



AN ACT ALLOWING ANY SCHOOL BOARD TRUSTEE OF CERTAIN DISTRICTS TO PRESIDE OVER THE BOARD; RESTRICTING AN ADDITIONAL TRUSTEE FROM VOTING ON ISSUES RELATED ONLY TO AN ELEMENTARY SCHOOL DISTRICT; AND AMENDING SECTIONS 20-3-321, 20-3-332, 20-3-351, AND 20-3-352, MCA.

WHEREAS, if the boundaries of an elementary school district and a high school district do not coincide, then high school additional trustees may be elected from areas outside of the elementary school district boundaries to serve on the high school board of trustees along with their elementary school trustee counterparts who also serve as trustees for the high school district; and

WHEREAS, the boards of trustees of school districts may combine their governance into a single school board and merge the administration of their school districts for purposes of economy and efficiency; and

WHEREAS, a combined school board may wish to elect a high school additional trustee as its presiding officer because of that person's valuable knowledge and experience; and

WHEREAS, current state law may not allow high school additional trustees to serve as the presiding officers of combined school boards because they are not members of the elementary district school board; and

WHEREAS, an elementary school district's integrity of governance on a combined school board can be protected by restricting a presiding officer who is a high school additional trustee from voting on matters that pertain only to the elementary school district.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 20-3-321, MCA, is amended to read:

**"20-3-321. Organization and officers.** (1) The trustees of each district shall annually organize as a governing board of the district after the regular election day and after the issuance of the election certificates to the newly elected trustees, but not later than the third Saturday of May. In order to organize, the trustees of the district must be given notice of the time and place where the organization meeting will be held, and at the meeting

they shall choose one of their number as the presiding officer. In addition, except for the trustees of a high school district operating a county high school, the trustees shall employ and appoint a competent person, who is not a member of the trustees, as the clerk of the district. The trustees of a high school district operating a county high school shall appoint a secretary, who must be a member of the board.

(2) The presiding officer of the trustees of any district shall serve until the next organization meeting and shall preside at all the meetings of the trustees in accordance with the customary rules of order. The presiding officer shall perform the duties prescribed by this title and any other duties that normally pertain to a presiding officer.

(3) The presiding officer of a board of trustees of an elementary district may be any trustee of the board, including an additional trustee as provided for in 20-3-352(2). If an additional trustee is chosen to serve as the presiding officer of the board of trustees of an elementary district described in 20-3-351(1)(a), the additional trustee may not vote on issues pertaining only to the elementary district."

**Section 2.** Section 20-3-332, MCA, is amended to read:

**"20-3-332. Personal immunity of trustees.** (1) When acting in their official capacity at a regular or special meeting of the board or a committee of the board, the trustees of each district are individually immune from suit for damages, as provided in 2-9-305.

(2) The trustees of each district are responsible for the proper administration and use of all money of the district in accordance with the provisions of law and this title. Failure or refusal to do so constitutes grounds for removal from office.

(3) An additional trustee, as provided for in 20-3-352(2), who is chosen as a nonvoting presiding officer of the board of trustees of an elementary district is entitled to all of the immunization, defenses, and indemnifications described in subsection (1) of this section."

**Section 3.** Section 20-3-351, MCA, is amended to read:

**"20-3-351. Number of trustee positions in high school districts.** (1) Except as provided in 20-3-352(3) and subsection (2) of this section, the trustees of a high school district must be composed of:

(a) the trustees of the elementary district in which the high school building is located or, if there is more than one elementary district in which the operating high school buildings are located, the trustees of the

elementary district in which the operating high school building that was first constructed is located; and

(b) the additional trustee positions determined in accordance with 20-3-352(2).

(2) There must be seven trustee positions for each county high school.

(3) An additional trustee may be elected as the presiding officer of a high school district but may not vote on issues pertaining only to the elementary district. The additional trustee, as the presiding officer of the board, has all other powers, protections, and obligations of a presiding officer of an elementary district, including those under 2-3-203."

