

1 HOUSE BILL NO. 452

2 INTRODUCED BY K. KORTUM

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS ALLOWING A LOCAL
5 GOVERNMENT WITH SELF-GOVERNING POWERS TO PROVIDE FOR RANKED-CHOICE VOTING IN
6 NONPARTISAN, MUNICIPAL ELECTIONS; ALLOWING FOR THE USE OF RANKED-CHOICE VOTING TO
7 BE APPROVED BY THE ELECTORATE OR BY LOCAL GOVERNMENT ORDINANCE; ALLOWING FOR
8 CHANGES IN A LOCAL GOVERNMENT CHARTER TO PROVIDE FOR RANKED-CHOICE VOTING;
9 AMENDING SECTIONS 7-1-114, 7-3-103, 7-3-149, 7-3-708, 13-10-209, 13-12-203, 13-14-111, AND 13-14-
10 115, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE."
11

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

14 NEW SECTION. **Section 1. Ranked-choice voting -- nonpartisan, municipal elections.** (1) (a) A
15 local government with self-governing powers may allow for ranked-choice voting in nonpartisan, municipal
16 elections.

17 (b) A local government with self-governing powers may:

18 (i) amend its charter in accordance with 7-3-103 to establish procedure for and allow for ranked-
19 choice voting in nonpartisan, municipal elections; or

20 (ii) provide for ranked-choice voting and procedures for ranked-choice voting by approving an
21 ordinance approved by a majority of the governing body in accordance with this title.

22 (2) Ranked-choice voting means the election process for a municipal election in which voters rank
23 candidates by preference on their ballots.

24 (3) In a nonpartisan, municipal election that allows for ranked-choice voting, if a candidate wins a
25 majority of first-preference votes, the candidate is declared the winner. If no candidate wins a majority of first-
26 preference votes, the candidate with the fewest first-preference votes is eliminated. First-preference votes cast
27 for the failed candidate are eliminated, and the second-preference choices indicated on those ballots are then
28 treated as first-preference votes. A new tally is conducted to determine whether any candidate has won a

1 majority of the adjusted votes. The process is repeated until a candidate wins an outright majority.

2

3 **Section 2.** Section 7-1-114, MCA, is amended to read:

4 **"7-1-114. Mandatory provisions.** (1) A local government with self-government powers is subject to
5 the following provisions:

6 (a) all state laws providing for the incorporation or disincorporation of cities and towns, for the
7 annexation, disannexation, or exclusion of territory from a city or town, for the creation, abandonment, or
8 boundary alteration of counties, and for city-county consolidation;

9 (b) Title 7, chapter 3, part 1;

10 (c) all laws establishing legislative procedures or requirements for units of local government;

11 (d) except as provided in [section 1], all laws regulating the election of local officials;

12 (e) all laws that require or regulate planning or zoning;

13 (f) any law directing or requiring a local government or any officer or employee of a local government
14 to carry out any function or provide any service;

15 (g) except as provided in subsection (3), any law regulating the budget, finance, or borrowing
16 procedures and powers of local governments;

17 (h) Title 70, chapters 30 and 31.

18 (2) These provisions are a prohibition on the self-government unit acting other than as provided.

19 (3) (a) Notwithstanding the provisions of subsection (1)(g) and except as provided in subsection
20 (3)(b), self-governing local government units are not subject to the mill levy limits established by state law.

21 (b) The provisions of 15-10-420 apply to self-governing local government units."
22

23 **Section 3.** Section 7-3-103, MCA, is amended to read:

24 **"7-3-103. Amendment of self-government charter or adopted alternative form of government --**
25 **proposed change in type of election -- election.** (1) An amendment to a self-government charter or an
26 adopted alternative form of government may only be made by submitting the question of amendment to the
27 electors of the local government as provided in 7-3-149. An amendment approved by the electors becomes
28 effective on the first day of the local government fiscal year following the fiscal year of approval unless the

1 question submitted to the electors provides otherwise.

2 (2) An amendment to a self-government charter or an adopted alternative form of government may be
3 proposed by:

4 (a) petition as provided in 7-3-125;

5 (b) the local government by ordinance; or

6 (c) a study commission recommendation pursuant to 7-3-192.

