



AN ACT REVISING SPECIAL DISTRICT ELECTION LAWS; ALLOWING THE REFERENDUM ON THE CREATION OF A SPECIAL DISTRICT AND THE ELECTION OF THE BOARD OF A PROPOSED SPECIAL DISTRICT TO BE COMBINED; PROVIDING DEFAULT TERMS OF OFFICE FOR BOARD MEMBERS; AND AMENDING SECTIONS 7-1-201 AND 7-11-1021, MCA.

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

Section 1. Combination of elections -- term of board members if election combined. (1) (a) If the governing body orders a referendum on the creation of a proposed special district and the special district would be administered by an elected board, the governing body may combine the referendum on the formation of the district with the election of the members of the board so that the qualified electors of the district may vote on these matters on the same date and at the same time.

(b) If the elections are combined, the notice of the election must contain the names of the candidates. Candidates for the board must file a declaration of candidacy with the election administrator within the time period specified in 13-1-502. The election administrator shall endorse on the declaration the date on which it was presented.

(2) If the governing body orders a combined election pursuant to subsection (1) and unless otherwise provided by resolution by the governing body pursuant to 7-1-201:

(a) a board member elected pursuant to this section shall hold office until the election and qualification or the appointment and qualification of the member's successor.

(b) Except as provided in subsection (2)(c), a board member has a term of office of 4 years.

(c) (i) In a special district requiring the election of five directors, three of the initial directors shall serve for a term of 2 years and two of the initial directors shall serve for a term of 4 years.

(ii) In a special district requiring the election of three directors, one initial director shall serve for a term of 2 years and two initial directors shall serve for a term of 4 years.

(iii) At the first meeting following an initial election of board members, the board shall determine by lot

who shall serve a 2-year term.

Section 2. Section 7-1-201, MCA, is amended to read:

"7-1-201. Boards. (1) A board of county commissioners may by resolution establish the administrative boards, districts, or commissions allowed by law or required by law to be established pursuant to 7-1-202, 7-1-203, Title 7, chapter 11, part 10, and this section and listed in 7-1-202. The resolution creating an administrative board, district, or commission must specify:

- (a) the number of administrative board, district board, or commission members;
- (b) the terms of the members;
- (c) whether members are entitled to mileage, per diem, expenses, and salary; and
- (d) any special qualifications for membership in addition to those established by law.

(2) (a) An administrative board, a district board, or a commission may be assigned responsibility for a department or service district.

(b) An administrative board, a district board, or a commission may:

(i) exercise administrative powers as granted by resolution, except that it may not pledge the credit of the county or impose a tax unless specifically authorized by state law; and

(ii) administer programs, establish policy, and adopt administrative and procedural rules.

(c) The resolution creating an administrative board, a district board, or a commission must grant the administrative board, district board, or commission all powers necessary and proper to the establishment, operation, improvement, maintenance, and administration of the department or district.

(d) If authorized by resolution, an administrative board, a district board, or a commission may employ personnel to assist in its functions.

(3) (a) An administrative board, a district board, or a commission may be made elective.

(b) If an administrative board, a district board, or a commission is made elective, the election must be conducted as provided in Title 13, chapter 1, part 5.

(4) An administrative board, a district board, or a commission may not sue or be sued independently of the local government unless authorized by state law.

(5) (a) If administrative board, district board, or commission members are to be appointed, the members must be appointed by the county commissioners. The county commissioners shall post prospective membership

vacancies at least 1 month prior to filling the vacancy.

(b) The county commissioners shall maintain a register of appointments, including:

(i) the name of the administrative board, district board, or commission;

(ii) the date of appointment and confirmation, if any is required;

(iii) the length of term;

(iv) the name and term of the presiding officer and other officers of each administrative board, district board, or commission; and

(v) the date, time, and place of regularly scheduled meetings.

(c) Terms for members of elected or appointed boards or commissions may not exceed 4 years. Unless otherwise provided by resolution or as provided in [section 1], members shall serve terms beginning on July 1 and shall serve at the pleasure of the county commissioners.

(6) An administrative board, a district board, or a commission must consist of a minimum of 3 members and must have an odd number of members.

