

HOUSE BILL NO. 699
INTRODUCED BY T. DOWELL

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR VOTER REGISTRATION AT THE POLLING BOOTH ON ELECTION DAY; ESTABLISHING PROVISIONAL BALLOTS; REQUIRING VOTER REGISTRATION CARDS AND PRECINCT MAPS AT THE POLLS; REMOVING PROVISIONS CLOSING REGISTRATION; PROVIDING FOR PRINTING OF THE OFFICIAL REGISTER; REQUIRING A SPECIAL ADDENDUM FOR LISTS OF REGISTERED VOTERS; CHANGING TIMEFRAMES FOR CHECKING AND REPORTING ON CHANGES TO VOTER REGISTRATION LISTS; AMENDING SECTIONS 13-2-115, 13-2-123, 13-2-203, 13-2-212, 13-2-403, 13-2-515, 13-2-601, AND 20-20-312, MCA; AND REPEALING SECTIONS 13-2-301, 13-2-302, AND 20-20-311, MCA."

WHEREAS, Article II, section 13, of the Montana Constitution provides that all elections be free and open, and no power, civil or military, shall at any time interfere to prevent the free exercise of the right of suffrage; and

WHEREAS, Article IV, section 3, of the Montana Constitution allows the Legislature to create a system of poll booth voter registration; and

WHEREAS, in 1972, the delegates to the Montana Constitutional Convention debated the issue of requiring the Legislature to adopt a system of poll booth voter registration and agreed after lengthy debate to allow the Legislature to adopt a system, leaving this issue to the Legislature, with the strong suggestion in the transcripts of the Constitutional Convention that legislation be enacted to allow poll booth voter registration; and

WHEREAS, poll booth registration will provide the opportunity for Montana residents to be more actively involved in exercising their political power, as guaranteed in Article II, section 1, of the Montana Constitution, which provides that all political power is vested in and derived from the people.

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

NEW SECTION. Section 1. Polling place registration allowed on election day -- procedure -- provisional ballot. (1) A person who is not otherwise registered to vote and who is qualified to vote under 13-1-111 may register on election day and vote by provisional ballot.

(2) Registration is permitted if the elector:

(a) appears in person at the polling place for the precinct in which the person maintains residence;

(b) completes a voter registration card;

(c) signs an affidavit in a form prescribed by the secretary of state;

(d) provides proof of residence in a form prescribed by the secretary of state; and

(e) shows a picture identification card or another identification document permitted under rules adopted by the secretary of state. If a picture identification is not provided, the elector's ballot must automatically be considered as having been challenged and must be marked and handled as provided in 13-13-311.

(3) Registration at the polling place on election day must be conducted by an election judge who shall add the person's name to a special addendum of the precinct register of electors and shall mark the time at which the person registered. An election judge who registers a person at the polling place on election day may not handle that elector's ballots at any time before the opening of the ballot box after the voting ends.

(4) Voter registration cards, precinct maps, and forms for oaths must be available at each polling place.

(5) Voter registration cards completed on election day must be forwarded to the election administrator who shall add the elector's name to the official registration list, provide a registration number pursuant to 13-2-114, and confirm registration pursuant to 13-2-207. If the confirmation notice is returned as undeliverable, the provisional ballot cast by the elector who registers at the poll booth must be set aside and not counted until the validity of registration is determined, pursuant to 13-2-208. If the registration is not valid, the election administrator shall remove the name from the official registration list.

(6) Polling place registration on election day replaces any prior registration.

(7) A person's right to vote after registering on election day under this section may be challenged, as provided in Title 13, chapter 13, part 3.

(8) The secretary of state may adopt rules to implement this section.

NEW SECTION. Section 2. Provisional ballots. (1) A provisional ballot must be provided to an elector:

- (a) who is on an inactive voter list;
- (b) who is registering at the poll booth on election day; or
- (c) whose eligibility to vote has been challenged.

(2) The envelope that encases a provisional ballot must be marked in such a way that the elector can track whether the ballot is counted or not counted. The mark also must be designed to allow election officials to remove the envelope containing a ballot, prior to its being opened, if evidence indicates that the ballot was cast by an ineligible elector. The secretary of state shall set by rule the terms for marking the envelope under this provision in a way that maintains the secrecy of the ballot but informs the elector and the election officials as

indicated in this subsection (2).

(3) The person voting on a provisional ballot must receive written information, prescribed by the secretary of state, on how the elector can access information to know whether the elector's vote is counted and if not counted the reason that the provisional ballot was not counted.

(4) (a) If the election administrator determines that the elector who cast the provisional ballot was eligible to vote, the vote must be counted. A provisional ballot must be counted with at least one other ballot, to be chosen at random by the election administrator if only one provisional ballot is submitted.

(b) If the election administrator determines that the elector who cast the provisional ballot was ineligible to vote, the unopened ballot must be destroyed.

(5) The election administrator may pursue penalties for false swearing under 45-7-202 if an ineligible voter registers and votes on a provisional ballot.

NEW SECTION. **Section 3. Precinct maps required at polling place.** The election administrator shall ensure that each precinct has an accurate precinct map to assist election judges responsible for polling place registration under [section 1] in determining whether an address is located in that precinct.

