

HOUSE VOTERS AND ELECTIONS COMMITTEE SUBSTITUTE FOR
HOUSE BILL 328

51ST LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2014

AN ACT

RELATING TO MINOR POLITICAL PARTIES; PROVIDING PROCEDURES AND
FILING REQUIREMENTS FOR THE NOMINATION OF CANDIDATES BY MINOR
POLITICAL PARTIES IN GENERAL ELECTIONS; STANDARDIZING FILING
DATES FOR CANDIDATES IN GENERAL ELECTIONS; DECLARING AN
EMERGENCY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 1-7-4 NMSA 1978 (being Laws 1969,
Chapter 240, Section 147, as amended) is amended to read:

"1-7-4. RULES AND REGULATIONS--FILING--FEE.--

A. Each political party shall file its rules and
regulations, along with petitions containing the required
number of signatures, if the signature provision is applicable
to the party, within thirty days after its organization and no
later than [~~the first Tuesday in April~~] twenty-three days after

.196722.3

underscored material = new
[bracketed material] = delete

1 the primary election before any general election in which it is
2 authorized to participate.

3 B. Within seven days after the filing of the
4 political party's rules and qualifying petitions, the secretary
5 of state shall notify the political party whether the rules and
6 qualifying petitions are in proper order and that the party has
7 qualified. The secretary of state shall notify all county
8 clerks in the state of the qualification of that political
9 party and post notice of qualification on the secretary of
10 state's web site.

11 [~~B-~~] C. Political parties filing rules and
12 regulations with the county clerk shall pay the standard filing
13 fee."

14 **SECTION 2.** Section 1-8-1 NMSA 1978 (being Laws 1969,
15 Chapter 240, Section 151, as amended) is amended to read:

16 "1-8-1. NOMINATING PROCEDURES--MAJOR POLITICAL
17 PARTIES--MINOR POLITICAL PARTIES.--

18 A. Any major political party in New Mexico, as
19 defined in Section [~~1-1-9~~] 1-7-7 NMSA 1978, shall nominate its
20 candidates, other than its presidential candidates, by secret
21 ballot at the next succeeding primary election as prescribed in
22 the Primary Election Law.

23 B. Any minor political party in New Mexico, as
24 defined in Section [~~1-1-9~~] 1-7-7 NMSA 1978, shall nominate
25 candidates for public office in the manner prescribed in its

.196722.3

1 party rules and regulations and according to the provisions of
2 the Election Code."

3 SECTION 3. Section 1-8-2 NMSA 1978 (being Laws 1969,
4 Chapter 240, Section 152, as amended) is amended to read:

5 "1-8-2. NOMINATION BY MINOR POLITICAL PARTY--
6 CONVENTION--DESIGNATED NOMINEES.--

7 A. If the rules of a minor political party require
8 nomination by political convention:

9 (1) the chair and secretary of the state
10 political convention shall certify to the secretary of state
11 the names of their party's nominees for United States senator,
12 United States representative, all elective state offices,
13 legislative offices elected from multicounty districts, the
14 public regulation commission, all elective judicial officers in
15 the judicial department and all offices representing a district
16 composed of more than one county; and

17 (2) the chair and secretary of the county
18 political convention shall certify to the county clerk the
19 names of their party's nominees for elected county offices and
20 for legislative offices elected from a district located wholly
21 within one county or that is composed of only one county.

22 B. The names certified to the secretary of state
23 shall be filed on the [~~twenty-first~~] twenty-third day following
24 the primary election in the year of the general election and
25 shall be accompanied by [~~a petition containing a list of~~

.196722.3

1 ~~signatures and addresses of voters]~~ nominating petitions
2 containing the signatures of voters totaling not less than one
3 percent of the total number of votes cast for governor at the
4 last preceding general election [~~for the office of governor or~~
5 ~~president of the United States, as the case may be]~~ at which a
6 governor was elected:

7 (1) in the state for statewide offices; and

8 (2) in the district for offices other than
9 statewide offices.

10 The petition shall contain a statement that the voters
11 signing the petition are residents of the [~~state, district,~~
12 ~~county or]~~ area to be represented by the office for which the
13 person being nominated is a candidate.

14 C. The names certified to the county clerk shall be
15 filed on the [~~twenty-first]~~ twenty-third day following the
16 primary election in the year of the general election and shall
17 be accompanied by a nominating petition containing [~~a list of]~~
18 the signatures [~~and addresses]~~ of voters totaling not less than
19 one percent of the total number of votes cast for governor at
20 the last preceding general election [~~for the office of governor~~
21 ~~or president of the United States, as the case may be]~~ at which
22 a governor was elected:

23 (1) in the county for countywide offices; and

24 (2) in the district for offices other than
25 countywide offices.

