

1 SENATE BILL NO. 200
2 INTRODUCED BY G. HERTZ

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATED TO THE USE OF PARTY
5 AFFILIATION FOR NONPARTISAN RACES, INCLUDING SCHOOL TRUSTEE RACES; ALLOWING
6 CANDIDATES IN NONPARTISAN ELECTIONS TO INDICATE A POLITICAL PARTY AFFILIATION ON A
7 DECLARATION FOR NOMINATION AND TO HAVE THAT AFFILIATION APPEAR ON THE BALLOT;
8 ALLOWING JUDICIAL CANDIDATES TO ANNOUNCE POLITICAL AFFILIATIONS AND ENDORSEMENTS;
9 AMENDING SECTIONS 13-10-209, 13-10-602, 13-12-203, 13-14-112, 13-14-115, 20-3-305, AND 20-3-306,
10 MCA; AND PROVIDING AN APPLICABILITY DATE."

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

13
14 NEW SECTION. **Section 1. Judicial candidate may indicate political party preference.** A
15 candidate for judicial office may indicate the candidate's political party affiliation on the candidate's declaration
16 for nomination.

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18 NEW SECTION. **Section 2. Judicial candidate may announce affiliation and endorsements.** A
19 candidate for judicial office may announce the candidate's political affiliation or a campaign endorsement that
20 the candidate has received.

21
22 **Section 3.** Section 13-10-209, MCA, is amended to read:

23 **"13-10-209. Arrangement and preparing of primary ballots.** (1) (a) Ballots for a primary election
24 must be arranged and prepared in the same manner and number as provided in chapter 12 for general election
25 ballots, except that there must be separate ballots for each political party entitled to participate. The name of
26 the political party must appear at the top of the separate ballot for that party and need not appear with each
27 candidate's name.

28 (b) Nonpartisan offices and ballot issues may be prepared on separate ballots or may appear on

1 the same ballot as partisan offices if:

2 (i) each section is clearly identified as separate; and

3 (ii) the nonpartisan offices and ballot issues appear on each party's ballot.

4 (2) Except as provided in subsection (3), an election administrator does not need to prepare a
5 primary ballot for a political party if:

6 (a) the party does not have candidates for more than half of the offices to appear on the ballot; and

7 (b) no more than one candidate files for nomination by that party for any of the offices to appear on
8 the ballot.

9 (3) Subsection (2) does not apply to elections for precinct committee offices. If more than one
10 candidate files for a precinct committee office from a party that will not have a primary ballot prepared, that
11 party shall select the candidate to fill the office.

12 (4) If, pursuant to subsection (2), in a primary election held in an even-numbered year a primary
13 ballot for a political party is not prepared, the secretary of state shall certify that a primary election is
14 unnecessary for that party and shall instruct the election administrator to certify the names of the candidates for
15 that party for the general election ballot only.

16 (5) The separate ballots for each party must have the same appearance. Each set of party ballots
17 must bear the same number. If prepared as a separate ballot, the nonpartisan ballot may have a different
18 appearance than the party ballots but must be numbered in the same order as the party ballots.

19 (6) Regardless if the election administrator has prepared separate ballots for nonpartisan offices or
20 has listed nonpartisan candidates on the same ballot as partisan candidates, if a candidate for a nonpartisan
21 office indicates the candidate's political party affiliation on a declaration for nomination as provided in 13-14-
22 112, the candidate's name must appear under the title of the office sought, with the name of the candidate's
23 political party affiliation, if any, in no more than three words appearing opposite or below the candidate's name.
24 If a candidate for a nonpartisan office did not indicate a political party affiliation, the name of the candidate must
25 appear with the word "Nonpartisan".

26 ~~(6)~~(7) If a ballot issue is to be voted on at a primary election, it may be placed on the nonpartisan
27 ballot or a separate ballot. A separate ballot may have a different appearance than the other ballots in the
28 election but must be numbered in the same order.

