

Briefing on Laws Related to Election Dates
Prepared for the State Administration and Veterans' Affairs Interim Committee
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The State Administration and Veterans' Affairs Interim Committee (SAVA) voted on June 24, 2011, to study issues surrounding the combination of municipal, school board, and primary elections. During the 2011 Legislative Session, Representative Mike Miller introduced House Bill No. 242 (HB 242) to combine these elections. After being amended twice in the House State Administration Committee, the bill died on a 3-15 vote. The sponsor attempted to take HB 242 from committee and place it on second reading, also known as the "blast" motion, but that motion failed on a 35-61 vote.

This briefing summarizes the election laws that address when the various elections are to be held, the issues raised at the HB 242 hearing, and other states' actions pertaining to consolidating elections.

Title 13, chapter 1, of the Montana Code Annotated sets the days for general and primary elections. Title 20, chapter 20, contains the election days for school elections. There are four designated election days: the first Tuesday after the first Monday in May, the first Tuesday after the first Monday in June, the Tuesday following the second Monday in September, and the first Tuesday after the first Monday in November.

May elections are reserved for general elections for political subdivisions, other than municipalities, that are required to hold annual elections, for school board trustee and school funding elections, and for general elections for municipalities required to hold annual elections. A municipality required to hold annual elections may choose to hold its general election in May or November. "Political subdivision" is defined in 13-1-101 as "a county, consolidated municipal-county government, municipality, special district, or any other unit of government, except school districts, having authority to hold an election for officers or on a ballot issue."

The June election day is for primary elections for U.S. Congress, state or multicounty officers, members of the Legislature, and district court judges.

The election on the Tuesday following the second Monday in September is for primary elections, if required, for municipal officers, for officers of a political subdivision that is within one county and that is not required to hold annual elections, and for a municipality that is required to hold annual elections if the municipality opts to hold the general election in November.

The November election day is reserved for three different general elections:

- in even-numbered years, the election is for ballot issues, U.S. Congress, state or multicounty officers, members of the Legislature, and district court judges;
- in odd-numbered years, the election is for municipal officers and officers of a political

subdivision that is within one county and that is not required to hold annual elections;
and

- annual elections required to be held by a municipality. A municipality required to hold annual elections can choose to hold elections on the first Tuesday following the first Monday in November or on the first Tuesday after the first Monday in May.

In addition, 13-1-104(1)(b) allows for a special election specified in a law authorizing the special election on an initiative or referendum and 20-20-105 allows school trustees to hold special elections for school funding measures.

The following table summarizes the designated election days for the various elections.

Election Type	Offices or issues voted on	Day	Statute
General	Statewide ballot issues, U.S. Congress, state or multicounty officers, members of the Legislature, district court judges	First Tuesday after the first Monday of November, even-numbered years	13-1-104(1)
General	Municipal officers, officers of a political subdivision that is within one county and that is not required to hold annual elections	First Tuesday after the first Monday in November , odd-numbered years	13-1-104(2)
General	A political subdivision, other than a municipality, required to hold annual elections	First Tuesday after the first Monday of May	13-1-104(3)
General	Municipality required to hold annual elections	First Tuesday after the first Monday in May or first Tuesday after the first Monday in November (at discretion of governing body)	13-1-104(4)
Primary	Offices elected in the general election provided for in 13-1-104(1)	First Tuesday after the first Monday in June preceding the general election	13-1-107(1)

Primary (if required)	Offices elected in the general election provided for in 13-1-104(2)	Tuesday following the second Monday in September preceding the general election	13-1-107(2)
Primary (if required)	Offices elected in the general election provided for in 13-1-104(4) if the general election is held in November ¹	Tuesday following the second Monday in September	13-1-107(3)
School	School board trustees, school funding	Tuesday after the first Monday of May of each year	20-20-105(1)
Special school	School funding in years when the Legislature meets in regular session or special session that affects school funding	Trustees may order the election date on a day other than the regular school election day	20-20-105(4)

Issues Surrounding HB 242

Those providing testimony on HB 242 to combine elections discussed a number of reasons for supporting or opposing the bill. Common ideas expressed by proponents in support of the bill included:

- raising awareness for school board elections and increasing voter participation by holding school elections on the same day as the higher profile statewide primary;
- reducing the cost of administering elections by reducing the number of election days;
- addressing the shortage of election judges; and
- assuring that school board elections are administered by full-time election staff.

With two exceptions, the proponents were individuals representing themselves. The two groups represented in proponent testimony were Lewis & Clark Conservatives and the Montana Eagle Forum.

The following opponents of HB 242 cited concerns with administering combined school board, municipal, and primary elections:

- The Montana League of Cities and Towns objected to the extension of the municipal election season that would result from moving the municipal primary from September to June and suggested there would be difficulty accommodating the various city, county, school district, and legislative boundaries. The organization's representative, Alec Hansen, recommended removing municipal elections from the bill.
- The Montana Clerks and Recorders supported the general concept of the bill but saw

¹The municipality pays for the primary election in even-numbered years.

potential problems in the technical administration of combining elections, including effects on overseas and military voters, confusion over the precinct boundaries, and reconciling various deadlines.