(7) The resolution creating an administrative board, a district board, or a commission may provide for voting or nonvoting ex officio members.

(8) Two or more local governments may provide for a joint administrative board, district board, or commission to be established by interlocal agreement.

(9) A majority of members constitutes a quorum for the purposes of conducting business and exercising powers and responsibilities. Action may be taken by a majority vote of members present and voting unless the resolution creating the board, district, or commission specifies otherwise.

(10) An administrative board, a district board, or a commission shall provide for the keeping of written minutes, including the final vote on all actions and the vote of each member.

(11) An administrative board, a district board, or a commission shall provide by rule for the date, time, and place of regularly scheduled meetings and file the information with the county commissioners.

(12) Unless otherwise provided by law, a person must be a resident of the county to be eligible for appointment to an administrative board, a district board, or a commission. The county commissioners may prescribe by resolution additional qualifications for membership.

(13) A person may be removed from an administrative board, a district board, or a commission for cause by the county commissioners or as provided by resolution.

(14) A resolution creating an administrative board, a district board, or a commission must contain, if applicable, budgeting and accounting requirements for which the administrative board, district board, or commission is accountable to the county commissioners.

(15) If a municipality creates a special district in accordance with Title 7, chapter 11, part 10, the governing body of the municipality shall comply with this section if the governing body chooses to have the special district governed by a separate board."

Section 3. Section 7-11-1021, MCA, is amended to read:

"7-11-1021. Governance -- powers and duties. (1) A special district must be administered and operated either by the governing body or by a separate elected or appointed board as determined by the governing body.

(2) (a) If the special district is governed by a separate board, the board must be established in accordance with Title 7, chapter 1, part 2, except as provided in [section 1], and specific powers and duties granted to the board and those specifically withheld must be stated.

(b) The governing body may grant additional powers to the board. This includes the authorization to use privately contracted legal counsel or the attorney of the governing body. If privately contracted counsel is used, notice must be provided to the attorney of the governing body.

(c) The governing body has ultimate authority under this subsection (2).

(3) The entity chosen to administer the special district, as provided in subsection (1), may:

(a) implement a program and order improvements for the special district designed to fulfill the purposes of the special district;

(b) employ personnel directly related to the specific improvement or program;

(c) purchase, rent, or lease equipment, personal property, and material necessary to develop and implement an effective program;

(d) cooperate or contract with any corporation, association, individual, or group of individuals, including any agency of federal, state, or local government, in order to develop and implement an effective program;

(e) receive gifts, grants, or donations for the purpose of advancing the program and, by gift, deed, devise, or purchase, acquire land, facilities, buildings, and material necessary to implement the purposes of the special district;

- (f) construct, improve, and maintain new or existing facilities and buildings necessary to accomplish the purposes of the special district;
- (g) provide grants to private, nonprofit entities as part of implementing an effective program;
- (h) adopt a seal and alter it at the entity's pleasure;
- (i) administer local ordinances as appropriate;
- (j) establish district capital improvement funds pursuant to 7-6-616, maintenance funds, and debt service funds; and
- (k) borrow money by the issuance of:
 - (i) general obligation bonds as authorized by the governing body pursuant to Title 7, chapter 6, part 40, and the appropriate provisions of Title 7, chapter 7, part 22 or 42; or
 - (ii) revenue bonds for the lease, purchase, and maintenance of land, facilities, and buildings and the funding of projects in the manner and subject to the appropriate provisions of Title 7, chapter 7, part 25 or 44.
- (4) If the special district is administered by a separate board, the board shall submit annual budget and work plans to the governing body for review and approval.
- (5) The right to exercise eminent domain pursuant to 70-30-102 is limited to cemetery districts."

Section 4. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 7, chapter 11, part 10, and the provisions of Title 7, chapter 11, part 10, apply to [section 1].

- END -

I hereby certify that the within bill,
SB 0274, originated in the Senate.

President of the Senate

Signed this _____ day
of _____, 2017.

Secretary of the Senate

Speaker of the House

Signed this _____ day
of _____, 2017.

SENATE BILL NO. 274

INTRODUCED BY E. BUTTREY

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