

1 HOUSE BILL NO. 35

2 INTRODUCED BY L. BREWSTER

3 BY REQUEST OF THE LOCAL GOVERNMENT INTERIM COMMITTEE

4

5 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING COUNTY WATER AND/OR SEWER DISTRICT
6 ADMINISTRATION LAWS; REMOVING CERTAIN APPOINTED COUNTY WATER AND/OR SEWER
7 DISTRICT BOARD POSITIONS; ALLOWING FOR NONVOTING EX OFFICIO MEMBERS ON A COUNTY
8 WATER AND/OR SEWER DISTRICT BOARD IN CERTAIN CIRCUMSTANCES; REQUIRING A MUNICIPAL
9 APPOINTMENT IN DISTRICTS THAT PURCHASE WATER FROM A MUNICIPALITY; CLARIFYING THE
10 DATE A DIRECTOR'S TERM OF OFFICE BEGINS; REMOVING BOND REQUIREMENTS OF CERTAIN
11 COUNTY WATER AND/OR SEWER DISTRICT ADMINISTRATIVE PERSONNEL; AMENDING SECTIONS 7-
12 13-2231, 7-13-2232, 7-13-2233, 7-13-2234, 7-13-2259, AND 7-13-2262, MCA; ~~AND~~ REPEALING SECTION 7-
13 13-2279, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

14

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

16

17 **Section 1.** Section 7-13-2231, MCA, is amended to read:

18 **"7-13-2231. Election or appointment of board of directors.** (1) The district shall elect a board of
19 directors, except as provided in subsection (2).

20 (2) If no qualified electors reside in the district at a time when directors of the district are to be
21 elected, the directors must be appointed in a certificate of appointment. The certificate of appointment must be
22 signed by the owners of all of the real property in the district and must contain the signed acceptance of the
23 appointment by all of the directors.

24 (3) The board of directors is the governing body of the district.

25 ~~(4) When an appointed director's term expires, the position must be filled by election, except as~~
26 ~~provided in subsection (2)."~~

27

28 **Section 2.** Section 7-13-2232, MCA, is amended to read:

1 **"7-13-2232. Composition of board of directors.** (1) ~~If there are no municipalities within the~~
 2 ~~boundaries of said district, the~~ The EXCEPT AS PROVIDED IN SUBSECTION (4), THE board of directors ~~shall~~ must
 3 consist of five elected members or three elected members if there are 10 or ~~less~~ fewer qualified electors in the
 4 district.

5 (2) ~~In all cases where the boundaries of such district include any municipality or municipalities,~~
 6 ~~said board, in addition to said five or three directors to be elected as aforesaid, shall consist of one additional~~
 7 ~~director for each of said municipalities within such district, each such additional director to be appointed by the~~
 8 ~~mayor of the municipality for which said additional director is allowed, and, if there be any unincorporated~~
 9 ~~territory within said district, one additional director to be appointed by the board of county commissioners of~~
 10 ~~each county containing such territory. If the boundaries of the district include a municipality, the board may~~
 11 ~~include one additional nonvoting ex officio member as provided in [section 3] for each municipality located~~
 12 ~~within the district. Each nonvoting ex officio member must be appointed by the mayor of the municipality for~~
 13 ~~which the nonvoting ex officio member is allowed.~~

14 (3) If the boundaries of the district include unincorporated territory, the board may include one
 15 additional nonvoting ex officio member as provided in [section 3] appointed by the board of county
 16 commissioners of each county containing the unincorporated territory.

17 (4) (A) IF A MUNICIPAL WATER SYSTEM FUNCTIONS AS THE SOLE SOURCE OF WATER FOR A DISTRICT AND IF
 18 MORE THAN 60% OF A DISTRICT'S CUSTOMERS RESIDE WITHIN THE LIMITS OF THE MUNICIPALITY, THE BOARD OF
 19 DIRECTORS MUST INCLUDE ONE ADDITIONAL MEMBER APPOINTED BY THE MUNICIPALITY.

20 (B) THE MEMBER APPOINTED PURSUANT TO THIS SUBSECTION (4):

21 (I) MUST HAVE KNOWLEDGE OF THE MUNICIPAL WATER SYSTEM;

22 (II) MUST BE APPOINTED IN THE MANNER PROVIDED IN 7-13-2259, EXCEPT THAT THE APPOINTMENT MUST
 23 ALSO BE APPROVED BY THE CITY COUNCIL;

24 (III) SERVES AT THE PLEASURE OF THE APPOINTING AUTHORITY; AND

25 (IV) SERVES THE TERM OF OFFICE PROVIDED IN 7-13-2234."

26
 27 NEW SECTION. Section 3. Nonvoting ex officio members -- requirements -- compensation. (1)

28 A district whose boundaries include a municipality or unincorporated territory may include on its board of

1 directors a nonvoting ex officio member or members as allowed in 7-13-2232.