Section 4. Section 13-2-115, MCA, is amended to read:

"13-2-115. Registration lists to be prepared. (1) Except as provided in subsections (6) and (7), ~~immediately after registration is closed, 30 days before an election,~~ the election administrator shall prepare and have printed lists of all registered electors in each precinct. Names of electors must be listed alphabetically, with their residence address or with a mailing address if located where street numbers are not used. ~~A preliminary list of registered electors may be printed before the close of registration for an election. If a preliminary list is printed, a supplementary list must be printed after the close of registration.~~

(2) A copy of the list of registered ~~voters~~ electors must be displayed at the polling place. Supplemental pages must be available to record the name and address of an elector who registers at the polls or who has been assigned to vote in a precinct other than the precinct in which the elector is registered, pursuant to 13-3-213(2)(c). Extra copies of the lists must be retained by the election administrator and furnished to an elector upon request.

(3) The list of registered electors prepared for a primary election may be used for the general election if a supplemental list is printed, giving the additions and deletions since the primary list was prepared ~~is printed.~~ The election administrator may prepare lists for a special election, but lists are not required to be printed for special elections.

(4) Lists of registered ~~voters~~ electors need not be printed if the election will not be held.

(5) The election administrator shall forward a list of all registered electors in the county to the secretary of state, as provided in 13-2-123. The secretary of state shall use the lists submitted by election administrators to compile and maintain a list of all registered electors in the state. Upon written request, the secretary of state shall furnish to any elector, for noncommercial use, a current list of registered electors. Upon delivery of the list to the elector, the secretary of state shall charge and collect a fee, which must be set and deposited in accordance with 2-15-405.

(6) If a law enforcement officer or reserve officer, as defined in 7-32-201, requests in writing that, for security reasons, the officer's and the officer's spouse's residential address, if the same as the officer's, not be disclosed, the registrar may not include the address on any list of registered ~~voters~~ electors but may list only the name or names.

(7) (a) Upon the request of an individual, an election administrator may not include the individual's residential address on any list of registered ~~voters~~ electors but may list only the name or names if the individual:

(i) proves to the election administrator that the individual, or a minor in the custody of the individual, has been the victim of partner or family member assault, stalking, custodial interference, or other offense involving bodily harm or threat of bodily harm to the individual or minor; or

(ii) proves to the election administrator that a temporary restraining order or injunction has been issued by a judge or magistrate to restrain another person's access to the individual or minor.

(b) Proof of the victimization is conclusive upon exhibition to the election administrator of a criminal judgment, information and judgment, or affidavit of a county attorney clearly indicating the conviction and the identity of the victim.

(c) Proof of the issuance of a temporary restraining order or injunction is conclusive upon exhibition to the election administrator of the temporary restraining order or injunction."

Section 5. Section 13-2-123, MCA, is amended to read:

"13-2-123. Election administrator to provide list of electors to secretary of state. (1) The election administrator in each county shall provide to the secretary of state a list by precinct of all registered electors in the county. The list must include the following information, when possible, for each elector:

(a) name;

(b) mailing address;

(c) precinct number;

- (d) registration number assigned by the county election administrator pursuant to 13-2-114;
- (e) residence address;
- (f) telephone number;
- (g) date of birth;
- (h) gender;
- (i) legislative house district;
- (j) date of registration; and
- (k) whether the elector's name is on the active or inactive list of electors.

(2) (a) Except as provided in subsection (2)(b), the list provided pursuant to subsection (1) must be a paper copy.

(b) If the county election administrator also maintains the information in other media, such as on a computer disk or tape, and the secretary of state requests the information in that media, the county election administrator shall also provide the list in that media.

(3) In odd-numbered years, the list of electors required by subsection (1) must be delivered to the secretary of state by December 15.

(4) In even-numbered years, the list of electors required by subsection (1) must be delivered to the secretary of state:

(a) for a primary election, no later than July 1, and the list must indicate any changes made up to and including the date of the June primary; and

(b) for a general or special election, 30 days prior to ~~the close of registration before~~ the election.

(5) Each election administrator may provide the secretary of state with a supplemental list of electors in even-numbered years, giving the additions, deletions, and changes made between the time that the previous list was compiled and the close of ~~registration~~ the polls at an election."

Section 6. Section 13-2-203, MCA, is amended to read:

"13-2-203. Registration by mail. (1) A qualified individual may register by mailing, postage paid, a properly completed application for voter registration form to the election administrator in the county in which the individual resides.

(2) The election administrator shall send applications for voter registration forms for mail registrations to all qualified individuals requesting them and shall, in addition, arrange for the forms to be widely and conveniently available within the county. The secretary of state shall make applications for voter registration forms

available to governmental entities, private entities, and organized voter registration efforts. The application for voter registration form must be designed as prescribed by the secretary of state.

(3) The elector shall complete, sign, and return the application for voter registration form.

