

1 SENATE BILL NO. 385  
2 INTRODUCED BY D. ZOLNIKOV  
3

4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING ELECTION LAWS; CREATING A  
5 PROCESS FOR THE REMOVAL OF AN ELECTION JUDGE; REVISING THE PROCESS FOR SELECTING  
6 ELECTION JUDGES; ~~REMOVING THE EXEMPTION FROM THE POSTELECTION AUDIT FOR RACES~~  
7 ~~THAT GO TO A RECOUNT; AMENDING SECTIONS 13-1-301, 13-4-102, 13-4-201, AND 13-4-203, AND 13-~~  
8 ~~17-503, MCA; AND PROVIDING AN EFFECTIVE DATE."~~

9  
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
11

12 NEW SECTION. Section 1. Removal of election judge. (1) (a) A county clerk and recorder or an  
13 election administrator may make a complaint about an election judge to the county central committee that  
14 nominated the judge.

15 (b) With the exception of any complaint against an election official or judge who is reporting  
16 malfeasance or potential malfeasance of official rules for how an election is being conducted, a county clerk  
17 and recorder or an election administrator may make a complaint about an election judge for:

- 18 (i) violating any part of Title 13;  
19 (ii) not fulfilling their duties as provided in Title 13, chapter 4; or  
20 (iii) tampering with ballots, voting systems, or any other election materials or equipment.

21 (2) Following a verbal warning to the election judge ~~and with the concurrence of the presiding~~  
22 ~~officer of the central committee that nominated the judge~~, a county clerk and recorder or an election  
23 administrator may remove, replace, or reassign an election judge who causes a disruption in a polling location  
24 or willfully disobeys the provisions of this chapter.

25 (3) A vacancy created under this section must be filled through the process described in 13-4-  
26 102(4). The new judge must meet the qualifications provided in 13-4-107.

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**Amendment - 1st Reading/2nd House-blue - Requested by: Daniel Zolnikov - (H) State Administration**

- 2023  
68th Legislature 2023

Drafter: Rebecca Power,

SB0385.002.002

1           **Section 2.** Section 13-1-301, MCA, is amended to read:

2           "**13-1-301. Election administrator.** (1) The county clerk and recorder of each county is the election  
3 administrator unless the governing body of the county designates another official or appoints an election  
4 administrator.

5           (2) The election administrator is responsible for the administration of all procedures relating to  
6 registration of electors and conduct of elections, shall keep all county records relating to elector registration and  
7 elections, and is the primary point of contact for the county with respect to the statewide voter registration list  
8 and implementation of other provisions of applicable federal law governing elections.

9           (3) The election administrator may appoint a deputy election administrator for each political  
10 subdivision required to hold elections.

11           (4) Any complaint about a county clerk and recorder or an election administrator must be  
12 submitted to, heard by, and decided on by the county commissioners. The decision of the county  
13 commissioners must be made available to the public THE COUNTY ATTORNEY."

14

15           **Section 3.** Section 13-4-102, MCA, is amended to read:

16           "**13-4-102. Manner of choosing election judges.** (1) (a) At least 90 days prior to the deadline in  
17 subsection (1)(b), the county clerk and recorder or the election administrator shall notify the county central  
18 committees of the requirement to submit a list of election judge nominees as long as a county central  
19 committee exists.

20           (b) Subject to 13-4-107, election judges must be chosen from lists of qualified registered electors  
21 in the county, submitted at least 45 days before the primary election in even-numbered years by the county  
22 central committees of the political parties eligible to nominate candidates in the primary.

23           (c) All qualified registered elector nominees put forward by the county central committees shall be  
24 considered eligible to serve as an election judge or a chief election judge after completing the training provided  
25 in 13-4-203 unless they have been convicted of a violation of Montana election laws.

26           (d) All judges determined to be ineligible must be notified in writing of the reason for exclusion.

