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HOUSE BILL 83

**50TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2012**

INTRODUCED BY

Danice Picraux

AN ACT

RELATING TO THE PUBLIC REGULATION COMMISSION; REQUIRING MAJOR PARTY CANDIDATES FOR PUBLIC REGULATION COMMISSIONER TO BE NOMINATED THROUGH THE PREPRIMARY CONVENTION DESIGNATION PROCESS; RECONCILING MULTIPLE AMENDMENTS TO THE SAME SECTION OF LAW IN LAWS 1993.

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

SECTION 1. Section 1-8-21 NMSA 1978 (being Laws 1996, Chapter 20, Section 3, as amended) is amended to read:

"1-8-21. PRIMARY ELECTION--METHODS OF PLACING NAMES ON PRIMARY BALLOT.--

A. All candidates seeking primary election nomination to a statewide office, the office of public regulation commissioner or the office of United States representative shall file declarations of candidacy with the

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1 proper filing officer. Candidates shall file nominating  
2 petitions at the time of filing their declarations of  
3 candidacy. Candidates who seek, but do not obtain, preprimary  
4 convention designation by a major political party may file new  
5 declarations of candidacy and nominating petitions pursuant to  
6 Section 1-8-33 NMSA 1978.

7 B. Except as provided in Subsection C of this  
8 section, candidates for any other office listed in Subsection C  
9 of Section 1-8-13[~~E~~] NMSA 1978 shall have their names placed on  
10 the primary election ballot by filing declarations of candidacy  
11 and nominating petitions with the proper filing officer.

12 C. Candidates for county office shall have their  
13 names placed on the primary election ballot by filing  
14 declarations of candidacy and paying filing fees or filing the  
15 proper paupers' statements at the time of filing declarations  
16 of candidacy with the proper filing officer."

17 SECTION 2. Section 1-8-21.1 NMSA 1978 (being Laws 1993,  
18 Chapter 55, Section 11) is amended to read:

19 "1-8-21.1. DESIGNATION OF CANDIDATES BY CONVENTION.--

20 A. State conventions of major political parties may  
21 designate candidates for nomination to statewide office, the  
22 office of public regulation commissioner or the office of  
23 United States representative.

24 B. No state convention for designating candidates  
25 shall be held later than the third Sunday in March preceding

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1 the primary election, and delegates to the convention shall be  
2 elected according to state party rules filed in the office of  
3 the secretary of state.

4 C. The state convention shall take only one ballot  
5 upon candidates for each office to be filled. Every candidate  
6 receiving twenty percent or more of the votes of the duly  
7 elected delegates to the convention for the office to be voted  
8 upon at the ensuing primary election shall be certified to the  
9 secretary of state as a convention-designated nominee for that  
10 office by the political party. Certification shall take place  
11 no later than 5:00 p.m. on the first Tuesday succeeding the  
12 state convention.

13 D. The certificate of designation submitted to the  
14 secretary of state shall state the name of the office for which  
15 each person is a candidate, [~~his~~] each candidate's name and  
16 address and the name of the political party that [~~the~~] each  
17 candidate represents and [~~shall certify~~] certification that the  
18 candidate has been a member of that political party for the  
19 period of time required by the Election Code."

20 SECTION 3. Section 1-8-26 NMSA 1978 (being Laws 1975,  
21 Chapter 295, Section 12, as amended) is amended to read:

22 "1-8-26. PRIMARY ELECTION LAW--TIME OF FILING--DOCUMENTS  
23 NECESSARY TO QUALIFY FOR BALLOT--CHALLENGE.--

24 A. Declarations of candidacy by preprimary  
25 convention designation for any statewide office, for the office

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1 of public regulation commissioner or for the office of United  
2 States representative shall be filed with the proper filing  
3 officer on the second Tuesday in February of each even-numbered  
4 year between the hours of 9:00 a.m. and 5:00 p.m.

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

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

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

18 E. No candidate's name shall be placed on the  
19 ballot until the candidate has been notified in writing by  
20 the proper filing officer that the declaration of candidacy,  
21 the petition, if required, and the certificate of  
22 registration of the candidate on file are in proper order and  
23 that the candidate, based on those documents, is qualified to  
24 have the candidate's name placed on the ballot. The proper  
25 filing officer shall mail the notice no later than 5:00 p.m.

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1 on the Tuesday following the filing date.