7 (3) The local government, by ordinance, may provide procedures for the submission and verification
8 of initiative petitions.

9 (4) (a) The question to change the type of election held under an elected county official government
10 provided for in 7-3-111 from being conducted on a partisan basis to being conducted on a nonpartisan basis or
11 from being conducted on a nonpartisan basis to being conducted on a partisan basis may, by ordinance, be
12 submitted to the electorate of the local government as provided in 7-3-149.

13 (b) The question to allow for ranked-choice voting in accordance with [section 1] may, by ordinance,
14 be submitted to the electorate of the local government as provided in 7-3-149.

15 (c) __A change to the type of election requires an affirmative vote of a simple majority of those voting
16 on the question, pursuant to 7-3-149."

17

18 **Section 4.** Section 7-3-149, MCA, is amended to read:

19 **"7-3-149. Election on alteration of form of government.** (1) ~~The~~ Except as provided in [section
20 1(1)], the governing body shall call an election on the question of an alteration of the form of government, a
21 change in a plan of government, or, for an elected county official government, a change in the type of election
22 proposed pursuant to 7-3-103(4) upon:

23 (a) the election administrator's verification that a petition filed pursuant to 7-3-121 through 7-3-123, 7-
24 3-125, and 7-3-141 through 7-3-148 meets all the necessary requirements;

25 (b) adoption of a local government ordinance pursuant to 7-3-103(2)(b) or (4); or

26 (c) a recommendation by a study commission pursuant to 7-3-192.

27 (2) The election must be conducted in accordance with Title 13, chapter 1, part 4.

28 (3) The cost of the election must be paid for by the local government.

1 (4) (a) The affirmative vote of a simple majority of those voting on the question is required for
2 adoption.

3 (b) In any election involving the question of consolidation, each question must be submitted to the
4 electors in the county and requires an affirmative vote of a simple majority of the votes cast in the county on the
5 question for adoption. There is no requirement for separate majorities in local governments voting on
6 consolidation.

7 (c) In any election involving the question of county merger, the questions must be submitted to the
8 electors in the counties affected and require a majority of the votes cast on the questions in each affected
9 county for adoption.

10 (d) If the electors disapprove the proposed new form of local government, amendments, or
11 consolidation plan, the local government retains its existing form."
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13 **Section 5.** Section 7-3-708, MCA, is amended to read:

14 **"7-3-708. Limitations on charter provisions.** (1) Charter provisions may not conflict with the
15 provisions of part 1, chapter 1, which establish statutory limitations on the powers of self-government units.

16 (2) ~~Charter~~ Except as provided in [section 1], charter forms are subject to state laws establishing
17 election, initiative, and referendum procedures; and charters ~~shall~~ may not contain provisions establishing
18 election, initiative, and referendum procedures.

19 (3) The charter ~~shall~~ may not contain provisions establishing or modifying local court systems."
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21 **Section 6.** Section 13-10-209, MCA, is amended to read:

22 **"13-10-209. Arrangement and preparing of primary ballots.** (1) (a) Ballots for a primary election
23 must be arranged and prepared in the same manner and number as provided in chapter 12 for general election
24 ballots, except that there must be separate ballots for each political party entitled to participate. The name of
25 the political party must appear at the top of the separate ballot for that party and need not appear with each
26 candidate's name.

27 (b) In an election in which ranked-choice voting is used, a self-governing city may arrange the names
28 of nonpartisan, municipal candidates in a manner that allows for ranked-choice voting.

1 ~~(b) (c) Nonpartisan~~ Subject to subsection (1)(b), nonpartisan offices and ballot issues may be
2 prepared on separate ballots or may appear on the same ballot as partisan offices if:

3 (i) each section is clearly identified as separate; and

4 (ii) the nonpartisan offices and ballot issues appear on each party's ballot.

5 (2) Except as provided in subsection (3), an election administrator does not need to prepare a primary
6 ballot for a political party if:

7 (a) the party does not have candidates for more than half of the offices to appear on the ballot; and

8 (b) no more than one candidate files for nomination by that party for any of the offices to appear on
9 the ballot.

