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STATE DOCUMENTS

# ELECTION LAWS OF THE STATE OF MONTANA

**1974 SUPPLEMENT  
TO THE 1970 EDITION  
AND THE 1971 SUPPLEMENT THERETO**

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Containing

SELECTED PROVISIONS OF THE 1972 CONSTITUTION OF  
MONTANA AND AMENDMENTS TO ACTS AND NEW  
LAWS ENACTED AT THE FIRST REGULAR SESSION,  
FIRST SPECIAL SESSION, AND SECOND REGULAR  
SESSION OF THE 43RD LEGISLATIVE ASSEMBLY

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Compiled by  
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Helena, Montana

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# AMENDMENTS

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## CONSTITUTION OF THE UNITED STATES

**Note:** House Joint Resolution No. 4 provides as follows:

"WHEREAS, the ninety-second congress of the United States of America at its second session, in both houses, by a constitutional majority of two-thirds ( $\frac{2}{3}$ ) thereof, adopted the following proposition to amend the constitution of the United States of America in the following words:

### 'JOINT RESOLUTION

'Proposing an amendment to the Constitution of the United States relative to equal rights for men and women.

'Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission by the Congress:

### 'Article

'Section 1. Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex.

'Sec. 2. The Congress shall have the power to enforce, by appropriate legislation, the provisions of this article.

'Sec. 3. This amendment shall take effect two years after the date of ratification.'  
"NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

"That the proposed amendment to the Constitution of the United States of America be and the same is hereby ratified, and

"BE IT FURTHER RESOLVED, that certified copies of this resolution be forwarded by the secretary of state to the administrator of the general services administration, Washington, D.C., and the President of the Senate and the Speaker of the House of Representatives of the Congress of the United States.

THE  
CONSTITUTION  
OF THE  
STATE OF MONTANA

ARTICLE II—DECLARATION OF RIGHTS

**Sec. 18. State subject to suit.**

**Proposed Amendment.**

Senate Joint Resolution No. 64 proposes to amend this section to read as follows: "Section 18. State subject to suit. The state, counties, cities, towns, and all other

local governmental entities shall have no immunity from suit for injury to a person or property, except as may be specifically provided by law by a  $\frac{2}{3}$  vote of each house of the legislature."

ARTICLE IX—ENVIRONMENT AND  
NATURAL RESOURCES

**Section 2. Reclamation.**

**Proposed Amendment.**

Chapter 117, Laws of 1974, proposes to amend this section to read as follows:

"Section 2. Reclamation. (1) All lands disturbed by the taking of natural resources shall be reclaimed. The legislature shall provide effective requirements and standards for the reclamation of lands disturbed.

"(2) The legislature shall provide for

a fund, to be known as the resource indemnity trust of the state of Montana, to be funded by such taxes on the extraction of natural resources as the legislature may from time to time impose for that purpose.

"(3) The principal of the resource indemnity trust shall forever remain inviolate in an amount of one hundred million dollars (\$100,000,000), guaranteed by the state against loss or diversion."

THE  
CONSTITUTION  
OF THE  
STATE OF MONTANA

AS ADOPTED BY THE CONSTITUTIONAL CONVENTION  
MARCH 22, 1972 AND AS RATIFIED BY THE PEOPLE, JUNE 6, 1972

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**ARTICLE II**  
**DECLARATION OF RIGHTS**

**Section 2. Self-government.** The people have the exclusive right of governing themselves as a free, sovereign, and independent state. They may alter or abolish the constitution and form of government whenever they deem it necessary.

**Convention Notes**

No change except in grammar [Art. III, sec. 2]. Gives Montanans the right to

govern themselves and to determine their form of government.

**Section 13. Right of suffrage.** All elections shall be free and open, and no power, civil or military, shall at any time interfere to prevent the free exercise of the right of suffrage.

**Convention Notes**

Identical to 1889 constitution [Art. III, sec. 5].

**Section 28. Rights of the convicted.** Laws for the punishment of crime shall be founded on the principles of prevention and reformation. Full rights are restored by termination of state supervision for any offense against the state.

**Compiler's Notes**

Section 3 of the Transition Schedule provides that "rights, procedural or substantive, created for the first time by Article II shall be prospective and not retroactive."

A separately submitted proposition which would have added the following sentence to this section: "Death shall not be prescribed as a penalty for any crime

against the state" was not adopted by the electorate.

**Convention Notes**

Revises 1889 constitution [Art. III, sec. 24] by deleting reference to capital punishment and providing that rights a person loses when convicted of a crime are automatically restored when he has served his sentence.

**ARTICLE III**  
**GENERAL GOVERNMENT**

**Section 2. Continuity of government.** The seat of government shall be in Helena, except during periods of emergency resulting from disasters or enemy attack. The legislature may enact laws to insure the continuity of government during a period of emergency without regard for other



provisions of the constitution. They shall be effective only during the period of emergency that affects a particular office or governmental operation.

**Convention Notes**

Revises 1889 constitution [Art. X, sec. 3] by removing provision which allowed seat of government to be moved by a vote of

2/3 of the people. No other change except in grammar. [See also 1889 constitution Art. V, sec. 46.]

**Section 3. Oath of office.** Members of the legislature and all executive, ministerial and judicial officers, shall take and subscribe the following oath or affirmation, before they enter upon the duties of their offices: "I do solemnly swear (or affirm) that I will support, protect and defend the constitution of the United States, and the constitution of the state of Montana, and that I will discharge the duties of my office with fidelity (so help me God)." No other oath, declaration, or test shall be required as a qualification for any office or public trust.

**Convention Notes**

Shortened version of oath contained in 1889 constitution [Art. XIX, sec. 1].

**Section 4. Initiative.** (1) The people may enact laws by initiative on all matters except appropriations of money and local or special laws.

(2) Initiative petitions must contain the full text of the proposed measure, shall be signed by at least five percent of the qualified electors in each of at least one-third of the legislative representative districts and the total number of signers must be at least five percent of the total qualified electors of the state. Petitions shall be filed with the secretary of state at least three months prior to the election at which the measure will be voted upon.

(3) The sufficiency of the initiative petition shall not be questioned after the election is held.

**Convention Notes**

Revises 1889 constitution [Art. V, sec. 1] by requiring a petition to be signed

by 5% of electors in 1/3 of the legislative districts instead of 8% in 2/5 of the counties.

**Section 5. Referendum.** (1) The people may approve or reject by referendum any act of the legislature except an appropriation of money. A referendum shall be held either upon order by the legislature or upon petition signed by at least five percent of the qualified electors in each of at least one-third of the legislative representative districts. The total number of signers must be at least five percent of the qualified electors of the state. A referendum petition shall be filed with the secretary of state no later than six months after adjournment of the legislature which passed the act.

(2) An act referred to the people is in effect until suspended by petitions signed by at least 15 percent of the qualified electors in a majority of the legislative representative districts. If so suspended the act shall become operative only after it is approved at an election, the result of which has been determined and declared as provided by law.

**Convention Notes**

Revises 1889 constitution [Art. V, sec. 1] by allowing people to vote on any

act of the legislature except appropriations and by requiring referendum petitions to be signed by 5% of the electors in

1/3 of the legislative districts instead of 8% of the electors in 2/5 of the counties. (1889 Constitution does not allow referendums on laws "necessary for the immediate preservation of the public peace, health, or safety.")

**Section 6. Elections.** The people shall vote on initiative and referendum measures at the general election unless the legislature orders a special election.

**Convention Notes**

No change except in grammar [Art. V, sec. 1].

**Section 7. Number of electors.** The number of qualified electors required in each legislative representative district and in the state shall be determined by the number of votes cast for the office of governor in the preceding general election.

**Convention Notes**

No change except in grammar [Art. V, sec. 1].

**Section 8. Prohibition.** The provisions of this Article do not apply to CONSTITUTIONAL REVISION, Article XIV.

**Convention Notes**

New provision which differentiates the general initiative and referendum requirements from the special initiative and referendum requirements for amending the constitution.

**Section 9. Gambling.** All forms of gambling, lotteries, and gift enterprises are prohibited unless authorized by acts of the legislature or by the people through initiative or referendum.

**Compiler's Notes**

This section became a part of the constitution as the result of the approval by the electorate of a separately submitted provision. The adoption added: "unless authorized by acts of the legislature or by the people through initiative or referendum."

**Convention Notes**

Adds the word "gambling" to language of 1889 constitution [Art. XIX, sec. 2]. Makes it clear that all forms of gambling are prohibited. [See Compiler's Notes, above.]

## ARTICLE IV

### SUFFRAGE AND ELECTIONS

**Section 1. Ballot.** All elections by the people shall be by secret ballot.

**Convention Notes**

Revises 1889 constitution [Art. IX, sec. 1] by adding the word "secret."

**Section 2. Qualified elector.** Any citizen of the United States 18 years of age or older who meets the registration and residence requirements provided by law is a qualified elector unless he is serving a sentence for a felony in a penal institution or is of unsound mind, as determined by a court.

**Convention Notes**

Revises 1889 constitution [Art. IX, secs. 2, 3, 6, 8, 12]. Provides legislative rather than constitutional requirements for residence and registration. Convicted

felon loses voting rights only while incarcerated. (18 is voting age established for ALL elections by 26th amendment to U.S. constitution ratified June 30, 1971).



**Section 3. Elections.** The legislature shall provide by law the requirements for residence, registration, absentee voting, and administration of elections. It may provide for a system of poll booth registration, and shall insure the purity of elections and guard against abuses of the electoral process.

**Convention Notes**

Revises 1889 constitution [Art. IX, secs. 2, 9]. Provides legislative rather than constitutional establishment of requirements which are often affected by (and sometimes in conflict with) federal law and court decisions. When necessary to

comply with federal requirements it is much easier to change the law than to amend the constitution. Second sentence specifically authorizes legislature to provide for voter registration at time and place of voting—rather than in advance of election.

**Section 4. Eligibility for public office.** Any qualified elector is eligible to any public office except as otherwise provided in this constitution. The legislature may provide additional qualifications but no person convicted of a felony shall be eligible to hold office until his final discharge from state supervision.

**Convention Notes**

Revises 1889 constitution [Art. IX, secs. 10, 11] by providing that a felon's right

to seek public office is automatically restored after serving sentence.

**Section 5. Result of elections.** In all elections held by the people, the person or persons receiving the largest number of votes shall be declared elected.

**Convention Notes**

No change except in grammar [Art. IX, sec. 13].

**Section 6. Privilege from arrest.** A qualified elector is privileged from arrest at polling places and in going to and returning therefrom, unless apprehended in the commission of a felony or a breach of the peace.

**Convention Notes**

1889 constitution [Art. IX, sec. 4] reworded. Voter is immune from arrest dur-

ing the voting process unless during such time he commits a felony or breach of peace.

## ARTICLE V

### THE LEGISLATURE

**Section 1.. Power and structure.** The legislative power is vested in a legislature consisting of a senate and a house of representatives. The people reserve to themselves the powers of initiative and referendum.

**Compiler's Notes**

Section 2 of the Transition Schedule provides that this section shall not become effective until the date the first redistricting and reapportionment plan becomes law.

A separately submitted proposition con-

cerning a unicameral legislature, was not adopted by the electorate.

**Convention Notes**

No change except in grammar [Art. V, sec. 1].

**Section 2. Size.** The size of the legislature shall be provided by law, but the senate shall not have more than 50 or fewer than 40 members and the house shall not have more than 100 or fewer than 80 members.



**Compiler's Notes**

Section 2 of the Transition Schedule provides that this section shall not become effective until the date the first redistricting and reapportionment plan becomes law.

**Convention Notes**

New provision for determining size of legislature.

**Section 3. Election and terms.** A member of the house of representatives shall be elected for a term of two years and a member of the senate for a term of four years each to begin on a date provided by law. One-half of the senators shall be elected every two years.

**Compiler's Notes**

Section 2 of the Transition Schedule provides that this section shall not become effective until the date the first redistricting and reapportionment plan becomes law.

Section 5 of the Transition Schedule provides:

"(1) The terms of all legislators elected before the effective date of this Constitution shall end on December 31 of the year

in which the first redistricting and reapportionment plan becomes law.

"(2) The senators first elected under this Constitution shall draw lots to establish a term of two years for one-half of their number."

**Convention Notes**

Revises 1889 constitution [Art. V, sec. 2] by adding requirement for staggered terms for senators.

**Section 4. Qualifications.** A candidate for the legislature shall be a resident of the state for at least one year next preceding the general election. For six months next preceding the general election, he shall be a resident of the county if it contains one or more districts or of the district if it contains all or parts of more than one county.

**Convention Notes**

Revises 1889 constitution [Art. V, sec. 3] by reducing district or county resi-

dency requirements from one year to six months and eliminating age requirements.

**Section 7. Vacancies.** A vacancy in the legislature shall be filled by special election for the unexpired term unless otherwise provided by law.

**Convention Notes**

New provision which would require fill-

ing vacancies by election if the present law requiring appointments is ever repealed.

**Section 10. Organization and procedure.** (1) Each house shall judge the election and qualifications of its members. It may by law vest in the courts the power to try and determine contested elections. Each house shall choose its officers from among its members, keep a journal, and make rules for its proceedings. Each house may expel or punish a member for good cause shown with the concurrence of two-thirds of all its members.

(2) A majority of each house constitutes a quorum. A smaller number may adjourn from day to day and compel attendance of absent members.

(3) The sessions of the legislature and of the committee of the whole, all committee meetings, and all hearings shall be open to the public.

(4) The legislature may establish a legislative council and other interim committees. The legislature shall establish a legislative post-audit committee which shall supervise post-auditing duties provided by law.

(5) Neither house shall, without the consent of the other, adjourn or recess for more than three days or to any place other than that in which the two houses are sitting.

**Convention Notes**

(1) and (2) no change except in grammar [Art. V, secs. 10, 11, 12]. (3) Revises 1889 constitution [Art. V, sec. 13] by preventing the legislature from con-

ducting secret proceedings. (4) New provision specifically allowing the legislature to create committees to work between the annual meetings. (5) No change except in grammar [Art. V, sec. 14].

**Section 14. Districting and apportionment.** (1) The state shall be divided into as many districts as there are members of the house, and each district shall elect one representative. Each senate district shall be composed of two adjoining house districts, and shall elect one senator. Each district shall consist of compact and contiguous territory. All districts shall be as nearly equal in population as is practicable.

(2) In the legislative session following ratification of this constitution and thereafter in each session preceding each federal population census, a commission of five citizens, none of whom may be public officials, shall be selected to prepare a plan for redistricting and reapportioning the state into legislative and congressional districts. The majority and minority leaders of each house shall each designate one commissioner. Within 20 days after their designation, the four commissioners shall select the fifth member, who shall serve as chairman of the commission. If the four members fail to select the fifth member within the time prescribed, a majority of the supreme court shall select him.

(3) The commission shall submit its plan to the legislature at the first regular session after its appointment or after the census figures are available. Within 30 days after submission, the legislature shall return the plan to the commission with its recommendations. Within 30 days thereafter, the commission shall file its final plan with the secretary of state and it shall become law. The commission is then dissolved.

**Compiler's Notes**

Section 1 of the Transition Schedule provides that this section shall be effective January 1, 1973.

**Convention Notes**

(1) New provision for single-member

house districts. Two house districts constitute a senatorial district. (2) and (3) new provision which establishes a five member commission to recommend a reapportionment plan after each U.S. census. [See 1889 constitution Art. VI, secs. 2, 3.]

## ARTICLE VI THE EXECUTIVE

**Section 1. Officers.** (1) The executive branch includes a governor, lieutenant governor, secretary of state, attorney general, superintendent of public instruction, and auditor.

(2) Each holds office for a term of four years which begins on the first Monday of January next succeeding election, and until a successor is elected and qualified.

(3) Each shall reside at the seat of government, there keep the public records of his office, and perform such other duties as are provided in this constitution and by law.

**Convention Notes**

Revises 1889 constitution [Art. VII, secs. 1, 8, 20]. Removes constitutional status of state treasurer, board of examiners, and

state examiner. The offices still appear in the law. All officers mentioned must reside at capital. 1889 constitution exempts lieutenant governor from this requirement.



**Section 2. Election.** (1) The governor, lieutenant governor, secretary of state, attorney general, superintendent of public instruction, and auditor shall be elected by the qualified electors at a general election provided by law.

(2) Each candidate for governor shall file jointly with a candidate for lieutenant governor in primary elections, or so otherwise comply with nomination procedures provided by law that the offices of governor and lieutenant governor are voted upon together in primary and general elections.

**Convention Notes**

Only change [Art. VII, sec. 2] is subsection (2) which is new requirement that

governor and lieutenant governor must run as a team.

**Section 3. Qualifications.** (1) No person shall be eligible to the office of governor, lieutenant governor, secretary of state, attorney general, superintendent of public instruction, or auditor unless he is 25 years of age or older at the time of his election. In addition, each shall be a citizen of the United States who has resided within the state two years next preceding his election.

(2) Any person with the foregoing qualifications is eligible to the office of attorney general if an attorney in good standing admitted to practice law in Montana who has engaged in the active practice thereof for at least five years before election.

(3) The superintendent of public instruction shall have such educational qualifications as are provided by law.

**Convention Notes**

Revises 1889 constitution [Art. VII, sec. 3]. Sets 25 as age requirement for governor, lieutenant governor, superintendent of public instruction and attorney general. Age requirement for secretary of

state unchanged. New requirements that candidate for attorney general be admitted to practice law for five years and superintendent of public instruction have educational qualifications set by law.

**Section 6. Vacancy in office.** (1) If the office of lieutenant governor becomes vacant by his succession to the office of governor, or by his death, resignation, or disability as determined by law, the governor shall appoint a qualified person to serve in that office for the remainder of the term. If both the elected governor and the elected lieutenant governor become unable to serve in the office of governor, succession to the respective offices shall be as provided by law for the period until the next general election. Then, a governor and lieutenant governor shall be elected to fill the remainder of the original term.

(2) If the office of secretary of state, attorney general, auditor, or superintendent of public instruction becomes vacant by death, resignation, or disability as determined by law, the governor shall appoint a qualified person to serve in that office until the next general election and until a successor is elected and qualified. The person elected to fill a vacancy shall hold the office until the expiration of the term for which his predecessor was elected.

**Convention Notes**

Revises 1889 constitution [Art. VII, secs. 7, 15, 16] by changing method of

filling vacancy in office of lieutenant governor. Senate confirmation no longer required for appointments to fill vacancies in offices listed.

**Section 12. Pardons.** The governor may grant reprieves, commutations and pardons, restore citizenship, and suspend and remit fines and forfeitures subject to procedures provided by law.

**Convention Notes**

Revises 1889 constitution [Art. VII, sec. 9]. Deletes reference to board of par-

dons (which is provided for by law) and to the board of prison commissioners (which is defunct).

**Section 14. Succession.** (1) If the governor-elect is disqualified or dies, the lieutenant governor-elect upon qualifying for the office shall become governor for the full term. If the governor-elect fails to assume office for any other reason, the lieutenant governor-elect upon qualifying as such shall serve as acting governor until the governor-elect is able to assume office, or until the office becomes vacant.

(2) The lieutenant governor shall serve as acting governor when so requested in writing by the governor. After the governor has been absent from the state for more than 45 consecutive days, the lieutenant governor shall serve as acting governor.

(3) He shall serve as acting governor when the governor is so disabled as to be unable to communicate to the lieutenant governor the fact of his inability to perform the duties of his office. The lieutenant governor shall continue to serve as acting governor until the governor is able to resume the duties of his office.

(4) Whenever, at any other time, the lieutenant governor and attorney general transmit to the legislature their written declaration that the governor is unable to discharge the powers and duties of his office, the legislature shall convene to determine whether he is able to do so.

(5) If the legislature, within 21 days after convening, determines by two-thirds vote of its members that the governor is unable to discharge the powers and duties of his office, the lieutenant governor shall serve as acting governor. Thereafter, when the governor transmits to the legislature his written declaration that no inability exists, he shall resume the powers and duties of his office within 15 days, unless the legislature determines otherwise by two-thirds vote of its members. If the legislature so determines, the lieutenant governor shall continue to serve as acting governor.

(6) If the office of governor becomes vacant by reason of death, resignation, or disqualification, the lieutenant governor shall become governor for the remainder of the term, except as provided in this constitution.

(7) Additional succession to fill vacancies shall be provided by law.

(8) When there is a vacancy in the office of governor, the successor shall be the governor. The acting governor shall have the powers and duties of the office of governor only for the period during which he serves.

**Convention Notes**

New provision based on 25th amendment to U.S. Constitution. If governor dies, is disqualified, or resigns, the lieutenant governor takes his place. If governor is gone from the state more than 45 days or is temporarily disabled the lieutenant governor becomes acting governor. If the lieutenant governor and the attorney gen-

eral think the governor is unable to perform his duties they may send notice to the legislature. By a two-thirds vote the legislature can decide that the lieutenant governor shall serve as acting governor because the governor is unable to act. [See 1889 constitution Art. VII, secs. 14, 15, 16.]



## ARTICLE VII THE JUDICIARY

**Section 3. Supreme court organization.** (1) The supreme court consists of one chief justice and four justices, but the legislature may increase the number of justices from four to six. A majority shall join in and pronounce decisions, which must be in writing.

(2) A district judge shall be substituted for the chief justice or a justice in the event of disqualification or disability, and the opinion of the district judge sitting with the supreme court shall have the same effect as an opinion of a justice.

**Convention Notes**

Only change, except in grammar, allows legislature to increase number of justices

to six should the need arise [Art. VIII, sec. 5].

**Section 5. Justices of the peace.** (1) There shall be elected in each county at least one justice of the peace with qualifications, training, and monthly compensation provided by law. There shall be provided such facilities that they may perform their duties in dignified surroundings.

(2) Justice courts shall have such original jurisdiction as may be provided by law. They shall not have trial jurisdiction in any criminal case designated a felony except as examining courts.

(3) The legislature may provide for additional justices of the peace in each county.

**Convention Notes**

(1) Revises 1889 constitution [Art. VIII, sec. 20] by requiring one justice of the peace in each county instead of two in each township and allows legislature to set qualifications, training standards and salaries. Provision for "dignified surroundings" is new. (2) Deletes references in

1889 constitution [Art. VIII, sec. 21] to types of cases which may not be handled by a justice of the peace and provides that legislature may determine this except that they may not try felony cases. (3) No change except in grammar [Art. VIII, sec. 20].

**Section 6. Judicial districts.** (1) The legislature shall divide the state into judicial districts and provide for the number of judges in each district. Each district shall be formed of compact territory and be bounded by county lines.

(2) The legislature may change the number and boundaries of judicial districts and the number of judges in each district, but no change in boundaries or the number of districts or judges therein shall work a removal of any judge from office during the term for which he was elected or appointed.

(3) The chief justice may, upon request of the district judge, assign district judges and other judges for temporary service from one district to another, and from one county to another.

**Convention Notes**

(1) (2) No change except in grammar [Art. VIII, secs. 12, 14]. (3) New provi-

sion allowing the chief justice temporarily to assign judges to districts other than their own.

**Section 7. Terms and pay.** (1) All justices and judges shall be paid as provided by law, but salaries shall not be diminished during terms of office.

(2) Terms of office shall be eight years for supreme court justices, six years for district court judges, four years for justices of the peace, and as provided by law for other judges.

#### Compiler's Notes

Section 4 of the Transition Schedule provides: "Supreme court justices, district court judges, and justices of the peace holding office when this Constitution becomes effective shall serve the terms for which they were elected or appointed."

#### Convention Notes

(1) No change except in grammar [Art. VIII, sec. 29]. (2) Supreme Court justice terms increased from six to eight years, district court judges from four to six and justices of the peace from two to four years [Art. VIII, secs. 7, 12, 20].

**Section 8. Selection.** (1) The governor shall nominate a replacement from nominees selected in the manner provided by law for any vacancy in the office of supreme court justice or district court judge. If the governor fails to nominate within thirty days after receipt of nominees, the chief justice or acting chief justice shall make the nomination. Each nomination shall be confirmed by the senate, but a nomination made while the senate is not in session shall be effective as an appointment until the end of the next session. If the nomination is not confirmed, the office shall be vacant and another selection and nomination shall be made.

(2) If, at the first election after senate confirmation, and at the election before each succeeding term of office, any candidate other than the incumbent justice or district judge files for election to that office, the name of the incumbent shall be placed on the ballot. If there is no election contest for the office, the name of the incumbent shall nevertheless be placed on the general election ballot to allow voters of the state or district to approve or reject him. If an incumbent is rejected, another selection and nomination shall be made.

(3) If an incumbent does not run, there shall be an election for the office.

#### Convention Notes

Revises 1889 constitution [Art. VIII, secs. 6, 8, 12]. Contested election of judges is not changed, however if a judge in office does not have an opponent in an election his name will be put on the ballot anyway and the people asked to approve or reject him. If rejected, the governor appoints another judge. When

there is a vacancy (such as death or resignation) the governor appoints a replacement but does not have unlimited choice of lawyers as under 1889 constitution [Art. VIII, sec. 34]. He must choose his appointee from a list of nominees and the appointment must be confirmed by the senate—a new requirement.

**Section 9. Qualifications.** (1) A citizen of the United States who has resided in the state two years immediately before taking office is eligible to the office of supreme court justice or district court judge if admitted to the practice of law in Montana for at least five years prior to the date of appointment or election. Qualifications and methods of selection of judges of other courts shall be provided by law.

(2) No supreme court justice or district court judge shall solicit or receive compensation in any form whatever on account of his office, except salary and actual necessary travel expense.

(3) Except as otherwise provided in this constitution, no supreme court justice or district court judge shall practice law during his term of office, engage in any other employment for which salary or fee is paid, or hold office in a political party.



(4) Supreme court justices shall reside within the state. Every other judge shall reside during his term of office in the district, county, township, precinct, city or town in which he is elected or appointed.

**Convention Notes**

(1) Revises 1889 constitution [Art. VIII, secs. 10, 16] by making residency requirements for candidates for district court judgeship the same as for supreme court and by deleting age requirements. Requirement for five years of law practice

new. (2) Revises 1889 constitution [Art. VIII, sec. 30] by specifically allowing travel expense. (3) Only change [Art. VIII, sec. 35] specifically prohibits a judge from holding office in a political party. (4) No change except in grammar [Art. VIII, sec. 33].

**Section 10. Forfeiture of judicial position.** Any holder of a judicial position forfeits that position by either filing for an elective public office other than a judicial position or absenting himself from the state for more than 60 consecutive days.