(4) The application for voter registration form must be received by the election administrator on or before the day of the ~~close of registration~~ election and ~~must be returned to the administrator no later than 15 days after the date it is signed.~~

~~Application for voter registration forms properly executed before the close of registration must be accepted for 3 days after the close of registration. A voter registration form received on the day of the election must be accompanied by an affidavit, proof of residence, and picture or other identification, as provided in [section 1].~~

(5) An election administrator shall add the name of any elector who submits a voter registration form after the printing of the official register to a special addendum to the register and provide that addendum to the appropriate precinct on election day."

Section 7. Section 13-2-212, MCA, is amended to read:

"13-2-212. Registration of electors in United States service. (1) An elector in the United States service who is absent from the state and the county of which the elector is a resident may register with the election administrator in the elector's county of residence as follows:

(a) ~~by the close of registration provided for in 13-2-301, up to 30 days before an election~~ by using:

(i) the voter registration form;

(ii) the federal ~~post-card~~ postcard application; or

(iii) if eligible, the federal write-in ballot as provided in 13-13-271(3);

(b) ~~after the close of registration within 30 days of an election, only by federal post-card postcard application, which must be received by the election administrator by noon on the day before of the election, or by being present at the polls to vote in person and registering as provided in [section 1].~~

(2) The form of the federal ~~post-card~~ postcard application must be prescribed by the secretary of state."

Section 8. Section 13-2-403, MCA, is amended to read:

"13-2-403. Challenge of registration. (1) Forty-five or more days before ~~the close of registration~~ for an election, three registered electors of a precinct may challenge the registration of an elector by filing affidavits giving the name of the elector whose registration is challenged, the address at which the elector is registered,

and a statement that the affiant has personal knowledge that the elector does not reside at the address where registered.

(2) No later than 3 days after the filing of affidavits as provided in subsection (1), the election administrator shall send written notice to the elector whose registration is challenged, at the address shown on the registration form. The notice must state that registration will be moved to the inactive list within 15 days of the filing of the affidavits unless the elector refutes the affidavits by submitting proof or a sworn statement that the elector resides at the address given on the registration form.

(3) The election administrator ~~must~~ shall move to the inactive list the registration of an elector whose registration is challenged under this section 15 days after the filing of the affidavits required in subsection (1) unless proof or a sworn statement as required in subsection (2) is received.

(4) If an elector proves or swears that the elector resides at the address given on the registration form after the registration has been moved to the inactive list as provided in this section, the elector's registration must be moved to the active list. The registration is effective for the next election ~~even though the registration for that election is closed.~~"

Section 9. Section 13-2-515, MCA, is amended to read:

"13-2-515. Inquiry as to previous registration -- notices of changes. (1) The election administrator shall check each new registration to ascertain whether the elector has listed previous registration in another county of this state or another state. If the elector has been previously registered, the election administrator shall enter ~~his~~ the elector's name on a notice or may photocopy the registration form.

(2) At least once a month and ~~week and not more than 3 days after the close of registration~~ one week before an election, the election administrator shall forward the notices or photocopies for counties in this state to the election administrator of the county where the elector was previously registered. A list or other record ~~shall~~ must be kept of notices or photocopies sent.

(3) Once a month and ~~not more than 3 days after the close of registration~~ at least 2 weeks before an election, the election administrator shall forward the notices or photocopies for other states to the secretary of state or chief election official of the state where the elector was previously registered. A list or other record ~~shall~~ must be kept of notices or photocopies sent.

(4) Forwarded notices must be provided even if registration information is provided electronically."

Section 10. Section 13-2-601, MCA, is amended to read:

"13-2-601. Name on precinct register prima facie evidence of right to vote. (1) An elector may not vote at an election mentioned in this title unless: ~~his~~

(a) ~~the elector's~~ name appears on election day in the copy of the official precinct register furnished by the election administrator to the election judges; or

(b) the elector's name is on a special addendum to the precinct register.

(2) The fact that ~~his~~ an elector's name appears in the copy of the precinct register is prima facie evidence of ~~his~~ the elector's right to vote.

~~(2)~~(3) The name of an elector who has been assigned to vote in a precinct other than the precinct in which ~~he~~ the elector is registered, as provided in 13-3-213, must be printed on a special addendum to the precinct register in a form prescribed by the secretary of state. The fact that an elector's name appears on a special addendum to the precinct register is prima facie evidence of ~~his~~ the elector's right to vote in the precinct. For an elector whose name is on the special addendum because the elector registered at the polls, the prima facie evidence of a right to vote does not guarantee that the vote is counted until the elector's registration is verified."

Section 11. Section 20-20-312, MCA, is amended to read:

"20-20-312. Listing of registered electors. ~~After closing registration, the~~ The county election administrator shall prepare a list of registered electors for each polling place established by the trustees 30 days prior to an election and provide a special addendum and supplemental pages for those who register after the list is prepared or at the polls. The list for each polling place ~~shall~~ must be prepared in the format of a precinct register book."

NEW SECTION. **Section 12. Repealer.** Sections 13-2-301, 13-2-302, and 20-20-311, MCA, are repealed.

NEW SECTION. **Section 13. Codification instruction.** [Sections 1 through 3] are intended to be codified as an integral part of Title 13, chapter 2, and the provisions of Title 13, chapter 2, apply to [sections 1 through 3].

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