

1 SENATE BILL NO. 256

2 INTRODUCED BY D. BROWN

3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING PROVISIONS RELATED TO SCHOOL ELECTION
 5 ADMINISTRATION; REQUIRING THAT ALL SCHOOL ELECTIONS BE CONDUCTED BY MAIL; REQUIRING
 6 THAT VOTED BALLOTS BE RETURNED TO THE COUNTY ELECTION ADMINISTRATOR'S OFFICE;
 7 PROVIDING THAT THE COUNTY ELECTION ADMINISTRATOR IS RESPONSIBLE FOR HANDLING
 8 RETURNED BALLOTS AND ENSURING THAT THEY ARE COUNTED IN ACCORDANCE WITH ESTABLISHED
 9 PROCEDURES; AMENDING SECTIONS 13-1-106, 13-19-101, 13-19-104, 13-19-202, 13-19-204, 13-19-307,
 10 20-9-422, 20-9-427, 20-9-428, 20-9-471, 20-20-108, 20-20-201, 20-20-204, 20-20-312, 20-20-313, 20-20-401,
 11 20-20-415, AND 20-20-417, MCA; AND REPEALING SECTIONS 20-20-106, 20-20-203, AND 20-20-402, MCA."

12

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

14

15 NEW SECTION. **Section 1. School elections to be conducted by mail.** All school elections must be
 16 conducted by mail as provided in 13-19-104(5) and may not be held with a polling place election. Voted ballots
 17 must be returned to the county election administrator for counting as provided in [section 2].

18

19 NEW SECTION. **Section 2. Handling and counting returned mail ballots -- counting board -- costs.**

20 (1) In all school elections, the county election administrator shall supervise the handling and counting of returned
 21 mail ballots in accordance with the provisions of Title 13, chapter 19.

22 (2) For each school election held, the county election administrator shall appoint three election judges
 23 who shall act as the counting board for the election. The election judges must meet the qualifications established
 24 in 20-20-109 and must be compensated as provided in 20-20-107.

25 (3) When the vote count is complete, the county election administrator shall deliver the certified tally
 26 sheets to the school district trustees.

27 (4) The school district holding the election shall pay the costs incurred to implement this section.

28

29 **Section 3.** Section 13-1-106, MCA, is amended to read:

30 "**13-1-106. Time of opening and closing of polls for all elections -- exceptions.** (1) Except as

1 provided in ~~subsections~~ subsection (2) and (3), polling places must be open from 7 a.m. to 8 p.m.

2 (2) A polling place having fewer than 400 registered electors must be open from at least noon to 8 p.m.
3 or until all registered electors in any precinct have voted, at which time that precinct in the polling place must be
4 closed immediately.

5 ~~(3) If an election is held on the same day as a school election and is conducted in the same polling place,
6 the polling place must be opened and closed at the times set for the school election, as provided in 20-20-106."~~

7

8 **Section 4.** Section 13-19-101, MCA, is amended to read:

9 **"13-19-101. Statement of purpose.** The purpose of this chapter is to provide ~~the option of and~~
10 procedures for conducting certain specified elections as mail ballot elections. The provisions of this chapter
11 recognize that sound public policy concerning the conduct of elections often requires the balancing of various
12 elements of the public interest that are sometimes in conflict. Among these factors are the public's interest in fair
13 and accurate elections, the election of those who will govern or represent, and cost-effective administration of
14 all functions of government, including the conduct of elections. The provisions of this chapter further recognize
15 that when these and other factors are balanced, the conduct of elections by mail ballot is potentially the most
16 desirable of the available options in certain circumstances."

17

18 **Section 5.** Section 13-19-104, MCA, is amended to read:

19 **"13-19-104. Mail ballot elections not -- when mandatory -- when authorized -- when prohibited --**
20 **when county election administrator conducts.** (1) Conducting elections by mail ballot is only one option
21 available to local officials, and this chapter does not mandate that the procedure be used, except as provided in
22 subsection (5).

23 (2) Except as provided in ~~subsection~~ subsections (3) and (5), any election may be conducted by mail
24 ballot.

25 (3) The following elections may not be conducted by mail ballot:

26 (a) a regularly scheduled federal, state, or county election;

27 (b) a special federal or state election, unless authorized by the legislature; or

28 (c) a regularly scheduled or special election when another election in the political subdivision is taking
29 place at the polls on the same day, except as provided in subsection (5).

30 (4) (a) Except as provided in subsection (4)(b), if more than one mail ballot election is being conducted

1 in the political subdivision on the same day, the county election administrator shall conduct the elections.

