

HOUSE BILL NO. 469

INTRODUCED BY B. BENNETT

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A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING COUNTIES TO CREATE AN ELECTED OFFICE OF COUNTY ELECTION ADMINISTRATOR; SPECIFYING HOW THE OFFICE MAY BE ESTABLISHED AND THE DUTIES TO BE PERFORMED; AMENDING SECTIONS 7-4-2203, 7-4-2611, AND 13-1-101, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

NEW SECTION. **Section 1. Office of county election administrator -- duties.** (1) A county may establish an office of county election administrator as a partisan or nonpartisan elected office, according to the county's adopted form of government, by passing a resolution by majority vote of the county's governing body.

(2) The elected county election administrator shall perform all duties assigned by law to the county clerk that are related to elector petitions and election administration and all duties assigned by law to a county election administrator.

**Section 2.** Section 7-4-2203, MCA, is amended to read:

**"7-4-2203. County officers.** (1) There may be elected or appointed the following county officers, who shall possess the qualifications for suffrage prescribed by the Montana constitution and other qualifications as may be prescribed by law:

- (a) one county attorney;
- (b) one clerk of the district court;
- (c) one county clerk;
- (d) one sheriff;
- (e) one treasurer;
- (f) one auditor if authorized by 7-6-2401;
- (g) one county superintendent of schools;
- (h) one county surveyor;
- (i) one assessor;

1 (j) one coroner;  
 2 (k) one public administrator; ~~and~~  
 3 (l) at least one justice of the peace; and  
 4 (m) in addition to elected county officers provided for in Title 7, chapter 3, one county election  
 5 administrator, except the office must be elective and established pursuant to [section 1].

6 (2) The commissioners may appoint at their discretion constables. More than one constable may be  
 7 appointed for each justice's court.

8 (3) All elective township officers may be elected at each general election as now provided by law."  
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10 **Section 3.** Section 7-4-2611, MCA, is amended to read:

11 **"7-4-2611. Role and duties of county clerk and election administrator.** (1) The county clerk of a  
 12 county is also clerk of the county commissioners and ex officio recorder. A duty imposed by law upon the officer,  
 13 whether as county clerk, clerk of the county commissioners, or recorder, must be performed by the county clerk,  
 14 and any official act performed or certified by the county clerk is as valid and effectual as if performed and certified  
 15 by the clerk of the county commissioners or the recorder.

16 (2) The county clerk shall:

17 (a) take charge of and safely keep or dispose of according to law all books, papers, maps, and records  
 18 that may be filed or deposited in the county clerk's office;

19 (b) record all the proceedings of the board;

20 (c) make full entries of all its resolutions and decisions on all questions concerning the raising of money  
 21 for and the allowance of accounts against the county;

22 (d) record the vote of each member on a question upon which there is a division or at the request of any  
 23 member present;

24 (e) sign all orders made and warrants issued by order of the board for the payment of money and certify  
 25 the orders and warrants to the county treasurer;

26 (f) record the reports of the county treasurer of the receipts and disbursements of the county;

27 (g) preserve and file all accounts acted upon by the board;

28 (h) preserve and file all petitions and applications for franchises and record the action of the board on  
 29 the petitions and applications;

30 (i) record all orders levying taxes;

1 (j) designate upon each account allowed by the board the amount allowed and deliver to any person who  
2 may demand it a certified copy of any record or any account on file in the county clerk's office;

3 (k) when a new township is organized or the boundaries of a township are altered, immediately make  
4 out and transmit to the secretary of state a certified statement of the names and boundaries of the township  
5 organized or altered; and

6 (l) keep other records and books and perform other duties that are prescribed by law or by rule or order  
7 of the board.

8 (3) An election administrator shall file, code, and cross-index all reports and statements filed as  
9 prescribed by the commissioner of political practices. If the county has established an elected county election  
10 administrator pursuant to [section 1], this duty shall be performed by that officer.

11 (4) An election administrator shall make statements and other information filed under the provisions of  
12 Title 13, chapters 35, 36, and 37, available for public inspection and copying during the office hours determined  
13 by the governing body by resolution after a public hearing and make copying facilities available free of charge  
14 or at a charge not to exceed actual cost. If the county has established an elected county election administrator  
15 pursuant to [section 1], this duty shall be performed by that officer."

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17 **Section 4.** Section 13-1-101, MCA, is amended to read:

18 **"13-1-101. Definitions.** As used in this title, unless the context clearly indicates otherwise, the following  
19 definitions apply:

20 (1) "Active elector" means an elector whose name has not been placed on the inactive list due to failure  
21 to respond to confirmation notices pursuant to 13-2-220 or 13-19-313.

