

## 1 HOUSE BILL NO. 342

2 INTRODUCED BY M. REGIER

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4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING JUDICIAL ELECTION LAWS; PROVIDING FOR THE  
5 PARTISAN NOMINATION AND ELECTION OF SUPREME COURT JUSTICES AND JUDGES OF THE  
6 DISTRICT COURTS; AMENDING SECTIONS 3-2-101, 3-5-201, 3-10-201, 13-14-111, 13-14-118, 13-14-211,  
7 13-14-212, AND 13-35-231, MCA; AND PROVIDING AN APPLICABILITY DATE."

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

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11 **Section 1.** Section 3-2-101, MCA, is amended to read:

12 **"3-2-101. Number, nomination, election, and term of office.** (1) The supreme court consists of a  
13 chief justice and six associate justices who are elected by the qualified electors of the state at large at the  
14 general state elections next preceding the expiration of the terms of office of their predecessors, respectively,  
15 and hold their offices for the term of 8 years from and after the first Monday of January next succeeding their  
16 election.

17 (2) A supreme court justice, including the chief justice, must be nominated and elected on a partisan  
18 ballot in the same manner as provided for partisan candidates in Title 13 except that an incumbent justice who  
19 is the only candidate for the office must be placed on the general ballot as provided in Article VII, section 8, of  
20 the Montana constitution and [section 4].

21 (3) Each vacancy for justice of the supreme court is a separate and independent office for election  
22 purposes. The chief justice of the supreme court shall assign an individual number to the justices and certify  
23 these numbers to the office of the secretary of state."

24  
25 **Section 2.** Section 3-5-201, MCA, is amended to read:

26 **"3-5-201. Election Nomination, election, and oath of office.** (1) The judges of the district court,  
27 except judges pro tempore, must be elected by the qualified voters of the district.

28 (2) (a) Judges of the district court must be nominated and elected on a partisan ballot in the same

1 manner as provided for partisan candidates in Title 13 except that an incumbent judge who is the only  
 2 candidate for the office must be placed on the ballot as provided in Article VII, section 8, of the Montana  
 3 constitution and [section 4].

4 (b) Each vacancy for district court office is a separate and independent office for election purposes.

5 (c) The clerk of the district court in a multijudge district shall certify the department numbers assigned  
 6 pursuant to 3-5-403 to the office of secretary of state for election purposes.

7 ~~(2)~~(3) Except as provided in subsection (1), each judge of ~~a~~the district court shall, as soon as the  
 8 judge has taken and subscribed the official oath, file the official oath in the office of the secretary of state."

9

10 **Section 3.** Section 3-10-201, MCA, is amended to read:

11 **"3-10-201. Election.** (1) Except as provided in 3-10-206, each justice of the peace must be elected by  
 12 the qualified electors of the county at the general state election immediately preceding the expiration of the term  
 13 of office of the justice of the peace's predecessor.

14 (2) A justice of the peace must be nominated and elected on the nonpartisan judicial ballot ~~in the~~  
 15 ~~same manner as judges of the district court~~ as provided in Title 13, chapter 14, part 2.

16 (3) Each judicial office must be a separate and independent office for election purposes, each office  
 17 must be numbered by the county commissioners, and each candidate for justice of the peace shall specify the  
 18 number of the office for which the candidate seeks to be elected. A candidate may not file for more than one  
 19 office.

20 (4) Section 13-35-231, prohibiting political party contributions to judicial officers, applies to justices of  
 21 the peace."

22

23 NEW SECTION. **Section 4. Form of ballot for supreme court justice or district court judge**

24 **retention election.** (1) If the only candidate for an office of supreme court justice, the supreme court chief  
 25 justice, or a district court office is the incumbent, the name of the incumbent must be placed on the official ballot  
 26 for general election as follows:

27 Shall (insert title of officer) (insert name of the incumbent officer) of the (insert title of the court) of the  
 28 state of Montana be retained in office for another term?

