

1 HOUSE BILL NO. 751

2 INTRODUCED BY L. SCHUBERT, T. MILLETT

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING JUDICIAL ELECTION LAWS;
5 PROVIDING FOR PARTISAN NOMINATION AND ELECTION OF SUPREME COURT JUSTICES AND THE
6 CHIEF JUSTICE OF THE SUPREME COURT; REQUIRING CANDIDATES WHO DO NOT FILE WITH A
7 POLITICAL PARTY TO APPEAR ON THE BALLOT AS "UNDISCLOSED"; PROVIDING THAT ONLY ONE
8 UNDISCLOSED CANDIDATE MAY ADVANCE TO THE GENERAL ELECTION; ALLOWING CANDIDATES
9 FOR SUPREME COURT JUSTICE OR CHIEF JUSTICE TO ACCEPT POLITICAL ENDORSEMENTS AND
10 CONTRIBUTIONS FROM POLITICAL PARTIES; AMENDING SECTIONS 3-2-101, 13-10-201, 13-10-209, 13-
11 12-203, 13-14-111, 13-14-211, 13-14-212, 13-14-213, AND 13-35-231, MCA; AND PROVIDING AN
12 APPLICABILITY DATE."
13

14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
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16 **Section 1.** Section 3-2-101, MCA, is amended to read:

17 **"3-2-101. Number, nomination, election, and term of office.** (1) The supreme court consists of a
18 chief justice and six associate justices who are elected by the qualified electors of the state at large at the
19 general state elections next preceding the expiration of the terms of office of their predecessors, respectively,
20 and hold their offices for the term of 8 years from and after the first Monday of January next succeeding their
21 election.

22 (2) A supreme court justice, including the chief justice, must be nominated and elected on a
23 partisan ballot in the same manner as provided for partisan candidates in Title 13, except that an incumbent
24 justice who is the only candidate for the office must be placed on the general election ballot as provided in
25 Article VII, section 8, of the Montana constitution and [section 2].

26 (3) Each vacancy for justice of the supreme court is a separate and independent office for election
27 purposes. The chief justice of the supreme court shall assign an individual number to each justice position and
28 certify these numbers to the office of the secretary of state."

1

2 **NEW SECTION. Section 2. Form of ballot on retention for supreme court justice retention**

3 **election.** (1) If an incumbent justice is the only candidate for an office of supreme court justice or the chief
4 justice of the supreme court, the name of the incumbent justice must be placed on the official ballot for general
5 election as follows:

6 Shall (insert title of officer) (insert name of the incumbent officer) of the supreme court of the state of
7 Montana be retained in office for another term?

8 (2) Following the question, provision must be made, subject to rules adopted pursuant to 13-12-
9 202, for a voter to indicate a "yes" or a "no" vote. The form must include the incumbent's political party
10 designation and may not include a write-in space for the office.

11

12 **Section 3.** Section 13-10-201, MCA, is amended to read:

13 **"13-10-201. Declaration for nomination -- term limitations.** (1) Each candidate in the primary
14 election, except nonpartisan candidates filing under the provisions of Title 13, chapter 14, shall file a declaration
15 for nomination with the secretary of state or election administrator. Except for a candidate under 13-38-201(4)
16 or a candidate covered under 7-1-205, a candidate may not file for more than one public office. Each candidate
17 for governor shall file a joint declaration for nomination with a candidate for lieutenant governor.

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

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

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

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

28 (4) The declaration for nomination must include an oath of the candidate that includes wording

1 substantially as follows: "I hereby affirm that I possess, or will possess within constitutional and statutory
2 deadlines, the qualifications prescribed by the Montana constitution and the laws of the United States and the
3 state of Montana." The candidate affirmation included in this oath is presumed to be valid unless proven
4 otherwise in a court of law.

5 (5) (a) The Except as provided in subsection (5)(b), the declaration, when filed, is conclusive
6 evidence that the elector is a candidate for nomination by the elector's party. For a partisan election, an elector
7 may not file a declaration for more than one party's nomination.

8 (b) A person seeking nomination for supreme court justice or chief justice of the supreme court
9 who does not wish to be nominated by a political party shall indicate "undisclosed" on the person's declaration
10 for 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 13-10-211, a candidate's declaration for nomination must be filed no
20 sooner than 145 days before the election in which the office first appears on the ballot and no later than 5 p.m.,
21 85 days before the date of the 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

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."
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7 **Section 4.** Section 13-10-209, MCA, is amended to read:

8 **"13-10-209. Arrangement and preparing of primary ballots.** (1) (a) Ballots for a primary election
9 must be arranged and prepared in the same manner and number as provided in chapter 12 for general election
10 ballots, except that there must be separate ballots for each political party entitled to participate. The name of
11 the political party must appear at the top of the separate ballot for that party and need not appear with each
12 candidate's name.

13 (b) Nonpartisan offices, and ballot issues, and candidates for supreme court justice or chief justice
14 of the supreme court who filed as "undisclosed" may be prepared on separate ballots or may appear on the
15 same ballot as partisan offices if:

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

17 (ii) the nonpartisan offices, and ballot issues, and candidates for supreme court justice or chief
18 justice of the supreme court who filed as "undisclosed" appear on each party's ballot; and

19 (iii) ballots with candidates for supreme court justice or chief justice of the supreme court are
20 clearly marked with a warning that voters may only vote one time for each type of office regardless of if the
21 voter selects to vote for a partisan candidate or a candidate who filed as "undisclosed".