**Convention Notes**

New provision. A judge may not run for any other public office, or be out of

state for more than 60 days. [See 1889 constitution Art. VIII, sec. 37.]

## ARTICLE VIII REVENUE AND FINANCE

**Section 8. State debt.** No state debt shall be created unless authorized by a two-thirds vote of the members of each house of the legislature or a majority of the electors voting thereon. No state debt shall be created to cover deficits incurred because appropriations exceeded anticipated revenue.

**Convention Notes**

Revises 1889 constitution [Art. XIII, sec. 2] by replacing obsolete \$100,000 limit

on state debt with provision that only a 2/3 vote of the legislature or majority vote at an election may create state debt.

**Section 10. Local government debt.** The legislature shall by law limit debts of counties, cities, towns, and all other local governmental entities.

**Convention Notes**

Revises 1889 constitution [Art. XIII, secs. 5, 6]. Debt limitations for all local

governmental entities will be set by law rather than by the constitution.

## ARTICLE X EDUCATION AND PUBLIC LANDS

**Section 8. School district trustees.** The supervision and control of schools in each school district shall be vested in a board of trustees to be elected as provided by law.

**Convention Notes**

New provision which guarantees control of schools to local boards. Deletes requirement in 1889 constitution [Art.

XI, sec. 10] that elections for school district officers must be separate from state and county elections.

## ARTICLE XI LOCAL GOVERNMENT

**Section 2. Counties.** The counties of the state are those that exist on the date of ratification of this constitution. No county boundary may be

changed or county seat transferred until approved by a majority of those voting on the question in each county affected.

**Convention Notes**

Revises 1889 constitution [Art. XVI, sec. 2] by requiring only **majority of those voting** to approve county seat or boundary

changes. 1889 constitution requires **majority of qualified electors**. [See also 1889 constitution Art. XVI, sec. 1.]

**Section 3. Forms of government.** (1) The legislature shall provide methods for governing local government units and procedures for incorporating, classifying, merging, consolidating, and dissolving such units, and altering their boundaries. The legislature shall provide such optional or alternative forms of government that each unit or combination of units may adopt, amend, or abandon an optional or alternative form by a majority of those voting on the question.

(2) One optional form of county government includes, but is not limited to, the election of three county commissioners, a clerk and recorder, a clerk of district court, a county attorney, a sheriff, a treasurer, a surveyor, a county superintendent of schools, an assessor, a coroner, and a public administrator. The terms, qualifications, duties, and compensation of those offices shall be provided by law. The Board of county commissioners may consolidate two or more such offices. The Boards of two or more counties may provide for a joint office and for the election of one official to perform the duties of any such office in those counties.

**Convention Notes**

New provision directing legislature to provide alternative forms of city and county or city-county governments, one of which must be the "traditional" form including the elected officials listed. Two or

more counties may agree to elect one official to serve a multicounty area. Offices within counties are subject to consolidation. [See Art. XVI, secs. 4, 5, 6, 7, 8.]

**Section 5. Self-government charters.** (1) The legislature shall provide procedures permitting a local government unit or combination of units to frame, adopt, amend, revise, or abandon a self-government charter with the approval of a majority of those voting on the question. The procedures shall not require approval of a charter by a legislative body.

(2) If the legislature does not provide such procedures by July 1, 1975, they may be established by election either:

(a) Initiated by petition in the local government unit or combination of units; or

(b) Called by the governing body of the local government unit or combination of units.

(3) Charter provisions establishing executive, legislative, and administrative structure and organization are superior to statutory provisions.

**Convention Notes**

New provision directing legislature to pass laws concerning procedures for local voters to design their own forms of gov-

ernment (self-government charters). The charter provisions concerning structure of local governments would take precedence over general laws on such matters.

**Section 6. Self-government powers.** A local government unit adopting a self-government charter may exercise any power not prohibited by this constitution, law, or charter. This grant of self-government powers may be extended to other local government units through optional forms of government provided for in section 3.



**Convention Notes**

New provision allowing local government units to share powers with the state

and to have all powers not specifically denied. At present local governments have only those powers specifically granted.

**Section 7. Intergovernmental cooperation.** (1) Unless prohibited by law or charter, a local government unit may

- (a) cooperate in the exercise of any function, power, or responsibility with,
- (b) share the services of any officer or facilities with,
- (c) transfer or delegate any function, power, responsibility, or duty of any officer to one or more other local government units, school districts, the state, or the United States.

(2) The qualified electors of a local government unit may, by initiative or referendum, require it to do so.

**Convention Notes**

New provision allowing local governments to share services and functions

with other units of government, the state and the United States.

**Section 8. Initiative and referendum.** The legislature shall extend the initiative and referendum powers reserved to the people by the constitution to the qualified electors of each local government unit.

**Convention Notes**

New provision directing legislature to give residents the power to initiate local

ordinances by petition or to petition to vote on ordinances passed by local governments.

**Section 9. Voter review of local government.** (1) The legislature shall, within four years of the ratification of this constitution, provide procedures requiring each local government unit or combination of units to review its structure and submit one alternative form of government to the qualified electors at the next general or special election.

(2) The legislature shall require a review procedure once every ten years after the first election.

**Convention Notes**

New provision. By 1976 the legislature must give local residents the opportunity to vote on whether or not to change their

form of government. Laws must be passed requiring local forms of government to be studied and evaluated every ten years.

## ARTICLE XIV CONSTITUTIONAL REVISION

**Section 1. Constitutional convention.** The legislature, by an affirmative vote of two-thirds of all the members, whether one or more bodies, may at any time submit to the qualified electors the question of whether there shall be an unlimited convention to revise, alter, or amend this constitution.

**Convention Notes**

Adds word "unlimited" to 1889 constitution [Art. XIX, sec. 8]. Makes it clear

that the legislature cannot call a constitutional convention for limited purpose.

**Section 2. Initiative for constitutional convention.** (1) The people may by initiative petition direct the secretary of state to submit to the qualified electors the question of whether there shall be an unlimited con-

vention to revise, alter, or amend this constitution. The petition shall be signed by at least ten percent of the qualified electors of the state. That number shall include at least ten percent of the qualified electors in each of two-fifths of the legislative districts.

(2) The secretary of state shall certify the filing of the petition in his office and cause the question to be submitted at the next general election.

**Convention Notes**

New provision. Enables people to petition to call a constitutional convention.

**Section 3. Periodic submission.** If the question of holding a convention is not otherwise submitted during any period of 20 years, it shall be submitted as provided by law at the general election in the twentieth year following the last submission.

**Convention Notes**

New provision. The question of holding a constitutional convention must be sub-

mitted to vote of the people at least once every 20 years.

**Section 4. Call of convention.** If a majority of those voting on the question answer in the affirmative, the legislature shall provide for the calling thereof at its next session. The number of delegates to the convention shall be the same as that of the larger body of the legislature. The qualifications of delegates shall be the same as the highest qualifications required for election to the legislature. The legislature shall determine whether the delegates may be nominated on a partisan or a non-partisan basis. They shall be elected at the same places and in the same districts as are the members of the legislative body determining the number of delegates.

**Convention Notes**

Revises 1889 constitution [Art. XIX, sec. 8]. Legislature shall determine whether constitutional convention delegates be elected on partisan or non-

partisan basis. (1889 constitution not explicit on this point. Montana Supreme Court held convention delegates must run on partisan basis.)

**Section 5. Convention expenses.** The legislature shall, in the act calling the convention, designate the day, hour, and place of its meeting, and fix and provide for the pay of its members and officers and the necessary expenses of the convention.

**Convention Notes.**

No change except in grammar [Art. XIX, sec. 8].

**Section 6. Oath, vacancies.** Before proceeding, the delegates shall take the oath provided in this constitution. Vacancies occurring shall be filled in the manner provided for filling vacancies in the legislature if not otherwise provided by law.

**Convention Notes**

No change except in grammar [Art. XIX, sec. 8].

**Section 7. Convention duties.** The convention shall meet after the election of the delegates and prepare such revisions, alterations, or amend-



ments to the constitution as may be deemed necessary. They shall be submitted to the qualified electors for ratification or rejection as a whole or in separate articles or amendments as determined by the convention at an election appointed by the convention for that purpose not less than two months after adjournment. Unless so submitted and approved by a majority of the electors voting thereon, no such revision, alteration, or amendment shall take effect.

**Convention Notes**

Only change is removal of requirements in 1889 constitution [Art. XIX, sec. 8] that a convention meet within a certain

time after election and that the election on the proposed constitution be held within six months.

**Section 8. Amendment by legislative referendum.** Amendments to this constitution may be proposed by any member of the legislature. If adopted by an affirmative roll call vote of two-thirds of all the members thereof, whether one or more bodies, the proposed amendment shall be submitted to the qualified electors at the next general election. If approved by a majority of the electors voting thereon, the amendment shall become a part of this constitution on the first day of July after certification of the election returns unless the amendment provides otherwise.

**Convention Notes**

Revises 1889 constitution [Art. XIX, sec. 9]. Legislature may propose constitu-

tional amendment by a vote of two-thirds of total membership rather than two-thirds of each house. Provides for July effective date for amendments.

**Section 9. Amendment by initiative.** (1) The people may also propose constitutional amendments by initiative. Petitions including the full text of the proposed amendment shall be signed by at least ten percent of the qualified electors of the state. That number shall include at least ten percent of the qualified electors in each of two-fifths of the legislative districts.

(2) The petitions shall be filed with the secretary of state. If the petitions are found to have been signed by the required number of electors, the secretary of state shall cause the amendment to be published as provided by law twice each month for two months previous to the next regular state-wide election.

(3) At that election, the proposed amendment shall be submitted to the qualified electors for approval or rejection. If approved by a majority voting thereon, it shall become a part of the constitution effective the first day of July following its approval, unless the amendment provides otherwise.

**Convention Notes**

New provision. Ten percent of voters may propose constitutional amendments by petition.

**Section 10. Petition signers.** The number of qualified electors required for the filing of any petition provided for in this Article shall be determined by the number of votes cast for the office of governor in the preceding general election.

**Convention Notes**

New provision. Self-explanatory.

**Section 11. Submission.** If more than one amendment is submitted at the same election, each shall be so prepared and distinguished that it can be voted upon separately.

**Convention Notes**

No change except in grammar [Art. XIX, sec. 9].

## TRANSITION SCHEDULE

The following provisions shall remain part of this Constitution until their terms have been executed. Once each year the attorney general shall review the following provisions and certify to the secretary of state which, if any, have been executed. Any provisions so certified shall thereafter be removed from this Schedule and no longer published as part of this Constitution.

Section 1. Accelerated Effective Date

Section 2. Delayed Effective Date

Section 3. Prospective Operation of Declaration of Rights

Section 4. Terms of Judiciary

Section 5. Terms of Legislators

Section 6. General Transition

**Convention Notes**

Provides for an orderly change from the 1889 constitution to the 1972 constitution.

**Section 1. Accelerated effective date.** Section 6 (SESSIONS) and section 14 (DISTRICTING AND APPORTIONMENT) of Article V, THE LEGISLATURE, shall be effective January 1, 1973.

**Compiler's Notes**

Section 1 of the Adoption Schedule provided: "This Constitution, if approved by a majority of those voting at the election as provided by the Constitution of 1889, shall take effect on July 1, 1973, except as otherwise provided in sections 1 and 2 of the Transition Schedule. The Constitution of 1889, as amended, shall thereafter be of no effect."

The Adoption Schedule, submitted with the proposed Constitution for limited pur-

poses only, is not reprinted in this pamphlet since the introduction to the schedule provided that it should not be published as a part of the new Constitution.

**Convention Notes**

Proposed section on annual legislative sessions and reapportionment of the legislature would be effective January 1, 1973. The reapportionment commission could then be appointed by the 1973 legislature and report its plan to the 1974 legislature.

**Section 2. Delayed effective date.** The provisions of sections 1, 2, and 3 of Article V, THE LEGISLATURE, shall not become effective until the date the first redistricting and reapportionment plan becomes law.

**Convention Notes**

Sections on size of legislature, election and terms of its members would become effective when the reapportionment plan

becomes law. If this is in 1974 then elections would be held in November 1974 for new members of the legislature to take office January 1, 1975.

**Section 3. Prospective operation of declaration of rights.** Any rights, procedural or substantive, created for the first time by Article II shall be prospective and not retroactive.

**Convention Notes**

Any new rights created in Article II take effect only after July 1, 1973. It

does not create any rights for past events.



**Section 4. Terms of judiciary.** Supreme court justices, district court judges, and justices of the peace holding office when this Constitution becomes effective shall serve the terms for which they were elected or appointed.

**Convention Notes**

Since the proposed constitution changes the length of terms of office of judges

this provision makes it clear that all judges may serve to the end of the term for which they were elected.

**Section 5. Terms of legislators.** (1) The terms of all legislators elected before the effective date of this Constitution shall end on December 31 of the year in which the first redistricting and reapportionment plan becomes law.

(2) The senators first elected under this Constitution shall draw lots to establish a term of two years for one-half of their number.

**Convention Notes**

(1) If the reapportionment and redistricting plan becomes effective after the 1974 legislative session, the terms of legislators serving in that session would end December 31, 1974. (2) Section 3, Article

V provides that senators have four year terms but that one-half are elected every two years. This section provides that one-half of the senators first elected will have only two year terms.

**Section 6. General transition.** (1) The rights and duties of all public bodies shall remain as if this Constitution had not been adopted with the exception of such changes as are contained in this Constitution. All laws, ordinances, regulations, and rules of court not contrary to, or inconsistent with, the provisions of this Constitution shall remain in force, until they shall expire by their own limitation or shall be altered or repealed pursuant to this Constitution.

(2) The validity of all public and private bonds, debts, and contracts, and of all suits, actions, and rights of action, shall continue as if no change had taken place.

(3) All officers filling any office by election or appointment shall continue the duties thereof, until the end of the terms to which they were appointed or elected, and until their offices shall have been abolished or their successors selected and qualified in accordance with this Constitution or laws enacted pursuant thereto.

**Convention Notes**

Unless the proposed constitution specifically changes a law it will not affect any

rights or duties or the validity of contracts, bonds, etc. All elected officials serve out their present terms.

**TITLE 1—AERONAUTICS****CHAPTER 8—ESTABLISHMENT OF AIRPORTS BY COUNTIES  
AND CITIES—MUNICIPAL AIRPORTS ACT****Section****1-804. Tax levy for establishment and operation of airports.**

**1-804. (5668.38) Tax levy for establishment and operation of airports.** For the purpose of establishing, constructing, equipping, maintaining and operating airports and landing fields under the provisions of this act the county commissioners or the city or town council may each year assess and levy in addition to the annual levy for general administrative purposes or the all-purpose levy authorized by sections 84-4701.1 and 84-4701.2, a tax of not to exceed two (2) mills on the dollar of taxable value of the property of said county, city or town. In the event of a jointly established airport or landing field, the county commissioners and the council or councils involved shall determine in advance the levy necessary for such purposes and the proportion each political subdivision joining in the venture shall pay, provided that no property within any political subdivision shall be subject to a tax pursuant to this section at an annual rate in excess of two (2) mills. Provided, that if it be found that the levy hereby authorized will be insufficient for the purposes herein enumerated, the commissioners and councils acting are hereby authorized and empowered to contract an indebtedness on behalf of such county, city or town, as the case may be, upon the credit thereof by borrowing money or issuing bonds for such purposes, provided that no money may be borrowed and no bonds may be issued for such purpose until the proposition has been submitted to the qualified electors, and a majority vote to be cast therefor, except that for the purpose of establishing a reserve fund to resurface, overlay, or improve existing runways, taxiways and ramps, said governing bodies may set up annual reserve funds in their annual budget, provided said reserve is approved by the governing bodies during the normal budgeting procedure. Provided further that the necessity to resurface or improve said runways by overlays or similar methods every so many years is based upon competent engineering estimates, and provided that said funds are expended at least within each ten (10) year period. Said fund shall not exceed at any time a competent engineering estimate of the cost of resurfacing or overlaying the existing runways, taxiways and ramps, of any one airport for each said fund. The governing body of said airport, if in its judgment deems it advantageous, may invest the fund in any interest-bearing deposits in a state or national bank insured by the F.D.I.C. or obligations of the United States of America, either short-term or long-term. Interest earned from such investments shall be credited to the operations and maintenance budget of said airport governing body. The above provisions, notwithstanding other budget control measures, and due to the uniqueness of the subject matter, are hereby declared necessary in the interests of the public health and safety.

**History:** En. Sec. 4, Ch. 108, L. 1929; 1969; amd. Sec. 16, Ch. 158, L. 1971; amd. amd. Sec. 4, Ch. 54, L. 1941; amd. Sec. 1, Sec. 3, Ch. 501, L. 1973.  
Ch. 54, L. 1945; amd. Sec. 1, Ch. 122, L.

**TITLE 4—ALCOHOLIC BEVERAGES****CHAPTER 3—MONTANA BEER ACT—LICENSING SALE OF BEER  
UNDER SUPERVISION OF STATE LIQUOR CONTROL BOARD**

## Section

- 4-303. Closing hours for license retail beer establishments.  
 4-354. Effect when vote is against sale of beer.

**4-303. Closing hours for licensed retail beer establishments.** Hereafter all licensed establishments wherein beer as defined by subsection (b) of section 4-302, is sold, offered for sale or given away at retail shall be closed during the following hours:

- (a) Sunday from two A.M. to one P.M.;  
 (b) On any other day between two A.M. and eight A.M.;

provided, however, that when any municipal incorporation has by ordinance further restricted the hours of sale of beer, then the sale of beer is prohibited within the limits of any such city or town during the time such sale is prohibited by this act and in addition thereto during the hours that it is prohibited by such ordinance.

**History:** En. Sec. 1, Ch. 161, L. 1943;  
 amd. Sec. 1, Ch. 162, L. 1959; amd. Sec. 1,  
 Ch. 242, L. 1973.

**4-354. (2815.57) Effect when vote is against sale of beer.** If a majority of the votes cast are against the sale of beer the board of county commissioners must publish the result once a week for four (4) weeks in the newspapers in which the notices of election were published, and from the date of the election no further licenses to vend beer in the county shall be issued by the liquor control board, and after the publication of notice proclaiming the result of the election is against the sale of beer, all licenses then existing shall be canceled by the state liquor control board, and thereafter it shall be unlawful to sell any beer in any such county.

**History:** En. Sec. 54, Ch. 106, L. 1933;  
 amd. Sec. 1, Ch. 391, L. 1973.

**CHAPTER 4—MONTANA RETAIL LIQUOR LICENSE ACT--SALES BY  
LICENSEES OF BOARD**

## Section

- 4-414. Hours for sale of liquor.

**4-414. Hours for sale of liquor.** No liquor shall be sold, offered for sale or given away upon any premises licensed to sell liquor at retail during the following hours:

- (a) Sunday, from two A.M. to one P.M.;  
 (b) On any other day between two A.M. and eight A.M.;

provided, however, when any city, or incorporated or unincorporated town has any ordinance further restricting the hours of sale of liquor, such restricted hours shall be the hours during which sale of liquor at retail shall not be permitted within the jurisdiction of any such city or town.

**History:** En. Sec. 12, Ch. 84, L. 1937;  
 amd. Sec. 2, Ch. 162, L. 1959; amd. Sec. 1,  
 Ch. 296, L. 1973.

**Amendments**

The 1973 amendment deleted a clause

(c) reading: "On any day of a biennial general or primary election at which state and national officers are elected, during the hours when the polls are open, but not on the day of any other election."



## TITLE 11—CITIES AND TOWNS

### CHAPTER 2—CLASSIFICATION AND ORGANIZATION OF CITIES AND TOWNS

#### Section

11-203. Organization of cities and towns—petition and census.

**11-203. (4961) Organization of cities and towns—petition and census.** Whenever the inhabitants of any part of a county desire to be organized into a city or town, they may apply by petition in writing, signed by not less than two thirds ( $\frac{2}{3}$ ) of the qualified electors, but not more than three hundred (300) such electors who are residents of the state, and residing within the limits of the proposed incorporation, to the board of county commissioners of the county in which the territory is situated, which petition must describe the limits of the proposed city or town, and of the several wards thereof each of which shall contain one hundred fifty (150) qualified electors or more and, which must not exceed one square mile for each five hundred inhabitants resident therein. The petitioners must annex to the petition a map of the proposed territory to be incorporated, and state the name of the city or town. The petition and map must be filed in the office of the county clerk. Upon filing the petition, the board of county commissioners, at its next regular or special meeting, must appoint some suitable person to take a house-to-house census of the residents of the territory to be incorporated. After taking the census, the person appointed to take the same must return the list to the board of county commissioners, and the same must be filed by it in the county clerk's office. No municipal corporation may be formed unless the number of inhabitants is three hundred or upwards; and unless the boundary of the proposed territory to be incorporated is more than three (3) miles from the boundary, measured from the nearest point between the two (2), of any presently incorporated city or town or there is presented to the board, appropriate evidence that any presently incorporated city or town within three (3) miles which legally could annex, but has refused to annex the proposed territory.

**History:** En. Sec. 315, 5th Div. Comp. 1, Ch. 56, L. 1909; re-en. Sec. 4961, R. Stat. 1887; re-en. Sec. 4720, Pol. C. 1895; C. M. 1921; amd. Sec. 1, Ch. 86, L. 1973; re-en. Sec. 3208, Rev. C. 1907; amd. Sec. amd. Sec. 1, Ch. 515, L. 1973.

### CHAPTER 7—OFFICERS AND ELECTIONS

**11-703. (4997) Officers of towns.** The officers of a town consist of one mayor and two aldermen from each ward, who must be elected by the qualified electors of the town as hereinafter provided. There may be appointed by the mayor, with the advice and consent of the council, one clerk, who may be ex officio assessor and tax collector and a member of the council, and one marshal, who may be ex officio street commissioner, and any other officers necessary to carry out the provisions of this title. The town council may prescribe the duties of all town officers, and fix their compensation, subject to the limitations contained in this title.

**History:** En. Sec. 4742, Pol. C. 1895; re-en. Sec. 3218, Rev. C. 1907; re-en. Sec. 4997, R. C. M. 1921; amd. Sec. 1, Ch. 146, L. 1974.



**11-710. (5004) Qualification of mayor.** No person shall be eligible to the office of mayor unless he shall be at least twenty-one (21) years old and a taxpaying freeholder within the limits of the city or town, and a resident of the state for at least three years, and a resident of the city or town or an area which has been annexed by the city or town for which he may be elected mayor two years next preceding his election to said office, and shall reside in the city or town for which he shall be elected mayor during his term of office.

**History:** En. Sec. 8, p. 65, Ex. L. 1887; C. M. 1921; amd. Sec. 1, Ch. 76, L. 1961; amd. Sec. 4749, Pol. C. 1895; re-en. Sec. amd. Sec. 1, Ch. 177, L. 1974. 3225, Rev. C. 1907; re-en. Sec. 5004, R.

**11-716. (5010) Repealed.**

**Repeal**

Section 11-716 (Sec. 4755, Pol. C. 1895; dency requirements for electors, was re-  
Sec. 5, Ch. 76, L. 1961), relating to resi-  
pealed by Sec. 2, Ch. 40, Laws 1973.

**11-719. (5013) Oath and bonds—vacancy.** Each officer of a city or town must take the constitutional oath of office, and such as may be required to give bonds, file the same, duly approved, within ten days after receiving notice of his election or appointment; or, if no notice be received, then on or before the date fixed for the assumption by him of the duties of the office to which he may have been elected or appointed, but if anyone, either elected or appointed to office, fails for ten days to qualify as required by law, or enter upon his duties at the time fixed by law, then such office becomes vacant; or if any officer absents himself from the city or town continuously for ten days without the consent of the council, or openly neglects or refuses to discharge his duties, such office may be by the council declared vacant; or if any officer removes from the city or town, or any alderman from his ward, such office must be by the council declared vacant.

**History:** En. Sec. 4758, Pol. C. 1895; re-en. Sec. 3234, Rev. C. 1907; re-en. Sec. 5013, R. C. M. 1921; amd. Sec. 1, Ch. 7, L. 1973.

**11-721. (5015) Vacancies—how filled—removal of officer.** When any vacancy occurs in any elective office, the council, by a majority vote of the members, may fill the same for the unexpired term, and until the qualification of the successor. A vacancy in the office of alderman must be filled from the ward in which the vacancy exists, but if the council shall fail to fill such vacancy before the time for the next election, the qualified electors of such city or ward may nominate and elect a successor to such office. The council, upon written charges, to be entered upon their journal, after notice to the party and after trial by the council, by vote of two-thirds of all the members elect, may remove any nonelected officer.

**History:** En. Sec. 1, Ch. 72, L. 1903; re-en. Sec. 3236, Rev. C. 1907; re-en. Sec. 5015, R. C. M. 1921; amd. Sec. 1, Ch. 26, L. 1974.

## CHAPTER 9—POWERS OF CITY AND TOWN COUNCILS

**Section**

**11-966.** Purposes for which indebtedness may be incurred—limitation—additional indebtedness for sewer or water system—procuring water supply and system—jurisdiction of public works appurtenances.

**11-966. (5039.63) Purposes for which indebtedness may be incurred—limitation—additional indebtedness for sewer or water system—procuring water supply and system—jurisdiction of public works appurtenances.** The city or town council has power: (1) To contract an indebtedness on behalf of a city or town, upon the credit thereof, by borrowing money or issuing bonds for the following purposes, to wit: Erection of public buildings, construction of sewers, sewage treatment and disposal plants, bridges, docks, wharves, breakwaters, piers, jetties, moles, waterworks, reservoirs and reservoir sites, lighting plants, supplying the city or town with water by contract, the purchase of fire apparatus, street and other equipment, the construction or purchase of canals or ditches and water rights for supplying the city or town with water, building, purchasing, constructing and maintaining devices intended to protect the safety of the public from open ditches carrying irrigation or other water, to acquire, open and/or widen any street and to improve the same by constructing; reconstructing and repairing pavement, gutters, curbs and vehicle parking strips and to pay all or any portion of the cost thereof, and the funding of outstanding warrants and maturing bonds; provided, that the total amount of indebtedness authorized to be contracted in any form, including the then existing indebtedness, must not, at any time, exceed five per centum (5%) of the total value of the taxable property of the city or town, as ascertained by the last assessment for state and county taxes; provided, that no money must be borrowed on bonds issued for the construction, purchase, or securing of a water plant, water system, water supply, sewage treatment and disposal plant, or sewerage system, until the proposition has been submitted to a vote and the majority vote cast in favor thereof; and, further provided, that an additional indebtedness shall be incurred, when necessary, to construct a sewerage system or procure a water supply for the said city or town, which shall own or control said water supply and devote the revenue derived therefrom to the payment of the debt.