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

13 SECTION 4. Section 1-8-29 NMSA 1978 (being Laws 1973,  
14 Chapter 228, Section 3, as amended by Laws 1993, Chapter 55,  
15 Section 5 and by Laws 1993, Chapter 314, Section 46 and also  
16 by Laws 1993, Chapter 316, Section 46) is amended to read:

17 "1-8-29. PRIMARY ELECTION LAW--DECLARATION OF  
18 CANDIDACY--FORM.--In making a declaration of candidacy by  
19 nominating petition or by preprimary convention designation,  
20 the candidate shall submit substantially the following form:

21 "DECLARATION OF CANDIDACY  
22 BY PREPRIMARY CONVENTION DESIGNATION  
23 (OR BY NOMINATING PETITION)

24 I, \_\_\_\_\_, (candidate's name on  
25 certificate of registration) being first duly sworn, say that

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1 I reside at \_\_\_\_\_, as shown by my certificate  
2 of registration as a voter of Precinct No. \_\_\_\_\_ of the  
3 county of \_\_\_\_\_, State of New Mexico;

4 I am a member of the \_\_\_\_\_ party as  
5 shown by my certificate of registration and I have not  
6 changed such party affiliation subsequent to the governor's  
7 proclamation calling the primary in which I seek to be a  
8 candidate;

9 I desire to become a candidate for the office of  
10 \_\_\_\_\_ at the primary election to be held on  
11 the date set by law for this year, and if the office be that  
12 of a member of the legislature or that of a member of the  
13 ~~[state board of]~~ public regulation commission or public  
14 education commission, that I actually reside at the address  
15 designated on my certificate of voter registration;

16 I will be eligible and legally qualified to hold this  
17 office at the beginning of its term;

18 If a candidate for any office for which a nominating  
19 petition is required, I am submitting with this statement a  
20 nominating petition in the form and manner as prescribed by  
21 the Primary Election Law; and

22 I make the foregoing affidavit under oath, knowing that  
23 any false statement herein constitutes a felony punishable  
24 under the criminal laws of New Mexico.

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(Declarant)

\_\_\_\_\_

(Mailing Address)

\_\_\_\_\_

(Residence Address)

Subscribed and sworn to before me this \_\_\_\_ day of

\_\_\_\_\_, [~~19~~] 20 \_\_\_\_.

\_\_\_\_\_

(Notary Public)

My commission expires:

\_\_\_\_\_ ". "

SECTION 5. Section 1-8-33 NMSA 1978 (being Laws 1973, Chapter 228, Section 7, as amended) is amended to read:

"1-8-33. PRIMARY ELECTION LAW--NOMINATING PETITION--  
NUMBER OF SIGNATURES REQUIRED.--

A. As used in this section, "total vote" means the sum of all votes cast for all of the party's candidates for governor at the last preceding primary election at which the party's candidate for governor was nominated.

B. Candidates who seek preprimary convention designation shall file nominating petitions at the time of filing declarations of candidacy. Nominating petitions for those candidates shall be signed by a number of voters equal to at least two percent of the total vote of the candidate's party in the state, public regulation commission district or

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1 congressional district, or the following number of voters,  
2 whichever is greater: for statewide offices, two hundred  
3 thirty voters; for public regulation commission, fifty  
4 voters; and for congressional candidates, seventy-seven  
5 voters.

6 C. Nominating petitions for candidates for any  
7 other office to be voted on at the primary election for which  
8 nominating petitions are required shall be signed by a number  
9 of voters equal to at least three percent of the total vote  
10 of the candidate's party in the district or division, or the  
11 following number of voters, whichever is greater: for  
12 metropolitan court and magistrate courts, ten voters; [~~for~~  
13 ~~the public regulation commission, fifty voters~~] for the  
14 public education commission, twenty-five voters; for state  
15 representative, ten voters; for state senator, seventeen  
16 voters; and for district attorney and district judge, fifteen  
17 voters.

18 D. A candidate who fails to receive the  
19 preprimary convention designation that the candidate sought  
20 may collect additional signatures to total at least four  
21 percent of the total vote of the candidate's party in the  
22 state, public regulation commission district or congressional  
23 district, whichever applies to the office the candidate  
24 seeks, and file a new declaration of candidacy and nominating  
25 petitions for the office for which the candidate failed to

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1 receive a preprimary designation. The declaration of  
2 candidacy and nominating petitions shall be filed with the  
3 secretary of state either ten days following the date of the  
4 preprimary convention at which the candidate failed to  
5 receive the designation or on the date all declarations of  
6 candidacy and nominating petitions are due pursuant to the  
7 provisions of the Primary Election Law, whichever is later."

8 SECTION 6. Section 1-8-39.1 NMSA 1978 (being Laws  
9 1993, Chapter 55, Section 10) is amended to read:

10 "1-8-39.1. DECLARATION OF PREPRIMARY DESIGNATION--  
11 CERTIFICATION BY SECRETARY OF STATE.--

12 A. Not later than six days after the dates for  
13 filing declarations of candidacy by preprimary convention  
14 designation, the secretary of state shall certify to the  
15 [~~chairman~~] chair of each state political party the names of  
16 that party's candidates for office of United States  
17 representative, public regulation commissioner or for other  
18 statewide office who have filed their declarations of  
19 candidacy by convention designation and have otherwise  
20 complied with the requirements of the Primary Election Law.

21 B. No person shall be placed in nomination at the  
22 convention unless [~~he~~] the person has been certified by the  
23 secretary of state."

24 SECTION 7. EFFECTIVE DATE.--The effective date of the  
25 provisions of this act is July 1, 2012.

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