2 (2) A nonvoting ex officio member:

3 (a) must be appointed by the mayor of the municipality or by the board of county commissioners of
4 the county the member represents;

5 (b) serves at the pleasure of the appointing authority for the term of office allowed in 7-13-2234;

6 (c) is not entitled to compensation under 7-13-2273 but may receive compensation from the
7 municipality or county the member represents;

8 (d) may not hold office as a presiding officer of the district; and

9 (e) is required to meet the qualifications of a director provided in 7-13-2233 except that the
10 nonvoting ex officio member may reside outside the boundaries of the district and is not required to own
11 property in the district.

12

13 **Section 4.** Section 7-13-2233, MCA, is amended to read:

14 **"7-13-2233. Qualifications of directors.** (1) To be eligible for election or appointment to a board of
15 directors, a person must be:

16 (a) registered to vote as required by law;

17 (b) 18 years of age or older;

18 (c) a citizen of the United States; and

19 (d) a resident of the district or an owner of real property in the district who is a resident of the state
20 of Montana.

21 ~~(2) A person who is serving on a board of directors on July 1, 2017, who does not meet the~~
22 ~~qualifications under subsection (1) may serve the remainder of the person's term but may not be reelected or~~
23 ~~reappointed to the board. A person elected or appointed after July 1, 2017, must meet the qualifications under~~
24 ~~subsection (1).~~

25 (3)(2) A person appointed to a board of directors as a nonvoting ex officio member as provided in
26 [section 3] must meet the requirements of this section except that the person may reside outside the
27 boundaries of the district and is not required to own property in the district.

28 (3) A PERSON APPOINTED BY A MUNICIPALITY TO A BOARD OF DIRECTORS PURSUANT TO 7-13-2232(4)

1 MUST HAVE KNOWLEDGE OF THE MUNICIPAL WATER SYSTEM."

2

3 **Section 5.** Section 7-13-2234, MCA, is amended to read:

4 **"7-13-2234. Term of office.** (1) The term of office of a director begins on the first Monday of the
 5 month following the date of the director's election or appointment. A director, elected or appointed, shall hold
 6 office until the ~~election and qualification or the appointment and qualification of the term of office of the~~
 7 director's successor begins.

8 (2) Except as provided in subsection (3), the term of office of a director must be 4 years.

9 (3) (a) In districts requiring the election of five directors, three of the initial directors shall serve for
 10 a term of 2 years and two of the initial directors shall serve for a term of 4 years.

11 (b) In districts requiring the election of three directors, one initial director shall serve for a term of 2
 12 years and two initial directors shall serve for a term of 4 years.

13 (c) At the first meeting following an initial election or appointment of directors, the directors shall
 14 determine by lot who shall serve a 2-year term.

15 (4) Directors to be first appointed under the provisions of part 23 and this part ~~and part 23~~ must be
 16 appointed within 90 days after the formation of the district."

17

18 **Section 6.** Section 7-13-2259, MCA, is amended to read:

19 **"7-13-2259. Manner of making appointments.** The mode of appointment of a director, or directors
 20 including the appointment of a nonvoting ex officio board member, by a mayor or by a board of county
 21 commissioners ~~shall~~ must be by certificate of appointment signed by ~~said the~~ mayor or issued by ~~said the~~ board
 22 of county commissioners and transmitted to the board of directors of ~~said the~~ district."

23

24 **Section 7.** Section 7-13-2262, MCA, is amended to read:

25 **"7-13-2262. Vacancies on board of directors -- appointment.** (1) (a) Except as provided in
 26 subsections (2) ~~and (3)~~ through (4), any vacancy in the board of directors, whether the vacant office is elective
 27 or appointive, must be filled by majority vote of the remaining directors.

28 (b) A vacancy must be determined in accordance with 7-13-2263.

1 (2) If there are no directors remaining on the board and no nominees for any director position to be
 2 elected, the county commissioners may appoint the number of directors specified in 7-13-2232(1). If the district
 3 lies in more than one county, the county commissioners of each county with territory included in the district shall
 4 jointly appoint the directors. The county commissioners shall stagger the terms of the directors appointed.

5 ~~(3) If the boundaries of the district include any municipality or municipalities and a new board must be~~
 6 ~~appointed as provided in subsection (2), the board shall include one additional director to be appointed by the~~
 7 ~~mayor of the municipality for which the additional director is allowed.~~

8 (4)(3) Following the appointment of a board in accordance with subsection (2), the directors must be
 9 elected as provided in this part.

10 (4) A vacancy of a nonvoting ex officio board member OR A BOARD MEMBER APPOINTED BY A
 11 MUNICIPALITY PURSUANT TO 7-13-2232(4) must be filled by appointment by the respective appointing authority."

12

13 NEW SECTION. Section 8. Repealer. The following section of the Montana Code Annotated is
 14 repealed:

15 7-13-2279. Performance bonds for administrative personnel.

16

17 NEW SECTION. Section 9. Codification instruction. [Section 3] is intended to be codified as an
 18 integral part of Title 7, chapter 13, part 22, and the provisions of Title 7, chapter 13, part 22, apply to [section 3].

19

20 NEW SECTION. SECTION 10. EFFECTIVE DATE. [THIS ACT] IS EFFECTIVE ON PASSAGE AND APPROVAL.

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