

HOUSE BILL NO. 190  
INTRODUCED BY C. YOUNKIN  
BY REQUEST OF THE SECRETARY OF STATE

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING ELECTION LAWS; CLARIFYING THE TIMES FOR HOLDING SPECIAL ELECTIONS; REQUIRING THAT A DECLARATION OF INTENT FILED BY A WRITE-IN CANDIDATE IS NOT VALID UNTIL THE FILING FEE IS PAID; REQUIRING THAT AN APPLICATION FOR AN ABSENTEE BALLOT INCLUDE THE ELECTOR'S BIRTH DATE; CLARIFYING THAT ABSENTEE BALLOT APPLICATIONS MUST BE MADE DIRECTLY TO THE ELECTION ADMINISTRATOR; PROVIDING THAT VOTING INSTRUCTIONS BE ENCLOSED WITH ABSENTEE BALLOT MAILINGS IRRESPECTIVE OF WHETHER THE ELECTOR IS OUT OF THE STATE; PROVIDING THAT STATE EMPLOYEE TIME MAY BE SPENT ON THE YOUTH VOTING PROGRAM; PROVIDING THAT THE VOTER INFORMATION PAMPHLET MAY BE ADDRESSED TO THE CURRENT RESIDENT AT AN ADDRESS; REVISING THE TIME BY WHICH THE VOTER INFORMATION PAMPHLET MUST BE MAILED; AND AMENDING SECTIONS 13-1-104, 13-10-211, 13-13-212, 13-13-213, 13-13-214, 13-15-111, 13-22-107, AND 13-27-410, MCA."

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

**Section 1.** Section 13-1-104, MCA, is amended to read:

**"13-1-104. Times for holding general elections.** (1) ~~(a) Except as provided in subsection (1) (b),~~ a general election must be held throughout the state in every even-numbered year on the first Tuesday after the first Monday of November to vote on ballot issues required by Article III, section 6, or Article XIV, section 8, of the Montana constitution to be submitted by the legislature to the electors at a general election, unless an earlier date is provided in a law authorizing a special election on an initiative or referendum pursuant to Article III, section 6, and to elect federal officers, state or multicounty district officers, members of the legislature, judges of the district court, and county officers when the terms of the offices will expire before the next scheduled election for the offices or when one of the offices must be filled for an unexpired term as provided by law.

(b) A special election may be held on an earlier date provided in a law authorizing a special statewide election on an initiative or referendum pursuant to Article III, section 6, of the Montana constitution.

(2) A general election must be held throughout the state in every odd-numbered year on the first Tuesday

after the first Monday in November to elect municipal officers, officers of political subdivisions wholly within one county and not required to hold annual elections, and any other officers specified by law for election in odd-numbered years when the term for the offices will expire before the next scheduled election for the offices or when one of the offices must be filled for an unexpired term as provided by law.

(3) The general election for any political subdivision, other than a municipality, required to hold elections annually ~~shall~~ must be held on school election day, the first Tuesday after the first Monday of May of each year, and is subject to the election procedures provided for in 13-1-401.

(4) The general election for a municipality required to hold elections annually may be held either on school election day, as provided in subsection (3), or on the first Tuesday after the first Monday in November, at the discretion of the governing body."

**Section 2.** Section 13-10-211, MCA, is amended to read:

**"13-10-211. Declaration of intent for write-in candidates.** (1) Except as provided in subsection (5), a person seeking to become a write-in candidate for an office in any election shall file a declaration of intent. The declaration of intent must be filed with the secretary of state or election administrator, depending on where a declaration of nomination for the desired office is required to be filed under 13-10-201, or with the school district clerk for a school district office. Except as provided in subsections (2) and (3), the declaration must be filed no later than 5 p.m. on the 15th day before the election and must contain:

- (a) (i) the candidate's first and last names;
- (ii) the candidate's initials, if any, used instead of a first name, or first and middle name, and the candidate's last name;
- (iii) the candidate's nickname, if any, used instead of a first name, and the candidate's last name; and
- (iv) a derivative or diminutive name, if any, used instead of a first name, and the candidate's last name;
- (b) the candidate's mailing address;
- (c) a statement declaring the candidate's intention to be a write-in candidate;
- (d) the title of the office sought;
- (e) the date of the election;
- (f) the date of the declaration; and
- (g) the candidate's signature.

