

HOUSE BILL NO. 327

INTRODUCED BY E. MCCLAFFERTY, PHILLIPS, MEHLHOFF, SESSO, NOONAN, MALEK, RIPLEY,
WILMER, BROWN, F. SMITH, MACDONALD, PEASE-LOPEZ, SALOMON, B. BENNETT, REINHART,
DRISCOLL, COURT, BOLAND

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING SCHOOL ADMINISTRATION LAWS; ESTABLISHING
A WITHDRAWAL DATE FOR SCHOOL DISTRICT TRUSTEE ELECTIONS; PROVIDING WHO MAY
ADMINISTER AN OATH OF OFFICE TO A SCHOOL DISTRICT TRUSTEE; CLARIFYING THE STATUS OF A
SINGLE-MEMBER TRUSTEE DISTRICT AND A TRUSTEE NOMINATING DISTRICT IN AN ELECTION BY
ACCLAMATION; REQUIRING TRUSTEES OF EACH DISTRICT TO ORGANIZE AS A GOVERNING BOARD
NO LATER THAN 15 DAYS AFTER ELECTION DAY; CLARIFYING THE CALCULATION OF MAXIMUM
ALLOWABLE INDEBTEDNESS FOR CERTAIN SCHOOL DISTRICTS; ~~ELIMINATING REFERENCE TO AN~~
~~INTEREST RATE ON SCHOOL DISTRICT BOND ELECTION BALLOTS~~; AMENDING SECTIONS 20-3-305,
20-3-307, 20-3-313, 20-3-321, 20-9-406, ~~20-9-426~~, ~~20-9-427~~, AND 20-9-428, MCA; AND PROVIDING AN
IMMEDIATE EFFECTIVE DATE."

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

Section 1. Section 20-3-305, MCA, is amended to read:

"20-3-305. Candidate qualification, and nomination, and withdrawal. (1) Except as provided in
20-3-338, any person who is qualified to vote in a district under the provisions of 20-20-301 is eligible for the office
of trustee.

(2) Except as provided in 20-3-338, any five electors qualified under the provisions of 20-20-301 of any
district, except a first-class elementary district, may nominate as many trustee candidates as there are trustee
positions subject to election at the ensuing election. The name of each person nominated for candidacy must be
submitted to the clerk of the district not less than 40 days before the regular school election day at which the
person is to be a candidate. If there are different terms to be filled, the term for which each candidate is nominated
must also be indicated.

(3) (a) A candidate intending to withdraw from the election shall send a statement of withdrawal to the
clerk of the district. The statement must contain all information necessary to identify the candidate and the office

1 for which the candidate was nominated. The statement of withdrawal must be acknowledged by the clerk of the
 2 district.

3 (b) A candidate may not withdraw less than 38 days before a school election.

4 (c) Filing fees paid by the candidate may not be refunded."

5

6 **Section 2.** Section 20-3-307, MCA, is amended to read:

7 **"20-3-307. Qualification and oath.** (1) A person who receives a certificate of election as a trustee under
 8 the provisions of 20-3-313 or 20-20-416 may not assume the trustee position until the person has qualified. The
 9 person shall qualify by ~~completing and filing an oath of office with the county superintendent~~ taking an oath of
 10 office administered by the county superintendent, the superintendent's designee, or any official provided for in
 11 1-6-101 OR 2-16-116. The oath must be filed with the county superintendent not more than 15 days after the
 12 receipt of the certificate of election. After a person has qualified for a trustee position, the person holds the
 13 position until a successor has been elected or appointed and has been qualified.

14 (2) If the elected person does not qualify in accordance with this requirement, a person must be
 15 appointed in the manner provided by 20-3-309 and shall serve until the next regular election."

16

17 **Section 3.** Section 20-3-313, MCA, is amended to read:

18 **"20-3-313. Election by acclamation -- notice.** (1) If the number of candidates filing for vacant positions
 19 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
 20 positions to be elected, the trustees may give notice that a trustee election will not be held. Notice must be given
 21 no later than 25 days before the election.

22 (2) If a trustee election is not held, the trustees shall declare elected by acclamation the candidate who
 23 filed for the position or who filed a declaration of intent to be a write-in candidate and shall issue a certificate of
 24 election to the candidate.

25 (3) An election for a trustee in a single-member district as provided in 20-3-338 or in a trustee nominating
 26 district as provided in 20-3-353 is considered a separate trustee election for the purposes of declaring election
 27 by acclamation as provided in this section."

28

29 **Section 4.** Section 20-3-321, MCA, is amended to read:

30 **"20-3-321. Organization and officers.** (1) The trustees of each district shall annually organize as a

1 governing board of the district after the regular election day and after the issuance of the election certificates to
 2 the newly elected trustees, but not later than ~~the third Saturday of May~~ 15 days after the election. In order to
 3 organize, the trustees of the district must be given notice of the time and place where the organization meeting
 4 will be held, and at the meeting they shall choose one of their number as the presiding officer. In addition, except
 5 for the trustees of a high school district operating a county high school, the trustees shall employ and appoint a
 6 competent person, who is not a member of the trustees, as the clerk of the district. The trustees of a high school
 7 district operating a county high school shall appoint a secretary, who must be a member of the board.