1 ~~(7)~~(8) Each elector must receive a set of ballots that includes the party, nonpartisan, and ballot issue
2 choices."

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4 **Section 4.** Section 13-10-602, MCA, is amended to read:

5 **"13-10-602. Use of party name.** (1) Except as provided in subsection (3), a political party and its
6 regularly nominated candidates, members, and officers have the sole and exclusive right to the use of the party
7 name. ~~A-Except as provided in [section 1], a candidate for office may not use any word of the name of any~~
8 other political party or organization other than that by which the candidate is nominated in a manner that
9 indicates or implies the individual is a candidate of the nonnominating party.

10 (2) An independent or nonpartisan candidate, except as provided in [section 1] or subsection (3) of
11 this section, may not use any word of the name of any existing political party or organization in the candidacy in
12 a manner that indicates or implies that the individual is a candidate of that party or organization.

13 (3) A candidate for an elective office under an elected county official government provided for in 7-
14 3-111 who is running in an election conducted after electors have approved a change pursuant to 7-3-103(4) in
15 the type of election held from partisan to nonpartisan may use a party name or symbol in the candidate's
16 campaign material."

17

18 **Section 5.** Section 13-12-203, MCA, is amended to read:

19 **"13-12-203. Appearance of candidate's name and party designation on ballot.** (1) Subject to 13-
20 12-202 and except as provided in 13-10-209 for nonpartisan offices and 13-10-303 for certain other candidates,
21 in partisan elections, candidates' names must appear under the title of the office sought, with the name of the
22 party in not more than three words appearing opposite or below the name.

23 (2) Subject to 13-12-202, in nonpartisan general elections, the candidates' names must appear
24 under the title of the office sought, ~~with no description or designation appearing with the name unless partisan~~
25 ~~and nonpartisan offices appear on the same ballot. In such a case, the names of nonpartisan candidates must~~
26 ~~appear with the word "Nonpartisan"~~ the name of the candidate's political party affiliation, if any, in no more than
27 three words appearing opposite or below the candidate's name. If a candidate for a nonpartisan office did not
28 indicate a political party affiliation, the name of the candidate must appear with the word "Nonpartisan".

1 (3) Except as otherwise provided by this section, information about the candidate other than the
2 candidate's name may not appear on the ballot, including a title, accomplishment, award, or degree."

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4 **Section 6.** Section 13-14-112, MCA, is amended to read:

5 **"13-14-112. Declarations for nomination -- fee -- filing.** (1) Nonpartisan candidates shall file
6 declarations for nomination as required by the primary election laws in a form prescribed by the secretary of
7 state except as provided in 13-14-113. Except for a candidate covered under 7-1-205, a candidate may not file
8 for more than one public office.

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

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

13 (4) Declarations must be filed:

14 (a) in the office of the secretary of state or the appropriate election administrator as provided in 13-
15 10-201; and

16 (b) within the filing period provided in 13-10-201(7) for the office that the individual seeks."
17

18 **Section 7.** Section 13-14-115, MCA, is amended to read:

19 **"13-14-115. Preparation and distribution of nonpartisan primary ballots -- determination on**
20 **conducting primary.** (1) The election administrators shall arrange, prepare, and distribute primary ballots for
21 nonpartisan offices, designated "nonpartisan primary ballots". The ballots must be arranged and prepared as
22 provided in 13-10-209 ~~and be without political designation.~~

23 (2) (a) Except as provided in subsection (2)(b), the election administrator of a political subdivision
24 may determine that a local nonpartisan portion of a primary election need not be held if:

25 (i) the number of candidates for an office exceeds three times the number to be elected to that
26 office in no more than one-half of the offices on the ballot; and

27 (ii) the number of candidates in excess of three times the number to be elected is not more than
28 one for any office on the ballot.

1 (b) The election administrator may determine that a primary election for a nonpartisan county office
2 need not be held if fewer than three candidates have filed for that office.