(2) The additional indebtedness authorized, including all indebtedness theretofore contracted, which is unpaid or outstanding, for the construction of a sewerage system, or for the procurement of a water supply, or for both such purposes, shall not exceed in the aggregate ten per centum (10%) over and above the five per centum (5%) heretofore referred to, of the total valuation of the taxable property of the city or town as ascertained by the last assessment for state and county taxes; and, provided further, that the above limit of five per centum (5%) shall not be extended, unless the question shall have been submitted to a vote and carried in the affirmative by a vote of the majority of the electors who vote upon such question.

(3) and (4). \* \* \* [Same.]

**History:** En. Subd. 64, Sec. 5039, R. C. 1953; amd. Sec. 1, Ch. 34, L. 1955; amd. M. 1921; amd. Sec. 1, Ch. 115, L. 1925; Sec. 1, Ch. 38, L. 1959; amd. Sec. 1, Ch. 158, L. 1963; amd. Sec. 1, Ch. 100, L. 1973. See also history of section 11-901.

#### CHAPTER 10—POWERS OF CITY AND TOWN COUNCILS (continued)

##### 11-1019.

[Section 21, Ch. 315, Laws 1974, substituted "public service commission" in this section for "Montana railroad and public service commission."]



## 11-1021.

[Section 21, Ch. 315, Laws 1974, substituted "public service commission" in this section for "Montana railroad and public service commission."]

CHAPTER 20—FIRE PROTECTION IN UNINCORPORATED TOWNS—  
FIRE WARDENS, COMPANIES AND DISTRICTS

## Section

11-2010. Trustees of fire districts—mutual aid agreements.

**11-2010. (5149) Trustees of fire districts—mutual aid agreements.** (a) and (b). \* \* \* [Same.]

(c) The trustees of such fire district may contract with the council of any city or town, or with the trustees of any other fire district established in any unincorporated territory, town or village, which has any boundary line lying within five (5) straight line miles of any boundary line of such district, whether the city or town or other fire district shall lie within the same county or another county, for the extension of fire protection service by the city or town or by such other fire district, to property included within such district, and may agree to pay a reasonable consideration therefor, provided, that the owners of ten per cent (10%) of the taxable value of the property in any such fire district may elect to make such a contract. Likewise, the trustees may contract to permit such fire district's equipment and facilities to be used by the cities, towns, or other fire districts which have any boundary lines lying within five (5) straight line miles of any boundary line of such district. Likewise, the trustees may enter into contracts with public or private parties under which such district fire company may extend fire protection to public or private property lying outside of such district or any other district or city limits, but within five (5) straight line miles of any boundary line of such district, whether such public or private property shall lie within the same county or another county; and such district fire company may use such fire district's equipment, and facilities outside of such district in the performance of such contracts. All moneys received from such contracts shall be deposited in the county treasurer's office and credited to the fire district fund holding such contracts.

(d). \* \* \* [Same.]

**History:** En. Sec. 1, Ch. 107, L. 1911; amd. Sec. 1, Ch. 19, L. 1921; re-en. Sec. 5149, R. C. M. 1921; amd. Sec. 1, Ch. 130, L. 1925; amd. Sec. 3, Ch. 97, L. 1947; amd. Sec. 2, Ch. 75, L. 1953; amd. Sec. 2, Ch. 77, L. 1959; amd. Sec. 1, Ch. 2, L. 1965; amd. Sec. 1, Ch. 333, L. 1969; amd. Sec. 1, Ch. 120, L. 1973.

CHAPTER 23—MUNICIPAL BONDS AND INDEBTEDNESS

## Section

11-2301. Creation of indebtedness—submission to taxpayers.

11-2306. Petition for election—form—proof.

11-2307.1. Resolution to issue bonds—when election required.

**11-2301. (5278.1) Creation of indebtedness—submission to taxpayers.**

Whenever the council or commission of any city or town having a corporate existence in this state, or hereafter organized under any of the laws thereof, shall deem it necessary to issue bonds pledging the general credit of the municipality for any purpose whatever, under its powers as set forth in any statute or statutes of this state, or amendments thereto, the question of issuing such bonds shall first be submitted to the electors of such city



or town who are qualified to vote on such question, in the manner hereinafter set forth; provided, however, that it shall not be necessary to submit to such electors the question of issuing refunding bonds to refund bonds theretofore issued and then outstanding: or the question of issuing revenue bonds not pledging the general credit of the municipality under any laws of this state; provided further that no refunding bonds shall be issued unless such refunding bonds shall bear interest at a rate of at least one-half of one per cent ( $\frac{1}{2}$  of 1%) less than the interest rate of the outstanding bonds to be refunded. In order to issue bonds to refund bonds theretofore issued and outstanding it shall only be necessary for the council, at a regular or duly called special meeting, to pass and adopt a resolution setting forth the facts with regard to the indebtedness to be refunded, showing the reason for issuing such refunding bonds, and fixing and determining the details thereof, giving notice of sale thereof in the same manner that notice is required to be given of sale of bonds authorized at an election and then following the procedure in this act for the sale and issuance of such bonds.

History: En. Sec. 1, Ch. 160, L. 1931; 1937; amd. Sec. 1, Ch. 15, L. 1943; amd. amd. Sec. 1, Ch. 100, L. 1933; amd. Sec. Sec. 1, Ch. 62, L. 1945; amd. Sec. 1, Ch. 1, Ch. 12, L. 1937; amd. Sec. 1, Ch. 108, L. 413, L. 1973.

**11-2306. (5278.6) Petition for election—form—proof.** No bonds shall be issued by a city or town pledging the general credit of the municipality for any purpose, except to fund or refund warrants or bonds issued prior to and outstanding on July first, 1942, as authorized in section 11-2301, unless authorized at a duly called special or general election at which the question of issuing such bonds was submitted to the qualified electors of the city or town, and approved, as hereinafter provided. Such an election may be called by the city or town council or commission on its passage of the necessary resolution as hereinafter provided or after there has been presented to the council or commission a petition, asking that such election be held and question submitted, signed by not less than twenty per centum (20%) of the qualified electors of the city or town. Every petition for the calling of an election to vote upon the question of issuing bonds shall plainly and clearly state the purpose or purposes for which it is proposed to issue such bonds, and shall contain an estimate of the amount necessary to be issued for such purpose or purposes. There may be a separate petition for each purpose, or two (2) or more purposes may be combined in one (1) petition, if each purpose with an estimate of the amount of bonds to be issued therefor is separately stated in such petition. Such petition may consist of one (1) sheet, or of several sheets identical in form and fastened together, after being circulated and signed, so as to form a single complete petition before being delivered to the city or town clerk, as hereinafter provided. The petition shall give the street and house number, if any, and the voting precinct of each person signing the same.

Only persons who are qualified to sign such petitions shall be qualified to circulate the same, and there shall be attached to the completed petition the affidavit of some person who circulated, or assisted in circulating, such petition, that he believes the signatures thereon are genuine and that the signers knew the contents thereof before signing the same. The completed petition shall be filed with the city or town clerk who shall, within fifteen (15) days thereafter, carefully examine the same and the county records showing the qualifications of the petitioners, and attach thereto

a certificate, under his official signature, which shall set forth:

(1) The total number of persons who are registered electors.

(2) \* \* \* [Same.]

(3) Whether such qualified signers constitute more or less than twenty per centum (20%) of the registered electors of the city or town.

**History:** En. Sec. 6, Ch. 160, L. 1931; amd. Sec. 2, Ch. 108, L. 1937; amd. Sec. 2, Ch. 15, L. 1943; amd. Sec. 9, Ch. 158, L. 1971; amd. Sec. 2, Ch. 413, L. 1973.

#### **11-2307. (5278.7) Repealed.**

##### **Repeal**

Section 11-2307 (Sec. 7, Ch. 160, L. 1931), relating to submission to the electors of a petition for issuance of munici-

pal bonds, was repealed by Sec. 5, Ch. 413, Laws 1973. For new law, see sec. 11-2307.1.

**11-2307.1. Resolution to issue bonds—when election required.** When the council or commission of any city or town deems it necessary to issue bonds pledging the general credit of the municipality pursuant to any statute of this state, the council shall pass and adopt a resolution which shall recite the purpose or purposes for which it is proposed to issue such bond, fix the amount of bonds to be issued for each purpose, determine the number of years through which such bonds are to be paid not exceeding the limits fixed in section 11-2303, and unless such bonds are revenue bonds not pledging the general credit of the municipality, making such provisions as are necessary for having the questions submitted to the qualified electors of the city or town at the next general city or town election or at a special election which the council or commission may call for such purpose. In cases where the bond issuance is proposed by petition the council or commission shall before submitting the measure to the electorate pass a resolution containing the information hereinabove required and in addition thereto, setting forth the essential facts in regard to the filing and presentation of the petition.

**History:** En. 11-2307.1 by Sec. 3, Ch. 413, L. 1973.

##### **Title of Act**

An act authorizing cities and towns to hold elections on the issuance of general obligation bond issue without there first

having been filed a petition calling such election; authorizing the issuance of revenue bonds without an election; amending sections 11-2301, 11-2306 and 11-2404, R. C. M. 1947; and repealing section 11-2307, R. C. M. 1947.

### **CHAPTER 24—MUNICIPAL REVENUE BOND ACT OF 1939**

#### **Section**

11-2404. Authorization of undertaking—form and contents of bonds.

**11-2404. Authorization of undertaking—form and contents of bonds.** The acquisition, purchase, construction, reconstruction, improvement, betterment or extension of any undertaking may be authorized under this chapter, and bonds may be authorized to be issued under this chapter by resolution or resolutions of the governing body of the municipality without an election or, should the governing body in its sole discretion choose to submit the question to the electorate, when authorized by a majority of the qualified electors voting upon such question at a special election noticed and conducted as provided in sections 11-2308 to 11-2310, inclusive, and said special election shall be held not later than the next



municipal election held after the council or governing body of the municipality has by resolution or resolutions approved the acquisition, purchase, construction, reconstruction, improvement, betterment or extension of any undertaking as in this chapter provided and ordered said special election.

Said bonds shall bear interest at such rate or rates not exceeding nine per cent (9%) per annum, payable semiannually, may be in one or more series, may bear such date or dates, may mature at such time or times not exceeding forty (40) years from their respective dates, may be payable in such place or places, may carry such registration privileges, may be subject to such terms of redemption, may be executed in such manner, may contain such terms, covenants and conditions, and may be in such form, either coupon or registered, as such resolution or subsequent resolutions may provide. Said bonds shall be sold at not less than par. Said bonds may be sold at private sale to the United States of America or any agency, instrumentality or corporation thereof. Unless sold to the United States of America or agency, instrumentality or corporation thereof, said bonds shall be sold at public sale after notice of such sale published once at least five (5) days prior to such sale in a newspaper circulating in the municipality and in a financial newspaper published in the city of New York, New York, or the city of Chicago, Illinois, or the city of San Francisco, California, except that, in the event the bond issue is in an amount of less than one hundred fifty thousand dollars (\$150,000), the bond issue shall be advertised at least five (5) days prior to such sale in daily newspapers circulating in Montana cities of 10,000 population or over, in lieu of advertising in a financial newspaper in New York, Chicago, or San Francisco, and also in a newspaper as specified in section 16-1201 if that newspaper is different from the daily newspapers circulating in Montana cities of 10,000 population or over. Pending the preparation of the definitive bonds, interim receipts or certificates in such form and with such provisions as the governing body may determine may be issued to the purchaser or purchasers of bonds sold pursuant to this chapter. Said bonds and interim receipts or certificates shall be fully negotiable, as provided by the Uniform Commercial Code—Investment Securities.

History: En. Sec. 4, Ch. 126, L. 1939; amd. Sec. 11, Ch. 158, L. 1971; amd. Sec. 2, Ch. 145, L. 1951; amd. Sec. 2, 5, Ch. 234, L. 1971; amd. Sec. 4, Ch. 413, Ch. 38, L. 1957; amd. Sec. 1, Ch. 52, L. 1973.  
1963; amd. Sec. 11-106, Ch. 264, L. 1963;

#### CHAPTER 32—COMMISSION-MANAGER FORM OF GOVERNMENT

**11-3207. (5406) Manner of conducting election—canvassing votes.** Such election shall be conducted, the vote canvassed, and the result declared in the same manner as provided by law in respect to other municipal elections.

The provisions of section 11-3215 are specifically to be followed in the special election except that the date of the primary election shall be at least thirty (30) days before the special election; provided further that the provisions of section 11-3218.1 shall be applicable to this section.

History: En. Sec. 7, Ch. 152, L. 1917;  
re-en. Sec. 5406, R. C. M. 1921; amd. Sec. 1, Ch. 161, L. 1973.



**11-3214. (5413) Qualifications of commissioners—interest in contracts not allowed—holding any political office forbidden—accepting gratuities forbidden.** Members of the commission shall be residents of the city or town and have the qualifications of electors. Commissioners and other officers and employees shall not be interested in the profits or emoluments of any contract, job, work, or service for the municipality, and shall not hold any partisan political office or employment. Any commissioner who shall cease to possess any of the qualifications herein required, shall forthwith forfeit his office, and any such contract in which any member is or may be interested, may be declared void by the commission.

No commissioner or other officer or employee of said city or town shall accept any frank, free ticket, pass or service directly or indirectly, from any person, firm or corporation upon terms more favorable than are granted to the public generally. Any violation of the provisions of this section shall be a misdemeanor and shall also be sufficient cause for the summary removal or discharge of the offender. Such provisions for free service shall not apply to policemen or firemen in uniform or wearing their official badges, where the same is provided by ordinance, nor to any commissioner, nor to the city manager, nor to the city attorney, upon official business, nor to any other employee or official of said city on official business who exhibits written authority signed by the city manager.

History: En. Sec. 15, Ch. 152, L. 1917;  
re-en. Sec. 5413, R. C. M. 1921; amd. Sec. 4,  
Ch. 31, L. 1923; amd. Sec. 1, Ch. 327, L.  
1974.

**11-3215. (5414) Nomination of candidates—primary election. (1)**  
\* \* \* [Same.]

(2) Any qualified elector of the municipality, who is the owner of real estate situated therein to the value of not less than one thousand dollars, desiring to become a candidate for commissioner, shall, at least thirty-five (35) days prior to said primary election, file with the clerk of the commission a statement of such candidacy in substantially the following form:

State of Montana,  
County of .....  
I, ....., being first duly sworn, say that I reside at ..... street, (city or town) of ....., county of ....., state of Montana; that I am a qualified voter therein; that I am a candidate for nomination to the office of commissioner to be voted upon at the primary election to be held on the last Tuesday of August, 19....., and I hereby request that my name be printed upon the official primary ballot for nomination by such primary election for such office.

(Signed).....

Subscribed and sworn to (or affirmed) before me by ..... on this ..... day of ....., 19.....

(Signed).....

And shall at the same time file therewith the petition of at least twenty-five qualified voters requesting such candidacy. Each petition shall be verified by one or more persons as to qualifications and residence, with street number, of each of the persons so signing the said petition, and the said petition shall be in substantially the following form:

## (3) Petition Accompanying Nominating Statement.

The undersigned duly qualified electors of the (city, town) of \_\_\_\_\_, and residing at the places set opposite our respective names hereto, do hereby request that the name of (name of candidate) be placed on the ballot as a candidate for nomination to the office of commissioner at the primary election to be held on the last Tuesday of August, 19\_\_\_\_\_. We further state that we know him to be a qualified elector of said (city, town), and a man of good moral character, and qualified, in our judgment, for the duties of such office, and we individually certify that we have not signed similar petitions greater in number than the number of commissioners to be chosen at the next general municipal election.

Names of Qualifying Electors	Number	Street
(Space for Signatures.)		

State of Montana,  
County of \_\_\_\_\_

\_\_\_\_\_, being duly sworn, deposes and says, that he knows the qualifications and residence of each of the persons signing the appended petition, and that such signatures are genuine, and the signatures of the persons whose names they purport to be.

(Signed)\_\_\_\_\_

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_\_.

\_\_\_\_\_ (Notary Public),

This petition, if found insufficient, shall be returned to \_\_\_\_\_ at No. \_\_\_\_\_ street, \_\_\_\_\_, Montana.

(4) and (5). \* \* \* [Same.]

History: En. Sec. 16, Ch. 152, L. 1917; 1, Ch. 36, L. 1961; amd. Sec. 1, Ch. 2, L. re-en. Sec. 5414, R. C. M. 1921; amd. Sec. 1973.

**11-3229. (5428) Bribery—false answers concerning qualifications of elector—voting by disqualified person.** Any person offering to give a bribe, either in money or other consideration, to any elector for the purpose of influencing his vote at any election provided in this act, or any elector entitled to vote at any such election receiving and accepting such bribe or other consideration; any person who agrees, by promise or written statement, that he will do, or will not do, any particular act or acts, for the purpose of influencing the vote of any elector or electors at any election provided in this act; any person making false answer to any of the provisions of this act relative to his qualifications to vote at such election; any person willfully voting or offering to vote at such election, who has not met the residency requirement of the state of Montana, or is not a citizen of the United States, or knowing himself not to be a qualified elector of such precinct where he offers to vote; any person knowingly procuring, aiding, or abetting any violation hereof, shall be deemed guilty of a misdemeanor, and, upon conviction, shall be fined a sum of not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500), or be imprisoned in the county jail not less than ten (10) nor more than ninety (90) days, or both such fine and imprisonment.

History: En. Sec. 30, Ch. 152, L. 1917; re-en. Sec. 5428, R. C. M. 1921; amd. Sec. 2, Ch. 166, L. 1971; amd. Sec. 4, Ch. 100, L. 1973.



**TITLE 16—COUNTIES****CHAPTER 3—REMOVAL OF COUNTY SEATS**

## Section

16-302. Submission to electors.

16-305. Publication of result.

**16-302. (4370) Submission to electors.** If the petition is signed by at least fifty per cent (50%) of the qualified electors of such county, the board of county commissioners must at the next general election submit the question of removal to the electors of the county; provided, that for the purpose of testing the sufficiency of any petition which may be presented to the county commissioners as provided in this section, the county commissioners shall compare such petition with the pollbooks in the county clerk's office constituting the returns of the last general election held in their county, for the purpose of ascertaining whether such petition bears the names of at least fifty per cent (50%) of the voters listed therein; and if such petition then shows that it has not been signed by at least fifty per cent (50%) of the voters of the county, after deducting from the said original petition the names of all persons who may have signed such original petition, and who may have filed, or caused to be filed, with the county clerk of said county or the board of county commissioners, on or before the date fixed for the hearing, their statement in writing of the withdrawal of their names from the original petition, it shall be deemed insufficient, and the question of the removal of the county seat shall not be submitted.

**History:** En. Sec. 4158, Pol. C. 1895; L. 1919; re-en. Sec. 4370, R. C. M. 1921; amd. Sec. 2, p. 146, L. 1901; re-en. Sec. amd. Sec. 1, Ch. 406, L. 1973. Cal. Pol. 2852, Rev. C. 1907; amd. Sec. 2, Ch. 10, C. Sec. 3977.

**16-305. (4373) Publication of result.** When the returns have been received and compared, and the results ascertained by the board, if a majority of the qualified electors voting on the question have voted in favor of any particular place, the board must give notice of the results by posting notices thereof in all the election precincts of the county, and by publishing a like notice in a newspaper printed in the county at least once a week for four weeks.

**History:** En. Sec. 3, p. 146, L. 1901; 1921; amd. Sec. 2, Ch. 406, L. 1973. Cal. re-en. Sec. 2855, Rev. C. 1907; amd. Sec. 1, Pol. C. Sec. 3981. Ch. 27, L. 1921; re-en. Sec. 4373, R. C. M.

**CHAPTER 4—LOCATION OF COUNTY SEATS**

## Section

16-402. Designation of temporary county seat—special election.

16-412. Submission of question of locating permanent county seat to voters—elections.

**16-402. (4379) Designation of temporary county seat—special election.** (1) to (3). \* \* \* [Same.]

(4) Provided, however, that at any time within six months after the passage of an act creating a new county, a petition or petitions may be filed with the county clerk of the board of county commissioners of such county asking the board to submit the question of the location of the perma-



ment county seat to the electors of the county at a special election to be called and held in the manner hereinafter in this act provided. Said petition or petitions must contain in the aggregate the names of at least one hundred qualified electors whose names also appear as registered electors in some registration district established and existing in the territory embraced in the new county at the last general election held therein.

(5) The petition or petitions when filed with the board must also have certificates attached thereto from the county clerk of the county in which the person or persons signing the petition resided before the creation of the new county, certifying that the names of the person signing said petition or petitions appear in the registration books of his county containing the names of the electors registered in the last general election in the districts now embraced in the new county.

History: En. Sec. 2, Ch. 135, L. 1911; re-en. Sec. 4379, R. C. M. 1921; amd. Sec. 3, Ch. 406, L. 1973.

#### **16-405. (4382) Repealed.**

##### **Repeal**

Section 16-405 (Sec. 5, Ch. 135, L. 1911; Sec. 1, Ch. 119, L. 1971), relating to registration of electors, was repealed by

Sec. 58, Ch. 100, Laws 1973. Section 4, Ch. 406, Laws of 1973 purported to amend this section. Such amendment was void under the provisions of section 43-515.

**16-412. (4389) Submission of question of locating permanent county seat to voters—elections.** Any county heretofore created, in which the permanent county seat has not been located by valid election held for the purpose of locating the permanent county seat of said county, may have a special election, for the purpose of voting on such question, called and held under the provisions of this act, or if no special election is held for such purpose, then said question shall be submitted by the county commissioners at the next general election after the passage of this act and in the manner provided herein for the submission of such questions at general elections; provided, however, that no special election shall be called for the purpose of submitting such question unless a petition or petitions containing in the aggregate the names of one hundred electors of such county, whose names appear on the last registration books of said county, are filed with the clerk of the board of county commissioners within six months after the passage and approval of this act.

Upon the filing of such petition or petitions within said time, containing the requisite number of electors, which must be ascertained by the board from the records of said county, said board must immediately call such special election as herein provided.

If registration districts and polling precincts have already been established in said county, they shall remain the same for such special election, but a new registration shall be had and said special election conducted and the result determined as in this act provided.

The provisions of this section shall not apply in any case where there has been a permanent county seat located and maintained for a period of three years from the date immediately subsequent to the date of the approval of this act, whether the same was located by a legal election or otherwise.

History: En. Sec. 12, Ch. 135, L. 1911; re-en. Sec. 4389, R. C. M. 1921; amd. Sec. 5, Ch. 406, L. 1973.

## CHAPTER 5—CREATION OF NEW COUNTIES BY PETITION AND ELECTION

## Section

16-501. Creation of new counties—debts and assets prorated—minimum area and valuation.

16-504. Petition for creation of new county—attached affidavits—notice and hearing.

16-505. Duty of commissioners when findings justify new county—division into township, road and school districts—change of boundaries of election precincts—election—temporary county seat.

16-506. Measures to be taken after election—officers—effect of adverse vote.

**16-501. (4390) Creation of new counties—debts and assets prorated—minimum area and valuation.** New counties may from time to time be formed and created in this state from portions of one or more counties, which shall have been created and in existence for a period of more than two years, in the manner set forth and provided in this act; provided, however, that no new county shall be established which shall reduce any county to an assessed valuation of less than twelve million dollars (\$12,000,000.00), inclusive of all assessed valuation as shown by the last preceding assessment; nor shall any new county be established which shall reduce the area of any existing county from which territory is taken to form such new county, to less than twelve hundred square miles of surveyed land, exclusive of all forest reserve and Indian reservations within old counties nor shall any new county be formed which contains an assessed valuation of property less than ten million dollars (\$10,000,000.00), inclusive of all assessed valuation as shown by the last preceding assessment, of the county or counties from which such new county is to be established, nor shall any new county be formed which contains less than one thousand square miles of surveyed land exclusive of all forest reserve land or Indian reservations, not open for settlement, nor shall any line thereof pass within fifteen miles of the courthouse situate at the county seat of the county sought to be divided; provided, that such county line may be run within a distance of ten miles of a county seat in cases where the natural contour of the county, by reason of mountain ranges or other topographical conditions, is such as to make it difficult to reach the county seat, and in such cases a petition, signed by at least fifty per centum (50%), of the voters in the proposed new county, shall be presented to the judge of the district court in which the county affected is located, asking for the appointment of a commission of five (5) disinterested persons, who shall determine if the topographical conditions are such as to warrant the fixing of the county division lines closer than at fifteen miles from the county seat, as such boundaries are legally fixed and determined at the date of the filing of the petition or petitions referred to in section 16-504 of this code.

Every county which shall be enlarged or created from the territory taken from any other county or counties shall be liable for a prorata proportion of the existing debts and liabilities of the county or counties from which such territory shall be taken, and shall be entitled to a prorata proportion of the assets of the county or counties from which such territory is taken, to be determined as provided by sections 16-502, 16-503 and 16-511.

**History:** En. Sec. 1, Ch. 226, L. 1919; 1, Ch. 106, L. 1929; amd. Sec. 6, Ch. 406, re-en. Sec. 4390, R. C. M. 1921; amd. Sec. L. 1973.

**16-504. (4393) Petition for creation of new county—attached affidavits—notice and hearing.** (1) Whenever it is desired to divide any county



or counties and form a new county out of a portion of the territory of such then existing county or counties, a petition shall be presented to the board of county commissioners of the county from which the new county is to be formed, in case said proposed new county is to be formed from but one county, or to the board of county commissioners of the county from which the largest area of territory is proposed to be taken for the formation of such new county, in case said new county is to be formed from portions of two or more existing counties; and such board of county commissioners shall be empowered and have jurisdiction to do and perform all acts provided for to be done or performed in this act, for each of the several counties from which any proposed territory is to be taken, and shall direct that a certified copy of all orders and proceedings had before such board of county commissioners shall be certified by the county clerk to the board of county commissioners of each of the several counties from which any territory is taken by the proposed new county; and all officers of any such county shall comply with the orders of the board of county commissioners, in the same manner as if said order had been duly made by the board of county commissioners of each respective county from which territory is proposed to be taken. Such petition shall be signed by at least fifty per cent (50%) of the qualified electors of the proposed new county, whose names appear on the official registration books and who are shown thereon to have voted at the last general election preceding the presentation of said petition to the board of county commissioners as herein provided; provided, that in cases where the proposed new county is to be formed from portions of two or more counties, separate petition shall be presented from the territory taken from each county; and each of said separate petitions shall be signed by at least fifty per cent (50%) of the qualified electors of each of said proposed portions. Such signatures need not all be appended to one paper, but may be signed to several petitions which must be similar in form, and when so signed the several petitions may be fastened together and shall be treated and presented as one petition.