**Section 4.** Section 20-3-352, MCA, is amended to read:

**"20-3-352. Request and determination of number of high school district additional trustee positions -- nonvoting trustee.** (1) As provided in 20-3-351(1)(b), a high school district, except a county high school district, may have additional trustee positions when the trustees of a majority of the elementary districts with territory located in the high school district, but without equitable representation on the high school district trustees under the provision of 20-3-351(1)(a), request the establishment of additional trustee positions under the provisions of subsection (2) or when the electors approve an alternative method of electing members of the board of trustees under the provisions of subsection (3).

(2) A request for additional trustee positions must be made to the county superintendent by a resolution of the trustees of each elementary district. When a resolution has been received from a majority of the elementary districts without representation on the high school district trustees, the county superintendent shall determine the number of additional trustee positions for the affected high school district in accordance with the following procedure:

(a) The taxable valuation of the elementary district that has its trustees placed on the high school trustees must be divided by the number of positions on the trustees of the elementary district to determine the taxable valuation per trustee position.

(b) The taxable valuation used for the calculation in subsection (2)(a) must be subtracted from the taxable valuation of the high school district to determine the taxable valuation of the territory of the high school district without representation on the high school district trustees.

(c) The taxable valuation determined in subsection (2)(b) must be divided by the taxable valuation per trustee position calculated in subsection (2)(a). The resulting quotient must be rounded off to the nearest whole

number, except that when the quotient is less than 0.5, at least one nonvoting trustee position must be established for the territory without representation on the high school district board of trustees under the provision of 20-3-351(1)(a).

(d) Except for a nonvoting trustee position, the number determined in subsection (2)(c) must be the number of additional trustee positions, except that the number of additional trustee positions may not exceed four in a first- or second-class high school district or two in a third-class high school district except when two-thirds or more of the high school enrollment of the high school district and two-thirds or more of the taxable valuation of the high school district are located outside of the elementary district that has its trustees placed on the high school district trustees. When this situation exists, three additional trustees must be elected from the elementary school districts in which the high school is not located and one additional trustee must be elected at large in the high school district.

(e) An additional trustee may serve as the presiding officer of the board of trustees of an elementary district in accordance with 20-3-321(3).

(3) (a) If more than half of the electors of the high school district reside outside the territory of the elementary school district in which the high school district buildings are located, at least 10% of the electors of the high school district who are qualified to vote under the provisions of 20-20-301 may petition the county superintendent, requesting an election to consider a proposition on the question of establishing one of the following alternative methods of electing the members of the high school district board of trustees:

(i) one trustee must be elected from each elementary school district with territory included in the high school district and two or three trustees must be elected at large in the high school district, whichever number results in an odd number of members on the board of trustees; or

(ii) the county superintendent shall establish four trustee nominating districts within the high school district but outside the territory of the elementary school district in which the high school buildings are located. One trustee must be elected from each trustee nominating district and three trustees must be elected from the elementary district in which the high school buildings are located, for a total of seven trustees on the high school district board of trustees. Trustees elected from the elementary district in which the high school buildings are located shall serve on both the high school district board of trustees and on the elementary school district board of trustees.

(b) (i) When the county superintendent receives a valid petition, the county superintendent shall order

the trustees of the high school district to conduct an election on the next regular school election day on the proposition allowed under the provisions of subsection (3)(a).

(ii) If the electors of the district approve a proposition to establish the alternative method of electing the high school district board of trustees, the county superintendent shall order that the members of the board of trustees be elected according to subsection (3)(a) at the next regular school election.

(c) Whenever the trustees are elected at one regular election under subsection (3)(b), the members who are elected shall draw by lot to determine their terms of office. The terms of office by trustee position must be divided as equally as practicable among 1-, 2-, and 3-year terms.

(d) A petition to call an election for the purposes of subsection (3) may not be submitted to the county superintendent more than one time in each 5-year period."

- END -

I hereby certify that the within bill,  
HB 0204, originated in the House.

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Chief Clerk of the House

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Speaker of the House

Signed this \_\_\_\_\_ day  
of \_\_\_\_\_, 2011.

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President of the Senate

Signed this \_\_\_\_\_ day  
of \_\_\_\_\_, 2011.

HOUSE BILL NO. 204

INTRODUCED BY D. SALOMON, REGIER, O'HARA, BROWN, FUREY, RIPLEY

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