- The City of Missoula shared the concern of the Montana League of Cities and Towns that combining the elections would unnecessarily lengthen the municipal election cycle.
- The Montana School Board Association thought it would be challenging to combine the administration of school elections and other elections, which is codified in different sections of law.
- The Montana Education Association and Montana Federation of Teachers did not believe that combining school board and primary elections would raise awareness of the school board elections because the school board candidates would get lost among the other candidates on the primary ballot. Other potential problems mentioned included the need to change sections of law that were not addressed in the title of the bill and a shorter legislative primary season.
- A representative of school business officials who run elections suggested that changing filing dates is an involved process that requires input from many stakeholders.

The House State Administration Committee amended HB 242 when first undertaking executive action on February 4, 2011. The amendment passed unanimously and allowed a municipality to choose whether to hold the primary election in May or in September. The committee considered a second amendment during the initial executive action but decided to table the bill and allow committee members to gather more information. The committee removed HB 242 from the table on February 17, 2011, and again considered the second amendment, which addressed technical concerns. The motion to amend carried by a 12-6 vote. The Committee then considered HB 242 as twice amended, and the bill failed on a 3-15 vote.

Other States

Below is a summary of legislation enacted in states since 2001 that addresses consolidating elections or moving school board elections. Examination of the actions of other states indicates a trend toward allowing municipalities to move elections to other established election days, such as the statewide primary and/or general election, and toward limiting special elections to specified dates or holding special elections in combination with regular election dates. Idaho and Michigan also passed legislation limiting regular elections to four dates, and Texas reduced the number of exceptions to its four regular election dates. This is similar to the current Montana system of four election dates (with the exception of certain school funding elections).

Idaho

- HB 372 (2009): Limits election dates to the second Tuesday in March, the third Tuesday in May, the last Tuesday in August, and the first Tuesday in November. The March and August dates are for school supplemental and bond levy elections. The following elections are held in May and November:
 - even-numbered year elections are for all partisan races and for bond or levy questions, statewide ballot questions, and judicial races;

- nonpartisan races and special district, local levy, local bond, and local ballot question elections are in odd-numbered years.

Indiana

- HB 1074 (2011): Moves school board elections from the primary election day to the general election day.

Michigan

- HB 4005 (2011): Requires school board elections to be held at the general election in November of even-numbered years. Prior to enactment of this law, school boards were to hold elections with the odd-numbered year general election in November. The school district could also pass a resolution to hold the school board election on the May or November election dates in either even or odd years. This legislation removes the school district choice and requires all school board elections to be held the same day.
- HB 4820, HB 4821, HB 4822, HB 4823, HB 4824, HB 4825, HB 4826, HB 4827, HB 4828, SB 877 (2003): Establishes four regular election dates in February, May, August, and November of each year on which all regular and special elections are to be held. There are two exceptions: a special election called by the Governor to fill a vacancy and a special election called by the Legislature to submit a proposed constitutional amendment. The bill also transfers the operation of school district elections to the city, township, or county clerk

Nebraska

- LB 521 (2003): Prohibits special elections in April, May, June, October, November, or December of an even-numbered year unless held in conjunction with a statewide primary or general election.

Nevada

- AB 233 (2003): Allows the governing body of a city to adopt an ordinance requiring primary and general city elections to be held on the same dates as the statewide primary and general elections.

New Jersey

- A 351 (2009): Allows regular municipal elections to be held on the same day as the general election.

Oklahoma

- HB 1615 (2011): Reduces the number of days on which special elections may be held from 10 days to nine days in odd-numbered years and from nine days to seven days in even-numbered years.

Tennessee

- HB 3404/SB 3526 (2010): Authorizes a municipality to change the date of municipal elections to coincide with the August or November elections.

Texas:

- SB 79 (2001): Texas law provides four uniform election dates but allows 10 exceptions for political subdivisions to hold elections on other days. This law eliminates several exceptions from the uniform election dates.
- HB 57 (2005): Reduces the authorized dates on which general and special elections can be held from four dates to two dates. Removes the exception from uniform election dates for school and college districts holding elections to levy taxes or to issue bonds.
- HB 1945 (2009): Requires the general election in certain coastal cities for city officers and trustees in those cities to conform to uniform election dates for general elections and adjusts terms of the officers as necessary.

Utah

- SB 115 (2004): Requires local and statewide special elections to be held either on the first Tuesday after the first Monday in November or the fourth Tuesday in June.

Virginia

- HB 378 (2002): Allows cities and towns to shift to November elections.
- HB 1771 (2009): Requires special elections for vacant local constitutional offices (clerk of the circuit court, attorney for the Commonwealth, sheriff, commissioner of the revenue, and treasurer) in localities with a population of 15,000 or less to be held at the November general election rather than on a special election date.

Washington

- HB 1018 (2009): Removes the March special election day and restricts the May special election to previously failed tax levies and new bond issues. After 2011, the May special election day is also eliminated. The effect is reducing special election days from six days to four days after 2011. The legislation also removes a requirement that, if a presidential preference primary is conducted in February, March, April, or May, a special election in that month must be on the date of the presidential primary.