

Amendment - 1st Reading/2nd House-blue - Requested by: Chris Friedel - (S) State Administration

- 2023

68th Legislature 2023

Drafter: Toni Henneman, 406-444-3593

HB0774.002.004

1 HOUSE BILL NO. 774
2 INTRODUCED BY M. HOPKINS
3
4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING ELECTION LAWS; ESTABLISHING A
5 SCHOOL ELECTION INCENTIVE PILOT PROGRAM FOR COUNTIES TO ADMINISTER SCHOOL
6 ELECTIONS; PROVIDING GRANTS TO PARTICIPATING COUNTIES; EXEMPTING PARTICIPATING
7 SCHOOL DISTRICTS FROM BEING CHARGED ELECTION COSTS; REQUIRING ALL ELECTIONS TO BE
8 HELD IN EVEN-NUMBERED YEARS AND PROVIDING EXCEPTIONS; REQUIRING ALL ELECTIONS TO BE
9 HELD ON PRIMARY DAY OR GENERAL ELECTION DAY AND PROVIDING EXCEPTIONS; REQUIRING
10 COUNTY ELECTION ADMINISTRATORS TO ADMINISTER ALL ELECTIONS; REVISING DEFINITIONS;
11 CHANGING TERM LENGTHS TO ALIGN WITH THE REVISED ELECTION SCHEDULE; **REQUIRING ONE**
12 **CITY COUNCIL MEMBER FROM EACH WARD IN A FIRST-CLASS CITY WHEN WARDS REACH A**
13 **CERTAIN POPULATION THRESHOLD;** REVISING TIMELINES AND OTHER PROVISIONS RELATED TO
14 SCHOOL ELECTION CANDIDATE FILING, CANDIDATE WITHDRAWAL, WRITE-IN CANDIDATES,
15 TRUSTEES CALLING ELECTIONS, ELECTION ACCLAMATION, AND CERTIFICATE OF ELECTION;
16 REVISING RESIDENCY REQUIREMENTS FOR SCHOOL ELECTION JUDGES; PROVIDING AN
17 APPROPRIATION; AMENDING SECTIONS 3-6-201, **7-2-4107**, 7-4-2611, **7-4-4101**, **7-4-4402** 7-5-132, 7-6-
18 1504, 7-6-1536, 7-6-1542, 7-6-4431, 7-11-1003, 7-11-1011, 7-11-1012, 7-11-1013, 7-12-4243, 7-13-2208, 7-
19 13-2210, 7-13-2341, 7-13-2342, 7-13-2352, 7-13-4512, 7-13-4535, 7-14-210, 7-14-1106, 7-14-1134, 7-14-
20 1632, 7-14-1633, 7-14-4642, 7-15-4218, 7-15-4408, 7-16-2102, 7-31-106, 7-31-107, 7-31-109, ~~7-33-2406~~, 7-
21 34-2109, 7-34-2110, 7-34-2414, 13-1-101, 13-1-104, 13-1-106, 13-1-107, 13-1-203, 13-1-204, 13-1-301, 13-1-
22 302, 13-1-405, 13-1-504, 13-2-304, 13-10-211, 13-13-205, 13-13-222, 13-16-205, 13-37-126, 15-10-425, 16-
23 12-301, 16-12-311, 20-1-101, 20-3-106, 20-3-302, 20-3-305, 20-3-306, 20-3-307, 20-3-313, 20-3-321, 20-3-
24 324, 20-3-362, 20-4-401, 20-6-326, 20-6-422, 20-6-423, 20-6-504, 20-6-506, 20-6-603, 20-6-621, 20-6-704, 20-
25 9-115, 20-9-131, 20-9-208, 20-9-306, 20-9-308, 20-9-311, 20-9-313, 20-9-353, 20-9-405, 20-9-406, 20-9-422,
26 20-15-203, 20-15-208, 20-15-221, 20-15-404, 20-20-102, 20-20-104, 20-20-105, 20-20-107, 20-20-108, 20-20-
27 109, 20-20-201, 20-20-417, 76-5-1106, 76-15-207, 76-15-303, 76-15-304, 76-15-506, 76-15-531, 76-15-605,

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1 76-15-702, 76-15-805, ~~85-6-105, 85-6-106, 85-7-1602, 85-7-1702, 85-7-1703, 85-7-1712, 85-7-1974, 85-7-~~
2 2043, 85-8-302, 85-8-624, AND 85-9-206, MCA; REPEALING SECTIONS 13-1-305, 13-1-503, 20-6-505, 20-6-
3 604, 20-20-106, 20-20-108, 20-20-203, 20-20-204, 20-20-401, AND 20-20-402, AND 20-20-416, MCA; AND
4 PROVIDING A DELAYED EFFECTIVE DATE EFFECTIVE DATES AND A TERMINATION DATE."

