

HOUSE BILL NO. 428

INTRODUCED BY D. KARY

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4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING ELECTION LAWS TO ALLOW LOCAL OFFICIALS TO
5 CONDUCT MAIL BALLOT ELECTIONS FOR ALL ELECTIONS; REQUIRING A PUBLIC HEARING TO BE HELD
6 BEFORE A LOCAL GOVERNMENT DECIDES TO HOLD A STATE OR FEDERAL ELECTION BY MAIL;
7 REVISING LAWS RELATED TO THE WRITTEN PLAN THAT MUST BE FILED FOR A MAIL ELECTION TO BE
8 HELD; REVISING TIMELINES FOR MAILING BALLOTS; AND AMENDING SECTIONS 13-19-101, 13-19-104,
9 13-19-202, 13-19-205, AND 13-19-207, MCA."

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

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13 **Section 1.** Section 13-19-101, MCA, is amended to read:
14 **"13-19-101. Statement of purpose.** The purpose of this chapter is to provide the option of and
15 procedures for conducting ~~certain specified~~ elections as mail ballot elections. The provisions of this chapter
16 recognize that sound public policy concerning the conduct of elections often requires the balancing of various
17 elements of the public interest that are sometimes in conflict. Among these factors are the public's interest in fair
18 and accurate elections, the election of those who will govern or represent, and cost-effective administration of
19 all functions of government, including the conduct of elections. The provisions of this chapter further recognize
20 that when these and other factors are balanced, the conduct of elections by mail ballot is potentially the most
21 desirable of the available options in certain circumstances."

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23 **Section 2.** Section 13-19-104, MCA, is amended to read:
24 **"13-19-104. Mail ballot elections not mandatory -- when authorized -- ~~when prohibited~~ -- when**
25 **county election administrator conducts.** (1) Conducting elections by mail ballot is only one option available
26 to local officials, and this chapter does not mandate that the procedure be used.

27 (2) ~~Except as provided in subsection (3), any~~ Any election may be conducted by mail ballot.

28 ~~(3) The following elections may not be conducted by mail ballot:~~

29 ~~— (a) a regularly scheduled federal, state, or county election;~~

30 ~~— (b) a special federal or state election, unless authorized by the legislature; or~~

1 ~~_____ (c) a regularly scheduled or special election when another election in the political subdivision is taking~~
 2 ~~place at the polls on the same day.~~

3 ~~(4)(3)~~ (a) Except as provided in subsection ~~(4)(b)~~ (3)(b), if more than one mail ballot election is being
 4 conducted in the political subdivision on the same day, the county election administrator shall conduct the
 5 elections.

6 (b) The requirement that a county election administrator shall conduct more than one mail ballot election
 7 on the same day does not apply to a mail ballot school bond election conducted by the trustees of any two or
 8 more school districts that have unified pursuant to 20-6-312 or that have created a joint board of trustees pursuant
 9 to 20-3-361."

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11 **Section 3.** Section 13-19-202, MCA, is amended to read:

12 **"13-19-202. Initiation by governing body.** (1) A political subdivision may, by resolution of the governing
 13 body addressed to the election administrator, request that a particular election be conducted under the provisions
 14 of this chapter.

15 (2) Prior to requesting that a mail ballot be used for a state or federal election pursuant to subsection (1),
 16 the governing body shall hold a public hearing on the resolution at least 90 days and no later than 135 days
 17 before election day.

18 ~~(2)(3)~~ No later than 70 days before election day, the governing body shall transmit its request to the
 19 election administrator, who shall determine whether it is economically and administratively feasible to conduct
 20 the requested election by mail ballot.

21 ~~(3)(4)~~ Except as provided in 13-19-204, the decision to conduct an election under the provisions of this
 22 chapter is within the sole discretion of the election administrator.

23 ~~(4)(5)~~ Within 5 days after receiving a request, the election administrator shall respond in writing, stating
 24 that the request is either granted or denied for reasons specified. If granted, the election administrator shall
 25 prepare a plan as provided in 13-19-205."

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27 **Section 4.** Section 13-19-205, MCA, is amended to read:

28 **"13-19-205. Written plan for conduct of election -- amendments -- approval procedures.** (1) (a) The
 29 election administrator shall prepare and submit to the secretary of state a preliminary written plan in January of
 30 each year for the conduct of the election any elections to be held pursuant to this chapter in the year beginning

1 April 1 and ending March 31 except those elections conducted by a school district clerk under Title 20, chapter
 2 20; and

3 (b) shall submit # the written plan to the secretary of state and the affected governing body in a manner
 4 that ensures that it is received at least 60 days prior to the date set for the election no later than March 31.

5 (2) The written plan must include:

6 (a) include a timetable for the election; ~~and~~

7 (b) include sample written instructions that will be sent to the electors. The instructions must include but
 8 are not limited to:

9 (i) information on the estimated amount of postage required to return the ballot;

10 (ii) (A) the location of the places of deposit, a description of any other voter services to be provided at
 11 those sites, and the days and times when ballots may be returned to the places of deposit, if the information is
 12 available; or

13 (B) if the information on location and hours of places of deposit is not available, a section that will allow
 14 the information to be added before the instructions are mailed to electors; and

15 (iii) any applicable instructions specified under 13-13-214(5).

16 (c) identify any specific effort designed to increase or enhance the ability of a individual to participate in
 17 the election.

18 (3) The plan may be amended by the election administrator any time prior to the 35th day before election
 19 day by notifying the secretary of state in writing of any changes. Only the affected governing body must be notified
 20 of any changes to information required in subsection (2).

21 (4) Within 5 days of receiving the plan and as soon as possible after receiving any amendments, the
 22 secretary of state shall approve, disapprove, or recommend changes to the plan or amendments.

23 (5) When the written plan has been approved, the election administrator shall proceed to conduct the
 24 election according to the approved plan unless the election is canceled for any reason provided by law."
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26 **Section 5.** Section 13-19-207, MCA, is amended to read:

27 **"13-19-207. When materials to be mailed.** (1) Except as provided in subsection (2); and for ballots
 28 mailed pursuant to 13-13-205(2):

29 (a) for any municipal or school district election conducted by mail, ballots must be mailed no sooner than
 30 the 25th day and no later than the 15th day before election day; and