(2) A declaration of intent may be filed after the deadline provided for in subsection (1) but no later than 5 p.m. on the day before the election if, after the deadline prescribed in subsection (1), a candidate for the office

that the write-in candidate is seeking:

- (a) dies;
- (b) withdraws from the election; or
- (c) is charged with a felony offense.

(3) A person seeking to become a write-in candidate for a trustee position on a school board shall file a declaration of intent no later than 5 p.m. on the 26th day before the election.

(4) The secretary of state shall notify each election administrator of the names of write-in candidates who have filed a declaration of intent with the secretary of state. Each election administrator and school district clerk shall notify the election judges in the county or district of the names of write-in candidates who have filed a declaration of intent.

(5) The requirements in subsection (1) do not apply to a write-in candidate seeking election to an office for which a candidate has not filed a declaration or petition for nomination or a declaration of intent.

(6) A declaration of intent may be sent by facsimile transmission, if a facsimile facility is available for use by the election administrator or by the secretary of state, delivered in person, or mailed to the election administrator or to the secretary of state. However, the declaration is not valid until the filing fee required pursuant to 13-10-202 is received by the secretary of state or election administrator."

**Section 3.** Section 13-13-212, MCA, is amended to read:

**"13-13-212. Application for absentee ballot -- special provisions.** (1) An elector may apply for an absentee ballot by making a written request, which must include the applicant's birth date and must be signed by the applicant; The request must be submitted to the election administrator of the applicant's county of residence within the time period specified in 13-13-211.

(2) An elector in the United States service absent from the state and county in which the elector is registered may apply for an absentee ballot as follows:

- (a) as provided in subsection (1);
- (b) by using the federal postcard application signed by the applicant and made within the time period specified in 13-13-211; or
- (c) if eligible, by using the federal write-in ballot as provided in 13-13-271(3).

(3) (a) If an elector requests an absentee ballot because of a sudden illness or health emergency, the application for an absentee ballot may be made by written request signed by the elector at the time that the ballot is delivered in person by the special absentee election board provided for in 13-13-225.

(b) The elector may request by telephone, facsimile transmission, or other means to have a ballot and application personally delivered by the special absentee election board at the elector's place of confinement, hospitalization, or residence within the county.

(c) A request under this subsection (3) must be received by the election administrator by noon on election day.

(4) An elector who has made a request for an absentee ballot by one of the methods provided in this section may, in the event of the death of a candidate after the primary election but before the general election, make a request for a replacement ballot. The request for a replacement ballot may be made orally to the election administrator."

**Section 4.** Section 13-13-213, MCA, is amended to read:

**"13-13-213. Transmission of application to election administrator -- delivery of ballot.** (1) Except as provided in subsection (2), the elector shall ~~forward the application by mail~~ the application directly to the election administrator or deliver it the application in person to the election administrator. The election administrator shall compare the signature on the application with the applicant's signature on the registration card. If convinced the individual making the application is the same as the one whose name appears on the registration card, the election administrator shall deliver the ballot to the elector in person or as otherwise provided in 13-13-214.

(2) In lieu of the requirement provided in subsection (1), an elector who requests an absentee ballot pursuant to 13-13-212(3) may return the application to the special absentee election board. Upon receipt of the application, the special absentee election board shall examine the signatures on the application and a copy of the voting registration card to be provided by the election administrator. If the special absentee election board believes that the applicant is the same person as the one whose name appears on the registration card, the special absentee election board shall provide a ballot to the elector."

**Section 5.** Section 13-13-214, MCA, is amended to read:

**"13-13-214. Mailing ballot to elector.** (1) (a) Except as provided in 13-13-213 and in subsection (1)(b) of this section, as soon as the official ballots are printed, the election administrator shall send by mail, postage prepaid, to each elector from whom the election administrator has received a valid application whatever official ballots are necessary. Ballots must be sent immediately to electors submitting valid requests after the official ballots are printed.