3 (c) If the election administrator determines that a primary election must be held pursuant to
4 subsection (2)(a) or (2)(b), the election administrator shall conduct the primary election only for the nonpartisan
5 offices that have a sufficient number of candidates that have filed to be elected to that office.

6 (d) If the election administrator determines that a primary election need not be held pursuant to
7 subsection (2)(a), (2)(b), or (2)(c) for a nonpartisan office, the administrator shall give notice to the governing
8 body that a primary election will not be held for that office.

9 (3) The governing body may require that a primary election be held for a nonpartisan office if it
10 passes a resolution not more than 10 days after the close of filing by candidates for election stating that a
11 primary election must be held for that office."

12

13 **Section 8.** Section 20-3-305, MCA, is amended to read:

14 **"20-3-305. Candidate qualification, filing deadline, and withdrawal.** (1) Except as provided in 20-
15 3-338, any person who is qualified to vote in a district under the provisions of 20-20-301 is eligible for the office
16 of trustee.

17 (2) (a) Except as provided in subsection (2)(b), a declaration of intent to be a candidate must be
18 submitted to the clerk of the district at least 40 days before the regular school election day at which the person
19 is to be a candidate. If there are different terms to be filled, the term for the position for which the candidate is
20 filing must also be indicated.

21 (b) A person seeking to become a write-in candidate for a trustee position shall file a declaration of
22 intent no later than 5 p.m. on the day before the ballot certification deadline in 20-20-401.

23 (c) A candidate for a trustee position may indicate the candidate's political party affiliation on the
24 candidate's declaration of intent.

25 (3) (a) A candidate intending to withdraw from the election shall send a statement of withdrawal to
26 the clerk of the district. The statement must contain all information necessary to identify the candidate and the
27 office for which the candidate filed. The statement of withdrawal must be acknowledged by the clerk of the
28 district.

1 (b) A candidate may not withdraw after 5 p.m. the day before the ballot certification deadline in 20-
2 20-401."

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4 **Section 9.** Section 20-3-306, MCA, is amended to read:

5 **"20-3-306. Conduct of election.** (1) The trustees of each district shall call a trustee election on the
6 regular school election day of each school fiscal year under the provisions of 20-20-201, except as provided in
7 20-3-313. The trustees shall call and conduct the trustee election in the manner prescribed in this title for school
8 elections and Title 13. Any elector qualified to vote under the provisions of 20-20-301 may vote at a trustee
9 election. If a candidate has declared a political party affiliation on the declaration of intent, the name of the
10 candidate's political party affiliation must be included on the ballot in no more than three words appearing
11 opposite or below the candidate's name. If a candidate for a nonpartisan office did not indicate a political party
12 affiliation, the name of the candidate must appear with the word "Nonpartisan".

13 (2) The trustee election ballots must be substantially in the following form:

14 OFFICIAL BALLOT
15 SCHOOL TRUSTEE ELECTION

16 INSTRUCTIONS TO VOTERS: Make an X or similar mark in the vacant square before the name of the
17 candidate for whom you wish to vote.

18 Vote for (indicate number to be elected) for a 3-year term:
19 [] (List the names of the candidates for a 3-year term with a vacant square in front of each name.)

20 Vote for (indicate number to be elected) for a 2-year term:
21 [] (List the names of the candidates for a 2-year term with a vacant square in front of each name.)

22 Vote for (indicate number to be elected) for a 1-year term:
23 [] (List the names of the candidates for a 1-year term with a vacant square in front of each name.)"

24

25 **NEW SECTION. Section 10. Codification instruction.** (1) [Section 1] is intended to be codified as
26 an integral part of Title 13, chapter 14, part 2, and the provisions of Title 13, chapter 14, part 2, apply to [section
27 1].

28 (2) [Section 2] is intended to be codified as an integral part of Title 13, chapter 35, part 2, and the

1 provisions of Title 13, chapter 35, part 2, apply to [section 2].

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3 NEW SECTION. **Section 11. Applicability.** [This act] applies to primary and general elections held

4 on or after January 1, 2024.

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