(2) Such petition or petitions shall contain:

1 to 6. \* \* \* [Same.]

There shall be attached and filed with said petition or petitions an affidavit of five qualified electors residing within each county sought to be divided, to the effect that they have read said petition and examined the signatures affixed thereto, and they believe that the statements therein are true, and that it is signed by at least fifty per cent (50%) of the qualified electors as herein provided, of the proposed new county, or of the proposed portion thereof, taken from each existing county, where the proposed new county is to be formed from portions of two or more existing counties; that the signatures affixed thereto are genuine; and that each of such persons so signing was a qualified elector of such county therein sought to be divided, at the date of such signing. Such petition or petitions so verified, and the verification thereof, shall be accepted in all proceedings permitted or provided for in this act, as prima facie evidence of the truth of the matters and facts therein set forth. Upon the filing of such petition or petitions and affidavits with the clerk of the said board of county commissioners, said clerk shall forthwith fix a date to hear the proof of the said petitions and of any opponents thereto, which date must be not



later than thirty days after the filing of such petition with the clerk of said board. The county clerk shall also, at the same time, designate a newspaper of general circulation published in the old counties, but not within the proposed new county, and also a newspaper of general circulation published within the boundaries of the proposed new county, if there be such, in which the said county clerk shall order and cause to be published, at least once a week for two weeks next preceding the date fixed for such hearing, a notice in substantially the following form:

### Notice

Notice is hereby given that a petition has been presented to the board of county commissioners of ..... county (naming the county represented by the board of county commissioners with which said petition was filed), praying for the formation of a new county out of portion of the said ..... county and ..... county (naming the county or counties of which it is proposed to form the new county), and that said petition will be heard by the said board of county commissioners at its place of meeting (designating the city or town and the day and hour of the meeting so to be held), and when and where all persons interested may appear and oppose the granting of said petition, and make any objections thereto.

Dated at ..... at ..... Montana.

....., County Clerk.

Said petitioners shall, on or before the date fixed for said hearing, file with the said board of county commissioners a bond to be approved by said board, in an amount of five thousand dollars, payable to the county in which said petition is filed, conditioned that the obligors named in said bond will pay to said county all expenses incurred in the election provided for in this act, not exceeding the amount specified in said bond, in the event that at the election herein provided for more than fifty per cent (50%) of the votes cast at said election are "for the new county of ..... (naming the proposed new county)," "No."

(3). \* \* \* [Same.]

(4) The board of county commissioners, on the final hearing of such petition or petitions, shall, by a resolution entered on its minutes, determine:

1. \* \* \* [Same.]

2. Whether the said petition contains the genuine signatures of at least fifty per cent (50%) of the qualified electors of the proposed new county as herein required, or in cases where separate petitions are presented from portions of two or more existing counties as herein required, whether each petition is signed by at least fifty per cent (50%) of the qualified electors of that portion of each of such existing counties which it is proposed to take into the proposed new county.

3 to 8. \* \* \* [Same.]

(5) On final hearing the board of commissioners, upon petition of not less than fifty per cent of the qualified electors (as shown by the official registration books on the day of the filing of any such petition) of any territory lying within said proposed new county contiguous to the boundary

line of the said proposed new county, and of the old county from which such territory is proposed to be taken, and lying entirely within a single old county and described in said petition, asking that said territory be not included within the proposed new county, must make such changes in the proposed boundaries as will exclude such territory from such new county, and shall establish and define such boundaries. On final hearing the board of commissioners, upon petition of not less than fifty per cent of the qualified electors of any territory lying outside said proposed new county, and contiguous to the boundary line of said proposed new county, and of the old county or counties from which such territory is proposed to be included, asking that said territory be included within the proposed new county, must make such changes in the proposed boundaries as will include such territory in such new county, and shall establish and define such boundaries; provided, however, that the segregation of such territory from any old county or counties shall not leave such county or counties with less than twelve million dollars of assessed valuation, based upon the last assessment roll; provided, that no change or changes so made shall result in reducing the valuation of the proposed new county to less than an assessed valuation of ten million dollars, inclusive of all assessed valuation; and provided, further, that no change shall be made which shall leave the territory so excluded separate and apart from and without the county of which it was formerly a part. Petitions for exclusion shall be disposed of in the order in point of time in which they are filed with the clerk of the board of county commissioners, and on final determination of boundaries no changes in the boundaries originally proposed shall be made except as prayed for in said petition or petitions, or to correct clerical errors or uncertainties.

History: En. Sec. 2, Ch. 226, L. 1919;  
re-en. Sec. 4393, R. C. M. 1921; amd. Sec.  
7, Ch. 406, L. 1973.

**16-505. (4394) Duty of commissioners when findings justify new county—division into township, road and school districts—change of boundaries of election precincts—election—temporary county seat.** (1) If the said board of county commissioners determine that the formation of said proposed new county will not reduce any county from which any territory is taken to an assessed valuation of less than twelve million dollars, inclusive of the assessed valuation, nor the area thereof to less than twelve hundred square miles of surveyed land, and that the proposed new county contains property of an assessed valuation of at least ten million dollars, inclusive of all assessed valuation, and that the proposed new county has an area of at least one thousand square miles of land, and that no line of said proposed new county passes within fifteen miles of the courthouse situate at the county seat of any county proposed to be divided, except as hereinbefore provided, and that said petition contains the genuine signatures of at least fifty per cent (50%) of the qualified electors of the proposed new county, or in cases where separate petitions are presented from portions of two or more existing counties (as herein required), that each of said petitions contain the genuine signatures of at least fifty per cent (50%) of the qualified electors of that portion of the proposed new county from which it is taken, then the said board of county commissioners shall divide the proposed new county into a convenient number of town-



ship, road, and school districts, and define their boundaries and designate the names of such districts.

(2). \* \* \* [Same as parent volume.]

(3) Within two weeks after its determination of the truth of the allegations of said petition as aforesaid, the said board of county commissioners shall order and give proclamation and notice of an election to be held on a specified day in the territory which is proposed to be taken for the new county, not less than ninety days nor more than one hundred and twenty days thereafter, for the purpose of determining whether such territory shall be established and organized into a new county; and for the election of officers and location of a county seat therefor, in case the vote at such election shall be in favor of the establishment and organization of such new county. All qualified electors residing within the proposed new county who are qualified electors of the county or counties from which territory is taken to form such proposed new county, and who are registered under the provisions of the registration laws of the state, shall be entitled to vote at said election. Registration and transfers of registration shall be made and shall close in the manner and at a time provided by law for registration and transfers of registration for a general election in the state of Montana.

(4) to (7). \* \* \* [Same.]

All returns of election herein provided for shall be made to the board of county commissioners calling such election.

All nominations of candidates for the office required to be filled at said election shall be made in the manner provided by law for the nomination of candidates by petition.

The provisions of the election laws relating to preparation, printing, and distribution of sample ballots, except the provisions of said laws relating to primary elections in this state, shall have application to any election provided for in this act.

History: En. Sec. 3, Ch. 226, L. 1919;  
re-en. Sec. 4394, R. C. M. 1921; amd. Sec.  
8, Ch. 406, L. 1973.

**16-506. (4395) Measures to be taken after election—officers—effect of adverse vote.** (1) If, upon the canvass of the votes cast at such election, it appears that more than fifty per cent (50%) of the votes cast are "For the new county of ....., " "Yes," the board of county commissioners shall, by a resolution entered upon its minutes, declare such territory duly formed and created as a county of this state, of the class to which the same shall belong, under the name of ..... county, and that the city or town receiving the highest number of votes cast at said election for county seat shall be the county seat of said county until removed in the manner provided by law, and designating and declaring the person receiving respectively the highest number of votes for the several offices to be filled at said election, to be duly elected to such offices. Said board shall forthwith cause a copy of its said resolution, duly certified, to be filed in the office of the secretary of state, and ninety days from and after the date of such filing said new county shall be deemed to be fully created, and the organization thereof shall be deemed completed, and such officers shall be entitled to enter immediately upon the duties of their respective



offices upon qualifying in accordance with law and giving bonds for the faithful performance of their duties, as required by the laws of the state. The clerk of the board of county commissioners with which said petition was filed, as herein provided, must immediately make out and deliver to each of said persons so declared and designated to be elected, a certificate of election authenticated by his signature and the seal of said county. The persons elected members of the board of county commissioners and the county clerk shall immediately, upon receiving their certificates of election, assume the duties of their respective offices.

(2) The board of county commissioners shall have authority to provide a suitable place for the county officers, and to purchase such supplies as may be deemed necessary for the proper conduct of the county government. All other officers take office ninety days after the filing of the resolution herein provided for with the secretary of state. All the officers elected at said election, or appointed under this act, shall hold their offices until the time provided by general law for the election and qualification of such officers in this state, and until their successors are elected and qualified, and for the purpose of determining the term of office of such officers, the years said officers are to hold office are to be computed respectively from and including the first Monday after the first day of January following the last preceding general election. If, however, upon such canvass it appears that more than fifty per cent (50%) of the votes cast at said election are "For the new county of .....", "No," the board of county commissioners canvassing said vote as provided herein shall pass a resolution in accordance therewith, and thereupon the proceedings relating to division of such county or counties shall cease; and no other proceedings in relation to any other division of said old county or counties shall be instituted for at least two years after such determination.

History: En. Sec. 4, Ch. 226, L. 1919;  
re-en. Sec. 4395, R. C. M. 1921; amd. Sec.  
9, Ch. 406, L. 1973.

## CHAPTER 8—GENERAL POWERS AND LIMITATIONS UPON COUNTIES

### Section

#### 16-807. Limit of indebtedness.

**16-807. (4447) Limit of indebtedness.** No county must become indebted in any manner or for any purpose to an amount, including existing indebtedness, in the aggregate exceeding five per centum of the assessed value of the taxable property therein, to be ascertained by the last assessment for state and county taxes previous to the incurring of such indebtedness, and all bonds or obligations in excess of such amount given by or on behalf of such county are void. No county must incur any indebtedness or liability for any single purpose to an amount exceeding forty thousand dollars (\$40,000) without the approval of a majority of the electors thereof voting at an election to be provided by law.

History: En. Sec. 4196, Pol. C. 1895; 4447, R. C. M. 1921; amd. Sec. 1, Ch. 486, re-en. Sec. 2876, Rev. C. 1907; re-en. Sec. L. 1973.

## CHAPTER 9—COUNTY COMMISSIONERS—ORGANIZATION— MEETINGS—COMPENSATION

**16-902.1. Commissioners shall district.** The board of county commissioners shall in every county of the state, following each federal decennial

census, divide their respective counties into three (3) commissioner districts as compact and equal in population and area as possible. The district judge or judges of the said county shall review the action of the commissioners to determine whether or not such action meets the requirements of this section. Such apportionment may take place at any time for the purpose of equalizing in population and area such commissioner districts, however, no commissioner district shall at any time be changed to affect the term of office of any county commissioner who has been elected, and provided further, that no change in the boundaries of any commissioner district shall be made within six (6) months next preceding a general election.

**History:** En. 16-902.1 by Sec. 1, Ch. 298, L. 1974.

**Note.** Section 6 of Ch. 298, Laws of 1974 provides: "The division of the counties into three (3) commissioner districts as provided for in section 1 [16-902.1] of this act shall not be accomplished until subsequent to January 1, 1975. The boundaries of existing commissioner districts shall be continued for the purposes of elections to be held in the year 1974."

**16-902.2. Filing of districts.** When such division of commissioner districts has been made, there shall be filed in the office of the county clerk and recorder of such county, a certificate designating the metes and bounds of the boundary lines and limits of each said commissioner district. The certificate shall be dated and signed by the district court judge or judges of the county.

**History:** En. 16-902.2 by Sec. 2, Ch. 298, L. 1974.

**16-902.3. Elections.** At each general election, the member or members of the board of county commissioners to be elected, shall be selected from the residents and electors of the district or districts in which the vacancy occurs, but the election of such member or members of the board shall be submitted to the entire electorate of the county, provided, however, that no one shall be elected as a member of said board who has not resided in said district for at least two (2) years next preceding the time when he shall become a candidate for said office.

**History:** En. 16-902.3 by Sec. 3, Ch. 298, L. 1974.

**16-902.4. Refund of fee.** Any candidate filing for the office of county commissioner prior to the effective date of this act that does not comply with the provisions of this act shall receive a refund of their filing fee.

**History:** En. 16-902.4 by Sec. 4, Ch. 298, L. 1974.

**16-902.5. Not applicable to counties with alternative forms of government.** This act shall not apply to counties adopting an optional or alternative form of government authorized by law.

**History:** En. 16-902.5 by Sec. 7, Ch. 298, L. 1974.

## CHAPTER 12—COUNTY PRINTING COMMISSION

### Section

16-1230. County commissioners to contract for county printing—competitive bids—separation of printing and legal advertising.



**16-1230. County commissioners to contract for county printing.** (1) The county commissioners shall contract with one (1) newspaper to do all the printing for the county, including advertising required by law and all printed forms required by the county, at a rate not exceeding that set by the board.

(2) The newspaper shall be:

(a) Of general circulation;

(b) Published at least once a week;

(c) Published in the county;

(d) Published continuously in the county for the twelve (12) months preceding the awarding of the contract.

(3) Nothing in this act shall limit or restrict the power of a board of county commissioners to call for competitive bids from persons or firms qualified to bid on county printing under the terms of this act, or to let contracts at prices less than the maximum fixed by the board of county printing.

(4) In any county in which no newspaper owns or operates a commercial printing establishment, the county commissioners shall separate the printing contract into two (2) parts, one of which shall provide for the publication of legal advertising only, such contract being let to a legally qualified newspaper; and the other contract shall provide for all printed forms, materials and supplies required by the county, which contract shall be let to a commercial printing establishment which shall have been in business in the county for at least one (1) year; provided, however, that in no case shall any contract call for payment by the county of any prices in excess of the maximum fixed by the board of county printing.

**History:** En. Sec. 6, Ch. 280, L. 1967; amd. Sec. 1, Ch. 418, L. 1973; amd. Sec. 61, Ch. 348, L. 1974.

#### CHAPTER 24—COUNTY OFFICERS—QUALIFICATIONS— GENERAL PROVISIONS

##### Section

16-2404. Township officers.

16-2406. County and other officers, when elected or appointed and term of office.

##### **16-2403. (4725) Repealed.**

###### **Repeal**

Section 16-2403 (Sec. 4312, Pol. C. 1895; Sec. 1, Ch. 112, L. 1913), enumerating the county officers, was repealed by Sec. 23,

Ch. 123, Laws 1973. Chapter 491, Laws of 1973 purported to amend this section, but such amendment was void under section 43-515.

**16-2404. (4726) Township officers.** The officers of townships are two constables, and such other inferior and subordinate officers as are provided for elsewhere in this code, or by the board of county commissioners.

**History:** En. Sec. 4313, Pol. C. 1895; re-en. Sec. 2958, Rev. C. 1907; re-en. Sec. 4726, R. C. M. 1921; amd. Sec. 10, Ch. 491, L. 1973. Cal. Pol. C. Sec. 4104.

**16-2406. (4728) County and other officers, when elected or appointed and term of office.** There may be elected or appointed in each county the following county officers who shall possess the qualifications for suffrage



prescribed by the constitution of the state of Montana, and such other qualifications as may be prescribed by law :

One (1) county attorney; one (1) clerk of the district court; one (1) county clerk who shall be clerk of the board of county commissioners and ex officio recorder; one (1) sheriff; one (1) treasurer, who shall be collector of the taxes; one (1) county superintendent of schools; one (1) county surveyor; one (1) assessor; one (1) coroner; one (1) public administrator; and at least one (1) justice of the peace. Persons elected to the different offices named in this section shall hold their respective offices for the term of four (4) years, and until their successors are elected and qualified. Persons appointed to the different offices serve at the pleasure of the commissioners.

County auditors, and all elective township officers, may be elected at each general election as now provided by law. The officers mentioned in this act must take office on the first Monday of January next succeeding their election, except the county treasurer, whose term begins on the first Monday of March next succeeding his election.

Vacancies in all county, township and precinct offices, except that of county commissioners, shall be filled by appointment by the board of county commissioners, and the appointee shall hold his office until the next general election if elective, and if not elective, the appointee serves at the pleasure of the commissioners; provided, however, that the board of county commissioners of any county may, in its discretion, consolidate any two or more of the within named offices and combine the powers and the duties of the said offices consolidated with the exception of the office of the justice of the peace, which office may not be combined or consolidated with any other office other than another justice of the peace office; however, the provisions hereof shall not be construed as allowing one (1) office incumbent to be entitled to the salaries and emoluments of two (2) or more offices; provided, further, that in consolidating county offices, the board of county commissioners shall, six (6) months prior to the general election held for the purpose of electing the aforesaid officers, or six (6) months prior to the appointment of aforesaid officers, make and enter an order, combining any two (2) or more of the within named offices, and shall cause the said order to be published in a newspaper, published and circulated generally in said county, for a period of six (6) weeks next following the date of entry of said order.

History: En. Sec. 4315, Pol. C. 1895; L. 1939; amd. Sec. 16, Ch. 123, L. 1973; re-en. Sec. 2960, Rev. C. 1907; re-en. Sec. amd. Sec. 1, Ch. 129, L. 1973; amd. Sec. 4728, R. C. M. 1921; amd. Sec. 1, Ch. 134, 12, Ch. 491, L. 1973. Cal. Pol. C. Sec. 4109.

#### **16-2407. (4729) Repealed.**

##### **Repeal**

Section 16-2407 (Sec. 4316, Pol. C. 1895), relating to elections and terms of county

commissioners, was repealed by Sec. 58, Ch. 100, Laws 1973 and Sec. 23, Ch. 123, Laws 1973.

#### **CHAPTER 39—COUNTY MANAGER FORM OF GOVERNMENT**

(Repealed—Section 23, Chapter 123, Laws of 1973)

#### **16-3901 to 16-3923. (4954.1 to 4954.23) Repealed.**

##### **Repeal**

Sections 16-3901 to 16-3923 (Secs. 1 to 22, Ch. 109, L. 1931; Secs. 1 to 7, Ch. 56, L.

1933; Sec. 1, Ch. 72, L. 1943), relating to the county manager form of government, were repealed by Sec. 23, Ch. 123, Laws

1973. For new law, see secs. 16-5001 to 16-5019, especially section 16-5016. Chapter 391, Laws of 1973 purported to amend sections 16-3912 and 16-3916, but the amendments were void under section 43-515.

#### CHAPTER 43—PUBLIC HOSPITAL DISTRICTS

**16-4301.1. “Hospital facilities” defined.** As used in this chapter, unless the context otherwise requires, “hospital facilities” means a hospital or a hospital-related facility, including out-patient facilities, public health centers, rehabilitation facilities, long-term care facilities and infirmaries.

**History:** En. Sec. 1, Ch. 336, L. 1973.

**16-4309.1. Additional tax levy—election—majority vote required.** (1) If the maximum levy of three (3) mills on each dollar of taxable valuation of property within the hospital district is inadequate to raise the amount of money certified as necessary and proper by the board of hospital trustees, as provided in section 16-4309, the board of county commissioners may make an additional levy upon the taxable property within said hospital district of three (3) mills or less sufficient to raise the amount certified by the board of hospital trustees.

(2) Before the additional levy may be made, the question shall be submitted to a vote of the people at some general or special election in the following form: “Shall there be an additional levy of (specify number) mills upon the taxable property of the (specify hospital district) necessary to raise the sum of (specify the amount to be raised by the additional tax levy) for the purpose of (specify purpose for which the additional levy is made)?

“☐ For an additional levy to raise the sum of (state the amount to be raised by the additional tax levy), and being (give number) mills.

“☐ Against an additional tax levy to raise the sum of (state amount to be raised by the additional tax levy), and being (give number) mills.”

(3) A majority of the votes cast shall be necessary to permit the additional levy which shall be collected in the same manner as other hospital district taxes.

(4) If the calculated percentage of qualified electors voting in the election is less than thirty per cent (30%), the additional levy shall be deemed to have been rejected.

**History:** En. 16-4309.1 by Sec. 1, Ch. 132, L. 1974.

**16-4309.2. Notice—conduct of election—returns.** Notice of the election, clearly stating the amount and the purpose of the additional levy, must be given and the election held and conducted, and the returns made in all respects in the manner prescribed by law with regard to the submission of questions to the electors under the general election laws.

**History:** En. 16-4309.2 by Sec. 2, Ch. 132, L. 1974.

#### CHAPTER 45—COUNTY WATER AND SEWER DISTRICTS

**16-4505. Proposition submitted—who may vote—certificate of secretary of state—district deemed incorporated—must hear testimony—suit**



**commenced within one year—election.** Upon such hearing of said petition, the board of commissioners shall determine whether or not said petition complies with the requirements of the provisions of this act, and for that purpose must hear all competent and relevant testimony offered in support of or in opposition thereto. Such determination shall be entered upon the minutes of said board of commissioners. A finding of the board of commissioners in favor of the genuineness and sufficiency of the petition and notice shall be final and conclusive against all persons except the state of Montana upon suit commenced by the attorney general. Any such suit must be commenced within one (1) year after the order of the board of commissioners declaring such district organized as herein provided, and not otherwise. Upon the final determination of the boundaries of the district the board of commissioners of each county in which said district lies shall give notice of an election to be held in said proposed district for the purpose of determining whether or not the same shall be incorporated, the date of which election shall be not more than sixty (60) days from the date of the final hearing of such petition. Such notice shall describe the boundaries so established and shall state the proposed name of the proposed incorporation (which name shall contain the words “. . . county water and/or sewer district”), and this notice shall be published for ten (10) consecutive days in a daily newspaper or in two (2) issues of a weekly newspaper printed and published in every county in which said district lies. The first publication shall be made at least two (2) weeks before the time at which the election is to be held. At such election the proposition to be submitted shall be: “Shall the proposition to organize . . . county water and/or sewer district under (naming the chapter containing this act) of the acts of the . . . session of the Montana legislature and amendments thereto be adopted?” And the election thereupon shall be conducted, the vote canvassed and the result declared in the same manner as provided by law in respect to general elections, so far as they may be applicable, except as in this act otherwise provided. No person shall be entitled to vote at any election under the provisions of this act unless such person possesses all the qualifications required of voters under the general election laws of the state, and is a resident of the proposed district or the owner or lessee of taxable real property located within the county in which he proposes to vote and situated within the boundaries of the proposed district; provided however a person who is the owner or lessee of such real property need not possess the qualifications required of a voter in subsection (1)(c) of section 23-2701, R. C. M. 1947; provided further that such voter shall be qualified if he is registered to vote in any state of the United States. Within four (4) days after such election the vote shall be canvassed by the board of commissioners. If at least forty per cent (40%) of all eligible voters within the proposed district have voted and if a majority of the votes cast at such election in each municipal corporation or part thereof and in the unincorporated territory of each county included in such proposed district shall be in favor of organizing such county district, said board of each such county shall by an order entered on its minutes declare the territory enclosed within the proposed boundaries duly organized as a county water and/or sewer district under the name theretofore designated, and the county clerk of each such county shall

immediately cause to be filed with the secretary of state and shall cause to be recorded in the office of the county recorder of the county or counties in which such district is situated, each, a certificate stating that such a proposition was adopted. Upon the receipt of such last-mentioned certificate the secretary of state shall, within ten (10) days, issue his certificate reciting that the district (naming it) has been duly incorporated according to the laws of the state of Montana. A copy of such certificate shall be transmitted to and filed with the county clerk of the county or counties in which such district is situated. From and after the date of such certificate, the district named therein shall be deemed incorporated, with all the rights, privileges and powers set forth in this act and necessarily incident thereto. In case less than a majority of the votes cast are in favor of said proposition the organization fails but without prejudice to renewing proceedings at any time in the future.

History: En. Sec. 5, Ch. 242, L. 1957; Ch. 263, L. 1967; amd. Sec. 1, Ch. 257, L. amd. Sec. 4, Ch. 167, L. 1965; amd. Sec. 1, 1974.

**16-4506. Election of directors—term of office.** At an election to be held within such district under the provisions of this act and the laws governing general elections not inconsistent herewith, the district thus organized shall proceed within ninety (90) days after its formation to the election of a board of directors consisting, if there are no municipalities within the boundaries of said district, of five (5) members. In all cases where the boundaries of such district include any municipality or municipalities, said board of directors, in addition to said five (5) directors to be elected as aforesaid, shall consist of one (1) additional director for each one of said municipalities within such district, each such additional director to be appointed by the mayor of the municipality for which said additional director is allowed; and if there be any unincorporated territory within said district, one additional director, to be appointed by the board of commissioners of each county containing such territory. Any director so elected or appointed shall be an owner or lessee of real property within said district or a resident therein. All directors, elected or appointed, shall hold office until the election and qualification or appointment and qualification of their successors. The term of office of directors elected under the provisions of this act shall be four (4) years from and after the date of their election; provided, that the directors first elected after the passage of this act shall hold office only until the election and qualification of their successors as hereinafter provided. The term of office of directors appointed by said mayor or mayors or by said board of commissioners shall be six (6) years from and after the date of appointment. Directors to be first appointed under the provisions of this act shall be appointed within ninety (90) days after the formation of the district. The election of directors of such district shall be in every fourth year after its organization, on the fourth Tuesday in March, and shall be known as the "general district election." All other elections which may be held by authority of this act, or of the general laws, shall be known as special district election.

History: En. Sec. 6, Ch. 242, L. 1957; Ch. 263, L. 1967; amd. Sec. 2, Ch. 257, L. amd. Sec. 5, Ch. 167, L. 1965; amd. Sec. 1, 1974.



**16-4507. Nomination of officers.** (1) and (2) \* \* \* [Same.]

(3) The petition of nomination shall consist of not less than twenty-five (25) individual certificates, which shall read substantially as follows:

## PETITION OF NOMINATION

## Individual Certificate

State of .....

County of .....

Prect. No. ....

