

Amendments to Senate Bill No. 408
3rd Reading Copy

Requested by Senator Alan Olson

For the House State Administration Committee

Prepared by Rachel Weiss
April 15, 2013 (8:06am)

1. Title, page 1, line 6.
Following: "AFFILIATION;"
Insert: "ELIMINATING SEPARATE PARTY BALLOTS AND PROVIDING FOR ONE
PRIMARY BALLOT CONTAINING ALL PRIMARY RACES;"
2. Title, page 1, line 10.
Strike: "13-10-311,"
3. Title, page 1, line 13.
Following: "13-14-118,"
Insert: "13-15-201,"
4. Title, page 1, line 14.
Following: "13-16-211,"
Insert: "13-16-412,"
Following: "13-17-103,"
Insert: "13-19-205,"
5. Title, page 1, line 19.
Following: "13-10-305,"
Insert: "13-10-311,"
6. Page 21, line 14 through line 17.
Strike: "ballots," on line 14 through "name" on line 17
Following: line 17
Insert: "(b) (i) In a top two primary election, the political
party preference declared by the candidate on the
declaration of candidacy under 13-10-201 must appear with
the candidate's name on the ballot. The word "preference"
must follow the candidate's preferred party, if any. If a
candidate has not declared a preference for a political
party, the words "no party preference" must appear on the
ballot with the candidate's name. Nothing in a top two
primary election portion of the ballot may indicate whether
a candidate has been endorsed or nominated by a political
party. The top two primary portion or portions of the ballot
must clearly and conspicuously state that candidates in that
section are not nominees or members of or endorsed by or
otherwise associated with the candidate's political party
preference.

(ii) Information must be printed on the ballot and in the voter information pamphlet provided for in 13-27-401 to inform voters that in the top two primary the two candidates who receive the most votes for the office will advance to a general election regardless of either candidate's political party preference."

7. Page 21, line 18 through line 19.

Strike: "(b)" on line 18 through "if:" on line 19

Insert: "(2) (a) All offices and ballot issues must appear on one ballot. The ballot must be arranged to eliminate the possibility of widespread voter confusion."

Renumber: subsequent subsections

8. Page 21, line 20.

Strike: "(i) each"

Insert: "Each"

Strike: "is"

Insert: "must be"

Strike: ";

Insert: "."

9. Page 21, line 21 through line 22.

Strike: "(ii)" on line 21 through "with" on line 22

Insert: "(b) With"

10. Page 21, line 23 through page 22, line 3.

Strike: subsection (c) in its entirety

11. Page 22, line 4.

Strike: "(2)"

Insert: "(3)"

Strike: "does"

Insert: "is"

Strike: "need"

Insert: "required"

12. Page 22, line 4 through line 6.

Strike: "for a political party" on line 4 through "(b)" on line 6

Insert: "if"

13. Page 22, line 6.

Strike: "one candidate files for nomination by that party"

Insert: "two candidates file"

14. Page 22, line 8.

Strike: "(3)"

Insert: "(4)"

Strike: "(2)"

Insert: "(3)"

15. Page 22, line 8 through line 9.

Strike: "for a" on line 8 through "party" on line 9

16. Page 22, line 9 through line 10.

Strike: "for that" on line 9 through the first "party" on line 10

Strike: "for that party" on line 10

17. Page 22, line 12 through line 17.

Strike: subsection (4) through subsection (5) in their entirety

Renumber: subsequent subsections

Insert: "(5)(a) If a partisan primary is held, the ballot must contain the following:

(i) a clear and conspicuous, segregated area for the elector to mark the political party the elector wishes to affiliate with for the purposes of voting in the primary election;

(ii) an option for the elector to mark "none of the above" with respect to political party affiliation; and

(iii) a clear and conspicuous statement that only electors who mark a political party affiliation may vote on the partisan primary portion of the ballot.

(b) A vote cast in a partisan primary may be counted only if the elector has marked an affiliation with one political party, a vote cast in a partisan primary corresponds only to the marked party's primary, and the elector has voted only once for each office."

Renumber: subsequent subsections

18. Page 22, line 20.

Strike: subsection (7) in its entirety

Renumber: subsequent subsections

19. Page 24, line 15 through line 18.

Strike: subsection (2) in its entirety

Renumber: subsequent subsections

20. Page 27, line 14.

Strike: "partisan"

21. Page 34, line 5 through line 7.

Strike: subsection (4) in its entirety

Renumber: subsequent subsections

22. Page 34, line 8 through line 9.

Strike: "Instructions" on line 8 through "ballots." on line 9

23. Page 35, line 16 through line 18.

Strike: subsection (3) in its entirety

Renumber: subsequent subsections

24. Page 38, line 7.

Insert: "Section 54. Section 13-15-201, MCA, is amended to read:

"13-15-201. Preparation for count -- absentee ballot count procedures. (1) ~~Subject to 13-10-311, to~~ To prepare for a count of ballots, the counting board or, if appointed, the absentee counting board shall take ballots out of the box to determine whether each ballot is single.

