

## 1 HOUSE BILL NO. 342

2 INTRODUCED BY M. REGIER

3

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; ALLOWING POLITICAL PARTY COMMITTEES TO CONTRIBUTE TO A CANDIDATE  
 7 FOR SUPREME COURT JUSTICE OR DISTRICT COURT JUDGE; AMENDING SECTIONS 3-2-101, 3-5-201,  
 8 3-6-201, 3-10-201, 13-14-111, 13-14-118, 13-14-211, 13-14-212, AND 13-35-231, MCA; AND PROVIDING AN  
 9 APPLICABILITY DATE."

10

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

12

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

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

19 (2) A supreme court justice, including the chief justice, must be nominated and elected on a partisan  
 20 ballot in the same manner as provided for partisan candidates in Title 13 except that an incumbent justice who  
 21 is the only candidate for the office must be placed on the general ballot as provided in Article VII, section 8, of  
 22 the Montana constitution and [section 4 5].

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

26

27 **Section 2.** Section 3-5-201, MCA, is amended to read:28 **"3-5-201. Election Nomination, election, and oath of office.** (1) The judges of the district court,

1 except judges pro tempore, must be elected by the qualified voters of the district.

2 (2) (a) Judges of the district court must be nominated and elected on a partisan ballot in the same  
 3 manner as provided for partisan candidates in Title 13 except that an incumbent judge who is the only  
 4 candidate for the office must be placed on the ballot as provided in Article VII, section 8, of the Montana  
 5 constitution and [section 4 5].

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

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

9 ~~(2)~~(3) Except as provided in subsection (1), each judge of ~~a~~the district court shall, as soon as the  
 10 judge has taken and subscribed the official oath, file the official oath in the office of the secretary of state."  
 11

12 **SECTION 3. SECTION 3-6-201, MCA, IS AMENDED TO READ:**

13 **"3-6-201. Number of judges -- election -- term of office -- chief judge -- duties of chief judge --**  
 14 **assistant judge.** (1) The governing body of a city shall determine by ordinance the number of judges required  
 15 to operate the municipal court.

16 (2) A municipal court judge who is not a part-time assistant judge appointed under subsection (6)  
 17 must be elected at the general election, as provided in 13-1-104(3). The judge's term commences on the first  
 18 Monday in January following the election. The judge shall hold office for the term of 4 years and until a  
 19 successor is elected and qualified.

20 (3) Except as provided in subsection (2), all elections of municipal court judges are governed by ~~the~~  
 21 ~~laws applicable to the election of district court judges~~ the provisions of Title 13, chapter 14, part 2.

22 (4) (a) If there is more than one municipal court judge, the judges shall adopt a procedure by which  
 23 they either:

24 (i) select a chief municipal court judge at the beginning of each calendar year; or

25 (ii) select a chief municipal court judge for a specific period of time.

26 (b) If the judges cannot agree, the judge with the most seniority shall serve as the chief municipal  
 27 court judge.

28 (5) The chief municipal court judge shall provide for the efficient management of the court, in

1 cooperation with the other judge or judges, if any, and shall:

2 (a) maintain a central docket of the court's cases;

3 (b) provide for the distribution of cases from the central docket among the judges, if there is more  
4 than one judge, in order to equalize the work of the judges;

5 (c) request the jurors needed for cases set for jury trial;

6 (d) if there is more than one judge, temporarily reassign or substitute judges among the departments  
7 as necessary to carry out the business of the court; and

8 (e) supervise and control the court's personnel and the administration of the court.

9 (6) A municipal court judge may, with the approval of the governing body of the city, appoint a part-  
10 time assistant judge, who must have the same qualifications as a judge pro tempore under 3-6-204, to serve  
11 during the municipal court judge's term of office. An order by a part-time assistant judge has the same force and  
12 effect as an order of a municipal court judge."

13

14 **Section 4.** Section 3-10-201, MCA, is amended to read:

15 **"3-10-201. Election.** (1) Except as provided in 3-10-206, each justice of the peace must be elected by  
16 the qualified electors of the county at the general state election immediately preceding the expiration of the term  
17 of office of the justice of the peace's predecessor.

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

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

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

26

27 **NEW SECTION. Section 5. Form of ballot for supreme court justice or district court judge**

28 **retention election.** (1) If the only candidate for an office of supreme court justice, the supreme court chief

1 justice, or a district court office is the incumbent, the name of the incumbent must be placed on the official ballot  
2 for general election as follows:

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

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

8

9 **Section 6.** Section 13-14-111, MCA, is amended to read:

10 **"13-14-111. Application of general laws.** Except as otherwise provided in this chapter, candidates  
11 for nonpartisan offices, including judicial offices other than an office of the supreme court or a judge of the  
12 district court, must be nominated and elected according to the provisions of this title."

13

14 **Section 7.** Section 13-14-118, MCA, is amended to read:

15 **"13-14-118. Vacancies among nominees after nomination and before general election.** (1) If  
16 after the primary election and before the 85th day before the general election a candidate is not able to run for  
17 the office for any reason, the vacancy must be filled by the candidate next in rank in number of votes received  
18 in the primary election.

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

22 (a) the governor for national, state, ~~judicial district~~, legislative, or any multicounty district office;

23 (b) the governing body of the appropriate political subdivision for all other offices.

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

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

28

1           **Section 8.** Section 13-14-211, MCA, is amended to read:

2           "**13-14-211. Judicial County judicial offices separate and independent offices for election**  
3 **purposes.** ~~(1) Each vacancy for justice of the supreme court is a separate and independent office for election~~  
4 ~~purposes. The chief justice of the supreme court shall assign an individual number to the justices and certify~~  
5 ~~these numbers to the office of the secretary of state.~~

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

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

10

11           **Section 9.** Section 13-14-212, MCA, is amended to read:

12           "**13-14-212. Form of ballot on retention of ~~certain incumbent judicial officers~~ justice of the**  
13 **peace OR MUNICIPAL COURT JUDGE.** (1) If the incumbent is the only candidate for the office of ~~chief justice,~~  
14 ~~supreme court justice, district court judge, or justice of the peace~~ OR MUNICIPAL COURT JUDGE, the election  
15 administrator may not include a nonpartisan designation or write-in space for the office on the general election  
16 ballot. The name of the incumbent must be placed on the official ballot for the general election as follows:

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

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

21

22           **Section 10.** Section 13-35-231, MCA, is amended to read:

23           "**13-35-231. Unlawful for political party to contribute to nonpartisan judicial candidate.** A  
24 political party may not contribute to a nonpartisan judicial candidate."

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26           NEW SECTION. **Section 11. Codification instruction.** [Section 4.5] is intended to be codified as an  
27 integral part of Title 13, chapter 12, part 2, and the provisions of Title 13, chapter 12, part 2, apply to [section 4  
28 5].