I, the undersigned, certify that I do hereby join in a petition for the nomination of ....., whose residence is at ..... for the office of ..... of the ..... district to be voted for at the district election to be held in the ..... district on the ..... day of ....., 19....; and I further certify that I am a qualified elector and an owner or lessee of real property within said district, or a resident therein, and am not at this time a signer of any other petition nominating any other candidate for the above named office; or, in the case there are several places to be filled in the above named office, that I have not signed more petitions than there are places to be filled in the above named office; that my residence is at No. .... street, ....., and that my occupation is .....

(Signed) .....

State of Montana

County of .....

....., being duly sworn, deposes and says that he is the person who signed the foregoing certificate and that the statements therein are true and correct.

(Signed) .....

Subscribed and sworn to before me this ..... day of ....., 19....

.....  
Notary Public

The petition of nomination of which this certificate forms a part shall, if found insufficient, be returned to ....., at ....., Montana.

(4) \* \* \* [Same.]

(5) Certificates. Each certificate must be a separate paper. All certificates must be of uniform size as determined by the county clerk. Each certificate must contain the name of one signer thereto and no more. Each certificate shall contain the name of one candidate and no more. Each signer must be a qualified elector owning or leasing or residing upon real property within said district, must not at the time of signing a certificate have his name signed to any other certificate for any other candidate for the same office, or, in case there are several places to be filled in the same office, signed to more certificates for candidates for that office than there are places to be filled in such office. In case an elector has signed two or more conflicting certificates, all such certificates shall be rejected. Each signer must verify his certificate and make oath that the same is true, before a notary public. Each certificate shall further con-

tain the name and address of the person to whom the petition is to be returned in case said petition is found insufficient.

(6) to (22) \* \* \* [Same]

History: En. Sec. 7, Ch. 242, L. 1957; Ch. 263, L. 1967; amd. Sec. 3, Ch. 257, L. amd. Sec. 6, Ch. 167, L. 1965; amd. Sec. 1, 1974.

**16-4508. General law to govern.** The provisions of the law relating to the qualifications of electors, the manner of voting, the duties of election officers, the canvassing of returns, and all other particulars in respect to the management of general elections, so far they may be applicable, shall govern all district elections, except as in this act otherwise provided; provided, however, that where a corporation owns real property within the boundaries of the district, the president, vice-president or secretary of such corporation shall be entitled to cast a vote on behalf of the corporation; provided also that an elector owning or leasing real property within the district need not reside within the district in order to vote, and provided that the board of commissioners shall canvass the returns of the first election and that thereafter, except as herein provided, the board of directors shall meet as a canvassing board and duly canvass the returns within four (4) days after any district election, including any district bond election. If the district lies in more than one county, the board of commissioners whose county contains the largest percentage of the territory of said district shall canvass the returns of the first election.

History: En. Sec. 8, Ch. 242, L. 1957; Ch. 167, L. 1965; amd. Sec. 1, Ch. 263, amd. Sec. 1, Ch. 258, L. 1959; amd. Sec. 7, L. 1967; amd. Sec. 4, Ch. 257, L. 1974.

**16-4520. Publication.** Such notice shall be published for ten (10) consecutive days in a daily newspaper or in two (2) issues of a weekly newspaper published in each county wherein such district is located, which newspaper or newspapers shall be designated by the board of directors. Every qualified elector, owning or leasing or residing upon real property, within such voting precincts, but no others, shall be entitled to vote at such election. All the expenses of holding such election shall be borne by the district.

History: En. Sec. 20, Ch. 242, L. 1957; Ch. 167, L. 1965; amd. Sec. 1, Ch. 263, L. amd. Sec. 2, Ch. 258, L. 1959; amd. Sec. 8, 1967; amd. Sec. 5, Ch. 257, L. 1974.

## CHAPTER 50—ALTERNATIVE FORMS OF COUNTY GOVERNMENT

### Section

- 16-5001. Alternative forms of county government authorized.
- 16-5002. Optional forms.
- 16-5003. Initiation by county commissioners—petition—resolution—election date—notice.
- 16-5004. Adoption of optional form—when effective—disapproval.
- 16-5005. Discontinuance.
- 16-5006. Adoption of optional form not to affect present acts—transfer of powers.
- 16-5007. Optional form to elect county commissioners at large or by districts—number of members.
- 16-5008. Election of board at large—procedure for change in number of members—terms of office.
- 16-5009. Election of board by districts.
- 16-5014. Elected county official form.
- 16-5015. County commissioner form.
- 16-5016. Manager form.
- 16-5017. Elected county executive.



**16-5001. Alternative forms of county government authorized.** The electors of any county may adopt an alternative form of county government authorized by the provisions of this act. Upon adoption as provided by such act, said alternative form of government shall take the place of the form of government then existing in such county, and the sections of this act, applicable to the adopted alternative form of government, shall be controlling in such county as to all matters to which they relate, and other provisions of the general laws of the state shall be operative therein only insofar as they are not inconsistent with the aforesaid provisions.

**History:** En. Sec. 2, Ch. 123, L. 1973.

**Title of Act**

An act to implement article XI, section 3, of the 1972 Montana constitution by providing for optional forms of county government; procedures to adopt and initiate an optional form of county govern-

ment; adding county attorney and clerk of district court to the list of offices that may be consolidated; deleting the non-succession provision for county treasurer; amending sections 16-901, 16-2406 and 16-2412, R. C. M. 1947; and repealing sections 16-2403, 16-2407 and 16-3901 through 16-3923, R. C. M. 1947.

**16-5002. Optional forms.** An optional form of county government shall include the elected county official form, the county commissioner form, the manager form and the elected county executive form.

**History:** En. Sec. 3, Ch. 123, L. 1973.

**16-5003. Initiation by county commissioners — petition — resolution — election date — notice.** The board of county commissioners of any county may, by a two-thirds ( $\frac{2}{3}$ ) vote of the board, or shall, within thirty (30) days upon receipt of a petition signed by fifteen per cent (15%) of the electors of the county as determined by the number of votes cast therein for the office of governor at the last preceding gubernatorial election, by resolution submit in a referendum to the electors of the county the question of adopting a new form of county government authorized by this act. If more than one optional form of county government is presented to the county commissioners by petition a primary election shall be held to determine the form to be submitted to the electors in a referendum. It shall be the duty of the board of county commissioners to submit the question at the next regular election or call a special election for the purpose. If a special election is called it shall be held not more than ninety (90) days nor less than sixty (60) days from the passage of the resolution, but not within thirty (30) days of any general election.

(1) The question submitted shall be worded: "Shall the county of ..... adopt the form of county government known as the ..... form." (name of form)

(2) It shall be the duty of the board of county commissioners to publish a notice of the referendum in a daily paper twice a week for a period of three (3) consecutive weeks, or in case there is no daily paper of wide circulation in the county, then in a weekly paper for four (4) consecutive weeks.

**History:** En. Sec. 4, Ch. 123, L. 1973.

**16-5004. Adoption of optional form—when effective—disapproval.** If a majority of the votes cast on the question of adopting an optional form of county government is in the affirmative, it shall go into effect at a date designated in the petition or resolution; provided, that no elected official then in office, whose position will no longer be filled by popular election,

shall be retired prior to the expiration of his term of office, but from and after the establishment of the optional form of county government, his duties shall be such duties as are assigned to him by the person or body administering the optional form of government. If a majority of the voters disapprove, the existing form shall be continued and no new referendum may be held during the next two (2) years following the date of disapproval.

**History:** En. Sec. 5, Ch. 123, L. 1973.

**16-5005. Discontinuance.** A proposition to discontinue an optional form of county government established under this act or to adopt another optional form of county government pursuant to this act may be submitted to the electors of the county at any general election in the manner provided for the submission of an optional form of county government under section 4 [16-5003] of this act.

**History:** En. Sec. 6, Ch. 123, L. 1973.

**16-5006. Adoption of optional form not to affect present acts—transfer of powers.** The adoption or discontinuance of an optional form of county government in any county as provided in this act shall not affect any act done, ratified, or affirmed, or any contract or other right or obligation other than contracts for personal services, accrued or established, or any action, prosecution, or proceeding, civil or criminal, pending at the time such change in form of government takes effect; nor shall the adoption or discontinuance of such form of county government affect such causes of action, prosecutions, or proceedings existing at the time it takes effect; but such rights shall attach to, and actions, prosecutions, or proceedings may be prosecuted and continued, or instituted and prosecuted against, by, or before the department having jurisdiction or power of the subject matter to which such action, prosecution, or proceedings pertains. All rules, regulations, and orders lawfully promulgated prior to such adoption shall continue in force and effect until amended or rescinded in accordance with the sections of this act.

On the effective date of the adoption or discontinuance of an optional form of county government causing a transfer of rights, duties, and powers from one department or office to another, all books, records, papers, documents, property, real and personal, funds, appropriations and balances of appropriations, and pending business in any way pertaining to such rights, powers, and duties shall be similarly transferred.

**History:** En. Sec. 7, Ch. 123, L. 1973.

**16-5007. Optional form to elect county commissioners at large or by districts—number of members.** (1) Any optional form of county government shall include a board of county commissioners, elected either at large as provided in section 9 [16-5008] of this act, or by districts as provided in section 10 [16-5009] of this act. The method of election shall be determined by inclusion of the method in the optional form adopted pursuant to section 3 [16-5002] of this act.

(2) The board of county commissioners shall consist of such number of members as shall be determined by inclusion of either three (3) or five (5)



members in the optional form adopted pursuant to section 3 [16-5002] of this act.

**History:** En. Sec. 8, Ch. 123, L. 1973.

**16-5008. Election of board at large—procedure for change in number of members—terms of office.** (1) Under all optional forms of county government whereby the entire board of county commissioners is elected at large there shall be a board of county commissioners who shall have the qualifications and shall be nominated and elected as provided by general law, except as otherwise provided for in this section.

(2) If the electors of a county approve a proposition to adopt an optional form of county government under this act and thereby adopt a different size of the board of county commissioners, the change in membership shall be effected as follows:

(a) Whenever the number of members of the board is increased, there shall be elected at the regular state election next following the adoptions of such provision, a sufficient number of county commissioners to bring the total membership of the board up to the number fixed. County commissioners shall first serve a term of six (6) years, except the candidates first elected under the provisions of this section.

(b) Whenever the number of members of the board is decreased, the optional number of county commissioners adopted under this act shall be effective as to the commissioner with the least time left on his term on the first Monday in January following the next regular state election and as to the other half of the decrease on the first Monday in January two (2) years later. The latter decrease in board size shall also be determined by the least time left on his term. Should two (2) commissioners have the same amount of term left to serve, then by lot.

(3) The term of office of county commissioners shall be six (6) years except as provided in this subsection. If the optional form as adopted provides for no change in size of the board of county commissioners, county commissioners shall continue to be elected for six (6) year terms. If the optional form as adopted provides for an increased membership on the board of county commissioners as provided in this act, the additional members shall be elected to the board at the first regular state election subsequent to the adoption of the alternative form.

(4) If the first election under an optional form of county government provided for in this act occurs in a year in which one county commissioner is to be elected under the former law and the optional form as adopted provides for an expansion of the board to five (5) commissioners, there shall be elected for a staggered term, two (2) commissioners for a six (6) year term and one (1) commissioner for a four (4) year term, as provided in this act.

(5) At all succeeding elections, after the first regular state election subsequent to adoption of an optional form, all members of the board of county commissioners shall continue to be elected for six (6) year terms.

**History:** En. Sec. 9, Ch. 123, L. 1973.

**16-5009. Election of board by districts.** (1) Under all optional forms of county government whereby any members of the board of county com-

missioners are elected by districts there shall be a board of county commissioners who shall be nominated and elected as provided by general law, except as otherwise provided for in this section.

(2) The board shall consist of such number of members as provided in the proposition for the optional form that has been adopted.

(3) The division of the county into districts for county commissioners shall conform to the constitutional standards for division of the state into districts for election of members of the legislature. If the proposition for the optional form adopted provides that the county commissioners shall be elected by districts, the board of county commissioners shall, commencing in the first election under an optional form of county government, divide the county into county commissioner districts using the most recent decennial federal census. The districts shall be reapportioned as soon as possible after each decennial federal census becomes available.

**History: En. Sec. 10, Ch. 123, L. 1973.**

**16-5014. Elected county official form.** (1) Elected county official form defined. The elected county official form of county government shall be that form in which the government is administered by a board of county commissioners and the following subordinate officials may be elected; a clerk and recorder, a clerk of district court, a county attorney, a sheriff, a treasurer, a surveyor, a county superintendent of schools, an assessor, a county auditor, a coroner, and a public administrator.

(2) Modification of regular forms. There may be modification of the elected county official form adopted as hereinafter provided. The number of elected officials may vary by the right of the commissioners to consolidate or combine any two (2) or more offices to co-operate with other units of local government in the sharing of any official.

(3) All the general laws of the state of Montana concerning this form of county government shall apply to the elected county official form of county government, except as provided for in this act.

**History: En. Sec. 15, Ch. 123, L. 1973.**

**16-5015. County commissioner form.** County commissioner form defined. The county commissioner form of county government shall be that form in which the government is administered by a board of county commissioners. The county commissioners may appoint those county officials as may be necessary for county operations and establish an adequate compensation plan for the duties required of each official. Those officials shall be appointed with regard to merit only and need not be a resident of the county prior to the time of their appointment. Under this form of county government the board of county commissioners shall have the power to create, organize, alter, consolidate or abolish administrative units of county government and transfer and assign their functions, powers and duties.

**History: En. Sec. 18, Ch. 123, L. 1973.**

**16-5016. Manager form.** (1) Manager appointed or designated. The board of county commissioners may appoint a county manager who shall be the administrative head of the county government which the board has the authority to control. He shall be appointed with regard to merit only,



and he need not be a resident of the county at the time of his appointment. In lieu of the appointment of a county manager, the board may impose and confer upon the chairman of the board of county commissioners the duties and powers of a manager, as hereinafter set forth, and under such circumstances said chairman shall be considered a full-time chairman. Or the board may impose and confer such powers and duties upon any other officer or agent of the county who may be sufficiently qualified to perform such duties and the compensation paid to such officer or agent may be revised or adjusted in order that it may be adequate compensation of all the duties of his office. The term "manager" herein used shall apply to such chairman, officer, or agent in the performance of such duties.

(2) Duties of the manager. It shall be the duty of the county manager:

(a) to see that all orders, resolutions, and regulations of the board are faithfully executed;

(b) to attend all the meetings of the board and recommend such measures for adoption as he may deem expedient;

(c) to make reports to the board from time to time upon the affairs of the county, and to keep the board fully advised as to the financial condition of the county and its future financial needs;

(d) to appoint, with the approval of the board, such subordinate officers, agents, and employees for the general administration of county affairs as considered necessary; and

(e) to perform such other duties as may be required of him by the board.

**History:** En. Sec. 19, Ch. 123, L. 1973.

**16-5017. Elected county executive.** (1) Elected county executive form defined. The elected county executive form of government shall be that form in which the government is administered by a single county official, elected at large by the qualified voters of the county. The elected county executive shall be elected in the same manner as the other county officials. The board of county commissioners shall act as the legislative body of the county under this form of county government. The elected county executive shall be responsible for the administration of all departments of the county government. Qualifications for the office of elected county executive shall be the same as those for the board of county commissioners. Compensation for the elected county executive shall be established by the board, commensurate with and comparable to the compensation for a like service in commercial business.

(2) Duties of the elected county executive. It shall be the duty of the elected county executive:

(a) to see that all the orders, resolutions, and regulations of the board are faithfully executed;

(b) to attend all the meetings of the board and recommend such measures for adoption as he may deem expedient;

(c) to make reports to the board from time to time upon the affairs of the county, and to keep the board fully advised as to the financial condition of the county and its future financial needs;

(d) to appoint, with the approval of the board, such subordinate offi-

cers, agents, and employees for the general administration of county affairs as considered necessary; and

(e) to perform such other duties as may be required of him by the board.

(3) Specific powers of the elected county executive. The powers of the elected county executive shall include the power to veto any ordinance or resolution adopted by the board of county commissioners. A veto by the county executive may apply to all or any items of an ordinance appropriating money. Certification of a veto must be made by the county executive within ten (10) days of its adoption by the board of county commissioners, and the board of county commissioners may override the veto by a two-thirds ( $\frac{2}{3}$ ) vote of all its members. Under the elected executive plan an ordinance or resolution shall become effective upon approval by the county executive, expiration of such ten (10) days without approval or veto, or the overriding of a veto.

**History:** En. Sec. 20, Ch. 123, L. 1973.

#### CHAPTER 51—LOCAL GOVERNMENT STUDY COMMISSIONS

**16-5101. Declaration of policy and purpose.** It is the purpose of this act to partially implement article XI, sections 3, 5, 6 and 9 of the 1972 Constitution.

**History:** En. 16-5101 by Sec. 1, Ch. 222, L. 1974.

**16-5102. Definitions.** As used in this act:

(1) "Study commission" means a local government study commission established pursuant to this act.

(2) "Unit of local government" means a county, incorporated city or incorporated town.

(3) "Study commissioners" means the elected or appointed members of the local government study commissions.

(4) "Structure" means the entire governmental organization through which a local government unit carries out its duties, functions and responsibilities.

(5) "Form" means a specific and formal governmental organization authorized as an optional form of government by law or a specific and formal governmental organization provided in a charter.

**History:** En. 16-5102 by Sec. 2, Ch. 222, L. 1974.

**16-5103. Establishment of study commissions.** (1) Each board of county commissioners shall by resolution adopted prior to April 15, 1974 authorize a county study commission and shall determine by such resolution the number of study commissioners. The number of study commissioners shall be an odd number not less than three (3).

(2) Each municipal council or commission shall by resolution adopted prior to April 15, 1974 authorize a municipal study commission and shall determine by such resolution the number of study commissioners. The number of study commissioners shall be an odd number not less than three (3).



(3) Resolutions authorizing study commissions and determining their size shall not be the subject of referenda or initiative petitions.

(4) Study commissioners shall be elected as provided in section 7 [16-5107]. No person shall serve on more than one (1) study commission.

**History: En. 16-1503 by Sec. 3, Ch. 222, L. 1974.**

**16-5104. Purpose of study commission.** It shall be the purpose of the study commission to study the form and power of government and existing procedures for delivery of local government services and compare them with other forms available under the laws of the state of Montana.

**History: En. 16-5104 by Sec. 4, Ch. 222, L. 1974.**

**16-5105. Power of the study commission.** The study commission shall have the power to review the structure and power of each unit of local government represented on the study commission and shall submit one (1) alternative form of government to the qualified electors of each unit of government or combination of units of government. The study commission may submit an optional or alternative form of government provided by law or may draft a self-government charter; however, no such optional or alternative form or charter shall be submitted to the qualified electors until a specific procedure for such submission by the study commission is provided by subsequent law.

**History: En. 16-5105 by Sec. 5, Ch. 222, L. 1974.**

**16-5106. Co-operation of study commissions.** (1) Any two (2) or more study commissions may co-operate in the conduct of their studies. A majority vote by each of the affected study commissions is required for a co-operative study.

(2) Co-operative studies do not preclude each study commission from making a separate report and recommendations.

**History: En. 16-5106 by Sec. 6, Ch. 222, L. 1974.**

**16-5107. Election of members.** Study commissioners shall be elected in the following manner:

(1) Study commissioners shall be elected at the general election, Tuesday, November 5, 1974. There shall be placed on the ballot the names of study commission candidates who shall have been nominated in the manner provided in this section. Candidates shall be listed without party or other designation or slogan, except that candidates for county study commissions shall be listed according to position designation as provided in subsection (2) of this section. The secretary of state shall prescribe the ballot form for study commissions.

(2) Resolutions establishing study commissions shall specify the number of study commissioners to be elected. Municipal study commissioners shall be qualified electors residing within the municipality and shall be elected at large by electors of the municipality. County study commissioners shall be qualified electors and shall be elected at large by electors of the county in the following manner:

(a) three (3) study commission positions shall be filled by persons

one of whom resides in each of the three (3) county commissioner districts. The positions shall be designated by district numbers one (1), two (2), and three (3) and the certificate of nomination for each candidate for such positions shall specify the position designation.

(b) if the resolution creating the study commission calls for more than three (3) members, the additional members shall be residents of the county. The additional positions shall be designated "at large positions" and the certificate of nomination for each candidate for such positions shall specify the position designation.

(3) Nominations for study commissioners shall be made by executing a certificate of nomination.

(4) The certificate shall be in writing and contain:

(a) the name of a candidate for the office to be filled;

(b) his residence address, his occupation, and his business address; and

(c) the position designation if the candidate is running for a county study commission position.

(5) For municipal study commissions, the certificate shall be signed by qualified electors residing within the municipality. For county study commissions, the certificate shall be signed by qualified electors residing within the county. Each elector shall add to his signature his place of residence.

(6) For municipal study commissions, the number of signatures shall total at least one hundred (100) or be at least one per cent (1%) of the qualified electors residing within the municipality for the 1973 municipal election, whichever is less. For county study commissions, the number of signatures shall total at least one hundred (100) or be at least one per cent (1%) of the qualified electors residing within the county for the 1972 general election, whichever is less.

(7) The certificate of nomination shall be filed on or before August 1, 1974. No filing fee is required. The county clerk and recorder, in the case of county study commission candidates, and the municipal clerk, in the case of municipal study commission candidates, shall examine the source and certify to the sufficiency of the signatures thereon.

(8) Each nomination certificate shall, before it may be filed with the county clerk or municipal clerk, contain an acceptance of such nomination in writing, signed by the candidate therein nominated, upon or annexed to such certificate, or if the same person be named in more than one (1) certificate, upon or annexed to one (1) of such certificates. Such acceptance shall certify that the nominee possesses the qualifications prescribed by this act for the office designated in the certificate, that he consents to stand as a candidate at the election and that, if elected, he agrees to take office and serve.

(9) Each nominating certificate shall be verified by an oath or affirmation of one (1) or more of the signers thereof, taken and subscribed before a person qualified under the laws of Montana to administer an oath, to the effect that the petition was signed by each of the signers thereof in his proper handwriting, that the signers, to the best knowledge and belief of the affiant, possess the qualifications prescribed by section 7 [16-5107],



subsection (5) of this act and that the certificate is prepared and filed in good faith for the sole purpose of endorsing the person named therein for election as stated in the petition.

(10) Votes cast for municipal and county study commissioners shall be counted, canvassed and returned by county election officials. Except as otherwise provided in this act, each election conducted under this act shall be governed by the election laws of the state of Montana. Any separate ballots or election supplies required for election of municipal study commissioners shall be furnished or paid for by the municipality.

(11) If the number of municipal study commissioners elected at the November 5, 1974 election is not equal to the number of commissioners required to be selected, the mayor with the confirmation of the municipal council or commission shall appoint, on or before November 16, 1974, the additional study commissioner or commissioners. The mayor with the confirmation of the municipal council or commission shall fill any subsequent vacancy on the municipal study commission by appointing a new commissioner. If the number of county study commissioners elected at the November 5, 1974 election is not equal to the number of commissioners required to be selected, the board of county commissioners shall appoint, on or before November 16, 1974, the additional study commissioner or commissioners. The board of county commissioners shall fill any subsequent vacancy on the county study commission by appointing a new commissioner. However, any municipal or county study commissioner appointed under this subsection shall possess the qualifications prescribed by this act for the position to which he is being appointed, and no elected official of the local government unit may be appointed.

**History: En. 16-5107 by Sec. 7, Ch. 222, L. 1974.**

**16-5108. Term of study commission.** All study commissions shall terminate June 30, 1977.

**History: En. 16-5108 by Sec. 8, Ch. 222, L. 1974.**

**16-5109. Organization of the study commission.** (1) Not later than ten (10) days after all study commissioners are elected or appointed the study commissioners shall meet and organize at a time which shall be set by the board of county commissioners, for the county study commission, or the mayor, for the municipal study commission.

(2) At the first meeting of the study commission, the study commission may elect a temporary chairperson who will serve until a permanent chairperson is selected.

(3) Meetings of the study commission shall be held upon the call of the chairperson, vice-chairperson in the absence or inability of the chairperson, or a majority of the study commissioners. The chairperson shall give due notice of the time and place of the meetings of the study commission.

(4) The study commission shall maintain a written record of its proceedings and its finances which shall be open to inspection by any person at the office of the study commission during regular office hours.

(5) A majority of the study commissioners shall constitute a quorum

for the transaction of business, but no recommendation of a study commission shall have any legal effect unless adopted by a majority of the whole number of study commissioners.

(6) The study commission shall have the power to adopt rules for its own organization and procedure.

**History:** En. 16-5109 by Sec. 9, Ch. 222, L. 1974.

**16-5110. Compensation of study commissioners.** Study commissioners shall receive no compensation other than for actual and necessary expenses incurred in their official capacity.

**History:** En. 16-5110 by Sec. 10, Ch. 222, L. 1974.

**16-5111. Open meetings—hearings.** All meetings of the study commission shall be open to the public. The study commission shall hold public hearings and community forums and may use other suitable means to disseminate information and stimulate public discussion of its purposes, progress, conclusions, and recommendations.

**History:** En. 16-5111 by Sec. 11, Ch. 222, L. 1974.

**16-5112. Administrative powers.** A study commission shall have the following administrative powers. (1) The study commission may employ and fix the compensation and duties of necessary staff. State, municipal and county officers and employees, at the request of the study commission and with the consent of the employing agency, may be granted leave with or without pay from their agency to serve as consultants to the study commission. If leave with pay is granted they shall receive no other compensation, except mileage and per diem from the study commission.

(2) The study commission may establish advisory boards and committees, including on them persons who are not study commissioners.

(3) The study commission may retain consultants.

(4) The study commission may contract and co-operate with other agencies, public or private, as it considers necessary for the rendition and affording of such services, facilities, studies, and reports to the study commission as will best assist it to carry out the purposes for which the study commission was established. Upon request of the chairperson of the study commission, state agencies, counties, and other units of local government, and the officers and employees thereof, shall furnish the commission such information as may be necessary for carrying out its function which may be available to or procurable by such agencies or units of government.

(5) The study commission may do any and all other things as are consistent with and reasonably required to perform its function under this act.

**History:** En. 16-5112 by Sec. 12, Ch. 222, L. 1974.

**16-5113. Finances.** (1) The governing body of each local government unit shall prepare a budget to cover the expenses of the study commission for the period it is in operation during fiscal year 1975.



(2) The study commission shall prepare a budget for fiscal year 1976 and a budget for fiscal year 1977 and submit them to the local government unit's governing body for approval.