2 (b) The requirement that a county election administrator shall conduct more than one mail ballot election
3 on the same day does not apply to a mail ballot school bond election conducted by the trustees of any two or
4 more school districts that have unified pursuant to 20-6-312 or that have created a joint board of trustees pursuant
5 to 20-3-361.

6 (5) All school elections must be conducted by mail."

7

8 **Section 6.** Section 13-19-202, MCA, is amended to read:

9 **"13-19-202. Initiation by governing body.** (1) A political subdivision may, by resolution of the governing
10 body addressed to the election administrator, request that a particular election be conducted under the provisions
11 of this chapter.

12 (2) No later than 70 days before election day, the governing body shall transmit its request to the election
13 administrator, who shall determine whether it is economically and administratively feasible to conduct the
14 requested election by mail ballot.

15 (3) Except as provided in 13-19-104(5) and 13-19-204, the decision to conduct an election under the
16 provisions of this chapter is within the sole discretion of the election administrator.

17 (4) Within 5 days after receiving a request, the election administrator shall respond in writing, stating that
18 the request is either granted or denied for reasons specified. If granted, the election administrator shall prepare
19 a plan as provided in 13-19-205."

20

21 **Section 7.** Section 13-19-204, MCA, is amended to read:

22 **"13-19-204. Objection of political subdivision.** (1) A Except as provided in 13-19-104(5), a political
23 subdivision may, by resolution of the governing body, object to the conduct of one of its elections under this
24 chapter. The resolution must include a statement of the reasons for the objection.

25 (2) If the resolution is filed with the election administrator no later than 55 days prior to election day, the
26 election may not be conducted by mail under this chapter."

27

28 **Section 8.** Section 13-19-307, MCA, is amended to read:

29 **"13-19-307. Places of deposit.** (1) ~~(a)~~ The Except as provided in subsection (7):

30 (a) the election administrator shall designate the election administrator's office and may designate one

1 or more places in the political subdivision in which the election is being conducted as places of deposit where
 2 ballots may be returned in person by the elector or the elector's agent or designee; or

3 (b) ~~if~~ if the election administrator's office is not accessible pursuant to 13-3-205, the election
 4 administrator shall designate at least one accessible place of deposit.

5 (2) Prior to election day, ballots may be returned to any designated place of deposit during the days and
 6 times set by the election administrator and within the regular business hours of the location.

7 (3) On election day, each location designated as a place of deposit must be open as provided in
 8 13-1-106, and ballots may be returned during those hours.

9 (4) ~~The~~ Except as provided in subsection (7), the election administrator may designate certain locations
 10 as election day places of deposit, and any designated location functions as a place of deposit only on election
 11 day.

12 (5) Each place of deposit must be staffed by at least two election officials who, ~~except for election judges~~
 13 ~~servng in elections under Title 20, chapter 20,~~ are selected in the same manner as provided for the selection of
 14 election judges in 13-4-102.

15 (6) The election administrator shall provide each designated place of deposit with an official ballot
 16 transport box secured as provided by law.

17 (7) In a school election, the only place of deposit is the county election administrator's office, unless the
 18 office is not accessible. If the office is not accessible, the county election administrator shall designate the county
 19 election administrator's office and one additional place of deposit that is accessible."

20

21 **Section 9.** Section 20-9-422, MCA, is amended to read:

22 **"20-9-422. Additional requirements for trustees' resolution calling bond election.** (1) In addition
 23 to the requirements for calling an election that are prescribed in 20-20-201 ~~and 20-20-203,~~ the trustees' resolution
 24 calling a school district bond election must:

25 (a) specify whether the bonds will be general obligation bonds, oil and natural gas revenue bonds, or
 26 impact aid revenue bonds and, if oil and natural gas revenue bonds, whether a tax deficiency is pledged to the
 27 repayment of the bonds;

28 (b) fix the exact amount of the bonds proposed to be issued, which may be more or less than the
 29 amounts estimated in a petition;

30 (c) fix the maximum number of years in which the proposed bonds would be paid;

1 (d) in the case of initiation by a petition, state the essential facts about the petition and its presentation;
2 and

3 (e) state the amount of the state advance for school facilities estimated, pursuant to subsection (2), to
4 be received by the district in the first school fiscal year in which a debt service payment would be due on the
5 proposed bonds.