(2) The board shall count all ballots to ensure that the total number of ballots corresponds with the total number of names in the pollbook.

(3) If the board cannot reconcile the total number of ballots with the pollbook, the board shall submit to the election administrator a written report stating how many ballots were missing or in excess and any reason of which they are aware for the discrepancy. Each judge on the board shall sign the report.

(4) A ballot that is not marked as official is void and may not be counted unless all judges on the board agree that the marking is missing because of an error by election officials, in which case the ballot must be marked "unmarked by error" on the back and must be initialed by all judges.

(5) If two or more ballots are folded or stuck together to look like a single ballot, they must be laid aside until the count is complete. The counting board shall compare the count with the pollbooks, and if a majority believes that the ballots folded together were voted by one elector, the ballots must be rejected and handled as provided in 13-15-108, otherwise they must be counted.

(6) Only valid absentee ballots may be counted in an election conducted under this chapter.

(7) For the purpose of this chapter, a voted absentee ballot is valid only if:

(a) the elector's signature on the affirmation on the return envelope is verified pursuant to 13-13-241; and

(b) it is received before 8 p.m. on election day, except as provided in 13-21-206 and 13-21-207.

(8) (a) A ballot is invalid if:

(i) problems with the ballot have not been resolved pursuant to 13-13-245;

(ii) any identifying marks are placed on the ballot by the elector; or

(iii) except as provided in subsection (8)(b), more than one ballot is enclosed in a single return or secrecy envelope.

(b) The provisions of subsection (8)(a)(iii) do not apply if:

(i) there are multiple elections being held at the same time and the envelope contains only one ballot for each election; or

(ii) the return envelope contains ballots from the same household, each ballot is in its own secrecy envelope, and the return envelope contains a valid signature for each elector who

has returned a ballot."

{Internal References to 13-15-201:

13-10-311

13-10-311

13-15-207

13-19-312 all ok 4/15 }"

Renumber: subsequent sections

25. Page 39, line 5 through line 6.

Strike: "At" on line 5 through "ballots"." on line 6

26. Page 44, following line 17.

Insert: "Section 65. Section 13-16-412, MCA, is amended to read:

"13-16-412. Procedure for recounting paper ballots. To conduct a recount of paper ballots:

(1) the election administrator shall provide to the recount board, unopened, each sealed package or envelope received from the election judges of the precinct or precincts in which a recount is ordered, containing all the paper ballots voted in the precinct or precincts;

(2) a member of the recount board shall open each sealed package or envelope and remove the ballots, and the board shall count the votes on each ballot manually in the manner provided in 13-15-206(2); ~~except that if the office to be recounted is on a partisan primary election ballot, votes are recounted only on the party ballots that are subject to the recount; and~~

(3) the recount must be tallied on previously prepared tally sheets. The tally sheets must show the names of the respective candidates, the office or offices for which a recount is made, and the number of each election precinct."

{Internal References to 13-16-412: None.}"

Renumber: subsequent sections

27. Page 46, line 27.

Insert: "Section 70. Section 13-19-205, MCA, is amended to read:

"13-19-205. Written plan for conduct of election -- amendments -- approval procedures. (1) The election administrator shall prepare a written plan for the conduct of the election and shall submit it to the secretary of state in a manner that ensures that it is received at least 60 days prior to the date set for the election.

(2) The written plan must include:

(a) a timetable for the election; and

(b) sample written instructions that will be sent to the electors. The instructions must include but are not limited to:

(i) information on the estimated amount of postage required to return the ballot;

(ii) (A) the location of the places of deposit and the days and times when ballots may be returned to the places of deposit, if the information is available; or

(B) if the information on location and hours of places of deposit is not available, a section that will allow the information to be added before the instructions are mailed to

electors; and

(iii) any applicable instructions specified under 13-13-214~~(5)~~(4).

(3) The plan may be amended by the election administrator any time prior to the 35th day before election day by notifying the secretary of state in writing of any changes.

(4) Within 5 days of receiving the plan and as soon as possible after receiving any amendments, the secretary of state shall approve, disapprove, or recommend changes to the plan or amendments.

(5) When the written plan has been approved, the election administrator shall proceed to conduct the election according to the approved plan unless the election is canceled for any reason provided by law."

{Internal References to 13-19-205:

13-19-105 13-19-202 13-19-203 13-19-206 ok 4/15}"

Renumber: subsequent sections

28. Page 63, following line 30.

Insert: "13-10-311. Election judges' duties when preparing for count."

29. Page 64, following line 14.

Insert: "COORDINATION SECTION. **Section 106. Coordination instruction.** If House Bill No. 120 is passed and approved and if [this act] is passed by the legislature and approved by the electorate and both contain a section amending 5-2-402, then section 5-2-402 must be amended as follows:

"5-2-402. Appointment by board of county commissioners -- county central committee role -- timeframes. (1) Except as provided in subsection (5) or as otherwise provided by law, whenever a vacancy occurs in the legislature, the vacancy must be filled by appointment by the board of county commissioners or, in the event of a multicounty district, the boards of county commissioners of the counties comprising the district sitting as one appointing board.