- (b) The election administrator may deliver a ballot in person to an individual other than the elector if:
- (i) the elector has designated the individual, either by a signed letter or by making the designation on the application form in a manner prescribed by the secretary of state;
  - (ii) the individual taking delivery of the ballot on behalf of the elector verifies, by signature, receipt of the ballot;
  - (iii) the election administrator believes that the individual receiving the ballot is the designated person;
- and
- (iv) the designated person has not previously picked up ballots for four other electors.
- (2) The election administrator shall enclose with the ballots:
- (a) a secrecy envelope, free of any marks that would identify the voter; and
  - (b) a self-addressed envelope for the return of the ballots. An affirmation in the form prescribed by the secretary of state must be printed on the back of the envelope.
- (3) The election administrator shall stamp the ballots provided to an absentee elector, as provided in 13-13-116, and remove the stubs from the ballots, attaching the stubs to the elector's absentee ballot application.
- (4) Both the envelope in which the ballot is mailed to an elector in the United States service and the return envelope must have printed across the face the information and graphics and be of the color prescribed by the secretary of state consistent with the regulations established by the federal election commission, the U.S. postal service, or other federal agency.
- (5) If the ballots sent to the elector are for a primary election, the election administrator shall enclose an extra envelope marked "For Unvoted Party Ballot(s)". This envelope may not be numbered or marked in any way so that it can be identified as being used by any one elector.
- (6) Instructions for voting must be enclosed with the ballots. Instructions for primary elections must include use of the envelope for unvoted ballots. The instructions must include information concerning the type or types of writing instruments that may be used to mark the absentee ballot. The instructions must include information regarding use of the secrecy envelope and use of the return and verification envelope. The election administrator shall include a voter information pamphlet with the instructions if:
- (a) a statewide ballot issue appears on the ballot mailed to the elector; and
  - (b) ~~the elector is out of the state or will be out of the state at the time of the election; and~~
  - (~~e~~) the elector requests a voter information pamphlet.
- (7) The return envelope must be self-addressed to the election administrator."

**Section 6.** Section 13-15-111, MCA, is amended to read:

**"13-15-111. Write-in elections -- general election.** (1) An individual elected by having ~~his~~ the individual's name written in at the general election and receiving the largest number of votes shall:

(a) file with the secretary of state or election administrator, not later than 10 days after the official canvass, a written declaration indicating ~~his~~ the individual's acceptance of the position for which ~~he was~~ elected;

(b) comply with the provisions of 13-37-225; and

(c) pay the required filing fee or, if indigent, comply with 13-10-203.

(2) If an individual fails to ~~file the declaration as required under~~ comply with the requirements in subsection (1)~~(a)~~, ~~he~~ the individual may not assume the position for which ~~he was~~ elected."

**Section 7.** Section 13-22-107, MCA, is amended to read:

**"13-22-107. Funding.** (1) Public money, except for state employee compensation, may not be used to support or fund the youth voting program established in this chapter.

(2) A nonprofit corporation may be formed subject to the provisions of Title 35, chapter 2, to solicit donations from private sources. Money solicited under this subsection must be used only for the youth voting program."

**Section 8.** Section 13-27-410, MCA, is amended to read:

**"13-27-410. Printing and distribution of voter information pamphlet.** (1) The secretary of state shall arrange with the department of administration by requisition for the printing and delivery of a voter information pamphlet for all ballot issues to be submitted to the people at least 110 days before the election at which they will be submitted. The requisition must include a delivery list providing for shipment of the required number of pamphlets to each county and to the secretary of state.

(2) The secretary of state shall estimate the number of copies necessary to furnish one copy to each voter in each county, except that two or more voters with the same mailing address and the same last name may be counted as one voter. The secretary of state shall provide for an extra supply of the pamphlets in determining the number of voter pamphlets to be ordered in the requisition.

(3) The department of administration shall call for bids and contract with the lowest bidder for the printing and delivery of the voter information pamphlet. The contract must require completion of printing and shipment, as specified on the delivery list, of the voter information pamphlets by not later than 45 days before the election at which the ballot issues will be voted on by the people.

(4) The county official responsible for voter registration in each county shall mail one copy of the voter information pamphlet to each registered voter in the county who is on the active voter list, except that two or more voters with the same mailing address and the same last name may be counted as one voter. The mailing label may include an address line that addresses the voter or the "current resident". The mailing must take place no later than 2 3 weeks before the election.

(5) Ten copies of the voter information pamphlet must be available at each precinct for use by any voter wishing to read the explanatory information and complete text before voting on the ballot issues."

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