22 (2) "Active list" means a list of active electors maintained pursuant to 13-2-220.

23 (3) "Anything of value" means any goods that have a certain utility to the recipient that is real and that  
24 is ordinarily not given away free but is purchased.

25 (4) "Application for voter registration" means a voter registration form prescribed by the secretary of state  
26 that is completed and signed by an elector, submitted to the election administrator, and contains voter registration  
27 information subject to verification as provided by law.

28 (5) "Ballot" means a paper ballot counted manually or a paper ballot counted by a machine, such as an  
29 optical scan system or other technology that automatically tabulates votes cast by processing the paper ballots.

30 (6) "Candidate" means:

1 (a) an individual who has filed a declaration or petition for nomination, acceptance of nomination, or  
2 appointment as a candidate for public office as required by law;

3 (b) for the purposes of chapter 35, 36, or 37, an individual who has solicited or received and retained  
4 contributions, made expenditures, or given consent to an individual, organization, political party, or committee  
5 to solicit or receive and retain contributions or make expenditures on the individual's behalf to secure nomination  
6 or election to any office at any time, whether or not the office for which the individual will seek nomination or  
7 election is known when the:

8 (i) solicitation is made;

9 (ii) contribution is received and retained; or

10 (iii) expenditure is made; or

11 (c) an officeholder who is the subject of a recall election.

12 (7) (a) "Contribution" means:

13 (i) an advance, gift, loan, conveyance, deposit, payment, or distribution of money or anything of value  
14 to influence an election;

15 (ii) a transfer of funds between political committees; or

16 (iii) the payment by a person other than a candidate or political committee of compensation for the  
17 personal services of another person that are rendered to a candidate or political committee.

18 (b) "Contribution" does not mean:

19 (i) services provided without compensation by individuals volunteering a portion or all of their time on  
20 behalf of a candidate or political committee or meals and lodging provided by individuals in their private  
21 residences for a candidate or other individual;

22 (ii) the cost of any bona fide news story, commentary, or editorial distributed through the facilities of any  
23 broadcasting station, newspaper, magazine, or other periodical publication of general circulation;

24 (iii) the cost of any communication by any membership organization or corporation to its members or  
25 stockholders or employees; or

26 (iv) filing fees paid by the candidate.

27 (8) "Election" means a general, regular, special, or primary election held pursuant to the requirements  
28 of state law, regardless of the time or purpose.

29 (9) "Election administrator" means the county clerk and recorder ~~or~~ the individual designated by a county  
30 governing body to be responsible for all election administration duties, or the individual elected to the office of

1 county election administrator established pursuant to [section 1], except that with regard to school elections not  
2 administered by the county, the term means the school district clerk.

3 (10) "Elector" means an individual qualified to vote under state law.

4 (11) (a) "Expenditure" means a purchase, payment, distribution, loan, advance, promise, pledge, or gift  
5 of money or anything of value made for the purpose of influencing the results of an election.

6 (b) "Expenditure" does not mean:

7 (i) ~~services, food, or lodging, or services~~ provided in a manner that they are not contributions under  
8 subsection (7);

9 (ii) payments by a candidate for a filing fee or for personal travel expenses, food, clothing, lodging, or  
10 personal necessities for the candidate and the candidate's family;

11 (iii) the cost of any bona fide news story, commentary, or editorial distributed through the facilities of any  
12 broadcasting station, newspaper, magazine, or other periodical publication of general circulation; or

13 (iv) the cost of any communication by any membership organization or corporation to its members or  
14 stockholders or employees.

15 (12) "Federal election" means a general or primary election in which an elector may vote for individuals  
16 for the office of president of the United States or for the United States congress.

17 (13) "General election" or "regular election" means an election held for the election of public officers  
18 throughout the state at times specified by law, including elections for officers of political subdivisions when the  
19 time of the election is set on the same date for all similar political subdivisions in the state. For ballot issues  
20 required by Article III, section 6, or Article XIV, section 8, of the Montana constitution to be submitted by the  
21 legislature to the electors at a general election, "general election" means an election held at the time provided  
22 in 13-1-104(1). For ballot issues required by Article XIV, section 9, of the Montana constitution to be submitted  
23 as a constitutional initiative at a regular election, ~~regular election~~ "regular election" means an election held at the  
24 time provided in 13-1-104(1).

25 (14) "Inactive elector" means an individual who failed to respond to confirmation notices and whose name  
26 was placed on the inactive list pursuant to 13-2-220 or 13-19-313.

27 (15) "Inactive list" means a list of inactive electors maintained pursuant to 13-2-220 or 13-19-313.

28 (16) "Individual" means a human being.