6 (2) Prior to the adoption of the resolution calling for a school bond election for a general obligation bond,
7 the trustees of a district may request from the superintendent of public instruction a statement of the estimated
8 amount of state advance for school facilities that the district will receive for debt service payments on the
9 proposed general obligation bonds in the first school fiscal year in which a debt service payment is due. The
10 district shall provide the superintendent with an estimate of the debt service payment due in the first school fiscal
11 year. The superintendent shall estimate the state advance for the general obligation bond issue pursuant to
12 20-9-371(2)."

13
14 **Section 10.** Section 20-9-427, MCA, is amended to read:

15 **"20-9-427. Notice of bond election by separate purpose.** (1) A school district bond election must be
16 conducted in accordance with the school election provisions of this title, except that the election notice must be
17 in substantially the following form:

18 NOTICE OF SCHOOL DISTRICT BOND ELECTION

19 Notice is hereby given by the trustees of School District No. of..... County, state of
20 Montana, that pursuant to a certain resolution adopted at a meeting of the board of trustees of the school district
21 held on the..... day of.....,....., an election of the registered electors of School District No.....
22 of..... County, state of Montana, will be held on the..... day of.....,....., at..... for the
23 purpose of voting upon the question of whether or not the trustees may issue and sell (state here: general
24 obligation, oil and natural gas revenue, oil and natural gas revenue for which a tax deficiency is pledged, or
25 impact aid revenue) bonds of the school district in the amount of..... dollars (\$.....), payable
26 semiannually, for the purpose of..... (here state purpose). The bonds to be issued will be payable in
27 installments over a period not exceeding..... (state number) years.

28 ~~The polls will be open from..... o'clockm. and until..... o'clockm. of the election day.~~
29 Ballots will be mailed to registered electors on An elector's voted ballot must be returned to the county
30 election administrator's office so that it is received by p.m. on election day.



1 Dated and posted this..... day of.....
 2
 3 Presiding officer, School District No.....
 4 of..... County
 5 Address.....

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

8 (3) The notice must specify whether the bonds will be general obligation bonds, oil and natural gas
 9 revenue bonds, or impact aid revenue bonds."

10
 11 **Section 11.** Section 20-9-428, MCA, is amended to read:

12 **"20-9-428. Determination of approval or rejection of proposition at bond election.** (1) When the
 13 trustees canvass the vote of a school district bond election under the provisions of 20-20-415, they shall
 14 determine the approval or rejection of the school bond proposition in the following manner:

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

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

19 ~~—— (ii) determine the total number of qualified electors voting at the school bond election from the tally sheets
 20 for the election; and~~

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

23 ~~—— (b) When the calculated percentage in subsection (1)(a)(iii) is:~~

24 ~~—— (i) 40% or more, the school bond proposition is approved and adopted if a majority of the votes were cast
 25 in favor of the proposition, otherwise it is rejected;~~

26 ~~—— (ii) more than 30% but less than 40%, the school bond proposition is approved and adopted if 60% or
 27 more of the votes were cast in favor of the proposition, otherwise it is rejected; or~~

28 ~~—— (iii) 30% or less, the school bond proposition is rejected.~~

29 ~~—— (c) If the school district bond election is held in conjunction with an election that is conducted by mail
 30 ballot, as provided in Title 13, chapter 19, or in conjunction with a general or primary election, the determination~~



1 ~~of the approval or rejection of the bond proposition is made~~ by a majority of the votes cast on the issue.

2 (2) If the canvass of the vote establishes the approval and adoption of the school bond proposition, the
3 trustees shall issue a certificate proclaiming the passage of the proposition and the authorization to issue bonds
4 of the school district for the purposes specified on the ballot for the school district bond election."

5

6 **Section 12.** Section 20-9-471, MCA, is amended to read:

7 **"20-9-471. Issuance of obligations -- authorization -- conditions.** (1) The trustees of a school district
8 may, without a vote of the electors of the district, issue and sell to the board of investments obligations for the
9 purpose of financing all or a portion of:

10 (a) the costs of vehicles and equipment;

11 (b) the costs associated with renovating, rehabilitating, and remodeling facilities, including but not limited
12 to roof repairs, heating, plumbing, electrical systems, and cost-saving measures as defined in 90-4-1102;

13 (c) any other expenditure that the district is otherwise authorized to make, subject to subsection (4),
14 including the payment of settlements of legal claims and judgments; and

15 (d) the costs associated with the issuance and sale of the obligations.

16 (2) The term of the obligation, including an obligation for a qualified energy project, may not exceed 15
17 fiscal years. For the purposes of this subsection, a "qualified energy project" means a project designed to reduce
18 energy use in a school facility and from which the resulting energy cost savings are projected to meet or exceed
19 the debt service obligation for financing the project, as determined by the department of environmental quality.

