

Opinion No. 60-113

June 17, 1960

BY: OPINION of HILTON A. DICKSON, JR., Attorney General

TO: Honorable Betty Fiorina Secretary of State Santa Fe, New Mexico

QUESTION

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What procedure must be followed in order for a minor political party not subject to the primary code to have its candidate or candidates placed on the ballot in the forthcoming general election?

CONCLUSION

See analysis.

OPINION

{*487} ANALYSIS

The New Mexico primary election code §§ 3-11-36 through 68, N.M.S.A., 1953 Comp. (P.S.), applies only to political parties whose candidates for governor have received at least 15% of the total vote cast in the general election next preceding the primary election in question. See § 3-11-39. Therefore, other political parties desiring to place candidates on the ballot for the general election cannot avail themselves of the primary code but must instead be governed by the provisions of §§ 3-12-1 through 8, N.M.S.A., 1953 Comp.

The first step that must be taken by a political party before the names of its candidates may be placed upon the ballot in the general election is to make, adopt and file through its State Central Committee, or other governing body, a set of rules and regulations providing for its convention and organization, the manner of calling and conducting its elections, the mode of selection of delegates to such conventions, the manner of selecting members of its State Central Committee, the state chairman and other officers and members of its governing bodies, the powers and duties of such officers, committees, and governing bodies, the method of selecting nominees for such offices, and the means and manner of filling vacancies in such offices, committees and governing bodies and on the party ballot. See §§ 3-12-2 and 3.

Under § 3-12-2, such rules and regulations must be filed with the Secretary of State within thirty days after the organization of the party and at least sixty days before the general election, if the party desires to have the names of its candidates placed on the

ballot for national, state or district officers. Under § 3-12-3, such rules and regulations must be filed with the county clerk within thirty days after such organization and at least forty days before the general election where such party desires to have the names of its candidates placed on the ballot for the election of county officers.

Sections 3-12-4 and 5 are clear in prohibiting the placing of any name or names of any candidate or candidates of any political party on the ballot which has failed to comply with the filing provisions stated above.

It is clear that the political party must hold a convention for the purpose of nominating candidates for such offices. Under § 3-3-2, the chairman and secretary of the convention must, not less than forty days prior to the election, certify to the Secretary of State the names of all candidates nominated at such convention and the office for which each candidate has been nominated, except in case of nominations for county officers and members of the Legislature. The chairman and secretary of every political convention held for the nomination of such officers shall make such certification to the county clerk not less than thirty days previous to each general {**488*} election. After the above requirements are met, the names of the candidates may be certified to be placed on the ballot in the general election in November.

By: Philip R. Ashby

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