(3) Each local government unit shall accept and transfer to its study commission all funds appropriated from the state general fund for the support of the study commission.

(4) Each local government unit shall supplement the state funds available in fiscal years 1975, 1976, and 1977 by appropriating funds, providing in-kind services, or a combination of both, in a total amount not less than the available state money for each fiscal year. For that purpose, each local government unit may assess and levy, in addition to all other levies permitted by law, a special tax on each dollar of taxable valuation of the taxable property of the unit of local government. This tax may be levied in each of the fiscal years 1975, 1976, and 1977 and may be levied by a municipality in addition to the all-purpose levy provided in sections 84-4701.1, 84-4701.2, 84-4701.3, 84-4701.4, and 84-4701.5, R. C. M. 1947.

(5) All moneys received by the study commission shall be deposited with the county or municipal treasurer. The treasurer is authorized to disburse budgeted funds of the study commission on its order. Unexpended funds of the study commission shall not revert to the general fund of the local government unit at the end of the fiscal year but shall carry over to the study commission's budget for the following fiscal year. Upon termination of the study commission, unexpended funds shall revert to the general fund of the local government unit.

**History:** En. 16-5113 by Sec. 13, Ch. 222, L. 1974.

**16-5114. Prohibition on other proceedings.** From April 15, 1974 until December 31, 1976 no other proceedings other than those commenced by a study commission for the adoption of any charter or form of government available under state law may be commenced.

**History:** En. 16-5114 by Sec. 14, Ch. 222, L. 1974.

**16-5115. Severability clause.** If any part of this act shall be declared invalid or unconstitutional, it shall not affect the validity of any other part of this act.

**History:** En. 16-5115 by Sec. 15, Ch. 222, L. 1974.

**TITLE 19—DEFINITIONS AND GENERAL PROVISIONS****CHAPTER 1—DEFINITIONS AND CONSTRUCTION OF TERMS—  
HOLIDAYS—OTHER GENERAL PROVISIONS**

**19-107. (10) Legal holidays and business days defined.** The following are legal holidays in the state of Montana:

(1) to (8) \* \* \* [Same.]

(9) Veterans' Day, November 11.

(10) to (12) \* \* \* [Same.]

If any of the above-enumerated holidays (except Sunday) fall upon a Sunday, the Monday following is a holiday. All other days are business days.

Whenever any bank in the state of Montana elects to remain closed and refrains from the transaction of business on Saturday, pursuant to authority for permissive closing on Saturdays by virtue of the laws of the state, legal holidays for such bank during the year of such election are hereby limited to the following holidays:

(1) to (7) \* \* \* [Same.]

(8) On such days as banks are closed in accordance with sections 5-1058 to 5-1062.

Any bank practicing Saturday closing in compliance with law may remain closed and refrain from the transaction of business on Saturdays, notwithstanding that a Saturday may coincide with a legal holiday other than one of the holidays designated above for banks practicing Saturday closing in compliance with law, and provided further that it shall be optional for any bank, whether practicing Saturday closing or not, to observe as a holiday and to be closed on any day upon which a general election is held throughout the state of Montana and on Veterans' Day, November 11, and on any local holiday which historically or traditionally or by proclamation of a local executive official or governing body is established as a day upon which businesses are generally closed in the community in which the bank is located.

**History: Amd. Sec. 1, Ch. 16, L. 1974.**



## TITLE 23—ELECTIONS

### CHAPTER 26

#### DEFINITIONS AND GENERAL PROVISIONS

Section

23-2602. Elections by secret ballot.

**23-2602. Elections by secret ballot.** All elections shall be by secret ballot.

**History:** En. Sec. 2, Ch. 368, L. 1969; amd. Sec. 1, Ch. 8, L. 1973.

**Amendments**

The 1973 amendment inserted "secret" before "ballot" at the end of the section.

### CHAPTER 27

#### QUALIFICATIONS AND PRIVILEGES OF ELECTORS

Section

23-2701. Qualifications of voter.

**23-2701. Qualifications of voter.** (1) No person may be entitled to vote at elections unless he has the following qualifications:

- (a) He must be registered as required by law;
- (b) He must be eighteen (18) years of age or older;
- (c) He must be a resident of the state of Montana and of the county in which he offers to vote for at least thirty (30) days;
- (d) He must be a citizen of the United States.

(2) No person convicted of a felony has the right to vote while he is serving a sentence in a penal institution.

(3) No person adjudicated to be of unsound mind has the right to vote unless he has been restored to capacity as provided by law.

**History:** En. Sec. 6, Ch. 368, L. 1969; amd. Sec. 1, Ch. 120, L. 1971; amd. Sec. 2, Ch. 158, L. 1971; amd. Sec. 1, Ch. 40, L. 1973.

**Amendments**

Chapter 120, Laws of 1971, deleted "Except as provided in section 23-2702" from the beginning of subdivision (1); substituted "of the minimum age for voting prescribed by the constitution of the state of Montana" in former subdivision (1) (a), now (1) (b), for "twenty-one (21) years of age"; added to former subdivision (1) (a), now (1) (b), a provision for voting in federal elections by 18-year-olds; substituted "has met the residence requirements for voting provided in the constitution of the state of Montana" in former subdivision (1) (b), now (1) (c), for "must have resided in the state one (1) year"; added to former subdivision (1) (b), now (1) (c), a provision for presidential voting by persons who have

resided in the state for thirty days; and made minor changes in phraseology.

Chapter 158, Laws of 1971, substituted "No person may be entitled to vote" and "unless" in the preliminary paragraph of subdivision (1) for "every person, if registered by law, is entitled to vote" and "if"; inserted a new subdivision (1) (a); redesignated subdivisions (a), (b) and (c) of subdivision (1), respectively, as subdivisions (b), (c) and (d); and substituted "of the minimum age for voting prescribed by the constitution of the state of Montana" in subdivision (1) (b) for "twenty-one (21) years of age."

The 1973 amendment substituted "elections" in the preliminary paragraph of subdivision (1) for "general and special elections for officers which are elective, and upon questions submitted to the vote of the people"; substituted "eighteen (18) years of age or older" in subdivision (1) (b) for references inserted by the 1971 amendments to the state constitution and

to federal voting; substituted the present subdivision (1) (c) for references inserted by Ch. 120, Laws of 1971, to the state constitution and to presidential voting by new residents; substituted "while he is serving a sentence in a penal institution" at the end of subdivision (2) for "unless he has been pardoned"; and substituted "to be of unsound mind" in subdivision (3) for "insane."

#### Repealing Clause

Section 2 of Ch. 40, Laws 1973 read "Section 11-716, R. C. M. 1947, is repealed."

#### Racial Discrimination Prohibited

Congress is empowered, as it did in the Voting Rights Act Amendments of 1970,

42 U. S. C. § 1973aa, to prohibit use of literacy tests or other devices used to discriminate against voters on account of their race in all state and national elections. *Oregon v. Mitchell*, 400 US 112, 27 L Ed 2d 272, 91 S Ct 260.

#### Residence Requirements

As it did in the Voting Rights Act Amendments of 1970, 42 U. S. C. § 1973aa-1, Congress can prohibit states from disqualifying voters in elections for presidential and vice-presidential electors because they have not met state residency requirements, and can set residency requirements and provide for absentee balloting in presidential and vice-presidential elections. *Oregon v. Mitchell*, 400 US 112, 27 L Ed 2d 272, 91 S Ct 260.

### 23-2701.1. Repealed.

#### Repeal

Section 23-2701.1 (Sec. 1, Ch. 158, L. 1971), relating to legislative policy and purpose of election laws according to

former constitution, was repealed by Sec. 58, Ch. 100, Laws 1973, and Sec. 9, Ch. 454, Laws 1973.

## CHAPTER 28

### PUBLICATION OF QUESTIONS SUBMITTED TO POPULAR VOTE

#### Section

23-2802. Publication and printing of amendments to constitution.

**23-2802. Publication and printing of amendments to constitution.** If a proposed constitutional amendment or amendments are submitted to the people, the secretary of state shall:

(1) Have the proposed amendment or amendments published in full twice each month for two (2) months previous to the election at which they are to be voted upon by the people in not less than one (1) newspaper commonly circulated in each county.

(2) Have a pamphlet printed containing an exact copy of the proposed amendment or amendments, an exact copy of existing constitutional provisions to be revised, and the amendment or amendments in the form in which it or they will be printed on the official ballot. The printed pamphlets shall be distributed as provided in section 37-107, R. C. M. 1947.

**History:** En. Sec. 12, Ch. 368, L. 1969; amd. Sec. 1, Ch. 38, L. 1973.

#### Compiler's Notes

In a letter to the secretary of state dated March 23, 1970, the attorney general of Montana ruled that, despite this section, the secretary of state is required to publish proposed constitutional amendments once each week for three months, as required by sec. 9, article XIX, constitution of 1889. But see secs. 8 and 9 (2), article XIV, constitution of 1972.

#### Amendments

The 1973 amendment changed the publication requirement in subdivision (1) from once each week for four weeks to twice each month for two months; substituted "election at which they are to be voted upon by the people" in subdivision (1) for "next general biennial election"; inserted "commonly circulated" near the end of subdivision (1); and made minor changes in phraseology.



## CHAPTER 30

## REGISTRATION OF ELECTORS

**23-3001. Highway patrol to submit new-voter lists to major political parties.** No later than January 31 in any year in which a general election is held, the Montana highway patrol shall submit to the chairman of each major political party of the state, four (4) copies of a list prepared from its driver license registration files, showing names and addresses of all persons, compiled on a county by county basis, who have reached voting age since the last general election and those who will reach voting age before the date of the general election. No official of the Montana highway patrol shall be responsible for any honest error or omission in preparing the lists.

**History:** En. Sec. 17, Ch. 368, L. 1969;  
amd. Sec. 1, Ch. 257, L. 1971; amd. Sec.  
1, Ch. 132, L. 1973.

**Amendments**

The 1973 amendment inserted "four (4) copies of" before "a list" in the first sentence.

**23-3003. Notaries public as deputy registrars—appointment of additional deputies—qualifications—duties.** (1) All notaries public are deputy registrars in the county in which they reside. They may register electors residing in any precinct within the county.

(2) The commissioners shall appoint a minimum of two (2) deputy registrars who are not notaries public, a minimum of one (1) from each of the two (2) major political parties, for each precinct in the county from lists of persons recommended by the political parties. If the parties fail to submit lists, the commissioners shall appoint deputy registrars without recommendations from the parties. The number of appointed deputy registrars for each county shall always be equally divided between the two (2) major political parties. A deputy registrar shall:

(a) Be a qualified taxpaying resident elector in the precinct for which he is appointed;

(b) Register electors residing in any precinct in the county;

(c) No duly appointed deputy registrar shall register any voter until such deputy registrar shall have been issued a certificate of approval by the county registrar, certifying that said deputy registrar has received instructions on registration procedure from the county registrar.

(3) Within three (3) days after a registration card is filled out, deputy registrars shall forward the card to the registrar. Registration cards properly executed prior to the registration deadline shall be accepted by the registrar for three (3) days after the deadline.

**History:** En. Sec. 22, Ch. 368, L. 1969;  
amd. Sec. 1, Ch. 340, L. 1973.

**Amendments**

The 1973 amendment inserted "a minimum of" twice in the first sentence of

subsection (2); inserted the third sentence in subsection (2); inserted subdivision (2) (c); added the second sentence to subsection (3); and made a minor change in phraseology.

**23-3005. Hours of registration—registration cards.** (1) The registrar's office shall be open for voter registration from 8 a.m. until 5 p.m. on all regular working days except legal holidays as defined by section 19-107 except that the registrar's office shall be kept open on election day during the hours when the polls are open.

(2) Registration cards shall be numbered consecutively in order of receipt through the close of registration prior to the 1974 general election; thereafter, registration cards may, at the discretion of the county clerk and recorder, be numbered with the elector's social security number, and such number shall be the registry number.

(3) to (5) \* \* \* [Same]

**History:** En. Sec. 24, Ch. 368, L. 1969; amd. Sec. 1, Ch. 3, L. 1974.

**Amendments**

The 1974 amendment added the provi-

sion in subsection (2) for numbering registration cards with the electors' social security numbers.

**23-3012. Lists of registered electors—precinct register.** Immediately after registration is closed, the registrar shall prepare lists of all registered electors. He shall also prepare a precinct register for each precinct and deliver it to the judges of election prior to the opening of the polls.

**History:** En. Sec. 31, Ch. 368, L. 1969; amd. Sec. 5, Ch. 158, L. 1971; amd. Sec. 12, Ch. 100, L. 1973.

**Amendments**

The 1971 amendment substituted "an election at which voting is validly limited by the constitution to taxpayers" for "an election for the incurring of a state debt, issuance of bonds or debentures by the state, or the levying of a state tax" at

the end of the first sentence of former subsection (2); and deleted from former subsection (2) a second sentence reading "No other evidence is necessary to show that the elector is a taxpayer."

The 1973 amendment deleted former subsection (2), which provided for indication of taxpayers on the precinct registers; and removed the designation of the remaining language as subsection (1).

**23-3013. Cancellation of registry for failure to vote—reregistration.**

(1) Except as provided in subsection (3) of this section, within sixty (60) days after every general election in which a president is elected, the registrar shall:

(a) Compare the electors who have voted in each precinct, as shown by the official pollbooks, with the official register of each precinct;

(b) Remove the registry cards of all electors who have failed to vote, mark each card "canceled," and place canceled cards for the entire county in alphabetical order in the "canceled file";

(c) Notify each elector in writing before the thirty-first day after cancellation by sending notice to his post-office address as shown on the election records.

(2) An elector whose card is removed and canceled may register in the same manner as his original registration was made.

(3) The registration of an elector who actually votes by absentee ballot shall not be canceled if his ballot is received and rejected by the registrar within ten (10) days succeeding the election.

**History:** En. Sec. 32, Ch. 368, L. 1969; amd. Sec. 1, Ch. 254, L. 1971; amd. Sec. 1, Ch. 215, L. 1973.

**Amendments**

The 1971 amendment inserted "and (4)" in subsection (1); added subsection (4) (now (3)); and made minor changes in phraseology and punctuation.

The 1973 amendment deleted a reference to subsection (4) from subsection (1); substituted "within sixty (60) days" for "immediately" in subsection (1); inserted "in which a president is elected" in subsection (1); deleted former subsection (3) and renumbered former subsection (4) as (3).

**23-3023. Printing and posting of list of electors shown on precinct registers.** (1) The registrar shall have a list printed of all registered



electors shown on the precinct registers of the county or city ten (10) days or more preceding any election.

(2) The list shall show the name of the elector in full, the number and street of his residence if he resides within a city, his post-office address if he resides outside a city, and the registry number.

(3) A copy of the list of registered voters shall be posted at the polling place. Sufficient copies of the lists shall be retained by the registrar and furnished to an elector upon request.

(4) If no declarations of nomination have been filed forty (40) days before a primary election of city offices, the city clerk shall immediately notify the registrar in writing and the list of registered electors for the city shall not be printed.

(5) The list of registered voters prepared for a primary election may be used for the general election only if a supplemental list giving the names of electors who have registered after the first list was prepared is printed.

(6) The expense of printing this list shall be paid by the county or city in which the election is to be held.

**History:** En. Sec. 42, Ch. 368, L. 1969; amd. Sec. 2, Ch. 243, L. 1971; amd. Sec. 1, Ch. 201, L. 1973.

days or more before any election," from the beginning of subsection (3); deleted "or posted" from the end of subsection (4); and deleted "posted and" and "and posted" from subsection (5).

**Amendments**

The 1973 amendment deleted "Ten (10)

**23-3030. Cancellation of deceased electors.** Each county clerk shall immediately cancel all registrations of individuals reported as deceased by the department of health and environmental sciences in the department's reports submitted to the county under section 91-4458, R.C.M. 1947.

**History:** En. 23-3030 by Sec. 1, Ch. 126, L. 1973.

to the clerks and recorder under section 91-4458, R. C. M. 1947, shall be used by the clerks and recorder to cancel the registration of deceased electors from the election rolls.

**Title of Act**

An act providing that lists furnished

## CHAPTER 31

### ELECTION PRECINCTS

**23-3101. Establishment of election precincts—change of boundaries—certification of changes—designation—map—boundary to conform to wards or school districts.** (1) The territorial unit for elections is the election precinct.

(2) The commissioners of each county shall establish a convenient number of election precincts equalizing the number of electors in each precinct as nearly as possible.

(3) The commissioners may change the boundaries of precincts but not between January 1 and December 1 in any year during which a general biennial election will be held, except that the commissioners may change the boundaries of precincts in the year during which a general biennial election will be held when the changes are required to make precinct boundaries conform to legislative district boundaries following the adoption of reapportionment plans under article V, section 14, of the 1972 Mon-

tana constitution. In those instances, the changing of precinct boundaries must be accomplished within sixty (60) days of the filing of the final reapportionment plan.

(a) All changes must be certified to the registrar three (3) days or less after the change is made.

(b) All election precincts shall be designated by numbers, names, or both.

(c) Not more than ten (10) days after an order of the commissioners has established or changed the boundaries of an election precinct, the commissioners shall cause to be prepared and delivered a map to the registrar showing the borders of all precincts and school districts within the county.

(4) The boundaries of election precincts may conform to the wards of cities of the first, second, and third class and the boundaries of first class school districts.

(5) A ward or school district may be divided into two (2) or more precincts, and a precinct may be divided into two (2) or more polling places.

(6) In cities not of the first, second, or third class, precincts may include two (2) or more wards, or may comprise territory included by one (1) or more wards together with contiguous territory lying outside the incorporated limits of the cities.

**History:** En. Sec. 18, Ch. 368, L. 1969; amd. Sec. 1, Ch. 171, L. 1973.

**Amendments**

The 1973 amendment added to the first paragraph of subsection (3) the clause

and sentence relating to precinct boundary changes following the adoption of reapportionment plans; substituted "may conform" for "must conform" in subsection (4); and made a minor change in phraseology.

**23-3103. Designation of polling place.** The commissioners shall make an order designating the polling place for each precinct, at the session at which election judges are appointed. Such order may provide for polling places to be located outside the boundaries of the precinct.

Not more than ten (10) nor less than three (3) days before an election, the registrar or city clerk shall publish in a newspaper of general circulation in the county, a statement of the locations of the precinct polling places.

**History:** En. Sec. 20, Ch. 368, L. 1969; amd. Sec. 1, Ch. 169, L. 1974.

**Amendments**

The 1974 amendment rewrote this section which read: "The commissioners shall

make an order designating the place within each precinct where the election will be held at the session at which election judges are appointed. Copies of the order must be posted immediately in three (3) public places in the precinct."

## CHAPTER 32

### JUDGES AND CLERKS OF ELECTIONS

#### Section

23-3202. Manner of choosing election judges and clerks—vacancies—candidates and their relatives ineligible—exceptions.

**23-3202. Manner of choosing election judges and clerks—vacancies—candidates and their relatives ineligible—exceptions.** (1) The election



judges and clerks shall be chosen from lists of qualified voters submitted by the two (2) major political parties thirty-five (35) days or more before the commissioners meeting which precedes the next primary election.

(2) The list of each party may contain twice the number of election judges and clerks to be appointed and not more than a majority may be appointed from one (1) political party for each precinct. Judges so appointed must be a member of the political party they are to represent.

(3) The commissioners may appoint election judges and clerks in their discretion to fill vacancies or if a major political party fails to submit a list of election judges.

(4) No person shall be appointed to serve as an election judge or election clerk who is a candidate, spouse of a candidate, or related to a candidate for office within the second degree of consanguinity. However, this subsection does not apply to school district elections nor to candidates for precinct committeeman or committeewoman.

History: En. Sec. 50, Ch. 368, L. 1969;  
amd. Sec. 2, Ch. 258, L. 1971; amd. Sec. 1,  
Ch. 125, L. 1973.

Amendments  
The 1973 amendment added the second  
sentence to subsection (2).

## CHAPTER 33

### PRIMARY ELECTIONS AND NOMINATIONS BY CERTIFICATE

**23-3304. Declaration of nomination—filing—fees—printing of victorious write-in candidates on general election ballot.** (1) Each candidate in the primary election, shall send a declaration of nomination to the secretary of state, registrar, or city clerk. Each candidate for governor must send a joint declaration of nomination with a candidate for lieutenant governor.

(2) Each candidate must sign the declaration and send with it the required filing fee, to be acknowledged by a notary public if by mail, or by the officer of the office at which the filing is made.

(3) The declaration, when filed, is conclusive evidence that the elector is a candidate for nomination by his party.

(4) Nominating declarations are filed:

(a) In the office of secretary of state for congressional offices, state or district offices to be voted for in more than one (1) county, members of the legislative assembly, and judges of the district court;

(b) In the office of the registrar for county and district offices to be voted for in one (1) county only, and for township and precinct offices;

(c) In the office of the city clerk for all city officers.

(5) Filing fees are as follows:

(a) For offices having a salary of one thousand dollars (\$1,000) or less per annum, ten dollars (\$10), except candidates for the legislature must pay fifteen dollars (\$15);

(b) For offices having a salary of more than one thousand dollars (\$1,000) per annum, one per cent (1%) of the total annual salary;

(c) For the offices of county commissioner;

- (i) in counties of the first class, forty dollars (\$40),
- (ii) in counties of the second class, thirty-five dollars (\$35),
- (iii) in counties of the third class, thirty dollars (\$30),
- (iv) in counties of the fourth class, twenty-five dollars (\$25),
- (v) in counties of other classes, ten dollars (\$10),
- (d) For offices in which compensation is paid in fees, five dollars (\$5);
- (e) For state, county, and precinct committeemen, delegates to national conventions, and presidential electors, no fees are required.
- (6) A person nominated by having his name written in on the primary ballot and desiring to accept the nomination shall not have his name printed on the general election ballot unless he:
  - (a) Files with the secretary of state, registrar, or city clerk, at least ten (10) days after the primary a written declaration indicating his acceptance of the nomination;
  - (b) Pays the required filing fee,
  - (c) Received at least five per cent (5%) of the votes cast for the office at the last preceding general election.
- (7) The declaration for nomination shall be in form and contain information, prescribed by the secretary of state. Every declaration must be signed by the elector seeking nomination.

**History:** En. Sec. 59, Ch. 368, L. 1969;  
amd. Sec. 1, Ch. 28, L. 1973.

**Amendments**

The 1973 amendment added the second sentence to subdivision (1); substituted

"legislature" for "legislative assembly" in subdivision (5) (a); deleted "or lieutenant governor" from subdivision (5) (a); and made a minor change in phraseology.

**23-3308. Ballots, how arranged and voted.** (1) At the primary, there shall be a ballot for each political party entitled to participate. Each ballot shall be printed on a separate sheet of white paper of the same size, folded, and securely fastened at the top.

(2) Candidates' names shall be arranged alphabetically by surnames, under the offices and under the proper party designation. The names of the candidates for governor and lieutenant governor shall be arranged by the surname of the candidate for governor. When two (2) or more persons are candidates for nomination for the same office, the registrar shall divide the ballot to provide a rotation of the names of the candidates as follows:

(a) Divide all county ballot forms into sets equal in number to the greatest number of candidates for nomination or election to any office;

(b) Arrange the sets so that candidates' names are rotated by removing one name from the top of the list for each nomination or office and place the name or number at the bottom of the list for each successive set of ballot forms; however, in printing ballots for use in any one (1) precinct, only one (1) set shall be used and they shall be identical;

(c) If an elector writes the name of a person upon a ballot, and the person's name appears as a candidate upon another ballot, the ballot shall count for the person only as a candidate of the party upon whose ticket his name is written;



(d) If a person is nominated upon more than one (1) ticket, not later than ten (10) days after the election he shall file written notification with the secretary of state, registrar, or city clerk the party under which his name is to appear upon the ballot for the general election, and, if he fails to notify the proper officers, his name shall appear under the party with whom his nominating declaration was first filed;

(e) If a person fails to be nominated upon the party ticket contained in his nominating declaration, his name shall not be printed upon any ballot with party designation;

(f) This act does not preclude an elector from having his name printed upon the ballot as an independent candidate, and no candidate shall have his name printed on more than one (1) ticket.

(3) Ballots shall be printed on white paper in the form of the Australian ballot and the candidates of each party shall be printed on a separate ticket.

(4) After preparing his ballot, the elector shall detach it from the remaining tickets and fold it so that the face is concealed and the official stamp is seen;

(a) The elector shall fold the remaining tickets, vote the marked ballot without leaving the polling place, and deposit the remaining tickets in a separate box marked as the blank ballot box;

(b) Immediately after the recount period, the election judges shall, without examination, destroy the tickets deposited in the blank ballot box.

History: En. Sec. 63, Ch. 368, L. 1969;  
amd. Sec. 2, Ch. 28, L. 1973.

Amendments

The 1973 amendment inserted the second sentence in subdivision (2).

23-3313.

[Section 22, Ch. 315, Laws 1974, substituted "public service commissioners" in this section for "railroad commissioners."]

**23-3314. Copy of abstracts to be sent secretary of state—canvass by secretary of state—governor's certificate of nomination and proclamation—decision by lot in event of tie.** (1) The registrar, immediately after making the abstracts of votes, shall send a copy of each of the abstracts by mail to the secretary of state.

(2) The secretary of state shall, in the presence of the governor and the state treasurer, proceed not later than fifteen (15) days after the date of the primary election to canvass the votes given for nomination for governor and lieutenant governor, United States senator, United States representative, attorney general, superintendent of public instruction, public service commissioners, secretary of state, state treasurer, state auditor, justices of the supreme court, clerk of the supreme court, judges of the district court, members of the legislative assembly, and all other officers voted in any district comprising more than one county.

(3) The governor shall grant a certificate of nomination to the person having the highest number of votes for each office, and shall issue a proclamation declaring the nomination of each person by his party.

(4) When a tie exists between two (2) or more persons for nomination in the same party, the secretary of state shall immediately give notice

to the persons tied, to attend in person or by attorney, at his office at a time appointed by him. He shall then publicly decide by lot which person is nominated by his party. The governor shall issue his proclamation declaring the nomination of that person.

**History:** En. Sec. 69, Ch. 368, L. 1969; amd. Sec. 3, Ch. 28, L. 1973; amd. Sec. 22, Ch. 315, L. 1974.

**Amendments**

The 1973 amendment inserted "and lieu-

tenant governor" after "governor" in subdivision (2); and deleted "lieutenant governor" later in subdivision (2).

The 1974 amendment substituted "public service commissioners" for "railroad commissioners" in subdivision (2).