20 (3) At the time of issuing the obligation, there must exist an amount in the budget for the current fiscal
21 year available and sufficient to make the debt service payment on the obligation coming due in the current year.
22 The budget for each following year in which any portion of the principal of and interest on the obligation is due
23 must provide for payment of that principal and interest.

24 (4) Except as provided in 20-9-502 and 20-9-503, the proceeds of the obligation may not be used to
25 acquire real property or construct a facility unless:

26 (a) the acquisition or construction project does not constitute more than 20% of the square footage of
27 the existing real property improvements made to a facility containing classrooms;

28 (b) the 20% square footage limitation may not be exceeded within any 5-year period; and

29 (c) the electors of the district approve a proposition authorizing the trustees to apply for funds through
30 the board of investments for the construction project. ~~The proposition must be approved at an election held in~~

1 ~~accordance with all of~~ Pursuant to the requirements of 20-9-428, ~~except that~~ the proposition is considered to have
 2 passed if a majority of the qualified electors voting approve the proposition.

3 (5) The school district may not submit for a vote of the electors of the district a proposition to impose a
 4 levy to pay the principal or any interest on an obligation that is payable from the guaranteed cost savings under
 5 energy performance contracts as defined in 90-4-1102.

6 (6) The obligation must state clearly on its face that the obligation is not secured by a pledge of the
 7 school district's taxing power but is payable from amounts in its general fund or other legally available funds.

8 (7) An obligation issued is payable from any legally available fund of the district and constitutes a general
 9 obligation of the district.

10 (8) The obligation may bear interest at a fixed or variable rate and may be sold to the board of
 11 investments at par, at a discount, or with a premium and on any other terms and conditions that the trustees
 12 determine to be in the best interests of the district.

13 (9) The principal amount of the obligation, when added to the outstanding bonded indebtedness of the
 14 district, may not exceed the debt limitation established in 20-9-406."

15

16 **Section 13.** Section 20-20-108, MCA, is amended to read:

17 **"20-20-108. Rescheduling of school election canceled due to declaration of state of emergency**
 18 **or disaster.** If the governor declares a state of emergency or disaster under Title 10, chapter 3, a school election
 19 may be canceled by the county superintendent of schools or, in the absence of the county superintendent, by the
 20 state superintendent of public instruction. As soon as convenient after the declaration of a state of emergency
 21 or disaster is terminated, the trustees of the district shall set a new date for the election. Notice of ~~such the~~
 22 election shall be published for 7 consecutive days in a newspaper of general circulation in the district ~~and posted~~
 23 ~~for 7 days at district polling places.~~ Whenever the best interests of the district would be served, the trustees may
 24 give additional notice of the election through appropriate radio and television stations that serve the people of the
 25 district."

26

27 **Section 14.** Section 20-20-201, MCA, is amended to read:

28 **"20-20-201. Calling of school election.** (1) At least 70 days before any school election, the trustees
 29 of a district or other entity or official authorized by law to call a school election shall call the school election by
 30 resolution, stating the date and purpose of each election ~~and whether, pursuant to 13-19-202, any election is~~

1 ~~requested to be by mail.~~

2 (2) To enable the county election administrator to manage voter registration and prepare the lists of
3 registered electors:

4 (a) the resolution calling for a school election must be transmitted to the county election administrator
5 no later than 3 days after the resolution is passed; and

6 (b) ~~if the election is to be conducted by mail~~, the school clerk must ~~also~~ transmit to the county election
7 administrator a copy of the written mail ballot election plan required under 13-19-205 as soon as the plan has
8 been approved by the secretary of state."

9

10 **Section 15.** Section 20-20-204, MCA, is amended to read:

11 **"20-20-204. Election notice.** (1) (a) When the trustees of a district call a school election, they shall give
12 notice of the election not less than 10 days or more than 40 days before the election by:

13 (i) publishing a notice in a newspaper of general circulation if there is one in the district;

14 (ii) posting notices in three public places in the district; and

15 (iii) posting notice on the district's website, if the district has an active website, for 10 days prior to the
16 election.

17 (b) Whenever, in the judgment of the trustees, the best interest of the district will be served by the
18 supplemental publication or broadcast of the school election notice by any recognized media organization in the
19 district, the trustees may cause the supplemental notification to be made.