8 (2) The presiding officer of the trustees of any district shall serve until the next organization meeting and
 9 shall preside at all the meetings of the trustees in accordance with the customary rules of order. The presiding
 10 officer shall perform the duties prescribed by this title and any other duties that normally pertain to a presiding
 11 officer."
 12

13 **Section 5.** Section 20-9-406, MCA, is amended to read:

14 **"20-9-406. Limitations on amount of bond issue -- definition of federal impact aid basic support**
 15 **payment.** (1) (a) Except as provided in subsection (1)(c), the maximum amount for which an elementary district
 16 or a high school district may become indebted by the issuance of general obligation bonds, including all
 17 indebtedness represented by outstanding general obligation bonds of previous issues, registered warrants,
 18 outstanding obligations under 20-9-471, and any other loans or notes payable that are held as general obligations
 19 of the district, is 50% of the taxable value of the property subject to taxation, as ascertained by the last
 20 assessment for state, county, and school taxes previous to the incurring of the indebtedness.

21 (b) Except as provided in subsection (1)(c), the maximum amount for which a K-12 school district, as
 22 formed pursuant to 20-6-701, may become indebted by the issuance of general obligation bonds, including all
 23 indebtedness represented by outstanding general obligation bonds of previous issues, registered warrants,
 24 outstanding obligations under 20-9-471 ~~and 20-9-502~~, and any other loans or notes payable that are held as
 25 general obligations of the district, is up to 100% of the taxable value of the property subject to taxation, as
 26 ascertained by the last assessment for state, county, and school taxes previous to the incurring of the
 27 indebtedness.

28 (c) (i) The maximum amount for which an elementary district or a high school district with a district mill
 29 value per elementary ANB or per high school ANB that is less than the facility guaranteed mill value per
 30 elementary ANB or high school ANB under 20-9-366 may become indebted by the issuance of general obligation

1 bonds, including all indebtedness represented by outstanding general obligation bonds of previous issues,
2 registered warrants, outstanding obligations under 20-9-471 and ~~20-9-502~~, and any other loans or notes payable
3 that are held as general obligations of the district, is 50% of the corresponding facility guaranteed mill value per
4 ANB times 1,000 times the ANB of the district. For a K-12 district, the maximum amount for which the district may
5 become indebted is 50% of the sum of the facility guaranteed mill value per elementary ANB times 1,000 times
6 the elementary ANB of the district and the facility guaranteed mill value per high school ANB times 1,000 times
7 the high school ANB of the district. For the purpose of calculating ANB under this subsection, a district may use
8 the greater of the current year ANB or the 3-year ANB calculated under 20-9-311.

9 (ii) If mutually agreed upon by the affected districts, for the purpose of calculating its maximum bonded
10 indebtedness under this subsection (1)(c), a district may include the ANB of the district plus the number of
11 students residing within the district for which the district or county pays tuition for attendance at a school in an
12 adjacent district. The receiving district may not use out-of-district ANB for the purpose of calculating its maximum
13 indebtedness if the out-of-district ANB has been included in the ANB of the sending district pursuant to the mutual
14 agreement. For the purpose of calculating ANB under this subsection, a district may use the greater of the current
15 year ANB or the 3-year ANB calculated under 20-9-311.

16 (2) The maximum amounts determined in subsection (1) do not pertain to indebtedness imposed by
17 special improvement district obligations or assessments against the school district or to general obligation bonds
18 issued for the repayment of tax protests lost by the district. All general obligation bonds issued in excess of the
19 amount are void, except as provided in this section.

20 (3) The maximum amount of impact aid revenue bonds that an elementary district, high school district,
21 or K-12 school district may issue may not exceed a total aggregate amount equal to three times the average of
22 the school district's annual federal impact aid basic support payments for the 5 years immediately preceding the
23 issuance of the bonds. However, at the time of issuance of the bonds, the average annual payment of principal
24 and interest on the impact aid bonds each year may not exceed 35% of the total federal impact aid basic support
25 payments of the school district for the current year.

26 (4) When the total indebtedness of a school district has reached the limitations prescribed in this section,
27 the school district may pay all reasonable and necessary expenses of the school district on a cash basis in
28 accordance with the financial administration provisions of this chapter.

29 (5) Whenever bonds are issued for the purpose of refunding bonds, any money to the credit of the debt
30 service fund for the payment of the bonds to be refunded is applied toward the payment of the bonds and the

1 refunding bond issue is decreased accordingly.

2 (6) As used in this part, "federal impact aid basic support payment" means the annual impact aid revenue
3 received by a district under 20 U.S.C. 7703(b) but excludes revenue received for impact aid special education
4 under 20 U.S.C. 7703(d) and impact aid construction under 20 U.S.C. 7707."

