

SENATE BILL NO. 502  
INTRODUCED BY M. COONEY

A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING CURRENT EXEMPTIONS TO THE ACCESSIBILITY STANDARDS FOR POLLING PLACES; AMENDING SECTIONS 13-3-202, 13-3-205, 13-3-206, 13-3-207, 13-3-212, AND 13-3-213, MCA; AND REPEALING SECTIONS 13-3-203 AND 13-3-204, MCA."

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

**Section 1.** Section 13-3-202, MCA, is amended to read:

**"13-3-202. Definitions.** As used in this part, unless the context indicates otherwise, the following definitions apply:

(1) "Accessible" means accessible to individuals with disabilities and elderly individuals for purposes of voting as determined in accordance with standards established by the secretary of state under 13-3-205.

(2) "Disability" means a temporary or permanent physical impairment such as:

(a) impaired vision;

(b) impaired hearing; or

(c) impaired mobility. Individuals having impaired mobility include those who require use of a wheelchair and those who are ambulatory but are physically impaired because of age, disability, or disease.

(3) "Elderly" means 65 years of age or older.

(4) "Election" means a general, special, or primary election held in an even-numbered year, as provided for in 13-1-104(1) and 13-1-107(1).

(5) "Inaccessible" means not accessible under standards adopted pursuant to 13-3-205.

(6) "Rural polling place" means a location that is expected to serve less than 200 registered electors."

**Section 2.** Section 13-3-205, MCA, is amended to read:

**"13-3-205. Adoption of standards for polling place accessibility -- rulemaking authority.** (1) ~~(a)~~ The secretary of state, with advice from election administrators and individuals with disabilities and elderly individuals, shall establish standards for accessibility of polling places.

~~(b)(2) (a) For Standards for polling places approved pursuant to this subsection (1) prior to October 1, 2005, the standards, whenever possible, must be consistent with the standards for accessibility established by~~

the American national standards institute and the uniform federal accessibility standards.

~~(2)(b) Polling Standards for polling places approved on or after October 1, 2005, must comply with the accessibility standards in the Americans With Disabilities Act of 1990, 42 U.S.C. 12101, et seq.~~

~~(3) The secretary of state:~~

~~(A) may adopt rules to implement the provisions of this part; AND~~

~~(B) SHALL ADOPT RULES TO IMPLEMENT THE EXEMPTION PROVISIONS OF 13-3-212."~~

**Section 3.** Section 13-3-206, MCA, is amended to read:

**"13-3-206. Survey of polling places to determine accessibility -- procedures.** (1) ~~Except as provided in 13-3-207 and 13-3-211, the~~ The election administrator in each county shall conduct an onsite survey of each polling place used in an election to determine whether ~~such polling place~~ it meets the standards for accessibility established under 13-3-205.

(2) Each election administrator shall conduct the survey in a manner that represents the path of travel ~~that~~ an elector would reasonably be expected to take in order to reach the polling place on election day.

(3) A polling place that has been surveyed ~~and designated as accessible pursuant to this section~~ need not be surveyed again ~~so long as~~ unless the conditions of accessibility ~~remain unchanged~~ change."

**Section 4.** Section 13-3-207, MCA, is amended to read:

**"13-3-207. Polling place classifications.** (1) ~~As a result of the survey provided in 13-3-206, each polling place must be classified as:~~

~~(a)(1) accessible; or~~

~~(b)(2) inaccessible;~~

~~—— (c) technically inaccessible but usable; or~~

~~—— (d) rural.~~

~~(2) An accessible polling place is one that meets the standards for accessibility established by the secretary of state under 13-3-205.~~

~~(3) An inaccessible polling place is one that does not meet the standards for accessibility and cannot be made accessible through safe, practical, and cost-effective methods.~~

~~(4) A technically inaccessible but usable polling place is one that does not meet all the standards for accessibility but has been surveyed, evaluated, and certified as being adequate for use as a polling place. The certification is cause for the secretary of state to grant the polling place an exemption from the standards for~~

accessibility. However, in a future election, the secretary of state may issue an objection to the criteria used for determining that the facility is usable as a polling place.

- (5) A rural polling place is one that serves less than 200 registered electors and is:
- (a) granted an exemption from the standards for accessibility established under 13-3-205; and
  - (b) subject to review and redesignation 45 days prior to an election.
- (6) A rural designation may not be construed as cause for denying electors with disabilities or elderly electors at a polling place the right to choose an alternative means for casting a ballot on election day as provided in 13-3-213."

**Section 5.** Section 13-3-212, MCA, is amended to read:

**"13-3-212. Exemption if no accessible polling place is reasonably available.** ~~(1) If an existing polling place has been surveyed and designated as being inaccessible, the election administrator shall make a reasonable effort to locate and survey all potential sites with comparable utility as a polling place.~~

~~(2)(1) The An~~ IF AN ELECTION ADMINISTRATOR DESIRES TO DESIGNATE AS A POLLING PLACE A LOCATION THAT IS INACCESSIBLE, THE election administrator ~~shall~~ may ~~SHALL MAKE A~~ request in writing to the secretary of state ASKING that an inaccessible polling place be exempt from the standards for accessibility.

(2) The secretary of STATE may grant an exemption PURSUANT TO RULES ADOPTED UNDER 13-3-205 if:

- (a) all potential polling places have been surveyed and it is determined that:
  - (a) ~~no~~ an accessible polling place is not available; and
  - (b) the county cannot safely or reasonably make a polling place temporarily accessible in the area involved; or

~~(3) Nothing in this section may require an election administrator to select~~

(b) the location is a rural polling place and designation of an accessible facility as a polling place if its location requires will require excessive travel or ~~imposes~~ impose other hardships for the majority of qualified electors in the precinct."

**Section 6.** Section 13-3-213, MCA, is amended to read:

**"13-3-213. Alternative means for casting ballot.** (1) The election administrator shall provide individuals with disabilities and elderly individuals an alternative means for casting a ballot on election day if they are assigned to an inaccessible polling place. These alternative means for casting a ballot include:

- (a) delivery of a ballot to the elector as provided in 13-13-118;

(b) voting by absentee ballot as provided in 13-13-222; and

(c) prearranged assignment to an accessible polling place within the county.

(2) An elector with a disability or an elderly elector assigned to an inaccessible polling place who desires to vote at an accessible polling place:

(a) shall request assignment to an accessible polling place by notifying the election administrator in writing at least 7 days preceding the election;

(b) must be assigned to the nearest accessible polling place ~~or technically inaccessible polling place~~ for the purpose of voting in the election;

(c) shall sign the elector's name on a special addendum to the official precinct register as required in 13-2-601; and

(d) must receive the same ballot to which the elector is otherwise entitled.

(3) For the purpose of subsection (2), the ballot cast at an alternative polling place must be processed and counted in the same manner as an absentee ballot."

NEW SECTION. **Section 7. Repealer.** Sections 13-3-203 and 13-3-204, MCA, are repealed.

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