10 (3) Subsection (2) does not apply to elections for precinct committee offices. If more than one
11 candidate files for a precinct committee office from a party that will not have a primary ballot prepared, that
12 party shall select the candidate to fill the office.

13 (4) If, pursuant to subsection (2), in a primary election held in an even-numbered year a primary ballot
14 for a political party is not prepared, the secretary of state shall certify that a primary election is unnecessary for
15 that party and shall instruct the election administrator to certify the names of the candidates for that party for the
16 general election ballot only.

17 (5) The separate ballots for each party must have the same appearance. Each set of party ballots
18 must bear the same number. If prepared as a separate ballot, the nonpartisan ballot may have a different
19 appearance than the party ballots but must be numbered in the same order as the party ballots.

20 (6) If a ballot issue is to be voted on at a primary election, it may be placed on the nonpartisan ballot
21 or a separate ballot. A separate ballot may have a different appearance than the other ballots in the election but
22 must be numbered in the same order.

23 (7) Each elector must receive a set of ballots that includes the party, nonpartisan, and ballot issue
24 choices."

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26 **Section 7.** Section 13-12-203, MCA, is amended to read:

27 **"13-12-203. Appearance of candidate's name and party designation on ballot.** (1) Subject to
28 [section 1] and 13-12-202 and except as provided in 13-10-209 for nonpartisan offices and 13-10-303 for

1 certain other candidates, in partisan elections, candidates' names must appear under the title of the office
2 sought, with the name of the party in not more than three words appearing opposite or below the name.

3 (2) Subject to [section 1] and 13-12-202, in nonpartisan general elections, the candidates' names
4 must appear under the title of the office sought, with no description or designation appearing with the name
5 unless partisan and nonpartisan offices appear on the same ballot. In such a case, the names of nonpartisan
6 candidates must appear with the word "Nonpartisan".

7 (3) Except as otherwise provided by this section, information about the candidate other than the
8 candidate's name may not appear on the ballot, including a title, accomplishment, award, or degree."

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10 **Section 8.** Section 13-14-111, MCA, is amended to read:

11 "**13-14-111. Application of general laws.** ~~Except~~ Subject to [section 1] and except as otherwise
12 provided in this chapter, candidates for nonpartisan offices, including judicial offices, must be nominated and
13 elected according to the provisions of this title."

14

15 **Section 9.** Section 13-14-115, MCA, is amended to read:

16 "**13-14-115. Preparation and distribution of nonpartisan primary ballots -- determination on**
17 **conducting primary.** (1) The election administrators shall arrange, prepare, and distribute primary ballots for
18 nonpartisan offices, designated "nonpartisan primary ballots". The ballots must be arranged and prepared as
19 provided in 13-10-209 and be without political designation.

20 (2) (a) Except as provided in subsection (2)(b) and subject to [section 1], the election administrator of
21 a political subdivision may determine that a local nonpartisan portion of a primary election need not be held if:

22 (i) the number of candidates for an office exceeds three times the number to be elected to that office
23 in no more than one-half of the offices on the ballot; and

24 (ii) the number of candidates in excess of three times the number to be elected is not more than one
25 for any office on the ballot.

26 (b) The election administrator may determine that a primary election for a nonpartisan county office
27 need not be held if fewer than three candidates have filed for that office.

28 (c) If the election administrator determines that a primary election must be held pursuant to

1 subsection (2)(a) or (2)(b), the election administrator shall conduct the primary election only for the nonpartisan
2 offices that have a sufficient number of candidates that have filed to be elected to that office.

3 (d) If the election administrator determines that a primary election need not be held pursuant to
4 subsection (2)(a), (2)(b), or (2)(c) for a nonpartisan office, the administrator shall give notice to the governing
5 body that a primary election will not be held for that office.

6 (3) The governing body may require that a primary election be held for a nonpartisan office if it passes
7 a resolution not more than 10 days after the close of filing by candidates for election stating that a primary
8 election must be held for that office."

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10 **NEW SECTION. Section 10. Codification instruction.** [Section 1] is intended to be codified as an
11 integral part of Title 13, and the provisions of Title 13 apply to [section 1].

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13 **NEW SECTION. Section 11. Effective date.** [This act] is effective December 1, 2021.

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