5

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

7

8 NEW SECTION. SECTION 1. SCHOOL ELECTION INCENTIVE PILOT PROGRAM FOR COUNTIES TO ADMINISTER

9 SCHOOL ELECTIONS. (1) THE OFFICE OF PUBLIC INSTRUCTION SHALL ESTABLISH AN INCENTIVE PILOT PROGRAM FOR
10 COUNTIES TO ADMINISTER REGULAR SCHOOL ELECTIONS IN MAY 2024.

11 (2) (A) THE OFFICE OF PUBLIC INSTRUCTION SHALL ADMINISTER THE INCENTIVE PILOT PROGRAM AS A
12 GRANT PROGRAM AND AWARD TO COUNTIES FROM FUNDING APPROPRIATED BY THE LEGISLATURE FOR THE PURPOSES
13 OF THIS SECTION.

14 (B) THE INCENTIVE PILOT PROGRAM SHALL PROVIDE THAT, SUBJECT TO SUBSECTION (2)(E):

15 (i) COUNTIES THAT CHOOSE TO PARTICIPATE MAY USE THE GRANT MONEY TO PAY PERSONNEL, TRAINING,
16 AND OPERATING COSTS ASSOCIATED WITH CONDUCTING ONE OR MORE SCHOOL ELECTIONS UNDER THIS SECTION; AND

17 (ii) SCHOOL DISTRICTS THAT CHOOSE TO PARTICIPATE ARE EXEMPT FROM THE PROVISIONS OF 20-20-
18 417(3) FOR THE MAY 2024 SCHOOL ELECTION AND MAY NOT BE CHARGED BY THE COUNTY FOR THE COST OF
19 ADMINISTERING THE ELECTION.

20 (C) SUBJECT TO SUBSECTION (2)(E), THE OFFICE OF PUBLIC INSTRUCTION SHALL GRANT TO EACH
21 PARTICIPATING COUNTY THE AMOUNT REQUESTED BY THE COUNTY TO ADMINISTER ONE OR MORE SCHOOL ELECTIONS
22 PURSUANT TO THIS SECTION, UP TO THE MAXIMUM OF \$1 FOR EACH REGISTERED ELECTOR IN THE SCHOOL DISTRICT FOR
23 WHICH THE ELECTION IS ADMINISTERED.

24 (D) TO THE GREATEST EXTENT POSSIBLE, GRANT FUNDING MUST BE PROVIDED TO THE COUNTY BEFORE
25 THE COSTS ARE INCURRED BASED ON COUNTY ESTIMATES BUT MAY BE PAID AS REIMBURSEMENTS IF NECESSARY.

26 (E) THE OFFICE OF PUBLIC INSTRUCTION SHALL ALLOCATE AVAILABLE FUNDS ON A FIRST-REQUESTED,
27 FIRST-GRANTED BASIS.

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HB0774.002.004

- 1 (b) provide for the distribution of cases from the central docket among the judges, if there is more
2 than one judge, in order to equalize the work of the judges;
- 3 (c) request the jurors needed for cases set for jury trial;
- 4 (d) if there is more than one judge, temporarily reassign or substitute judges among the
5 departments as necessary to carry out the business of the court; and
- 6 (e) supervise and control the court's personnel and the administration of the court."
7

8 **Section 3.** Section 7-2-4107, MCA, is amended to read:

9 **"7-2-4107. Officers elected at first election.** (1) At the election provided for in 7-2-4106, there must
10 be elected:

11 (a) in a city of the first class, a mayor, a city judge, a city attorney, a city treasurer, a city marshal,
12 and, except as provided in subsection (3), two city council members from each ward into which the city is
13 divided;

14 (b) in a city of the second class, a mayor, a city judge, a city treasurer, a city marshal, and two city
15 council members from each ward;

16 (c) in a town, a mayor and two city council members from each ward.

17 (2) Those elected hold office until the first Monday of January after the first annual election and
18 until their successors are elected and qualified. The persons elected shall qualify in the manner prescribed by
19 law for county officers.

20 (3) If the division of a city of the first class into wards represented by two city council members
21 would result in wards with populations of more than 15,000 inhabitants, then, subject to the limits of 7-5-4401,
22 the city shall redistrict into twice the number of wards, and each ward must be represented by one city council
23 member."

24
25 **Section 4.** Section 7-4-2611, MCA, is amended to read:

26 **"7-4-2611. Role and duties of county clerk and election administrator.** (1) The county clerk of a
27 county is also clerk of the county commissioners and ex officio recorder. A duty imposed by law upon the

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1 (4) An election administrator shall make statements and other information filed under the
2 provisions of Title 13, chapters 35, 36, and 37, and Title 20, chapter 20, available for public inspection and
3 copying during the office hours determined by the governing body by resolution after a public hearing and make
4 copying facilities available free of charge or at a charge not to exceed actual cost."
5

6 **Section 5.** Section 7-4-4101, MCA, is amended to read:

7 **"7-4-4101. Officers of city of first class.** (1) The officers of a city of the first class may not consist of
8 more than:

- 9 (a) one mayor;
10 (b) except as provided in subsection (2), two city council members from each ward; and
11 (c) one city judge.