20 (2) The notice of a school election, unless otherwise required by law, must specify:

21 (a) the date ~~and polling places~~ of the election;

22 (b) ~~the hours that the polling places will be open~~ the date when ballots will be mailed and the date and
23 time by which a voted ballot must be received by the county election administrator's office to be counted;

24 (c) each proposition to be considered by the electorate;

25 (d) if there are trustees to be elected, the number of positions subject to election and the length of term
26 of each position; and

27 (e) where and how absentee ballots may be obtained.

28 (3) If more than one proposition is to be considered at the same school election, each proposition must
29 be set apart and separately identified in the same notice or published in separate notices."

30

1 **Section 16.** Section 20-20-312, MCA, is amended to read:

2 **"20-20-312. Listing of registered electors -- late registration.** (1) After closing regular registration,
3 the county election administrator shall prepare a list of registered electors for ~~each polling place established by~~
4 ~~the trustees the election.~~ The list for ~~each polling place~~ must be prepared in the format of a precinct register book.

5 (2) An elector may register as provided in 13-2-304 to vote in a school election after the close of regular
6 registration."

7

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

9 **"20-20-313. ~~Delivery and charge~~ Charge for lists list of registered electors.** Before the day of the
10 election, the election administrator shall deliver a certified copy of the ~~lists~~ list of registered electors for ~~each~~
11 ~~polling place~~ to the district. ~~The district shall deliver them to the election judges prior to the opening of the polls.~~
12 The district shall reimburse the county for the actual costs of preparing the ~~lists~~ list of registered electors."

13

14 **Section 18.** Section 20-20-401, MCA, is amended to read:

15 **"20-20-401. Trustees' election duties -- ballot certification.** (1) The trustees are the general
16 supervisors of school elections unless the trustees request and the county election administrator agrees to
17 conduct a school election under 20-20-417.

18 (2) Not less than 30 days before an election, the clerk of the district shall certify the ballot by preparing
19 a certified list of the names of all candidates entitled to be on the ballot subject to 13-37-126 and certifying the
20 official wording for each ballot issue. The candidates' names must appear on the ballot in accordance with
21 13-12-203. The clerk shall arrange for printing the ballots. Ballots for absentee voting must be printed and
22 available at least 20 days before the election. Names of candidates on school election ballots need not be rotated.

23 ~~(3) Before the opening of the polls, the trustees shall cause each polling place to be supplied with the~~
24 ~~ballots and supplies necessary to conduct the election."~~

25

26 **Section 19.** Section 20-20-415, MCA, is amended to read:

27 **"20-20-415. Trustees to canvass votes.** At the first regular or special meeting of the trustees conducted
28 after the receipt of the certified tally sheets of any school election from ~~all the polls of the district~~ county election
29 administrator pursuant to [section 2], the trustees shall canvass the vote."

30

1 **Section 20.** Section 20-20-417, MCA, is amended to read:

2 **"20-20-417. Request for county election administrator to conduct election.** (1) By June 1 of each
3 year, the trustees of a district may request the county election administrator to conduct certain school elections
4 during the ensuing school fiscal year. The request must be made by a resolution of the board of trustees.

5 (2) Whenever the county election administrator agrees to conduct a school election, the administrator
6 shall:

7 (a) perform the duties imposed on the trustees and the clerk of the district for school elections in
8 ~~20-20-203~~, 20-20-313, and 20-20-401; and

9 (b) deliver to the trustees, for the purpose of canvassing the vote, the certified tally sheets and other
10 items as provided in 13-15-301.

11 (3) Whenever the trustees request and the county election administrator agrees to conduct a school
12 election, the school district shall pay the costs of the election as provided in 13-1-302."

13
14 NEW SECTION. **Section 21. Repealer.** The following sections of the Montana Code Annotated are
15 repealed:

- 16 20-20-106. Poll hours.
- 17 20-20-203. Resolution for poll hours, polling places, and judges.
- 18 20-20-402. Clerk of election judges and appointment for absent judge.

19
20 NEW SECTION. **Section 22. Codification instruction.** (1) [Section 1] is intended to be codified as
21 an integral part of Title 20, chapter 20, part 1, and the provisions of Title 20, chapter 20, part 1, apply to [section
22 1].

23 (2) [Section 2] is intended to be codified as an integral part of Title 20, chapter 20, part 4, and the
24 provisions of Title 20, chapter 20, part 4, apply to [section 2].

25
26 NEW SECTION. **Section 23. Saving clause.** [This act] does not affect rights and duties that matured,
27 penalties that were incurred, or proceedings that were begun before [the effective date of this act].

28 - END -