

SENATE BILL NO. 543

INTRODUCED BY W. GALT

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATED TO THE USE OF PARTY AFFILIATION FOR CERTAIN NONPARTISAN JUDICIAL RACES; ALLOWING CANDIDATES FOR CHIEF JUSTICE OF THE SUPREME COURT OR JUSTICE OF THE SUPREME COURT TO INDICATE A POLITICAL PARTY AFFILIATION ON A DECLARATION FOR NOMINATION AND TO HAVE THAT AFFILIATION APPEAR ON THE PRIMARY AND GENERAL BALLOTS; PROVIDING A FILING FEE; ALLOWING CANDIDATES FOR CHIEF JUSTICE OF THE SUPREME COURT OR JUSTICE OF THE SUPREME COURT TO ANNOUNCE POLITICAL AFFILIATIONS AND ENDORSEMENTS; AMENDING SECTIONS 13-10-202, 13-10-209, 13-10-602, 13-12-203, 13-14-112, 13-14-115, AND 13-14-212, MCA; AND PROVIDING AN APPLICABILITY DATE."

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

NEW SECTION. Section 1. Indication of political party affiliation by candidate for chief justice of supreme court or justice of supreme court. A candidate for the office of chief justice of the supreme court or the office of justice of the supreme court may indicate the candidate's political party affiliation on the candidate's declaration for nomination.

NEW SECTION. Section 2. Announcement of political party affiliation or endorsement by candidate for chief justice of supreme court or justice of supreme court. A candidate for the office of chief justice of the supreme court or the office of justice of the supreme court may announce the candidate's political party affiliation or a campaign endorsement that the candidate has received.

Section 3. Section 13-10-202, MCA, is amended to read:

"13-10-202. Filing fees. Filing fees are as follows:

(1) for offices having an annual salary of \$2,500 or less and candidates for the legislature, \$15;

(2) for county offices having an annual salary of more than \$2,500, 0.5% of the total annual salary;
(3) for president, an amount equivalent to the filing fee required for a United States senate candidate;
(4) for the office of chief justice of the supreme court or the office of justice of the supreme court, \$1,750;
(4)(5) for other offices having an annual salary of more than \$2,500, 1% of the total annual salary;
(5)(6) for offices in which compensation is paid in fees, \$10;
(6)(7) for officers of political parties, presidential electors, and officers who receive no salary or fees, no filing fee is required."

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

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

(b) Nonpartisan offices and ballot issues may be prepared on separate ballots or may appear on the same ballot as partisan offices if:

- (i) each section is clearly identified as separate; and
- (ii) the nonpartisan offices and ballot issues appear on each party's ballot.

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

- (a) the party does not have candidates for more than half of the offices to appear on the ballot; and
- (b) no more than one candidate files for nomination by that party for any of the offices to appear on the ballot.

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

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

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

(6) (a) Regardless of whether the election administrator has prepared separate ballots for nonpartisan offices or has listed nonpartisan candidates on the same ballots as partisan candidates, if a candidate for the office of chief justice of the supreme court or the office of justice of the supreme court indicates the candidate's political party affiliation on a declaration for nomination, the candidate's name must appear under the title of the office sought, with the name of the candidate's political party affiliation, if any, in no more than three words appearing opposite or below the candidate's name.

(b) If a candidate for the office of chief justice of the supreme court or the office of justice of the supreme court does not indicate a political party affiliation, the name of the candidate must appear with the word "Nonpartisan".

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

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

Section 5. Section 13-10-602, MCA, is amended to read:

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

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

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

Section 6. Section 13-12-203, MCA, is amended to read:

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

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

(b) In an election for chief justice of the supreme court or justice of the supreme court, the candidate's name must appear under the title of the office sought, with the name of the candidate's political party affiliation, if any, in no more than three words appearing opposite or below the candidate's name. If a candidate for the office of chief justice of the supreme court or the office of justice of the supreme court does not indicate a political party affiliation, the name of the candidate must appear with the word "Nonpartisan".

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

Section 7. Section 13-14-112, MCA, is amended to read:

"13-14-112. Declarations for nomination -- fee -- filing. (1) Nonpartisan candidates shall file declarations for nomination as required by the primary election laws in a form prescribed by the secretary of

1 state except as provided in 13-14-113. Except for a candidate covered under 7-1-205, a candidate may not file
2 for more than one public office.

3 (2) ~~(a) Declarations~~ Except as provided in subsection (2)(b), a declaration may not indicate political
4 affiliation. ~~The, and the~~ candidate may not state in the declaration any principles or measures that the candidate
5 advocates or any slogans.

6 (b) A candidate for the office of chief justice of the supreme court or the office of justice of the
7 supreme court may indicate the candidate's political party affiliation on the declaration. A candidate who does
8 not indicate a political party affiliation on the declaration may list "Nonpartisan".

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

11 (4) Declarations must be filed:

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

14 (b) within the filing period provided in 13-10-201(7) for the office that the individual seeks."
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16 **Section 8.** Section 13-14-115, MCA, is amended to read:

17 **"13-14-115. Preparation and distribution of nonpartisan primary ballots -- determination on**
18 **conducting primary.** (1) The election administrators shall arrange, prepare, and distribute primary ballots for
19 nonpartisan offices, designated "nonpartisan primary ballots". The ballots must be arranged and prepared as
20 provided in 13-10-209 and be without political designation, except as provided in 13-10-209 and 13-12-203 for
21 a candidate for the office of chief justice of the supreme court or the office of justice of the supreme court.

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

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

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

28 (b) The election administrator may determine that a primary election for a nonpartisan county office

1 need not be held if fewer than three candidates have filed for that office.

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

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

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

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12 **Section 9.** Section 13-14-212, MCA, is amended to read:

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

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

20 (2) If the incumbent is the only candidate for the office of chief justice of the supreme court or the
21 office of justice of the supreme court, the election administrator may not include a nonpartisan or political party
22 designation or a write-in space for the office on the general election ballot. The name of the incumbent must be
23 placed on the official ballot for the 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)(3) 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."

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