12 (2) If the wards of a city have populations of more than 15,000 inhabitants, then, subject to the
13 limits of 7-5-4401, the city shall redistrict into twice the number of wards, and each ward must be represented
14 by one city council member.

15 (2)(3) Except as provided in 7-5-4410, officers listed in subsection (1) subsections (1) and (2) must be
16 elected by the qualified electors of the city.

17 (3)(4) There may also be appointed by the mayor, with the advice and consent of the council:

- 18 (a) one city attorney;
19 (b) one city clerk;
20 (c) one city treasurer or finance officer or one city clerk-treasurer;
21 (d) one chief of police;
22 (e) one assessor;
23 (f) one street commissioner;
24 (g) one city jailer;
25 (h) one city surveyor; and
26 (i) any other officers necessary to carry out the provisions of this title.

27 (4)(5) The city council may by ordinance prescribe the duties of all city officers and fix their

1 compensation."

2

3 **Section 6.** Section 7-4-4402, MCA, is amended to read:

4 **"7-4-4402. Term of office.** (1) Except as provided in subsection (2), a city council member shall hold
5 office for a term of 4 years and until the qualification of a successor.

6 (2) At the first annual election held after the organization of a city or town under this title, the
7 electors of the city or town shall elect ~~two~~ city council members from each ward, who shall, at the first meeting
8 of the council, decide by lot their terms of office, with ~~one from each ward to hold half or a simple majority of the~~
9 ~~council members to hold~~ for a term of 4 years and ~~one the remaining council members~~ for a term of 2 years and
10 until the qualification of their successors. In the succeeding elections, ~~one city council member from each ward~~
11 ~~council members who served an initial 2-year term under this section~~ must be elected for a 4-year term."

12

13 **Section 7.** Section 7-5-132, MCA, is amended to read:

14 **"7-5-132. Procedure for initiative or referendum election.** (1) The electors of a local government
15 may, by petition, request an election on whether to enact, repeal, or amend an ordinance. The form of the
16 petition must be approved by the county election administrator. A petition signed by at least 15% of the local
17 government's qualified electors is sufficient to require an election.

18 (2) (a) If an approved petition containing sufficient signatures is filed prior to the ordinance's
19 effective date or within 60 days after the passage of the ordinance, whichever is later, a petition requesting an
20 election on whether to amend or repeal the ordinance delays the ordinance's effective date until the ordinance
21 is ratified by the electors.

22 (b) If an approved petition containing sufficient signatures is filed within 60 days after the effective
23 date of an emergency ordinance, the emergency ordinance is suspended until it is ratified by the electors.

24 (3) The governing body may refer an existing or proposed ordinance to a vote of the people by
25 resolution.

26 (4) A petition or resolution for an election must:

27 (a) embrace only a single comprehensive subject;

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1 (3) This chapter does not confer on the court jurisdiction to hear, adjudicate, and settle questions
2 concerning the priority of appropriation of water between districts and other persons. Jurisdiction to hear and
3 determine priority of appropriation and questions of right growing out of or in any way connected with a priority
4 of appropriation is expressly excluded from this chapter and must be determined as otherwise provided by the
5 laws of Montana."

6
7 NEW SECTION. Section 108. Repealer. The following sections of the Montana Code Annotated are
8 repealed:

9 13-1-305. School district and political subdivision election cooperation.

10 13-1-503. Deadlines for absentee and mail ballots.

11 ~~20-6-505. OPENING A JUNIOR HIGH SCHOOL WHEN HIGH SCHOOL DISTRICT OPERATES A COUNTY HIGH SCHOOL.~~

12 ~~20-6-604. SALE OF PROPERTY WHEN RESOLUTION PASSED AFTER HEARING -- APPEAL PROCEDURE.~~

13 20-20-106. Poll hours.

14 ~~20-20-108. Rescheduling of school election canceled due to declaration of state of emergency or disaster.~~

15 20-20-203. Resolution for poll hours, polling places, and judges.

16 20-20-204. Election notice.

17 20-20-401. Trustees' election duties -- ballot certification.

18 20-20-402. Clerk of election judges and appointment for absent judge.

19 ~~20-20-416. Certificate of election.~~

20
21 NEW SECTION. Section 109. APPROPRIATION. THERE IS APPROPRIATED \$150,000 FROM THE GENERAL
22 FUND TO THE OFFICE OF PUBLIC INSTRUCTION FOR THE FISCAL YEAR BEGINNING JULY 1, 2023, FOR THE SCHOOL
23 ELECTION INCENTIVE PILOT PROGRAM PROVIDED FOR IN [SECTION 1].

24
25 NEW SECTION. Section 110. Effective date DATES. [This act] is effective July 1, 2024 (1) EXCEPT AS
26 PROVIDED IN SUBSECTION (2), [THIS ACT] IS EFFECTIVE JULY 1, 2024.

27 (2) [SECTIONS 1 AND ~~106~~109] AND THIS SECTION ARE EFFECTIVE JULY 1, 2023.