

## **HJR 46 Study: Election Laws Proposed Amendment to School Election Law**

### Background

The Montana School Boards Association has asked that the State Administration and Veterans' Affairs Interim Committee make an additional change to LC 35, the general cleanup and clarification of election laws. The association would like an amendment to the current law on election by acclamation in school elections that have a limited number of candidates.

The proposed change was sent to the HJR 46 Work Group, and several members indicated they support the change. Some members, however, felt it may be too substantive to be included in LC 35 and should be prepared as a separate bill.

### History of the Election by Acclamation Law

The 1999 Legislature passed Senate Bill 325, which allowed a school district to cancel an election for trustees if the number of candidates, including declared write-in candidates, was equal to the number of positions to be filled.

The original language of the bill allowed for cancellation of an election if the number of candidates was "equal to or less than" the number of positions to be filled. However, a free conference committee later amended the bill to require that the number of candidates be equal to the number of positions. Conference committee members noted that a vacant position would still exist if fewer candidates had filed for election than the number of positions that were open. Conference committee minutes indicate the members felt that an election would need to continue so that voters would have the chance to write in a name to fill any vacancy.<sup>1</sup>

The Montana School Boards Association proposal would essentially change existing law to read as follows:

**"20-3-313. Election by acclamation -- notice.** (1) If the number of candidates filing for a position or filing a declaration of intent to be a write-in candidate under 13-10-211 is equal to or less than the number of positions to be elected and there is no other reason for the election, the trustees may give notice that an election will not be held. Notice must be given no later than 25 days before the election.

(2) If an election is not held, the trustees shall declare elected by acclamation the ~~candidate~~ candidates who filed for the ~~position~~ positions to be elected or who filed a declaration of intent to be a ~~write-in candidate~~ candidates and issue a certificate of election to the ~~candidate~~ candidates."

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<sup>1</sup> Minutes, Senate Free Conference Committee on Senate Bill 325, March 17, 1999, [online]; available at [http://data.opi.mt.gov/legbills/MinutesPDF/990317SB0325FRS\\_Sm1.pdf](http://data.opi.mt.gov/legbills/MinutesPDF/990317SB0325FRS_Sm1.pdf); accessed June 12, 2008.

### Effect of Proposed Change

If the requested change is made and fewer candidates file for a school election than the number of positions that are available, then a school district could:

- cancel the election,
- declare the candidates who filed to be elected by acclamation, and
- consider any unfilled positions to be vacant.

The remaining members of the school board would then make an appointment to fill the vacant position, as provided in 20-3-309, MCA. The appointed trustee would serve until the next regular school election, rather than for a full three-year term.

### Committee Options

If the committee is interested in supporting this proposed change, members could take one of the following actions:

- Approve adding the amended section to LC 35, the cleanup and clarification bill.
- Approve drafting the change as a separate committee bill.