27           (2) The list of each party may contain more names than the number of election judges to be

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1 appointed. The names of those not appointed as election judges must be given to the election administrator for  
2 use in making appointments to fill vacancies. The county clerk and recorder or the election administrator shall  
3 use all the certified trained judges from the list submitted pursuant to subsection (1)(b) before seeking  
4 additional judges.

5 (3) ~~(a) Each board of election judges counting board as described in 13-15-112 must include~~  
6 ~~judges representing all parties that have submitted lists as provided in subsection (1) more than one political~~  
7 ~~party.~~ No more than the number of election judges needed to obtain a simple majority may be appointed from  
8 the list of one political party in each county. If any of the political parties entitled to do so fail to submit a list  
9 meeting the requirements of this section, the governing body shall, to the extent possible, appoint judges so  
10 that all parties eligible to participate in the primary and general elections are represented on each counting  
11 board. Trained election judges with no party affiliation may be used to fill positions on all boards of election  
12 judges when there is insufficient multiparty participation.

13 ~~(b) There must be at least one election judge from each political party serving as an election judge~~  
14 ~~on each counting board and at each precinct unless a judge from one of the parties was not nominated for the~~  
15 ~~precinct.~~

16 ~~(c) If a county central committee requests that a specific qualified election judge be appointed to a~~  
17 ~~specific precinct or counting board, the county clerk and recorder or the election administrator shall honor the~~  
18 ~~request.~~

19 (4) The election administrator shall make appointments to fill vacancies from the list provided for in  
20 subsection (2). If the list is insufficient or if one or more of the eligible political parties fails to submit a list  
21 meeting the requirements of this section, the election administrator ~~may select enough people meeting the~~  
22 ~~qualifications of 13-4-107 to fill election judge vacancies in all precincts shall ask the county central committees~~  
23 ~~for a list of additional nominees before appointing anyone else to fill the vacancies.~~

24 (5) An elector chosen to potentially serve as an election judge must be notified of selection at least  
25 30 days before the primary election in even-numbered years. Each elector who agrees to serve as an election  
26 judge shall attend a training class conducted under 13-4-203 and shall continue to serve as provided in 13-4-  
27 103.

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1           (6) The county clerk and recorder or the election administrator shall provide a full list of the  
2 certified and appointed election judges to each county central committee at least 30 days before the primary  
3 and general elections in even-numbered years and to a county central committee at any time on request. If  
4 there are any changes to the list at any time, a new list must be sent to the county central committees by the  
5 close of business on the day of the change or changes."  
6

7           **Section 4.** Section 13-4-201, MCA, is amended to read:

8           "**13-4-201. Duties of chief election judge.** The chief election judge shall be responsible for the  
9 conduct of the proceedings in the polling place, shall assign duties to other members of the board of election  
10 judges counting board as defined in 13-15-112, and, if assigned to work through the close of the polls, shall be  
11 responsible for the return of or for arranging the return of all ballots and election supplies to the election  
12 administrator. A chief election judge may not preside over more than one precinct."  
13

14           **Section 4.** Section 13-4-203, MCA, is amended to read:

15           "**13-4-203. Instruction of judges -- training materials.** (1) Before each election, all election judges  
16 must be instructed by the election administrator on current procedures as prescribed by the secretary of state.  
17 In precincts where voting systems are used, instructions must cover both how to operate the voting system and  
18 how to manually process any paper ballots.

19           (2) An election administrator may require a chief election judge to attend the training session  
20 before each election, as well as a special session that the election administrator may hold for chief election  
21 judges only, even if the chief election judge possesses a current certificate of completion pursuant to 13-1-  
22 203(5)(b).

23           (3) Any individual willing to be appointed as an election judge ~~may~~ shall attend an instruction  
24 session by registering with the election administrator. However, the individual may not be paid for attendance  
25 unless the individual is appointed as an election judge.

26           (4) Each election judge completing a training session under this section must be given a certificate  
27 of completion. An individual may not serve as an election judge without a current certificate. However, this