**23-3318. Certificates of nomination by individuals or parties not appearing on preceding general election ballot—requisites—applicability.** Except as provided in subsection (6) of this section, nominations for public office by an individual or a political party which did not appear on the ballot in the next preceding general election may be made by executing a certificate of nomination.

(1) The certificate must be in writing and contain:

(a) The name of a candidate for the office to be filled;

(b) His residence, his occupation, and his business address.

(2) If a certificate is filed by a political party which did not appear on the ballot in the next preceding general election, it must contain the party name and in five (5) words or less the principle which such body represents.

(3) The certificate must be signed by electors residing within the state and district, or political division in which the officer or officers are to be elected. Each elector signing a certificate shall add to his signature his place of residence, and his business address.

(4) The number of signatures must be five per cent (5%) or more of the total vote cast for the successful candidate for the same office at the next preceding general election.

(5) Except as provided in subsection (6), such certificates shall be filed on or before the filing deadline for the primary election as established by law. Certificates of nomination of candidates for municipal offices must be filed with the clerks of the respective municipal corporations not more than thirty (30) days and not less than fifteen (15) days previous to the day of election.

(6) A person who desires to run for president or vice-president as an independent candidate, must file a certificate of nomination with the secretary of state 90 days prior to the date of the general election. The certificate must have the signatures of electors equal to five per cent (5%) or more of the legal votes cast for governor at the next preceding general election. He must also nominate the required number of electors allowable to Montana and certify the names to the secretary of state.

(7) This section shall not apply to nominations for special elections or to fill vacancies.

**History:** En. Sec. 78, Ch. 368, L. 1969; amd. Sec. 1, Ch. 59, L. 1971; amd. Sec. 1, Ch. 237, L. 1973.

**Amendments**

The 1973 amendment inserted "general" before "election" throughout the section;

substituted "Except as provided in subsection (6), such certificates shall be filed on or before the filing deadline for the primary election as established by law" for "The candidates for nomination shall file the certificates ninety (90) days prior to the date of the general election" in



subsection (5); and inserted "90 days at the end of the first sentence in sub prior to the date of the general election" section (6).

**23-3321. Declining nomination—vacancies before and after primary.**

(1) Twenty (20) days or more before the election, a person nominated for public office may decline the nomination by a writing sent to the office with whom his nominating declaration is filed. In city elections, the declination shall be made ten (10) days or more before the election.

(2) If a vacancy occurs in the office of a candidate in case of death or removal from the state or district before the date of the primary, the vacancy shall be filled by the affected political party.

(3) When a vacancy occurs in the office of a candidate after the primary and before the general election in any district however constituted, the vacancy shall be filled as follows:

(a) The vacancy shall be filled by a committee of three (3) members selected from each county or district by the county central committees of the county or district of the affected political party.

(b) The secretary of the committee shall transmit a certificate to the secretary of state with the information contained on the original certificate plus the cause of the vacancy, the name of the person nominated, the office to be filled, and the name of the person for whom the nomination was made.

(c) When the certificate is filed with the secretary of state accompanied by the proper filing fee he shall insert the name of the person nominated to fill the vacancy.

(d) If the secretary of state has certified the nominations to the registrars, he shall immediately certify to the registrars the name of the person nominated to fill the vacancy, the office to be filled, the party or political principle he represents, and the name of the person for whom the nominee is substituted.

(4) A vacancy in the position of candidate for governor or lieutenant governor shall not affect the candidacy of the other joint candidate.

**History:** En. Sec. 82, Ch. 368, L. 1969;  
amd. Sec. 5, Ch. 254, L. 1971; amd. Sec.  
4, Ch. 28, L. 1973.

**Amendments**  
The 1973 amendment added subdivision  
(4).

**23-3322. Date of presidential primary.** In the years in which a president of the United States is to be elected, a presidential preference primary election will be held on the same day as the primary provided for in section 23-3301, R. C. M. 1947.

**History:** En. 23-3322 by Sec. 1, Ch. 162, L. 1974.

**23-3323. Ballot.** The regular ballots provided for in section 23-3308, R. C. M. 1947, shall be used for the presidential preference primary election. The presidential section of the ballot shall be placed before any other section, national, state, or local.

**History:** En. 23-3323 by Sec. 2, Ch. 162, L. 1974.

**23-3324. Ballot listings.** The presidential preference ballot shall list all candidates nominated in accordance with the provisions of this act, and

shall, in addition, include a presidential ballot position which shall be designated as "no preference."

**History:** En. 23-3324 by Sec. 3, Ch. 162, L. 1974.

**23-3325. Nomination petition.** Before a presidential candidate may qualify for placement on the ballot, he must be nominated on petitions with the verified signatures of at least one thousand (1,000) qualified electors from each congressional district. The secretary of state is empowered to prescribe the form and content of the petition.

**History:** En. 23-3325 by Sec. 4, Ch. 162, L. 1974.

**23-3326. Submission and verification of petition.** Petitions of nomination for the presidential preference primary election must be presented to the county clerk and recorder of the county in which the signatures are gathered. The county clerk and recorder must verify the signatures in the manner prescribed in section 37-103, R. C. M. 1947, and must forward the petitions to the secretary of state. The petitions must be submitted to the clerk and recorder at least thirty (30) days before the filing deadline established in section 23-3305, R. C. M. 1947.

**History:** En. 23-3326 by Sec. 5, Ch. 162, L. 1974.

**23-3327. Notification of candidates.** If the signatures and petitions fulfill the requirements of this act, the secretary of state shall immediately notify the candidates named on the petitions that they shall be placed upon the presidential preference primary election ballot, unless they file with the secretary of state a notarized affidavit that they are not a candidate for president. The notification of the candidate shall be made at least fifteen (15) days before the filing deadline established in section 23-3305, R. C. M. 1947. The affidavit of noncandidacy must reach the secretary of state by the filing deadline established in section 23-3305, R. C. M. 1947.

**History:** En. 23-3327 by Sec. 6, Ch. 162, L. 1974.

**23-3328. Delegates to national presidential nominating conventions.** The method of selection of delegates to national presidential nominating conventions is to be set by party rules. The use of the results of the presidential preference primary election by the political parties in their delegation selection systems is discretionary and is to be determined by party rules.

**History:** En. 23-3328 by Sec. 7, Ch. 162, L. 1974.

## CHAPTER 34

### POLITICAL PARTIES, COMMITTEEMEN AND COMMITTEES

#### Section

23-3405. Organization of committee—meeting—county convention to elect delegates and alternates to state convention.

**23-3405. Organization of committee—meeting—county convention to elect delegates and alternates to state convention.** (1) The committee



shall meet prior to the state convention of its political party and organize by electing a chairman and one (1) or more vice-chairmen. The chairman or first vice-chairman shall be a woman. They shall elect a secretary and other officers as are proper. It is not necessary for the officers to be precinct committeemen.

(2) The committee may select managing or executive committees and authorize subcommittees to exercise any and all powers conferred upon the county, city, state, and congressional central committees by this act.

(3) The chairman of the county central committee shall call the central committee meeting and not less than four (4) days before the date of the central committee meeting shall publish the call in a newspaper published at the county seat and mail a copy of the call to each precinct committeeman. If party rules permit the use of a proxy, no proxy shall be recognized unless held by an elector of the precinct of the committeeman executing it.

(4) The county chairman of the party shall preside at the county convention. No person other than a duly elected or appointed committeeman or officer of the committee is entitled to participate in the proceedings of the committee.

(5) If a committeeman is absent, the convention may fill the vacancy by appointing some qualified elector of the party, resident in the precinct, to represent the precinct in the convention.

(6) The county convention shall elect delegates and alternate delegates to the state convention under rules of the state party. The chairman and secretary of the county convention shall issue and sign certificates of election of the delegates.

**History:** En. Sec. 76, Ch. 368, L. 1969;  
amd. Sec. 1, Ch. 216, L. 1973.

#### **Amendments**

The 1973 amendment deleted "enclosing a blank proxy," after "a copy of the call" in the first sentence of subsection

(3); inserted "If party rules permit the use of a proxy," at the beginning of the second sentence of subsection (3); deleted "and the appointed proxy" after "committeeman" in subsection (5); and made a minor change in style.

## **CHAPTER 35**

### **ELECTION SUPPLIES AND BALLOTS**

#### **Section**

23-3513. Order of placement.

**23-3513. Order of placement.** (1) The order of offices on the ballot in the first column designated "STATE AND NATIONAL," shall be as follows:

(a) If the election is in a year in which a president of the United States is to be elected, in spaces separated from the balance of the party tickets by a heavy black line, shall be the names and spaces for voting for candidates for president and vice-president. The names of candidates for president and vice-president for each political party shall be grouped together.

- (b) United States senator;
- (c) United States representative;
- (d) Governor and lieutenant governor;
- (e) Secretary of state;
- (f) Attorney general;
- (g) State treasurer;

- (h) State auditor;
- (i) Public service commissioners;
- (j) State superintendent of public instruction;
- (k) Clerk of the supreme court;
- (l) Chief justice of the supreme court;
- (m) Associate justices of the supreme court;
- (n) District court judges;
- (o) State senators, members of the house of representatives.

If any offices are not to be elected, they shall not be designated but the order of offices to be filled shall maintain their relative positions.

(2) In the column designated, "COUNTY AND TOWNSHIP," the following order of placement shall be observed:

- (a) Clerk of the district court;
- (b) County commissioner;
- (c) County clerk and recorder;
- (d) Sheriff;
- (e) County attorney;
- (f) County auditor;
- (g) Other offices in the order designated by the registrar.

(3) In the third column constitutional amendments shall be followed by referendum and initiative measures.

History: En. Sec. 96, Ch. 368, L. 1969;  
amd. Sec. 5, Ch. 28, L. 1973; amd. Sec. 22,  
Ch. 315, L. 1974.

subdivisions (1) (d) and (1) (e); and  
redesignated the succeeding items in sub-  
division (1).

#### Amendments

The 1973 amendment combined former

The 1974 amendment substituted "Public  
service commissioners" for "Railroad and  
public service commissioners" in subdivi-  
sion (1)(i).

## CHAPTER 40

### CANVASS OF VOTES—RETURNS AND CERTIFICATES

**23-4007. Disposition of items by registrar.** (1) When the registrar receives the packages or envelopes, he shall file those containing the ballots voted and detached stubs and the unused ballots and keep them unopened for twelve (12) months. After twelve (12) months, if there is no contest begun in a court or no recount, he shall, without opening them or examining their contents, either burn the envelopes in an approved incinerator, destroy them in a mechanical shredder, or bury them in a sanitary landfill under his on-site supervision.

(2) and (3) \* \* \* [Same.]

History: En. Sec. 177, Ch. 368, L. 1969;  
amd. Sec. 1, Ch. 100, L. 1974.

#### Amendments

The 1974 amendment added the provi-  
sions for shredding or burying the en-  
velopes.

## CHAPTER 45

### NONPARTISAN NOMINATION AND ELECTION OF JUDGES

#### Section

- 23-4510.1. Form of ballot on retention of incumbent supreme court justice.
- 23-4510.2. Form of ballot on retention of incumbent district court judge.



**23-4510.1. Form of ballot on retention of incumbent supreme court justice.** In the event there is no candidate for the office of supreme court justice or chief justice other than the incumbent, the name of the incumbent shall be placed on the official ballot for the general election as follows:

Shall (chief) justice (here the name of the incumbent justice is inserted) of the supreme court of the state of Montana be retained in office for another term?

☐ YES

☐ NO

(Mark an "x" before the word "YES" if you wish the justice to remain in office. Mark an "x" before the word "NO" if you do not wish the justice to remain in office.)

**History:** En. Sec. 1, Ch. 22, L. 1973. court justices and district court judges on the ballot in uncontested elections to comply with article VII, section 8(2) of the 1972 Montana constitution.

**Title of Act**

An act placing the name of the supreme

**23-4510.2. Form of ballot on retention of incumbent district court judge.**

In the event there is no candidate for the office of district court judge in a judicial district of the state other than the incumbent, the name of the incumbent shall be placed on the official ballot for the general election as follows:

Shall judge (here the name of the incumbent judge of the district court is inserted) of the district court of the ..... judicial district of the state of Montana be retained in office for another term in office?

☐ YES

☐ NO

(Mark an "x" before the word "YES" if you wish the judge to remain in office. Mark an "x" before the word "NO" if you do not wish the judge to remain in office.)

**History:** En. Sec. 2, Ch. 22, L. 1973.

## CHAPTER 47

### ELECTION FRAUDS AND OFFENSES—CORRUPT PRACTICES ACT

**Section**

23-4701 to 23-4729. [Transferred from Title 94.]

23-4730. Statement by candidate as to moneys expended—filing after election—penalty.

23-4731. Accounts of expenditures by political committees and other persons—statement.

23-4732 to 23-4735. [Transferred from Title 94.]

23-4736. Record of statements—copies.

23-4737 to 23-4759. [Transferred from Title 94.]

23-4760. Court having jurisdiction of proceedings.

23-4761 to 23-4775. [Transferred from Title 94.]

**23-4701 to 23-4729. [Transferred from Title 94.]**

**Compiler's Notes**

These sections were originally numbered 94-1401 to 94-1429. Section 29, Ch. 513, Laws of 1973, renumbered them to

appear in this title. Because there has been no change in text, the sections are not reprinted here but may be found in bound Volume Eight as follows:

New Sec.	Vol. 8	New Sec.	Vol. 8
23-4701	94-1401	23-4716	94-1416
23-4702	94-1402	23-4717	94-1417
23-4703	94-1403	23-4718	94-1418
23-4704	94-1404	23-4719	94-1419
23-4705	94-1405	23-4720	94-1420
23-4706	94-1406	23-4721	94-1421
23-4707	94-1407	23-4722	94-1422
23-4708	94-1408	23-4723	94-1423
23-4709	94-1409	23-4724	94-1424
23-4710	94-1410	23-4725	94-1425
23-4711	94-1411	23-4726	94-1426
23-4712	94-1412	23-4727	94-1427
23-4713	94-1413	23-4728	94-1428
23-4714	94-1414	23-4729	94-1429
23-4715	94-1415		

**23-4728.1. Organizational statement — filing — penalty.** No political committee, as defined in section 23-4729, may expend or contract to expend any funds until fifteen (15) days after one of its officers executes and files or causes to be filed an organizational statement, properly acknowledged by a notary public, setting forth the names and addresses of all the officers of the political committee:

(1) with the secretary of state in case of a measure submitted to the voters of the state or involving state or district offices for districts composed of one (1) or more counties or involving the election of a candidate to the legislature;

(2) with the county clerk in case of measures involving counties or subdivisions thereof or county offices or offices of subdivisions thereof; and

(3) with the city clerk in case of measures involving municipalities or offices of municipalities.

(4) Whoever violates any provision of this section shall on conviction thereof be punished by imprisonment in the county jail for not more than six (6) months, or by a fine of not more than five hundred dollars (\$500), or by both such fine and imprisonment.

**History: En. 23-4728.1 by Sec. 1, Ch. 217, L. 1974.**

**23-4730. (10776) Statement by candidate as to moneys expended—filing after election—penalty.** Every candidate for nomination or election to public office, including candidates for the office of senator of the United States, shall, within twenty (20) days after the election at which he was a candidate, file with the secretary of state if a candidate for senator of the United States, representative in congress, or for any state or district office in a district composed of one or more counties, or for members of the legislative assembly from a district composed of more than one county, but with the county clerk for legislative districts composed of not more than one county, and for county and precinct offices, and with the city clerk, auditor, or recorder of the town or city in which he resides, if he was a candidate for a town, city, or ward office, an itemized sworn statement setting forth in detail all the moneys contributed, expended, or promised by him to aid and promote his nomination or election, or both, as the case may be, and for the election of his party candidates, and all existing unfulfilled promises of every character, and all liabilities remaining uncanceled and in force at the time such statement is made, whether such expenditures, promises, and



liabilities were made or incurred before, during, or after such election. If no money or other valuable thing was given, paid, expended, contributed, or promised, and no unfulfilled liabilities were incurred by a candidate for public office to aid or promote his nomination or election, or the election of his party candidates, he shall file a statement to that effect within twenty (20) days after the election at which he was a candidate. Any candidate who shall fail to file such a statement shall be fined twenty-five dollars for every day on which he was in default, unless he shall be excused by the court. Twenty (20) days after any such election the secretary of state, or county clerk, city clerk, auditor, or recorder, as the case may be, shall notify the county attorney of any failure to file such a statement on the part of any candidate, and within ten days thereafter such prosecuting officer shall proceed to prosecute said candidate for such offense.

**History:** En. Sec. 11, Init. Act, Nov. 1912; re-en. Sec. 10776, R. C. M. 1921; Sec. 94-1430, R. C. M. 1947; amd. Sec. 1, Ch. 144, L. 1973; redes. 23-4730 by Sec. 29, Ch. 513, L. 1973.

#### Compiler's Notes

The previous text of this section may

be found under sec. 94-1430 in bound Volume Eight.

#### Amendments

Chapter 144, Laws of 1973, extended the time for filing and for notice of failure to file from fifteen to twenty days after the election.

**23-4731. (10777) Accounts of expenditures by political committees and other persons—statement.** (1) Every political committee shall have a treasurer, who is a voter, and shall cause him to keep detailed accounts of all its receipts, payments, and liabilities. Similar accounts shall be kept by every person, who in the aggregate receives or expends money or incurs liabilities to the amount of more than fifty dollars (\$50) for political purposes, and by every political agent and candidate. Such accounts shall cover all transactions in any way affecting or connected with the political canvass, campaign, nomination, or election concerned.

(2) Every person receiving or expending money or incurring liability by authority or in behalf of or to promote the success or defeat of such committee, agent, candidate, or other person or political party or organization, shall, on demand, and in any event within twenty (20) days after such receipt, expenditure, or inurrence of liability, give such treasurer, agent, candidate, or other person on whose behalf such expense or liability was incurred a detailed verified account thereof. Every payment shall be accounted for by a receipted bill stating the particulars of expense. Every voucher, receipt, and verified account hereby required shall be a part of the accounts and files of such treasurer, agent, candidate, or other person, and shall be preserved for six (6) months after the election to which it refers.

(3) Any person not a candidate for any office or nomination who expends money or value to an amount greater than fifty dollars (\$50) in any campaign for nomination or election, to aid in the election or defeat of any candidate or candidates, or party ticket, or measure before the people, shall, within twenty (20) days after the election in which said money or value was expended, file with the secretary of state in the case of a measure voted upon by the people, or of state or district offices for districts composed of one (1) or more counties, or with the county clerk for county offices, and with the city clerk, auditor, or recorder for municipal offices, a verified itemized statement of such receipts and expenditures for every sum paid in

excess of five dollars (\$5), and shall at the same time deliver to the candidate or treasurer of the political organization whose success or defeat he has sought to promote, a duplicate of such statement and a copy of such receipts.

(4) The books of account of every treasurer of any political party, committee, or organization, during an election campaign, shall be open at all reasonable office hours to the inspection of the treasurer and chairman of any opposing political party or organization for the same electoral district; and his right of inspection may be enforced by writ of mandamus by any court of competent jurisdiction.

**History:** En. Sec. 12, Init. Act, Nov. 1912; re-en. Sec. 10777, R. C. M. 1921; amd. Sec. 1, Ch. 41, L. 1969; Sec. 94-1431, R. C. M. 1947; amd. Sec. 2, Ch. 144, L. 1973; redes. 23-4731 by Sec. 29, Ch. 513, L. 1973.

#### Compiler's Notes

The previous text of this section may be found under sec. 94-1431 in bound Volume Eight.

#### Amendments

Chapter 144, Laws of 1973, extended

the time for accounting specified in subsection (2) from fifteen to twenty days after the transaction; and extended the time for filing specified in subsection (3) from fifteen to twenty days after the election.

#### Bipartisan Organizations

Bipartisan organization to promote the sales tax referred measure was legislative in nature and not political within the meaning of subsection (4) of this section. State ex rel. Nybo v. District Court, — M —, 492 P 2d 1395.

### 23-4732 to 23-4735. [Transferred from Title 94.]

#### Compiler's Notes

These sections were originally numbered 94-1432 to 94-1435. Section 29, Ch. 513, Laws of 1973, renumbered them to appear in this title. Because there has been no change in text, the sections are not reprinted here but may be found in bound Volume Eight as follows:

New Sec.	Vol. 8
23-4732	94-1432
23-4733	94-1433
23-4734	94-1434
23-4735	94-1435

**23-4736. (10782) Record of statements—copies.** All statements shall be preserved by the officer with whom they are filed during the term of office to which they relate, and shall be public records subject to public inspection, and it shall be the duty of the officers having custody of the same to give certified copies thereof in like manner as of other public records.

**History:** En. Sec. 17, Init. Act, Nov. 1912; re-en. Sec. 10782, R. C. M. 1921; amd. Sec. 1, Ch. 41, L. 1943; amd. Sec. 1, Ch. 251, L. 1971; Sec. 94-1436, R. C. M. 1947; redes. 23-4736 by Sec. 29, Ch. 513, L. 1973.

#### Compiler's Notes

The previous text of this section may

be found under sec. 94-1436 in bound Volume Eight.

#### Amendments

The 1971 amendment substituted "by the officer with whom they are filed during the term of office" for "for six months after the election."

### 23-4737 to 23-4759. [Transferred from Title 94.]

#### Compiler's Notes

These sections were originally numbered 94-1437 to 94-1459. Section 29, Ch. 513, Laws of 1973, renumbered them to

appear in this title. Because there has been no change in text, the sections are not reprinted here but may be found in bound Volume Eight as follows:



New Sec.	Vol. 8	New Sec.	Vol. 8
23-4737	94-1437	23-4749	94-1449
23-4738	94-1438	23-4750	94-1450
23-4739	94-1439	23-4751	94-1451
23-4740	94-1440	23-4752	94-1452
23-4741	94-1441	23-4753	94-1453
23-4742	94-1442	23-4754	94-1454
23-4743	94-1443	23-4755	94-1455
23-4744	94-1444	23-4756	94-1456
23-4745	94-1445	23-4757	94-1457
23-4746	94-1446	23-4758	94-1458
23-4747	94-1447	23-4759	94-1459
23-4748	94-1448		

**23-4760. (10806) Court having jurisdiction of proceedings.** An application for filing a statement, payment of a claim, or correction of an error or false recital in a statement filed, or an action or proceeding to annul and set aside the election of any person declared elected to an office, or to remove or deprive any person of his office for an offense mentioned in this act, or any petition to excuse any person or candidate in accordance with the power of the court to excuse as provided in section 23-4757, must be made or filed in the district court of the county in which the certificate of his nomination as a candidate for the office to which he is declared nominated or elected is filed, or in which the incumbent resides.

**History:** En. Sec. 41, Init. Act, Nov. 1912; re-en. Sec. 10806, R. C. M. 1921; Sec. 94-1460, R. C. M. 1947; amd. and redes. 23-4760 by Sec. 25, Ch. 513, L. 1973.

**Amendments**

The 1973 amendment renumbered this section; and substituted the reference to section 23-4757 for a reference to section 94-1457.

**Compiler's Notes**

The previous text of this section may be found under sec. 94-1460 in bound Volume Eight.

**23-4761 to 23-4775. [Transferred from Title 94.]**

**Compiler's Notes**

These sections were originally numbered 94-1462 to 94-1476. Section 29, Ch. 513, Laws of 1973, renumbered them to appear in this title. Because there has been no change in text the sections are not reprinted here but may be found in bound Volume Eight as follows:

New Sec.	Vol. 8	New Sec.	Vol. 8
23-4761	94-1462	23-4764	94-1465
23-4762	94-1463	23-4765	94-1466
23-4763	94-1464	23-4766	94-1467
		23-4767	94-1468
		23-4768	94-1469
		23-4769	94-1470
		23-4770	94-1471
		23-4771	94-1472
		23-4772	94-1473
		23-4773	94-1474
		23-4774	94-1475
		23-4775	94-1476

CHAPTER 48

CONSTITUTIONAL CONVENTIONS

**Section**

- 23-4801. Question of holding convention submitted at least every 20 years.  
23-4802. Ballot—form—contents.

**23-4801. Question of holding convention submitted at least every 20 years.** Unless otherwise submitted earlier, the secretary of state shall cause

the question of holding an unlimited constitutional convention to be submitted to the people at the general election in 1990. The same question shall be submitted at the general election in each twentieth year following its last submission, unless otherwise submitted earlier.

**History:** En. Sec. 1, Ch. 36, L. 1973.

**Title of Act**

An act implementing article XIV, section 3 of the 1972 Montana constitution,

providing for the submission of the question of whether or not to hold a constitutional convention at least every twenty (20) years.

**23-4802. Ballot—form—contents.** The ballot submitting the question to the people shall contain the attorney general's explanatory statement and the following:

Pursuant to article XIV, sections 3 and 4 of the Montana constitution, the secretary of state shall cause the question of holding an unlimited constitutional convention to be submitted to the people at the general election in each twentieth year following its last submission. If a majority of those voting on the question answer in the affirmative, the legislature shall provide for the calling thereof at its next session.

☐ FOR CALLING A CONSTITUTIONAL CONVENTION

☐ AGAINST CALLING A CONSTITUTIONAL CONVENTION

**History:** En. Sec. 2, Ch. 36, L. 1973.

#### CHAPTER 49—GUBERNATORIAL CAMPAIGN FUND

**23-4901. Purpose.** It is the purpose of this act to allow the conduct of an experiment in the public financing of political campaigns in this state; to determine public reaction to grass roots participation in campaign financing through a designation by a taxpayer of one dollar (\$1) of his tax liability to a campaign fund; and to allow legislative review of public campaign financing based upon the results of the limited experiment authorized by this act.

**History:** En. 23-4901 by Sec. 1, Ch. 263, L. 1974.

**23-4902. Definitions.** As used in this act, unless the context requires otherwise:

(1) "Fund" means the election campaign fund established in section 4 [23-4904] of this act.

(2) "Political party" is a party whose candidate for governor in the last general election received five per cent (5%) or more of the total votes cast for that office as verified by the secretary of state.

(3) "Department" means the department of revenue provided for in Title 82A, chapter 18.

(4) "Candidate" means an individual who has been nominated by a political party for election to the office of governor of this state.

(5) "Individual" means a natural person.