1 The petition shall contain a statement that the voters
2 signing the petition are residents of the [~~state, district,~~
3 ~~county or~~] area to be represented by the office for which the
4 person being nominated is a candidate.

5 D. Except in the case of a political party
6 certified in the year of the election, persons certified as
7 [~~nominees~~] candidates shall be members of that party [~~before~~]
8 on the day the governor issues the primary election
9 proclamation.

10 E. When a political party is certified in the year
11 of the general election, and after the day the governor issues
12 the primary election proclamation, a person certified as a
13 candidate shall be:

14 (1) a member of that party not later than the
15 date the political party filed its rules and qualifying
16 petitions pursuant to Sections 1-7-2 and 1-7-4 NMSA 1978; and

17 (2) a resident in the district of the office
18 for which the person is a candidate on the date of the
19 governor's proclamation for the primary election or in the case
20 of a person seeking the office of United States senator or
21 United States representative, a resident within New Mexico on
22 the date of the governor's proclamation for the primary
23 election. No person who is a candidate for a party in a
24 primary election may be certified as a candidate for a
25 different party in the general election in the same election

.196722.3

1 cycle.

2 ~~[E.]~~ F. No voter shall sign a petition prescribed
3 by this section for more persons than the number of ~~[minor~~
4 ~~party]~~ candidates necessary to fill the office at the next
5 ensuing general election."

6 SECTION 4. Section 1-8-4 NMSA 1978 (being Laws 1969,
7 Chapter 240, Section 154, as amended) is amended to read:

8 "1-8-4. SECRETARY OF STATE--CERTIFICATION OF NOMINEES--
9 MINOR POLITICAL PARTY.--

10 A. Upon receipt of certificates of nomination of
11 any minor political party and nominating petitions, and no
12 later than 5:00 p.m. on the ~~[thirty-fifth day]~~ first Tuesday
13 following the filing date, the ~~[secretary of state]~~ proper
14 filing officer shall:

15 ~~[A.]~~ (1) determine whether the method of
16 nomination used by the certifying political party complies with
17 the current rules of that party on file in the secretary of
18 state's office;

19 ~~[B.]~~ (2) determine whether the number of
20 signatures required have been submitted and all the
21 requirements of Sections 1-8-1 through 1-8-3 NMSA 1978 have
22 been complied with ~~[and that the petition and list of~~
23 ~~signatures and addresses of voters are valid and comply with~~
24 ~~law]; and~~

25 ~~[C.]~~ (3) if such determinations are answered

1 in the affirmative, [~~within forty-two days following the filing~~
 2 ~~date certify the names of each minor party's nominees as~~
 3 ~~candidates for the office for which each is nominated to each~~
 4 ~~county clerk in the state]~~ mail notice to the certifying party
 5 and the candidate no later than 5:00 p.m. on the Tuesday
 6 following the filing date that the certificates of nomination
 7 and nominating petitions are in proper order and that the
 8 candidate, based on those documents, is qualified to have the
 9 candidate's name placed on the ballot.

10 B. If a minor political party candidate is notified
 11 by the proper filing officer that the candidate is not
 12 qualified to have the candidate's name appear on the ballot,
 13 the candidate may challenge the decision by filing a petition
 14 with the district court within ten days of the notification.
 15 The district court shall hear and render a decision on the
 16 matter within ten days after the petition is filed. The
 17 decision of the district court may be appealed to the supreme
 18 court within five days after the decision is rendered. The
 19 supreme court shall hear and render a decision no later than
 20 fifty-six days prior to the general election.

21 C. Any voter may file a court action challenging a
 22 minor political party candidate's nominating petitions pursuant
 23 to the provisions of Section 1-8-35 NMSA 1978."

24 **SECTION 5.** Section 1-8-26 NMSA 1978 (being Laws 1975,
 25 Chapter 295, Section 12, as amended) is amended to read:

.196722.3

1 "1-8-26. PRIMARY ELECTION LAW--TIME OF FILING--DOCUMENTS
2 NECESSARY TO QUALIFY FOR BALLOT--CHALLENGE.--

3 A. Declarations of candidacy by preprimary
4 convention designation for any statewide office or for the
5 office of United States representative shall be filed with the
6 proper filing officer on the first Tuesday in February of each
7 even-numbered year between the hours of 9:00 a.m. and 5:00 p.m.

8 B. Declarations of candidacy for any other office
9 to be nominated in the primary election shall be filed with
10 the proper filing officer on the second Tuesday of March of
11 each even-numbered year between the hours of 9:00 a.m. and
12 5:00 p.m.