5
6 ~~Section 6.~~ Section 20-9-426, MCA, is amended to read:

7 ~~"20-9-426. Preparation and form of ballots for bond election.~~ (1) The school district shall cause
8 ballots to be prepared for all bond elections, and whenever bonds for more than one purpose are to be voted
9 upon at the same election, separate ballots must be prepared for each purpose:

10 ~~(2) For bond elections that are not held in conjunction with a school election, the ballots for absentee~~
11 ~~voting must be printed and made available at least 30 days before the bond election.~~

12 ~~(3) All ballots must be substantially in the following form:~~

13 OFFICIAL BALLOT

14 SCHOOL-DISTRICT BOND ELECTION

15 ~~INSTRUCTIONS TO VOTERS: Make an X or similar mark in the vacant square before the words~~
16 ~~"BONDS--YES" if you wish to vote for the bond issue; if you are opposed to the bond issue, make an X or similar~~
17 ~~mark in the square before the words "BONDS--NO".~~

18 ~~Shall the board of trustees be authorized to issue and sell (state type of bonds here: general obligation~~
19 ~~or impact aid revenue) bonds of this school district in the amount of dollars (\$), bearing interest at a rate~~
20 ~~not more than percent (.....%) a year, payable semiannually, during a period not more than years,~~
21 ~~for the purpose (here state the purpose the same way as in the notice of election)?~~

22 ~~BONDS--YES.~~

23 ~~BONDS--NO."~~

24
25 ~~Section 7.~~ Section 20-9-427, MCA, is amended to read:

26 ~~"20-9-427. Notice of bond election by separate purpose.~~ (1) A school district bond election must be
27 conducted in accordance with the school election provisions of this title, except that the election notice must be
28 in substantially the following form:

29 NOTICE OF SCHOOL-DISTRICT BOND ELECTION

30 ~~Notice is hereby given by the trustees of School District No. of County, state of Montana,~~

1 that pursuant to a certain resolution adopted at a meeting of the board of trustees of the school district held on
 2 the day of,, an election of the registered electors of School District No. of County, state
 3 of Montana, will be held on the day of,, at for the purpose of voting upon the question of
 4 whether or not the trustees may issue and sell (state here: general obligation or impact aid revenue) bonds of
 5 the school district in the amount of dollars (\$), bearing interest at a rate not more than percent
 6 (.....%) a year, payable semiannually, for the purpose of (here state purpose). The bonds to be issued
 7 will be payable in installments over a period not exceeding (state number) years:

8 _____ The polls will be open from o'clock ...m. and until o'clock ...m. of the election day.

9 _____ Dated and posted this day of,

10 _____
 11 _____ Presiding officer, School District No.
 12 _____ of County
 13 _____ Address

14 _____ (2) If the bonds proposed to be issued are for more than one purpose, then each purpose must be
 15 separately stated in the notice, together with the proposed amount of bonds for each purpose.

16 _____ (3) The notice must specify whether the bonds will be general obligation bonds or impact aid revenue
 17 bonds."

18

19 **Section 6.** Section 20-9-428, MCA, is amended to read:

20 **"20-9-428. Determination of approval or rejection of proposition at bond election.** (1) When the
 21 trustees canvass the vote of a school district bond election under the provisions of 20-20-415, they shall
 22 determine the approval or rejection of the school bond proposition in the following manner:

23 (a) If Except as provided in subsection (1)(c), if the school district bond election is held at a regular
 24 school election or at a special election called by the trustees, the trustees shall:

25 (i) determine the total number of electors of the school district who are qualified to vote under the
 26 provisions of 20-20-301 from the list of electors supplied by the county registrar for the school bond election;

27 (ii) determine the total number of qualified electors voting at the school bond election from the tally sheets
 28 for the election; and

29 (iii) calculate the percentage of qualified electors voting at the school bond election by dividing the amount
 30 determined in subsection (1)(a)(ii) by the amount determined in subsection (1)(a)(i).



- 1 (b) When the calculated percentage in subsection (1)(a)(iii) is:
2 (i) 40% or more, the school bond proposition is approved and adopted if a majority of the votes were cast
3 in favor of the proposition, otherwise it is rejected;
4 (ii) more than 30% but less than 40%, the school bond proposition is approved and adopted if 60% or
5 more of the votes were cast in favor of the proposition, otherwise it is rejected; or
6 (iii) 30% or less, the school bond proposition is rejected.
- 7 (c) If the school district bond election is held at a general election, at an election that is conducted by mail
8 ballot, as provided in Title 13, chapter 19, or at a special election that is held in conjunction with a regular or
9 primary election, the determination of the approval or rejection of the bond proposition is made by a majority of
10 the votes cast on the issue.
- 11 (2) If the canvass of the vote establishes the approval and adoption of the school bond proposition, the
12 trustees shall issue a certificate proclaiming the passage of the proposition and the authorization to issue bonds
13 of the school district for the purposes specified on the ballot for the school district bond election."
14

15 **NEW SECTION. Section 7. Effective date.** [This act] is effective on passage and approval.

16 - END -