(2) (a) Whenever a vacancy is within a single county, the board of county commissioners shall make the appointment as described in 5-2-403, 5-2-404, or 5-2-406.

(b) Whenever a vacancy is within a multicounty district, the boards of county commissioners shall sit as one appointing board. The selection of an individual to fill the vacancy must be as follows:

(i) The presiding officer of the board of county commissioners of the county in which the person resided whose vacancy is to be filled shall call a meeting for the purpose of appointing the member of the legislature and shall preside at the meeting.

(ii) Each commissioner's vote is determined by the following formula: 100 multiplied by (A divided by B) multiplied by (1

divided by C), where:

(A) A is the total votes cast in the respective county for the person vacating the legislative seat or, if the vacating person was not elected, the votes cast for the last person to be elected for the current term;

(B) B is the total votes cast for that person in the legislative district; and

(C) C is the number of authorized commissioners on the board of the commissioner whose vote is being determined.

(iii) The person selected to fill the vacancy is the one who receives the highest number above 50 that results from the calculation in subsection (2)(b)(ii). If none of the candidates receives a number higher than 50 from that calculation, the selection board shall cast its votes again in the same manner for the persons receiving the two highest numbers. If neither vote results in a candidate receiving a number higher than 50 from the calculation provided in subsection (2)(b)(ii), then 5-2-404 applies.

(c) If a vacancy occurs in a holdover senate seat after holdover senators have been assigned to new districts under each reapportionment, the formula in subsection (2)(b)(ii) must be applied using the votes cast for the senatorial candidates at the last election in which votes were cast for a senate candidate. Only the number of votes cast by electors residing in the new senate district ~~for senate candidates of the party to which the person vacating the seat belonged~~ may be counted. The secretary of state shall provide an estimate of the number of votes cast ~~for each party~~ by county or portion of a county. The selection process is the same as provided in subsection (2)(b)(iii).

(3) The appointment process to fill a vacant legislative seat under this section is as follows:

(a) Within 7 days of being notified of a vacancy as described in 2-16-501, the secretary of state shall notify the board of county commissioners, and if the vacating legislator marked a party preference on the legislator's most recent declaration of candidacy filed with the secretary of state or election administrator, the secretary of state shall notify the relevant state party that is responsible for notifying the county central committee of the county where the vacating legislator is a resident, if the legislative seat is within one county, or the boards of county commissioners and the corresponding county central committees if the legislative seat is in a multicounty district. If the legislator ~~is an~~ did not mark a party preference, marked "independent", or marked a party preference for a party that does not have a county central committee as the party preference on the legislator's most recent declaration of candidacy filed with the secretary of state or election administrator, independent or belongs to a party for which there is no county central committee, the notification of county commissioners suffices.

(b) The county central committee or committees, upon

receipt of notification of a vacancy, have 45 days to propose a list of prospective appointees, pursuant to 5-2-403(1). The county central committee or the county central committees, acting together, shall forward the list of names to the appointing board within the 45-day period.

(c) The appointing board shall make and confirm an appointment and notify the secretary of state within 15 days:

(i) after receiving the list of prospective appointees from the county central committee or committees;

(ii) after 45 days have expired after the notification of vacancy if the county central committee or committees have not provided a list of prospective appointees; or

(iii) after notification of a vacancy if the legislator vacating the seat is an independent.

(4) If the legislature is in session, the notification process in subsection (3)(a) must be followed within 5 days. The process described in subsection (3)(b) must take place in 5 days. The process described in subsection (3)(c) must take place in 5 days.

(5) Notwithstanding subsection (6), if a vacancy occurs prior to a primary election, 13-10-326 applies. If a vacancy occurs after a primary and prior to a general election, 13-10-327 applies.

(6) If the legislature is called into special session within 85 days of a general election, a person must be appointed to fill a legislative vacancy pursuant to subsections (1) through (4)."

{Internal References to 5-2-402:

5-2-403 5-2-403 5-2-406 5-2-406

5-2-407 * 10-1-1010 ok}"

Insert: "COORDINATION SECTION. Section 107. Coordination instruction. If [this act] is passed by the legislature and approved by the electorate and if House Bill No. 120 is passed and approved:

(1) the reference to "declaration for nomination" in 13-10-201 must be changed to "declaration of candidacy"; and

(2) the reference to "declaration for nomination" in 13-14-113 must be changed to "declaration of candidacy"."

Insert: "COORDINATION SECTION. Section 108. Coordination instruction. If [this act] is passed by the legislature and approved by the electorate and if Senate Bill No. 375 is passed and approved, then the section that amends 13-37-216 in [this act] is void and the reference to "gubernatorial" in the definition of "political party organization" in section 13-1-101 in Senate Bill No. 375 must be changed to "presidential"."

Renumber: subsequent sections

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