13 C. Certificates of designation shall be submitted
14 to the secretary of state on the first Tuesday following the
15 preprimary convention at which the candidate's designation
16 took place between the hours of 9:00 a.m. and 5:00 p.m.

17 D. Declarations of candidacy for retention for
18 all affected judicial offices shall be filed with the proper
19 filing officer between the hours of 9:00 a.m. and 5:00 p.m.
20 on the [~~twenty-first day after the primary election~~] second
21 Tuesday in March of each even-numbered year.

22 E. No candidate's name shall be placed on the
23 ballot until the candidate has been notified in writing by
24 the proper filing officer that the declaration of candidacy,
25 the petition, if required, and the certificate of

.196722.3

1 registration of the candidate on file are in proper order and
 2 that the candidate, based on those documents, is qualified to
 3 have the candidate's name placed on the ballot. The proper
 4 filing officer shall mail the notice no later than 5:00 p.m.
 5 on the Tuesday following the filing date.

6 F. If a candidate is notified by the proper
 7 filing officer that the candidate is not qualified to have
 8 the candidate's name appear on the ballot, the candidate may
 9 challenge that decision by filing a petition with the
 10 district court within ten days of the notification. The
 11 district court shall hear and render a decision on the matter
 12 within ten days after the petition is filed. The decision of
 13 the district court may be appealed to the supreme court
 14 within five days after the decision is rendered. The supreme
 15 court shall hear and render a decision on the appeal
 16 forthwith."

17 SECTION 6. A new section of the Election Code is
 18 enacted to read:

19 "[NEW MATERIAL] NOMINATING PETITION FOR CANDIDATE OF AN
 20 UNQUALIFIED STATE POLITICAL PARTY--QUALIFICATION AS AN
 21 INDEPENDENT CANDIDATE.--The declaration of candidacy and
 22 petition signatures submitted to the proper filing officer by
 23 a candidate for nomination as a minor party candidate shall
 24 be counted toward the requirements for qualification as an
 25 independent candidate for the same office in the same

.196722.3

1 election if the candidate's party files for, but does not
2 obtain status as, a qualified political party in that
3 election cycle. To qualify as an independent candidate, the
4 candidate must meet all requirements for an independent
5 candidate in Section 1-8-45 NMSA 1978 and submit the required
6 number of petition signatures for an independent candidate as
7 prescribed in Section 1-8-51 NMSA 1978. No candidate may
8 circulate petitions for candidacy for more than one political
9 party in an election cycle."

10 SECTION 7. A new section of the Election Code is
11 enacted to read:

12 "[NEW MATERIAL] MINOR POLITICAL PARTY CANDIDATES FOR
13 GENERAL OR UNITED STATES REPRESENTATIVE SPECIAL ELECTIONS--
14 NOMINATING PETITION FORM.--

15 A. As used in Sections 1-8-2 through 1-8-4 NMSA
16 1978, "nominating petition" means the authorized form used
17 for obtaining the required number of signatures of voters
18 that is signed on behalf of the person wishing to become a
19 minor political party candidate for a political office in a
20 general or United States representative special election
21 requiring a nominating petition.

22 B. In making a declaration of candidacy, the
23 candidate shall file a nominating petition at the same time,
24 which shall be on forms prescribed by law.

25 C. The nominating petition for a minor political

1 party candidate for any office requiring a nominating
 2 petition shall be on paper approximately eight and one-half
 3 inches wide and eleven inches long with numbered lines for
 4 signatures approximately three-eighths inch apart and shall
 5 be in the following form:

6 "NOMINATING PETITION FOR MINOR POLITICAL PARTY CANDIDACY
 7 (GENERAL ELECTION)

8 I, the undersigned, a registered voter of New
 9 Mexico, hereby nominate _____, who resides at
 10 _____ in the county of _____, New
 11 Mexico, for the _____ party nomination for the
 12 office of _____ to be voted for at the
 13 general election or United States representative special
 14 election to be held on _____, and I declare that I am a
 15 registered voter of the area to be represented by the office
 16 for which the person being nominated is a candidate. I also
 17 declare that I have not signed, and will not sign, any
 18 nominating petition for more persons than the number of
 19 candidates necessary to fill such office at the next ensuing
 20 general election or at a United States representative special
 21 election. I understand that if the candidate's political
 22 party does not qualify as a minor political party, the
 23 candidate may run as an unaffiliated independent candidate.

24 1. _____
 25 (usual signature) (name printed (address as (city or zip

.196722.3

1 as registered) registered) code)
2 2. _____
3 (usual signature) (name printed (address as (city or zip
4 as registered) registered) code)".