29 (17) (a) "Issue" or "ballot issue" means a proposal submitted to the people at an election for their approval  
30 or rejection, including but not limited to initiatives, referenda, proposed constitutional amendments, recall

1 questions, school levy questions, bond issue questions, or a ballot question.

2 (b) For the purposes of chapters 35 and 37, an issue becomes a "ballot issue" upon certification by the  
3 proper official that the legal procedure necessary for its qualification and placement upon the ballot has been  
4 completed, except that a statewide issue becomes a "ballot issue" upon preparation and transmission by the  
5 secretary of state of the form of the petition or referral to the person who submitted the proposed issue.

6 (18) "Legally registered elector" means an individual whose application for voter registration was  
7 accepted, processed, and verified as provided by law.

8 (19) "Mail ballot election" means any election that is conducted under Title 13, chapter 19, by mailing  
9 ballots to all active electors.

10 (20) "Person" means an individual, corporation, association, firm, partnership, cooperative, committee,  
11 club, union, or other organization or group of individuals or a candidate as defined in subsection (6).

12 (21) "Place of deposit" means a location designated by the election administrator pursuant to 13-19-307  
13 for a mail ballot election conducted under Title 13, chapter 19.

14 (22) "Political committee" means a combination of two or more individuals or a person other than an  
15 individual who makes a contribution or expenditure:

16 (a) to support or oppose a candidate or a committee organized to support or oppose a candidate or a  
17 petition for nomination; or

18 (b) to support or oppose a ballot issue or a committee organized to support or oppose a ballot issue; or

19 (c) as an earmarked contribution.

20 (23) "Political subdivision" means a county, consolidated municipal-county government, municipality,  
21 special district, or any other unit of government, except school districts, having authority to hold an election for  
22 officers or on a ballot issue.

23 (24) "Polling place election" means an election primarily conducted at polling places rather than by mail  
24 under the provisions of Title 13, chapter 19.

25 (25) "Primary" or "primary election" means an election held throughout the state to nominate candidates  
26 for public office at times specified by law, including nominations of candidates for offices of political subdivisions  
27 when the time for nominations is set on the same date for all similar subdivisions in the state.

28 (26) "Provisional ballot" means a ballot cast by an elector whose identity or eligibility to vote has not been  
29 verified as provided by law.

30 (27) "Provisionally registered elector" means an individual whose application for voter registration was

1 accepted but whose identity or eligibility has not yet been verified as provided by law.

2 (28) "Public office" means a state, county, municipal, school, or other district office that is filled by the  
3 people at an election.

4 (29) "Random-sample audit" means an audit involving a manual count of ballots from designated races  
5 and ballot issues in precincts selected through a random process as provided in 13-17-503.

6 (30) "Registrar" means the county election administrator and any regularly appointed deputy or assistant  
7 election administrator.

8 (31) "School election" has the meaning provided in 20-20-101.

9 (32) "School election filing officer" means the filing officer with whom the declarations for nomination for  
10 school district office were filed or with whom the school ballot issue was filed.

11 (33) "School recount board" means the board authorized pursuant to 20-20-420 to perform recount duties  
12 in school elections.

13 (34) "Signature envelope" means an envelope that contains a secrecy envelope and ballot and that is  
14 designed to:

15 (a) allow election officials, upon examination of the outside of the envelope, to determine that the ballot  
16 is being submitted by someone who is in fact a qualified elector and who has not already voted; and

17 (b) allow it to be used in the United States mail.

18 (35) "Special election" means an election other than a statutorily scheduled primary or general election  
19 held at any time for any purpose provided by law. It may be held in conjunction with a statutorily scheduled  
20 election.

21 (36) "Statewide voter registration list" means the voter registration list established and maintained  
22 pursuant to 13-2-107 and 13-2-108.

23 (37) "Transfer form" means a form prescribed by the secretary of state that may be filled out by an elector  
24 to transfer the elector's registration when the elector's residence address has changed within the county.

25 (38) "Valid vote" means a vote that has been counted as valid or determined to be valid as provided in  
26 13-15-206.

27 (39) "Voted ballot" means a ballot that is:

28 (a) deposited in the ballot box at a polling place;

29 (b) received at the election administrator's office; or

30 (c) returned to a place of deposit.

1 (40) "Voting system" or "system" means any machine, device, technology, or equipment used to  
2 automatically record, tabulate, or process the vote of an elector cast on a paper ballot."  
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4 NEW SECTION. Section 5. Codification instruction. [Section 1] is intended to be codified as an  
5 integral part of Title 7, chapter 4, part 26, and the provisions of Title 7, chapter 4, part 26, apply to [section 1].  
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7 NEW SECTION. Section 6. Effective date. [This act] is effective on passage and approval.  
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