended to read:

30 **"13-14-112. Declarations for nomination -- fee -- filing.** (1) Nonpartisan candidates shall file

1 declarations for nomination as required by the primary election laws in a form prescribed by the secretary of state
2 except as provided in 13-14-113. ~~A Except as provided in [section 1], a candidate may not file for more than one~~
3 public office.

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

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

8 (4) Declarations must be filed:

9 (a) in the office of the secretary of state or the appropriate election administrator as provided in
10 13-10-201; and

11 (b) within the filing period provided in 13-10-201(7) for the office that the individual seeks."
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13 **Section 5.** Section 13-14-113, MCA, is amended to read:

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

18 (2) Petitions for nomination or declarations for nomination must be filed within the filing period provided
19 in 13-10-201(7).

20 (3) ~~A Except as provided in [section 1], a candidate may not file for more than one public office."~~
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22 NEW SECTION. **Section 6. Codification instruction.** [Section 1] is intended to be codified as an
23 integral part of Title 13, chapter 1, part 5, and the provisions of Title 13, chapter 1, part 5, apply to [section 1].
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25 NEW SECTION. **Section 7. Effective date.** [This act] is effective on passage and approval.
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