

## Chapter 1 : Full text of "Election laws of the State of Montana, ;"

*Election laws of the State of Montana, ; by Montana; Montana. Secretary of State. Publication date Topics Election law. Montana State Library.*

Robin Benson, the Clerk and Recorder of Lincoln County, a small county of less than twenty thousand people, announced on October 18, , in a lawsuit filed in the U. District Court of Montana, that she plans on running for reelection in . In the suit, Ms. The current disagreement over the law began during Ms. In , the voters of Lincoln County elected to switch to nonpartisan elections for their local officeholders. Nonpartisan elections have a long history in the State of Montana. Any violations of Montana election law are criminal misdemeanors. During the campaign, Ms. Benson prominently identified herself as a Republican in her campaign materials and on her campaign Facebook page. Benson removed the references to the Republican party from her materials and Facebook page in the week before the election in order to comply with the law. Benson now challenges that law as a violation of her First Amendment right to free speech and argues that she has a right to identify herself as a Republican in her campaign for reelection in . The State will likely have to defend the law under exacting strict scrutiny review. The United States Supreme Court has repeatedly upheld the importance of the First Amendment right to free speech in the context of political elections. For example, in *Brown v. In* , only fourteen of the fifty-six counties in Montana ran nonpartisan elections. This means that in the other forty-two counties, candidates were allowed to identify themselves as members of a political party. The State may find it difficult to argue that a non-mandatory law serves a compelling government interest. As of this writing, no briefs had yet been filed in the case, so we must wait for the State to articulate its compelling interest and how this scheme is narrowly tailored to meet it. The stakes are high for the State. A successful suit for Ms. Benson will have repercussions well beyond Lincoln County; the challenged law governs all nonpartisan elections in the State. Beside the fourteen counties that held nonpartisan local elections in , the law also governs all judicial elections from the county-level to the Montana Supreme Court. Nonetheless, an adverse holding for the State may not have an immediate impact on judicial elections. Depending on how the issue is ultimately resolved by the court, Montana Code of Judicial Conduct Rule 4. Regardless of any impact on judicial elections, the suit has potential to change the political landscape of local elections across the State.

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