

1 HOUSE BILL NO. 355

2 INTRODUCED BY S. KERNS

3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING JUDICIAL ELECTION LAWS;
 5 PROVIDING FOR THE PARTISAN NOMINATION AND ELECTION OF SUPREME COURT JUSTICES,
 6 ~~DISTRICT COURT JUSTICES, AND JUSTICES OF THE PEACE; ALLOWING POLITICAL PARTY~~
 7 COMMITTEES TO CONTRIBUTE TO A CANDIDATE FOR SUPREME COURT JUSTICE; AMENDING
 8 SECTIONS 3-2-101, ~~3-5-201, 3-10-201, 3-10-206,~~ 13-14-111, 13-14-211, 13-14-212, AND ~~13-14-448, 13-35-~~
 9 231, MCA; ~~REPEALING SECTIONS 13-14-211 AND 13-35-231,~~ MCA; AND PROVIDING AN APPLICABILITY
 10 DATE."

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

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

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

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

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

27
 28 **NEW SECTION. SECTION 2. FORM OF BALLOT FOR SUPREME COURT JUSTICE RETENTION ELECTION.** (1) IF

1 THE ONLY CANDIDATE FOR AN OFFICE OF SUPREME COURT JUSTICE OR THE SUPREME COURT CHIEF JUSTICE IS THE
 2 INCUMBENT, THE NAME OF THE INCUMBENT MUST BE PLACED ON THE OFFICIAL BALLOT FOR GENERAL ELECTION AS
 3 FOLLOWS:

4 SHALL (INSERT TITLE OF OFFICER) (INSERT NAME OF THE INCUMBENT OFFICER) OF THE (INSERT TITLE OF THE
 5 COURT) OF THE STATE OF MONTANA BE RETAINED IN OFFICE FOR ANOTHER TERM?

6 (2) FOLLOWING THE QUESTION, PROVISION MUST BE MADE, SUBJECT TO RULES ADOPTED PURSUANT TO 13-
 7 12-202, FOR A VOTER TO INDICATE A "YES" OR A "NO" VOTE. THE FORM MUST INCLUDE THE INCUMBENT'S POLITICAL
 8 PARTY DESIGNATION AND MAY NOT INCLUDE A WRITE-IN SPACE FOR THE OFFICE.

9

10 **Section 2.** ~~Section 3-5-201, MCA, is amended to read:~~

11 ~~**"3-5-201. Election Nomination, election, and oath of office.** (1) The judges of the district court,~~
 12 ~~except judges pro tempore, must be elected by the qualified voters of the district.~~

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

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

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

20 ~~(2)(3) Except as provided in subsection (1), each judge of a the district court shall, as soon as the~~
 21 ~~judge has taken and subscribed the official oath, file the official oath in the office of the secretary of state."~~

22

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

24 ~~**"3-10-201. Election Nomination and election.** (1) Except as provided in 3-10-206, each justice of~~
 25 ~~the peace must be elected by the qualified electors of the county at the general state election immediately~~
 26 ~~preceding the expiration of the term of office of the justice of the peace's predecessor.~~

27 ~~(2) A justice of the peace must be nominated and elected on the nonpartisan judicial ballot in the~~
 28 ~~same manner as judges of the district court.~~

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

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

7
 8 **NEW SECTION. Section 4. — Form of ballot on retention for certain incumbent judicial officers.**

9 ~~(1) If the only candidate for an office of supreme court justice, the supreme court chief justice, or a district court~~
 10 ~~office is the incumbent, the name of the incumbent must be placed on the official ballot for general election as~~
 11 ~~follows:~~

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

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

17

18 **Section 5.** Section 3-10-206, MCA, is amended to read:

19 **"3-10-206. — Vacancies.** Subject to the residency requirements provided in 3-10-204 and the election
 20 requirements provided in 3-10-201(2) through (4) ~~and (3)~~, a vacancy in the office of a justice of the peace must
 21 be filled pursuant to 7-4-2206 until a successor is elected and qualified."

22

23 **Section 3.** Section 13-14-111, MCA, is amended to read:

24 **"13-14-111. Application of general laws.** Except as otherwise provided in this chapter, candidates
 25 for nonpartisan offices, ~~including judicial offices,~~ INCLUDING JUDICIAL OFFICES, OTHER THAN THE OFFICE OF THE
 26 SUPREME COURT, must be nominated and elected according to the provisions of this title."

27

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

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

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

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

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

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

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

14

15 SECTION 4. SECTION 13-14-211, MCA, IS AMENDED TO READ:

16 **"13-14-211. Judicial District and county judicial offices separate and independent offices for**
 17 **election purposes.** ~~(1) Each vacancy for justice of the supreme court is a separate and independent office for~~
 18 ~~election purposes. The chief justice of the supreme court shall assign an individual number to the justices and~~
 19 ~~certify these numbers to the office of the secretary of state.~~

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

22 (1) Each vacancy for judicial office in a district that has more than one district judge is a separate and
 23 independent office for election purposes.

24 (2) Each vacancy for office in a county that has more than one justice of the peace is a separate and
 25 independent office for election purposes."

26

27 SECTION 5. SECTION 13-14-212, MCA, IS AMENDED TO READ:

28 **"13-14-212. Form of ballot on retention of certain incumbent judicial officers. (1) If the**

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

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

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

9

10 **SECTION 6. SECTION 13-35-231, MCA, IS AMENDED TO READ:**

11 **"13-35-231. Unlawful for political party to contribute to nonpartisan judicial candidate.** A
 12 political party may not contribute to a nonpartisan judicial candidate."

13

14 **NEW SECTION. Section 8. Repealer.** The following sections of the Montana Code Annotated are
 15 ~~repealed:~~

16 ~~13-14-211. — Judicial offices separate and independent offices for election purposes.~~

17 ~~13-35-231. — Unlawful for political party to contribute to judicial candidate.~~

18

19 **NEW SECTION. Section 7. Codification instruction.** [Section 42] is intended to be codified as an
 20 integral part of Title 13, chapter 12, part 2, and the provisions of Title 13, chapter 12, part 2, apply to [section 4
 21 2].

22

23 **NEW SECTION. Section 8. Saving clause.** [This act] does not affect rights and duties that matured,
 24 penalties that were incurred, or proceedings that were begun before [the effective date of this act].

25

26 **NEW SECTION. Section 9. Applicability.** [This act] applies to elections for an office of the supreme
 27 court, ~~district court, or justice of the peace~~ occurring on or after [the effective date of this act].

28

- END -