

**** BILL NO. ****

INTRODUCED BY ****

BY REQUEST OF THE ****

A BILL FOR AN ACT ENTITLED: "AN ACT CHANGING THE FILING DEADLINE FOR SPECIAL DISTRICT CANDIDATES; AMENDING SECTIONS 13-1-502, 13-10-201, AND 13-10-211, MCA; ~~AND PROVIDING AN IMMEDIATE EFFECTIVE DATE~~."

Commented [RP1]: Would either a July 1 or October 1 effective date be more appropriate?

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

Section 1. Section 13-1-502, MCA, is amended to read:

"13-1-502. Deadlines for candidate filing, write-in candidacy, and withdrawal -- election

cancellation -- election by acclamation. (1) ~~Consistent with the candidate filing deadline in 13-10-201(7) for~~ For primary elections and except as provided in subsection (3) for a write-in candidate, the candidate filing deadline for election to a special purpose district office is no sooner than ~~105 days~~ 145 days and no later than ~~90 days~~ 85 days before the election.

(2) ~~Consistent with the withdrawal deadline in 13-10-325 for~~ For primary elections, a candidate may not withdraw after the candidate filing deadline provided in subsection (1).

(3) (a) A declaration of intent to be a write-in candidate must be filed with the election administrator by 5 p.m. on the ~~90th day~~ 85th day before the date of the election.

(b) An unsuccessful candidate for office at a primary election may not seek nomination by write-in vote or petition for the same office at the general election.

(4) (a) Except as provided in subsection (4)(b), if by the write-in candidate deadline in subsection (3) the number of candidates is equal to or less than the number of positions to be filled at the election, the election administrator shall cancel the election and, pursuant to 13-1-304, immediately notify the governing body of the local government in writing of the cancellation. However, the governing body of the local government may by resolution require that the election be held.

(b) For an election of conservation district supervisors held in conjunction with a federal primary or

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federal general election, if by the candidate filing deadline under subsection (1) the number of candidates is equal to or less than the number of positions to be filled at the election, the election administrator shall cancel the election and immediately notify the governing body of the conservation district in writing of the cancellation. However, the governing body of the conservation district may, by no later than 10 days after the candidate filing deadline, pass a resolution to require that the election be held.

(5) (a) If an election has been canceled and there is only one candidate for a position, the governing body of the local government or, if appropriate, of the conservation district shall declare the candidate elected to the position by acclamation.

(b) Except as otherwise provided by law:

(i) if an election has been canceled and there are no regular or declared write-in candidates for a position, the governing body of the local government or, if appropriate, of the conservation district shall fill the position by appointment;

(ii) an appointed member shall serve the same term as if the member were elected."

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 a candidate covered under 7-1-205, 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; or

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

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1 secretary of state, the declaration for nomination must be acknowledged by an officer empowered to
2 acknowledge signatures or by the officer of the office at which the filing is made.

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

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

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

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

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

19 (7) Except as provided in [13-1-502 and](#) 13-10-211, a candidate's declaration for nomination must
20 be filed no sooner than 105 days before the election and no later than 5 p.m., 90 days before the date of the
21 primary election.

22 (8) A properly completed and signed declaration for nomination form may be sent by facsimile
23 transmission, electronically mailed, delivered in person, or mailed to the election administrator or to the
24 secretary of state.

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

27 (a) A term of office for an official serving in the office or a candidate seeking the office is
28 considered to begin on January 1 of the term for which the official is elected or for which the candidate seeks

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1 election and to end on December 31 of the term for which the official is elected or for which the candidate seeks
2 election.

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

4 (c) "Current term", as used in Article IV, section 8, of the Montana constitution, has the meaning
5 provided in 2-16-214."
6

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

8 **"13-10-211. Declaration of intent for write-in candidates.** (1) Except as provided in 13-1-403(2)(b),
9 13-1-502(3)(b), and subsection (2) of this section, a person seeking to become a write-in candidate for an office
10 in any election shall file a declaration of intent. Except for a candidate under 13-38-201(4) or a candidate
11 covered under 7-1-205, a candidate may not file for more than one public office. The declaration of intent must
12 be filed with the secretary of state or election administrator, depending on where a declaration of nomination for
13 the desired office is required to be filed under 13-10-201, or with the school district clerk for a school district
14 office. When a county election administrator is conducting the election for a school district, the school district
15 clerk or school district office that receives the declaration of intent shall notify the county election administrator
16 of the filing. Except as provided in 13-1-403, 13-1-502, 13-1-503, 20-3-305, and subsection (3) of this section,
17 the declaration must be filed no later than 5 p.m. on the 90th day before the election and must contain:

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

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

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

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

23 and

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

26 (b) the candidate's mailing address;

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

28 (d) the title of the office sought;

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(e) the date of the election;

(f) the date of the declaration; and

(g) the candidate's signature.

(2) An unsuccessful candidate for office at a primary election may not seek nomination by write-in vote or petition for the same office at the general election.

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

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

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

(a) by facsimile transmission;

(b) in person;

(c) by mail; or

(d) by electronic mail.

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

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

NEW SECTION. Section 4. Effective date. [This act] is effective on passage and approval.

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