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

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

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

27 (3) Subsection (2) does not apply to elections for precinct committee offices. If more than one
28 candidate files for a precinct committee office from a party that will not have a primary ballot prepared, that

1 party shall select the candidate to fill the office.

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

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

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

12 (7) Each elector must receive a set of ballots that includes the party, nonpartisan, ~~and~~ ballot issue,
13 and candidates for supreme court justice or chief justice of the supreme court who filed as "undisclosed"
14 choices."
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16 **Section 5.** Section 13-12-203, MCA, is amended to read:

17 **"13-12-203. Appearance of candidate's name and party designation on ballot.** (1) Subject to 13-
18 12-202 and except as provided in 13-10-209 for nonpartisan offices and 13-10-303 and subsection (3) of this
19 section for certain other candidates, in partisan elections, candidates' names must appear under the title of the
20 office sought, with the name of the party in not more than three words appearing opposite or below the name.

21 (2) Subject to 13-12-202, in nonpartisan general elections, the candidates' names must appear
22 under the title of the office sought, with no description or designation appearing with the name unless partisan
23 and nonpartisan offices appear on the same ballot. In such a case, the names of nonpartisan candidates must
24 appear with the word "Nonpartisan".

25 (3) A candidate for supreme court justice or chief justice of the supreme court who filed for office
26 as "undisclosed" as provided in 13-10-201 must appear under the title of the office sought with the word
27 "Undisclosed".

28 (3)(4) Except as otherwise provided by this section, information about the candidate other than the

1 candidate's name may not appear on the ballot, including a title, accomplishment, award, or degree."

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3 **Section 6.** Section 13-14-111, MCA, is amended to read:

4 **"13-14-111. Application of general laws.** Except as otherwise provided in this chapter, candidates
5 for nonpartisan offices, including judicial offices other than the offices of supreme court justice or chief justice of
6 the supreme court, must be nominated and elected according to the provisions of this title."

7
8 **Section 7.** Section 13-14-211, MCA, is amended to read:

9 **"13-14-211. Judicial District and county judicial offices separate and independent offices for**
10 **election purposes.** ~~(1) Each vacancy for justice of the supreme court is a separate and independent office for~~
11 ~~election purposes. The chief justice of the supreme court shall assign an individual number to the justices and~~
12 ~~certify these numbers to the office of the secretary of state.~~

13 ~~(2)(1)~~ Each vacancy for judicial office in a district that has more than one district judge is a separate
14 and independent office for election purposes.

15 ~~(3)(2)~~ Each vacancy for office in a county that has more than one justice of the peace is a separate
16 and independent office for election purposes."

17
18 **Section 8.** Section 13-14-212, MCA, is amended to read:

19 **"13-14-212. Form of ballot on retention of certain incumbent judicial officers.** (1) If the
20 incumbent is the only candidate for the office of ~~chief justice, supreme court justice, district court judge, or~~
21 ~~justice of the peace~~, the election administrator may not include a nonpartisan designation or write-in space for
22 the office on the general election ballot. The name of the incumbent must be placed on the official ballot for the
23 general election as follows:

24 Shall (insert title of officer) (insert name of the incumbent officer) of the (insert title of the court) of the
25 state of Montana be retained in office for another term?

26 (2) Following the question, provision must be made, subject to rules adopted pursuant to 13-12-
27 202, for a voter to indicate a "yes" or "no" vote."

1 **Section 9.** Section 13-14-213, MCA, is amended to read:

2 **"13-14-213. Form of ballot on retention for other judicial offices.** The election administrator or
3 secretary of state shall use the ~~form~~ forms prescribed in 13-14-212 and [section 2] to place the name of an
4 unopposed incumbent for a judicial office on the general election ballot if ~~such~~ the office is subject to the
5 provisions of Article VII, Section 8, of The Constitution of the State of Montana."
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7 **Section 10.** Section 13-35-231, MCA, is amended to read:

8 **"13-35-231. Unlawful for political party to contribute to nonpartisan judicial candidate.** A
9 political party may not contribute to a nonpartisan judicial candidate."
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11 NEW SECTION. **Section 11. Certain judicial endorsements lawful.** A candidate for supreme court
12 justice or for chief justice of the supreme court may accept endorsements from political parties.
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14 NEW SECTION. **Section 12. Codification instruction.** (1) [Section 2] is intended to be codified as
15 an integral part of Title 13, chapter 12, part 2, and the provisions of Title 13, chapter 12, part 2, apply to [section
16 2].

17 (2) [Section 11] is intended to be codified as an integral part of Title 13, chapter 35, part 2, and the
18 provisions of Title 13, chapter 35, part 2, apply to [section 11].
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20 NEW SECTION. **Section 13. Saving clause.** [This act] does not affect rights and duties that
21 matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].
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23 NEW SECTION. **Section 14. Applicability.** [This act] applies to elections for an office of supreme
24 court justice or chief justice of the supreme court occurring on or after [the effective date of this act].
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