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SENATE BILL 485

51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013

INTRODUCED BY

Carlos R. Cisneros

AN ACT

RELATING TO ELECTIONS; CHANGING THE TIME FOR FILING
DECLARATIONS OF CANDIDACY AND NOMINATING PETITION SIGNATURES;
EXPANDING THE TIME FOR JUDICIAL RESOLUTION OF NOMINATING
PETITION AND OTHER CANDIDACY CHALLENGES.

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

SECTION 1. Section 1-8-18 NMSA 1978 (being Laws 1969,
Chapter 240, Section 167, as amended) is amended to read:

"1-8-18. PRIMARY ELECTION LAW--WHO MAY BECOME A
CANDIDATE.--

A. No person shall become a candidate for
nomination by a political party or have [~~his~~] the person's name
printed on the primary election ballot unless [~~his~~] the
person's record of voter registration shows:

(1) [~~his~~] affiliation with that political

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1 party on the date of the governor's proclamation for the
2 primary election; and

3 (2) [~~his~~] residence in the district of the
4 office for which [~~he~~] the person is a candidate on the date of
5 the governor's proclamation for the primary election or in the
6 case of a person seeking the office of United States senator or
7 United States representative, [~~his~~] residence within New Mexico
8 on the date of the governor's proclamation for the primary
9 election.

10 B. [~~Any~~] A voter may challenge the candidacy of
11 [~~any~~] a person seeking nomination by a political party for the
12 reason that [~~he~~] the person does not meet the requirements of
13 Subsection A of this section by filing a petition in the
14 district court within ten days after the last day for filing a
15 declaration of candidacy or a statement of candidacy for
16 convention designation. The district court shall hear and
17 render a decision on the matter within [~~ten~~] twelve days after
18 the filing of the petition. The decision of the district court
19 may be appealed to the supreme court within five days after the
20 decision is rendered. The supreme court shall hear and render
21 a decision on the appeal forthwith. No court shall retain
22 jurisdiction to rule on a challenge brought pursuant to this
23 section after the fifty-sixth day before the primary election."

24 SECTION 2. Section 1-8-26 NMSA 1978 (being Laws 1975,
25 Chapter 295, Section 12, as amended) is amended to read:

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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 [~~second~~] first Tuesday in February
7 of each even-numbered year between the hours of 9:00 a.m. and
8 5:00 p.m.

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

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

18 D. Declarations of candidacy for retention for
19 all affected judicial offices shall be filed with the proper
20 filing officer between the hours of 9:00 a.m. and 5:00 p.m.
21 on the twenty-first day after the primary election.

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

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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~~] twelve days after the petition is filed. The
13 decision of the district court may be appealed to the supreme
14 court within five days after the decision is rendered. The
15 supreme court shall hear and render a decision on the appeal
16 forthwith. No court shall retain jurisdiction to rule on a
17 challenge brought pursuant to this section after the fifty-
18 sixth day before the primary election."

19 SECTION 3. Section 1-8-35 NMSA 1978 (being Laws 1973,
20 Chapter 228, Section 9, as amended) is amended to read:

21 "1-8-35. PRIMARY ELECTION LAW--NOMINATING PETITION--
22 LIMITATION ON APPEALS OF VALIDITY OF NOMINATING PETITIONS.--

23 A. Any voter filing any court action challenging
24 a nominating petition provided for in the Primary Election
25 Law shall do so within ten days after the last day for filing

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1 the declaration of candidacy with which the nominating
2 petition was filed. Within [~~ten~~] twelve days after the
3 filing of the action, the district court shall hear and
4 render a decision on the matter. The decision shall be
5 appealable only to the supreme court, and notice of appeal
6 shall be filed within five days after the decision of the
7 district court. The supreme court shall hear and render a
8 decision on the appeal forthwith. No court shall retain
9 jurisdiction to rule on a challenge brought pursuant to this
10 section after the fifty-sixth day before the primary
11 election.

12 B. For the purposes of an action challenging a
13 nominating petition, each person filing a nominating petition
14 under the Primary Election Law appoints the proper filing
15 officer as [~~his~~] the person's agent to receive service of
16 process. Immediately upon receipt of process served upon the
17 proper filing officer, the officer shall, by certified mail,
18 return receipt requested, mail the process to the person."

19 SECTION 4. Section 1-10-4 NMSA 1978 (being Laws 1977,
20 Chapter 222, Section 27, as amended) is amended to read:

21 "1-10-4. BALLOTS--PREPARATION.--

22 A. Not less than fifty-six days before the
23 primary election, each proper filing officer shall group all
24 candidates for each party by themselves and prepare in
25 writing a separate ballot for each party and certify the

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1 candidates for each ballot position to the printer. No court
2 shall retain jurisdiction to rule on a challenge brought
3 pursuant to Section 1-8-18, 1-8-26 or 1-8-35 NMSA 1978 after
4 the fifty-sixth day before the primary election.

5 B. Not less than fifty-six days before the
6 general election, each proper filing officer shall prepare in
7 writing the ballot containing the name of each candidate that
8 has been certified and filed as the nominee of a party and
9 any constitutional amendments, questions or other
10 propositions that are to be voted on and certify all such
11 information to the ballot printer. A copy of each
12 certification shall be kept on file in the office of the
13 secretary of state.

14 C. Upon request of the county chair of a
15 political party participating in the election, the county
16 clerk shall furnish proof sheets or a copy of the proof
17 sheets of the ballot as soon as they become available."