5 D. In March of even-numbered years, the secretary
6 of state shall post on the secretary of state's web site and
7 shall furnish to each county clerk a sample of a nominating
8 petition form, a copy of which shall be made available by the
9 county clerk upon request of any candidate.

10 E. When more than one sheet is required for a
11 petition, each of the sheets shall be in the form prescribed
12 by this section."

13 SECTION 8. Section 1-8-52 NMSA 1978 (being Laws 1977,
14 Chapter 322, Section 8, as amended) is amended to read:

15 "1-8-52. INDEPENDENT CANDIDATES FOR GENERAL OR UNITED
16 STATES REPRESENTATIVE SPECIAL ELECTIONS--NOMINATING
17 PETITIONS--CIRCULATION--DATE OF FILING.--

18 A. Declarations of independent candidacy and
19 nominating petitions shall be filed with the proper filing
20 officer between 9:00 a.m. and 5:00 p.m. on the [~~twenty-first~~
21 twenty-third] day following the primary election of each even-
22 numbered year and between 9:00 a.m. and 5:00 p.m. on the
23 fifty-sixth day preceding any United States representative
24 special election.

25 B. Declarations of independent candidacy and

underscored material = new
[bracketed material] = delete

1 nominating petitions for the office of president of the
2 United States shall be filed with the proper filing officer
3 between 9:00 a.m. and 5:00 p.m. on the [~~twenty-first~~] twenty-
4 third day following the primary election."

5 SECTION 9. Section 1-12-19.1 NMSA 1978 (being Laws
6 1981, Chapter 156, Section 2, as amended) is amended to read:

7 "1-12-19.1. GENERAL ELECTIONS--SPECIAL ELECTIONS--
8 WRITE-IN CANDIDATES.--

9 A. A person desiring to be a write-in candidate
10 in a general election shall file with the proper filing
11 officer between 9:00 a.m. and 5:00 p.m. on the [~~twenty-first~~]
12 twenty-third day after the primary election a declaration of
13 intent to be a write-in candidate. A person desiring to be a
14 write-in candidate in a special election for United States
15 representative or a statewide special election shall file
16 with the proper filing officer between 9:00 a.m. and 5:00
17 p.m. on the sixty-third day immediately preceding the
18 election a declaration of intent to be a write-in candidate.

19 B. The form of the declaration of intent shall be
20 prescribed by the secretary of state and shall contain a
21 sworn statement by the candidate that the candidate is
22 qualified to be a candidate for and to hold the office for
23 which the candidate is filing.

24 C. At the time of filing the declaration of
25 intent to be a write-in candidate, the write-in candidate

.196722.3

1 shall be considered a candidate for all purposes and
2 provisions relating to candidates in the Election Code,
3 including the obligation to report under the Campaign
4 Reporting Act, except that the candidate shall not be
5 entitled to have the candidate's name printed on the ballot.

6 D. The secretary of state shall, not more than
7 ten days after the filing date, certify the names of the
8 declared write-in candidates to the county clerks of every
9 county affected by such candidacy.

10 E. No person shall be a write-in candidate in the
11 general election who was a candidate in the primary election
12 immediately prior to the general election. A write-in
13 candidate for governor or lieutenant governor in the general
14 election shall have a companion write-in candidate, and they
15 shall be candidates to be elected jointly by the casting by a
16 voter of a single vote applicable to both offices.

17 F. A vote for a write-in candidate shall be
18 counted and canvassed only if:

19 (1) the name written in is the name of a
20 declared write-in candidate and shows two initials and last
21 name; first name, middle initial or name and last name; first
22 and last name; or the full name as it appears on the
23 declaration of intent to be a write-in candidate and
24 misspellings of the above combinations that can be reasonably
25 determined by a majority of the members of the precinct board

.196722.3

1 to identify a declared write-in candidate; and

2 (2) the name is written in the proper office
3 on the proper line provided on the ballot for write-in votes
4 for the office for which the candidate has filed a
5 declaration of intent and the voter has followed the
6 directions for casting a vote for the write-in candidate.

7 G. No unopposed write-in candidate shall have an
8 election certified unless the candidate receives at least the
9 number of write-in votes equal to two percent of the total
10 vote in the state, district or county in which the candidate
11 seeks election that were cast for governor in the last
12 preceding general election in which a governor was elected.

13 H. A write-in vote shall be cast by writing in
14 the name. As used in this section, "write-in" does not
15 include the imprinting of any name by rubber stamp or similar
16 device or the use of preprinted stickers or labels."

17 **SECTION 10. EMERGENCY.**--It is necessary for the public
18 peace, health and safety that this act take effect
19 immediately.

20 - 15 -
21
22
23
24
25