1           (2) Following the question, provision must be made, subject to rules adopted pursuant to 13-12-202,  
2 for a voter to indicate a "yes" or a "no" vote. The form must include the incumbent's political party designation  
3 and may not include a write-in space for the office.  
4

5           **Section 5.** Section 13-14-111, MCA, is amended to read:

6           "**13-14-111. Application of general laws.** Except as otherwise provided in this chapter, candidates  
7 for nonpartisan offices, including judicial offices other than an office of the supreme court or a judge of the  
8 district court, must be nominated and elected according to the provisions of this title."  
9

10          **Section 6.** Section 13-14-118, MCA, is amended to read:

11          "**13-14-118. Vacancies among nominees after nomination and before general election.** (1) If  
12 after the primary election and before the 85th day before the general election a candidate is not able to run for  
13 the office for any reason, the vacancy must be filled by the candidate next in rank in number of votes received  
14 in the primary election.

15          (2) If a vacancy for a nonpartisan nomination cannot be filled as provided in subsection (1) and the  
16 vacancy occurs no later than 85 days before the general election, a 10-day period for accepting declarations for  
17 nomination or statements of candidacy and nominating petitions for the office must be declared by:

- 18           (a) the governor for national, state, ~~judicial district~~, legislative, or any multicounty district office;  
19           (b) the governing body of the appropriate political subdivision for all other offices.

20          (3) The names of the candidates who filed as provided in subsection (2) must be certified and must  
21 appear on the general election ballot in the same manner as candidates nominated in the primary.

22          (4) If the vacancy occurs later than 85 days before the general election and a qualified individual is  
23 not elected to the office at the general election, the office is vacant and must be filled as provided by law."  
24

25          **Section 7.** Section 13-14-211, MCA, is amended to read:

26          "**13-14-211. ~~Judicial~~ County judicial offices separate and independent offices for election**  
27 **purposes.** ~~(1) Each vacancy for justice of the supreme court is a separate and independent office for election~~  
28 ~~purposes. The chief justice of the supreme court shall assign an individual number to the justices and certify~~

1 ~~these numbers to the office of the secretary of state.~~

2 ~~(2) Each vacancy for judicial office in a district that has more than one district judge is a separate and~~  
 3 ~~independent office for election purposes.~~

4 ~~(3) Each vacancy for office in a county that has more than one justice of the peace is a separate and~~  
 5 ~~independent office for election purposes."~~

6

7 **Section 8.** Section 13-14-212, MCA, is amended to read:

8 **"13-14-212. Form of ballot on retention of ~~certain incumbent judicial officers~~ justice of the**

9 **peace.** (1) If the incumbent is the only candidate for the office of ~~chief justice, supreme court justice, district~~  
 10 ~~court judge, or justice of the peace,~~ the election administrator may not include a nonpartisan designation or  
 11 write-in space for the office on the general election ballot. The name of the incumbent must be placed on the  
 12 official ballot for the general election as follows:

13 Shall (insert title of officer) (insert name of the incumbent officer) of the (insert title of the court) of the  
 14 state of Montana be retained in office for another term?

15 (2) Following the question, provision must be made, subject to rules adopted pursuant to 13-12-202,  
 16 for a voter to indicate a "yes" or "no" vote."

17

18 **Section 9.** Section 13-35-231, MCA, is amended to read:

19 **"13-35-231. Unlawful for political party to contribute to nonpartisan judicial candidate.** A

20 political party may not contribute to a nonpartisan judicial candidate."

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22 **NEW SECTION. Section 10. Codification instruction.** [Section 4] is intended to be codified as an  
 23 integral part of Title 13, chapter 12, part 2, and the provisions of Title 13, chapter 12, part 2, apply to [section 4].

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25 **NEW SECTION. Section 11. Saving clause.** [This act] does not affect rights and duties that  
 26 matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

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28 **NEW SECTION. Section 12. Applicability.** [This act] applies to elections for an office of the supreme

1 court and for a judge of the district court occurring on or after [the effective date of this act].

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