

HOUSE BILL NO. 429

INTRODUCED BY L. JONES

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE GOVERNOR'S POWER TO SUSPEND ELECTION LAWS DURING A STATE OF DISASTER OR EMERGENCY; PROVIDING FOR A LEGISLATIVE POLLING PROCESS BY THE SECRETARY OF STATE TO VOTE ON WHETHER TO APPROVE THE GOVERNOR'S SUSPENSION OF ELECTION LAWS; AMENDING SECTION 10-3-104, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

NEW SECTION. Section 1. Statement of purpose -- legislative poll -- legislative oversight of election law suspensions. (1) In order to prevent an overly broad delegation of legislative powers to the executive branch and to ensure continuity of government during a period of emergency as provided in Article III, section 2, of the Montana constitution, the legislature retains the authority to limit the governor's ability to unilaterally revise election laws while providing a means to provide for a prompt and timely oversight through an expedited polling process.

(2) When the legislature is not in session, the governor may, in writing, request the secretary of state to poll the members of the legislature to determine if a majority of the members of the house of representatives and a majority of the members of the senate are in favor of a legislative declaration to suspend the provisions of any statute prescribing the procedures for an election or otherwise control the ingress and egress to a polling location as provided in 10-3-104(4).

(3) The request must:

(a) state the conditions warranting the poll; and

(b) contain a legislative declaration to temporarily suspend the election laws.

(4) Within 3 calendar days after receiving a request, the secretary of state shall send a ballot to all legislators by using any reasonable and reliable means, including electronic delivery, that contains:

(a) the legislative declaration subject to the vote; and

(b) the date by which legislators shall return the ballot, which may not be more than 10 calendar days after the date the ballots were sent.

(5) A legislator may cast and return a vote by delivering the ballot in person, by mailing, or by sending the ballot by facsimile transmission or electronic mail to the office of the secretary of state. A legislator may not change the legislator's vote after the ballot is received by the secretary of state. The secretary of state shall tally the votes within 1 working day after the date for return of the votes. If a majority of the members of each house vote to approve the declaration, the declaration that was sent with the ballot has the force and effect of law. A ballot that is not returned by the deadline established by the secretary of state is considered a vote against the declaration.

(6) If the declaration is not approved, the governor may request another legislative poll under the provisions of this section or call a special session of the legislature under the provisions of Article VI, section 11, of the Montana constitution to consider the temporary suspension of the election laws.

Section 2. Section 10-3-104, MCA, is amended to read:

"10-3-104. General authority of governor. (1) The governor is responsible for carrying out parts 1 through 4 of this chapter.

(2) In addition to any other powers conferred upon the governor by law, the governor may:

(a) except as provided in subsection (4), suspend the provisions of any regulatory statute prescribing the procedures for conduct of state business or orders or rules of any state agency if the strict compliance with the provisions of any statute, order, or rule would in any way prevent, hinder, or delay necessary action in coping with the emergency or disaster;

(b) direct and compel the evacuation of all or part of the population from an emergency or disaster area within the state if the governor considers this action necessary for the preservation of life or other disaster mitigation, response, or recovery;

(c) except as provided in subsection (4), control ingress and egress to and from an incident or emergency or disaster area, the movement of persons within the area, and the occupancy of premises within the area.

(3) Under this section, the governor may issue executive orders, proclamations, and regulations and

1 amend and rescind them. All executive orders or proclamations declaring or terminating a state of emergency
2 or disaster must indicate the nature of the emergency or disaster, the area threatened, and the conditions that
3 have brought about the declaration or that make possible termination of the state of emergency or disaster.

4 (4) The governor may not suspend the provisions of any statute prescribing the procedures for an
5 election or otherwise control the ingress and egress to a polling location without the consent of the legislature
6 through the polling process provided in [section 1] or through a regular or special legislative session."

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8 NEW SECTION. Section 3. Codification instruction. [Section 1] is intended to be codified as an
9 integral part of Title 10, chapter 3, part 1, and the provisions of Title 10, chapter 3, part 1, apply to [section 1].

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11 NEW SECTION. Section 4. Effective date. [This act] is effective on passage and approval.

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