



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

WHEREAS, the office of committee representative is a position created by the Montana Legislature pursuant to section 13-38-201, MCA; and

WHEREAS, the committee representatives in each precinct constitute the city or county central committee of their respective political parties; and

WHEREAS, the Legislature has delegated the power of the State of Montana to party central committees to participate in the process of filling vacancies for legislative and county commission positions; and

WHEREAS, the State of Montana has the power to regulate political parties to ensure elections are orderly, fair, and honest; and

WHEREAS, other courts have recognized that when a state delegates power to a political party committee to fill vacancies, the state may require compliance with state law; and

WHEREAS, the State of Montana has an interest in limiting opportunities for fraud and corruption by party leadership; and

WHEREAS, the Montana Supreme Court has recognized the power to intervene in the affairs of a political party when the rights of individuals are involved; and

WHEREAS, the enactment of secret rules governing committee representatives, the use of fraudulent proxies of committee representatives, the arbitrary removal of committee representatives, and the filing of false

trade and service marks with the Montana Secretary of State are fraudulent and corrupt practices; and

WHEREAS, the enactment of secret rules governing committee representatives, the use of fraudulent proxies of committee representatives, and the removal of committee representatives before the conclusion of a term may result in a disorderly, unfair, and dishonest election to fill a vacancy in a legislative or county commission position; and

WHEREAS, it is in the interest of the State of Montana to prevent fraud and corruption and to ensure fair, honest, and orderly elections conducted by committee representatives and to protect the rights of individuals by setting clear expectations and guidelines for the office of committee representative.

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

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

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

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

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

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

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

(4) Each precinct committee representative serves a term of 2 years from the date of election or appointment pursuant to 13-38-201. Once the term has expired, the position becomes vacant.

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

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

(a) in writing;

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

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

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

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

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

Section 6. Assumed business names and trademarks of central committees. Only a city, county, or state central committee of a political party may register an assumed business name, trademark, or service

mark for the central committee as provided by [sections 4 and 5].

Section 7. Codification instruction. (1) [Sections 3 and 6] are intended to be codified as an integral part of Title 13, chapter 38, part 1, and the provisions of Title 13, chapter 38, part 1, apply to [sections 3 and 6].

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

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

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

Section 9. Effective dates. (1) [Section 1] is effective October 1, 2019.

(2) [Sections 2 through 10] are effective on passage and approval.

Section 10. Retroactive applicability. [Sections 2 through 6] apply retroactively, within the meaning of 1-2-109, to August 1, 2018.

- END -

I hereby certify that the within bill,
HB 0318, originated in the House.

Speaker of the House

Signed this _____ day
of _____, 2019.

Chief Clerk of the House

President of the Senate

Signed this _____ day
of _____, 2019.

HOUSE BILL NO. 318

INTRODUCED BY F. GARNER

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