

SUBJECT: An ordinance of the Matanuska-Susitna Borough Assembly allowing candidates for Mayor, Assembly, and School Board to designate a political affiliation.

AGENDA OF: January 2, 2024

ASSEMBLY ACTION: Motion for Reconsideration failed. Adopted with Assemblymembers Hale and Nowers opposed 03/05/24 - BJH

AGENDA ACTION REQUESTED: Introduce and set for public hearing.

Route To	Signatures
Originator	<div>12/6/2023</div> <div>X N S for Assemblymembers Y...</div> <div>Signed by: Nicholas Spiropoulos</div>
Department Director	<div>12/6/2023</div> <div>X N / A</div> <div>Signed by: Nicholas Spiropoulos</div>
Finance Director	<div>12/7/2023</div> <div>X Cheyenne Heindel</div> <div>Signed by: Cheyenne Heindel</div>
Borough Attorney	<div>12/7/2023</div> <div>X Nicholas Spiropoulos</div> <div>Signed by: Nicholas Spiropoulos</div>
Borough Manager	<div>12/7/2023</div> <div>X Michael Brown</div> <div>Signed by: Michael Brown</div>
Borough Clerk	<div>12/7/2023</div> <div>X Lonnie McKechnie</div> <div>Signed by: Lonnie McKechnie</div>

ATTACHMENT (S): Ordinance Serial No. 24-010 (5 pp)
 Alaska Voter Registration Application (2 pp)
 Alaska Candidate Packet (6 pp)

SUMMARY STATEMENT: This ordinance is sponsored by Assemblymembers Yundt and McKee to allow candidates for elected office in the Matanuska-Susitna Borough and Matanuska-Susitna Borough School District to declare a party affiliation if the candidate so chooses.

Currently, MSB 25.05.070 reads "All borough elections shall be nonpartisan." Because of this requirement, candidates for Mayor, Assembly, and School Board do not have the option of designating party affiliation and no such information is contained on the ballot.

In an effort to allow voters to have more information about the candidates seeking office, the proposed ordinance here would amend Borough Code to allow candidates to designate a party affiliation if they choose to do so. A candidate could designate a political affiliation, designate nonpartisan, or designate undeclared. If a candidate makes no designation, the candidate will be undeclared.

The Matanuska-Susitna Borough will adopt the same rules as found in state law. For State of Alaska ballots, AS 15.15.030(5) provides:

The names of the candidates shall be placed in separate sections on the state general election ballot under the office designation to which they were nominated. If a candidate is registered as affiliated with a political party or political group, the party affiliation, if any, may be designated after the name of the candidate, upon request of the candidate. If a candidate has requested designation as nonpartisan or undeclared, that designation shall be placed after the name of the candidate. If a candidate is not registered as affiliated with a political party or political group and has not requested to be designated as nonpartisan or undeclared, the candidate shall be designated as undeclared. The lieutenant governor and the governor shall be included under the same section. Provision shall be made for voting for write-in candidates within each section. Paper ballots for the state general election shall be printed on white paper.

In addition, like the State of Alaska, eligibility to run for office in the Matanuska-Susitna Borough is made by a declaration of candidacy and not through party nomination. Therefore, the Borough ballots will contain the language from AS 15.15.030(14). That language provides:

A candidate's designated affiliation does not imply that the candidate is nominated or endorsed by the political party or group or that the party or group approves of or associates with that candidate, but only that the candidate is registered as affiliated with the political party or political group.

This language will only be required on ballots when those ballots have candidates being voted on. This is noted because some elections result in propositions only or service area annexation questions and things of similar nature which do not involve

candidates for certain voters. The added language would not be required for ballots where there are no candidates names. However, at all elections, the Borough Clerk must also post a sign at all polling places containing the language. See AS 15.15.060(e).

It is the intent of this ordinance to adopt the procedures used by the State of Alaska. This manner and method for declaration of party affiliation and these state statutes were challenged and upheld by the Alaska Supreme Court in Kohlhass v. Off. of Lt. Governor, 518 P.3d 1095 (Alaska 2022). In the Kohlhass case, the Alaska Supreme Court specifically upheld a rule that a candidate can designate the political party or political group with which the candidate is registered, or the candidate designate as nonpartisan or undeclared to be placed after the candidate's name on the ballot. A candidate who is registered with one party can choose to be designated as nonpartisan or undeclared, but may not be listed on the ballot as registered with another party.

As used in the proposed ordinance here, the phrase "registered as affiliated" means that political affiliation showing on the declarative candidate's voter registration. Since candidate filing is well before the voter registration deadline it is permissible to change one's political affiliation at the time a candidacy is declared. The State of Alaska allows this change and the Matanuska-Susitna Borough would allow it as well.

However, it is not the intent of this ordinance to make Matanuska-Susitna Borough elections party-driven or partisan in nature. Therefore, MSB 25.05.070 will remain to ensure that there is no suggestion that races can be closed to certain voters based upon political affiliation or that political parties or groups can control who will become a candidate. Instead, there is added language to MSB 25.05.070 to allow for candidate party affiliation and clarify this concept.

It is important to note that the Matanuska-Susitna Borough does not regulate campaign activities in any event, so the intent of MSB 25.05.070 is much like that of AS 15.15.025. It exists to ensure that all otherwise qualified voters can vote without limitation based on the political party or political group affiliation of either the voter or the candidate.

RECOMMENDATION OF ADMINISTRATION: Introduce and set for public hearing.