**History:** En. 23-4902 by Sec. 2, Ch. 263, L. 1974.

**23-4903. Designation by taxpayer.** (1) An individual whose income tax liability under Title 84, chapter 49 for a taxable year is one dollar (\$1)



or more may designate one dollar (\$1) be paid over to the fund. In the case of a joint return, as provided in section 84-4914, of a husband and wife having an income tax liability of two dollars (\$2) or more, each spouse may designate one dollar (\$1) be paid to the fund.

(2) The department shall provide a place on the face of the blank form of return, provided for in section 84-4919, where an individual may make the designation provided for in subsection (1). The form shall adequately explain the individual's option to designate one dollar (\$1) to the fund and that a designation does not increase tax liability.

**History:** En. 23-4903 by Sec. 3, Ch. 263, L. 1974.

**23-4904. Election campaign fund.** (1) There is an election campaign fund within the earmarked revenue fund provided for in section 79-410.

(2) All moneys designated under section 2 [23-4902] of this act shall be deposited in the fund.

(3) Five (5) months before the general election in a gubernatorial election year all moneys in the fund shall be paid over in equal amounts to the treasurer of each political party, to be spent only for the legitimate campaign expenses of the gubernatorial candidate.

**History:** En. 23-4904 by Sec. 4, Ch. 263, L. 1974.

**23-4905. Records to be kept—open to inspection.** (1) The treasurer of each political party shall maintain a complete record of all disbursements of funds received by him under section 3 [23-4903] and used for the candidate's campaign expenses plus receipts or other evidence of each expense.

(2) The record shall be available for inspection by anyone at any reasonable time. A copy shall be deposited in the office of the secretary of state by December 31 of each general election year.

**History:** En. 23-4905 by Sec. 5, Ch. 263, L. 1974.

**23-4906. Penalties for violation.** The use of moneys from the fund by anyone for any purpose other than the legitimate campaign expenses of a candidate for governor is an offense and is punishable by imprisonment for not more than one (1) year, or by a fine of not more than five thousand dollars (\$5,000), or by both.

**History:** En. 23-4906 by Sec. 6, Ch. 263, L. 1974.

TITLE 37—INITIATIVE AND REFERENDUM

CHAPTER 1—STATE INITIATIVE AND REFERENDUM

- Section 37-101. Form of petition for referendum.  
37-102. Form of petition for initiative.  
37-103. County clerk to verify signatures.  
37-104. Notice to governor and proclamation.  
37-104.1. Attorney general's summary of referred or initiative measures—state-  
ment by secretary of state for referendum measures—placement on  
ballot.  
37-105. Certification and numbering of measures—constitutional amendments.  
37-107. Printing and distribution of measures.  
37-108. Canvass of votes.  
37-109. Who may petition—false signature—penalties.

37-101. (99) **Form of petition for referendum.** The following shall be substantially the form of petition for the referendum to the people on any act passed by the legislative assembly of the state of Montana:

Warning.

Any person signing any name other than his own to this petition, or signing the same more than once for the same measure at one election, or who is not, at the time of signing the same, a qualified elector of this state, is punishable by a fine of not exceeding five hundred dollars (\$500), or imprisonment in the penitentiary not exceeding two years, or by both such fine and imprisonment.

Petition for referendum.

To the Honorable \_\_\_\_\_, Secretary of State of the state of Montana:

We, the undersigned citizens and qualified electors of the state of Montana, respectfully order that Senate (House) Bill Number \_\_\_\_\_, entitled (title of act), passed by the \_\_\_\_\_ legislative assembly of the state of Montana, at the regular (special) session of said legislative assembly, shall be referred to the people of the state for their approval or rejection, at the regular, general, or special election to be held on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, and each for himself says: I have personally signed this petition; I am a qualified elector of the state of Montana; and my residence, post-office address, legislative representative district number, and voting precinct are correctly written after my name.

Name \_\_\_\_\_ Residence \_\_\_\_\_  
Post-office address \_\_\_\_\_  
If in city, street and number \_\_\_\_\_  
Legislative representative district number \_\_\_\_\_  
Voting precinct \_\_\_\_\_

(Here follow numbered lines for signatures.)

History: En. Sec. 1, Ch. 62, L. 1907; R. C. M. 1921; amd. Sec. 1, Ch. 454, L. Sec. 106, Rev. C. 1907; re-en. Sec. 99, 1973.

37-102. (100) **Form of petition for initiative.** The following shall be substantially the form of petition for any law of the state of Montana proposed by the initiative:

Warning.

Any person signing any name other than his own to this petition,



or signing the same more than once for the same measure at one election, or who is not, at the time of signing the same, a qualified elector of this state, is punishable by a fine not exceeding five hundred dollars (\$500), or imprisonment in the penitentiary not exceeding two years, or by both such fine and imprisonment.

Petition for Initiative.

To the Honorable \_\_\_\_\_, Secretary of State of the State of Montana:

We, the undersigned qualified electors of the state of Montana, respectfully demand that the following proposed law shall be submitted to the qualified electors of the state of Montana, for their approval or rejection, at the regular, general, or special election to be held on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, and each for himself says:

I have personally signed this petition, and my residence, post-office address, legislative representative district, and voting precinct are correctly written after my name.

Name \_\_\_\_\_ Residence \_\_\_\_\_  
 Post-office address \_\_\_\_\_  
 If in city, street and number \_\_\_\_\_  
 Legislative representative district \_\_\_\_\_  
 Voting precinct \_\_\_\_\_

(Numbered lines for names on each sheet.)

Every such sheet for petitioner's signature shall be attached to a full and correct copy of the title and text of the measure so proposed by initiative petition; but such petition may be filed with the secretary of state in numbered sections, for convenience in handling, and referendum petitions may be filed in sections in like manner.

History: En. Sec. 2, Ch. 62, L. 1907;  
 Sec. 107, Rev. C. 1907; re-en. Sec. 100,  
 R. C. M. 1921; amd. Sec. 2, Ch. 454, L.  
 1973.

37-103. (101) County clerk to verify signatures. The county clerk of each county in which any such petition shall be signed shall compare the signatures of the electors signing the same with their signatures on the registration books and blanks on file in his office, for the preceding general election, and shall thereupon attach to the sheets of said petition containing such signatures his certificate to the secretary of state, substantially as follows:

State of Montana, County of \_\_\_\_\_

To the Honorable \_\_\_\_\_, Secretary of State for Montana:

I, \_\_\_\_\_, county clerk of the county of \_\_\_\_\_, hereby certify that I have compared the signatures on (number of sheets) of the referendum (initiative) petition, attached hereto, with the signatures of said electors as they appear on the registration books and blanks in my office; and I believe that the signatures of (names of signers), numbering (number of genuine signatures in each whole or partial legislative representative district lying within the county boundaries), are genuine. As to the remainder of the signatures thereon, I believe that they are not

genuine, for the reason that -----; and I further certify that ----- the following names (-----) do not appear on the registration books and blanks in my office.

Signed: -----

-----, County Clerk.

(Seal of Office)

By -----

Deputy -----

Every such certificate shall be prima facie evidence of the facts stated therein, and of the qualifications of the electors whose signatures are thus certified to be genuine, and the secretary of state shall consider and count only such signatures on such petitions as shall be so certified by said county clerks to be genuine; provided, that the secretary of state may consider and count such of the remaining signatures as may be proved to be genuine, and that the parties so signing were legally qualified to sign such petitions, and the official certificate of a notary public of the county in which the signer resides shall be required as to the fact for each of such last-named signatures; and the secretary of state shall further compare and verify the official signatures and seals of all notaries so certifying with their signatures and seals filed in his office. Such notaries' certificate shall be substantially in the following form:

State of Montana, ss.

County of -----

I, -----, a duly qualified and acting notary public in and for the above-named county and state, do hereby certify: that I am personally acquainted with each of the following named electors whose signatures are affixed to the annexed petition, and I know of my own knowledge that they are qualified electors of the state of Montana, and of the county, legislative representative districts and precincts written after their several names in the annexed petition, and that their residence and post-office address is correctly stated therein, to wit: (Names of such electors.)

In Testimony Whereof, I have hereunto set my hand and official seal this ----- day of -----, 19-----

Notary Public, in and for ----- County,  
State of Montana.

The county clerk shall not retain in his possession any such petition, or any part thereof, for a longer period than two days for the first two hundred signatures thereon, and one additional day for each two hundred additional signatures, or fraction thereof, on the sheets presented to him, and at the expiration of such time he shall forward the same to the secretary of state, with his certificate attached thereto, as above provided. The forms herein given are not mandatory, and if substantially followed in any petition, it shall be sufficient, disregarding clerical and merely technical errors.

History: En. Sec. 3, Ch. 62, L. 1907;  
Sec. 108, Rev. C. 1907; re-en. Sec. 101,  
R. C. M. 1921; amd. Sec. 3, Ch. 454, L.  
1973.



**37-104. (102) Notice to governor and proclamation.** Immediately upon the filing of any such petition for the referendum or the initiative with the secretary of state, signed by the number of electors and filed within the time required by the constitution, he shall notify the governor in writing of the filing of such petition, and the governor shall forthwith issue his proclamation, announcing that such petition has been filed, with a brief statement of its tenor and effect. Said proclamation shall be published four times for four consecutive weeks in one daily or weekly paper in each county of the state of Montana.

**History:** En. Sec. 4, Ch. 62, L. 1907; re-en. Sec. 109, Rev. C. 1907; re-en. Sec. 102, R. C. M. 1921; amd. Sec. 4, Ch. 454, L. 1973.

**37-104.1. Attorney general's summary of referred or initiative measures—statement by secretary of state for referendum measures—placement on ballot.** The secretary of state of the state of Montana prior to certifying and numbering of referendum, initiative or constitutional amendment to the several counties of Montana as provided by sections 37-105 and 23-1102 [23-3506] of the Revised Codes of Montana, 1947, shall transmit a copy of the measure to be voted upon to the attorney general of Montana. Within ten (10) days after the measure is filed with him, the attorney general shall provide and return to the secretary of state a statement in ordinary plain language explaining in not more than one hundred (100) words the general purpose of the measure submitted. In the case of referendum measures, the secretary of state shall prepare a statement setting forth the vote by which the referendum passed each house of the legislative assembly. The statement by the secretary of state shall precede the attorney general's statement on the printed form. The statement as prepared by the attorney general, and the statement of the secretary of state for referendum measures only, shall be in addition to the legislative title of the measure, the statement of the secretary of state for referendum measures only and the statement of the attorney general shall precede the other title of the measure. In providing the statement, the attorney general shall give a true and impartial statement of the purpose of the measure in plain, easily understood language and in such manner as shall not be an argument or likely to create prejudice either for or against the measure.

**History:** En. Sec. 1, Ch. 22, L. 1963; amd. Sec. 1, Ch. 21, L. 1969; amd. Sec. 1, Ch. 108, L. 1974.

**37-105. (103) Certification and numbering of measures—constitutional amendments.** The secretary of state shall furnish the said county clerks his certified copy of the titles and numbers of the various measures to be voted upon at the ensuing general or special election, and he shall use for each measure a title designated for that purpose by the legislative assembly, committee, or organization presenting and filing with him the act, or petition for the initiative or the referendum, or in the petition or act; provided, that such title shall in no case exceed one hundred words, and shall not resemble any such title previously filed for any measure to be submitted at that election which shall be descriptive of said measure, and he shall number such measures. All measures shall be numbered with

consecutive numbers beginning with the number immediately following that on the last measure filed in the office of the secretary of state. The affirmative and negative of each measure shall bear the same number, and no two measures shall be numbered alike. It shall be the duty of the several county clerks to print said titles and numbers on the official ballot prescribed by section 23-3506, in the numerical order in which the measures have been certified to them by the secretary of state. Measures proposed by the initiative shall be designated and distinguished from measures proposed by the legislative assembly by the heading "proposed petition for initiative."

All constitutional amendments submitted to the qualified electors of the state shall likewise be placed upon the official ballot prescribed by said section 23-3506 and no such amendment shall hereafter be submitted on a separate ballot. Nothing herein contained shall be deemed to change the existing laws of the state regulating in other respects the manner of submitting such proposed amendments.

History: En. Sec. 5, Ch. 62, L. 1907; 1921; amd. Sec. 1, Ch. 52, L. 1927; amd. re-en. Sec. 110, Rev. C. 1907; amd. Sec. 1, Sec. 5, Ch. 454, L. 1973; amd. Sec. 2, Ch. Ch. 66, L. 1913; re-en. Sec. 103, R. C. M. 108, L. 1974.

**37-107. Printing and distribution of measures.** (1) The secretary of state shall furnish a copy of each of the proposed measures to be submitted to the people, and make requisition on the department of administration, for the printing and delivery to him of all proposed constitutional amendments, initiative, and referendum measures to be submitted to a vote of the people.

(2) The department of administration, shall, no later than five (5) weeks before any general or special election, at which any proposed law is to be submitted to the people, have printed a true copy of the title and text of each measure to be submitted, with the number and form in which the question will be printed on the official ballot. The department of administration shall call for bids and contract with the lowest responsible bidder for the printing of the proposed law to be submitted to the people.

(3) The proposed law to be submitted shall be printed in news type, each page to be six inches wide by nine inches long, and when the proposed measure constitutes less than six pages, it shall be printed flat and forwarded to the county clerk and recorder of each county in that form.

(4) When the proposed measure constitutes more than six pages, the measure shall be printed in pamphlet form, securely stapled, without cover. No proposed measure shall be bound. The quality of the paper to be used for the proposed measure shall be left to the discretion of the department of administration. The number of proposed measures to be printed shall be at least five per cent (5%) more than the number of qualified electors, as shown by the registration lists of the several counties of the state at the last preceding general election.

(5) The secretary of state shall distribute to each county clerk no later than four (4) weeks before the election at which the proposed measure(s) will be voted upon, a sufficient number of pamphlets to furnish one copy to every voter in his county. Each county clerk shall mail to the county at least one copy of the pamphlet within two (2) weeks from the date of his receipt of the pamphlets from the secretary of state.



History: En. Sec. 7, Ch. 62, L. 1907; 1927; amd. Sec. 2, Ch. 104, L. 1945; amd. Sec. 112, Rev. C. 1907; re-en. Sec. 105, Sec. 1, Ch. 67, L. 1947; amd. Sec. 6, Ch. R. C. M. 1921; amd. Sec. 1, Ch. 137, L. 454, L. 1973; amd. Sec. 3, Ch. 108, L. 1974; amd. Sec. 15, Ch. 326, L. 1974.

**37-108. (106) Canvass of votes.** The votes on measures and questions shall be counted, canvassed, and returned by the regular boards of judges, clerks, and officers as votes for candidates are counted, canvassed, and returned, and the abstract made by the several county clerks of votes on measures shall be returned to the secretary of state on separate abstract sheets in the manner provided by section 23-4015 for abstracts of votes for state officers. It shall be the duty of the state board of canvassers to proceed within thirty (30) days after the election at which such measures are voted upon, and sooner if the returns be all received, to canvass the votes given for each measure, and the governor shall forthwith issue his proclamation, giving the whole number of votes cast in the state for and against each measure and question, and declaring such measures as are approved by a majority of those voting thereon to be in effect the first day of July following its approval, unless the amendment provides otherwise, designating such measures by their titles.

History: En. Sec. 8, Ch. 62, L. 1907; Sec. 113, Rev. C. 1907; re-en. Sec. 106, R. C. M. 1921; amd. Sec. 1, Ch. 37, L. 1973; amd. Sec. 7, Ch. 454, L. 1973.

**37-109. (107) Who may petition—false signature—penalties.** Each qualified elector of the state of Montana may sign a petition for the referendum or for the initiative or for constitutional referendum or constitutional initiative. Any person signing any name other than his own to a petition, or signing one more than once for the same measure at one election, or who is not, at the time of signing a petition, a qualified elector of this state, or any officer or any person willfully violating any provision of this statute, shall, upon conviction thereof, be punished by a fine not exceeding five hundred dollars (\$500), or by imprisonment in the penitentiary not exceeding two (2) years, or by both.

History: En. Sec. 9, Ch. 62, L. 1907; Sec. 114, Rev. C. 1907; re-en. Sec. 107, R. C. M. 1921; amd. Sec. 4, Ch. 35, L. 1973; amd. Sec. 8, Ch. 454, L. 1973.

## CHAPTER 2—INITIATED CONSTITUTIONAL AMENDMENTS AND CONVENTIONS

Section 37-201. Form for people's initiative petition on the question of calling a constitutional convention.

37-202. Form for people's initiative petition for constitutional amendment.

37-203. Time for filing petitions.

**37-201. Form for people's initiative petition on the question of calling a constitutional convention.** The following shall be substantially the form for the people's initiative petition on the question of calling a constitutional convention:

### WARNING

Any person signing any name other than his own to this petition, or

signing the same more than once for the same measure at one election, or who is not, at the time of signing the same, a qualified elector of this state, is punishable by a fine not exceeding five hundred dollars (\$500), or imprisonment in the penitentiary not exceeding two (2) years, or by both. (Section 37-109, Revised Codes of Montana, 1947)

PEOPLE'S INITIATIVE PETITION  
ON THE QUESTION OF CALLING  
A CONSTITUTIONAL CONVENTION

To the Honorable \_\_\_\_\_, Secretary of State of the state of Montana:

We, the undersigned qualified electors of the state of Montana, respectfully request that the question of whether there shall be an unlimited convention to revise, alter, or amend the constitution be submitted to the qualified electors of the state of Montana for their approval or rejection at the general election to be held on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, and each qualified elector says for himself:

I have personally signed this petition, and my residence, post-office address, and voting precinct are correctly written after my name.

Name \_\_\_\_\_ Residence \_\_\_\_\_

Post-office address \_\_\_\_\_

If in city, street and number \_\_\_\_\_

Voting precinct \_\_\_\_\_ Representative Dist. No. \_\_\_\_\_

(Each sheet shall be in substantially the form above and contain numbered lines for names.)

History: En. 37-201 by Sec. 1, Ch. 35,  
L. 1973.

**37-202. Form for people's initiative petition for constitutional amendment.** The following shall be substantially the form for people's initiative petition for constitutional amendment:

WARNING

Any person signing any name other than his own to this petition, or signing the same more than once for the same measure at one election, or who is not, at the time of signing the same, a qualified elector of this state, is punishable by a fine not exceeding five hundred dollars (\$500), or imprisonment in the penitentiary not exceeding two (2) years, or by both. (Section 37-109, Revised Codes of Montana, 1947)

PEOPLE'S INITIATIVE PETITION  
FOR CONSTITUTIONAL AMENDMENT

To the Honorable \_\_\_\_\_, Secretary of State of the state of Montana:

We, the undersigned qualified electors of the state of Montana, respectfully request that the following proposed constitutional amendment shall be submitted to the qualified electors of the state of Montana, for their approval or rejection, at the statewide election to be held on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, and each qualified elector says for himself:

I have personally signed this petition, and my residence, post-office



address, and voting precinct are correctly written after my name.

Name \_\_\_\_\_ Residence \_\_\_\_\_

Post-office address \_\_\_\_\_

If in city, street and number \_\_\_\_\_

Voting precinct \_\_\_\_\_ Representative Dist. No. \_\_\_\_\_

(Each sheet for petitioner's signature shall be in substantially the form above and contain numbered lines for names. A full and correct copy of the title and text of the proposed constitutional amendment shall be included in or attached to each sheet of the petition.)

**History:** En. 37-202 by Sec. 2, Ch. 35,  
L. 1973.

**37-203.** Time for filing petitions. Petitions in this chapter shall be filed with the secretary of state on or before one hundred twenty (120) days prior to the election at which they are to be voted upon by the people.

**History:** En. 37-203 by Sec. 3, Ch. 35,  
L. 1973.

## CHAPTER 3—COUNTY INITIATIVE AND REFERENDUM

- Section 37-301. Petition to initiate county resolution—adoption by board—submission to people—waiting period before re-enactment of resolution repealed by people.
- 37-302. Election at which initiative petition submitted.
- 37-303. Effective date of county commissioners' resolutions—appropriations—emergency measures.
- 37-304. Petition to refer commissioners' resolution to electors.
- 37-305. Election at which referred measure submitted—special election.
- 37-306. Special election ordered by commissioners—submission by commissioners at general election.
- 37-307. Issuance of proclamation—publication—posting.
- 37-308. Form of ballot—canvass of votes—proclamation of result.
- 37-309. Qualifications of electors.
- 37-310. Measures required to be submitted to electors.
- 37-311. Forms of petitions and proceedings.

**37-301. Petition to initiate county resolution—adoption by board—submission to people—waiting period before re-enactment of resolution repealed by people.** (1) Resolutions may be proposed by the legal voters of any county in this state, in the manner provided in this act. Fifteen per cent (15%) of the legal voters of any county may propose to the board of county commissioners a resolution on a subject within the legislative jurisdiction and powers of such county commissioners, or a resolution amending or repealing any prior resolution or resolutions. Petitions shall be filed with the county clerk. The county clerk shall present the same to the board at its first meeting next following the filing of the petition. The board may, within sixty (60) days after the presentation of the petition to the board, adopt the resolution as set forth in the petition. If the resolution proposed by the petition is passed without change, it shall not be submitted to the people, unless a petition for referendum demanding such submission is filed under the provisions of this act.

(2) If the board does not, within sixty (60) days, pass the resolution proposed in the petition, then the resolution proposed by the petition shall be submitted to the people. Before submitting such resolution to the people, the board may direct that a suit be brought in the district court in and for the county to determine whether the petition and ordinance are regular in form, and whether the ordinance so proposed would be valid and constitutional. The procedure for judicial review shall be the same as that provided for the cities in section 11-1104 (4) and (5).

(3) If a resolution is repealed pursuant to a proposal initiated by the qualified electors of a county as provided in this act, the board of commissioners may not, within a period of two (2) years thereafter, re-enact such resolution or any resolution so similar thereto as not to be materially different therefrom. If during such two (2) year period the board enacts a resolution similar to the one repealed pursuant to initiative of the voters, a suit may be brought to determine whether the new resolution is a re-enactment without material change of the one so repealed. The same procedures set forth for cities shall apply to such suit and determination of the issues arising thereon. Nothing herein contained shall prevent exercise of the initiative herein provided for, at any time, to procure a re-enactment of a resolution repealed pursuant to initiative of the voters.

History: En. Sec. 1, Ch. 64, L. 1973.



37-302. Election at which initiative petition submitted. Any resolution proposed by petition which is entitled to be submitted to the people, shall be voted on at the next regular election to be held in the county, unless the petition asks that the same be submitted at a special election, and such petition is signed by not less than fifteen per cent (15%) of the electors qualified to vote at the last preceding county election.

History: En. Sec. 2, Ch. 64, L. 1973.

37-303. Effective date of county commissioners' resolutions—appropriations—emergency measures. No resolution passed by the board of county commissioners shall become effective until thirty (30) days after its passage, except general appropriation resolutions providing for the ordinary and current expenses of the county, excepting also emergency measures, and in the case of emergency measures the emergency must be expressed in the preamble or in the body of the measure, and the measure must receive a two-thirds ( $\frac{2}{3}$ ) vote of all the members of the board. Emergency resolutions shall include only such measures as are immediately necessary for the preservation of peace, health, and safety.

History: En. Sec. 3, Ch. 64, L. 1973.

37-304. Petition to refer commissioners' resolution to electors. During the thirty (30) days following the passage of any resolution, ten per cent (10%) of the qualified electors of the county may, by petition addressed to the board and filed with the county clerk, demand that such resolution, or any part or parts thereof, shall be submitted to the electors of the county.

History: En. Sec. 4, Ch. 64, L. 1973.

37-305. Election at which referred measure submitted—special election. Any measure on which a referendum is demanded under the provisions of this act shall be submitted to the electors of the county at the next county election provided the petition or petitions were filed with the county clerk at least thirty (30) days before such election. If such petition or petitions be signed by not less than fifteen per cent (15%) of the qualified electors of the county, the measure shall be submitted at a special election to be held for the purpose.

History: En. Sec. 5, Ch. 64, L. 1973.

37-306. Special election ordered by commissioners—submission by commissioners at general election. The board of county commissioners may in any case order a special election on a measure proposed by the initiative, or when a referendum is demanded, or upon any resolution passed by the board and may likewise submit to the electors, at a general election, any resolution passed by the board.

History: En. Sec. 6, Ch. 64, L. 1973.

37-307. Issuance of proclamation—publication—posting. Whenever a measure is ready for submission to the electors, the clerk of the county shall, in writing, notify the board, who shall issue a proclamation setting forth the measure and the date of the election. Said proclamation shall be published one (1) day each week for four (4) consecutive weeks in each

daily newspaper in the county, if there be such, otherwise in the weekly newspaper published in the county. In case there is no weekly newspaper published, the proclamation and the measure shall be posted conspicuously throughout the county.

History: En. Sec. 7, Ch. 64, L. 1973.

**37-308. Form of ballot—canvass of votes—proclamation of result.** The question to be balloted upon by the electors shall be printed on the initiative or referendum ballot, and the form shall be that prescribed by law for questions submitted at state elections. The referendum or initiative ballots shall be counted, canvassed, and returned by the regular board of judges, clerks, and officers, as votes for candidates for office are counted, canvassed, and returned. The returns for the questions submitted by the voters of the county shall be on separate sheets, and returned to the county clerk. The returns shall be canvassed in the same manner as the returns of regular elections for county and federal officers. The board shall issue a proclamation, as soon as the result of the final canvass is known, giving the whole number of votes cast in the county for and against such measure, and it shall be published in like manner as other proclamations herein provided for. A measure accepted by the electors shall take effect five (5) days after the vote is officially announced.

History: En. Sec. 8, Ch. 64, L. 1973.

**37-309. Qualifications of electors.** The qualifications for voting on questions submitted to the electors are the same as those required for voting for county commissioners.

History: En. Sec. 9, Ch. 64, L. 1973.

**37-310. Measures required to be submitted to electors.** The provisions of this act regarding the referendum shall not apply to resolutions which are required by any other law of the state to be submitted to the voters or the electors or taxpayers of any county.

History: En. Sec. 10, Ch. 64, L. 1973.

**37-311. Forms of petitions and proceedings.** The form of petitions and the proceedings under this act shall conform as nearly as possible, with the necessary changes as to details, to the provisions of the laws of the state relating to the initiative and referendum, and be regulated by such laws, except as otherwise provided in this act.

History: En. Sec. 11, Ch. 64, L. 1973.



**TITLE 43—LEGISLATURE AND ENACTMENT OF LAWS****CHAPTER 1—SENATORIAL, REPRESENTATIVE AND CONGRESSIONAL DISTRICTS**

- Section 43-108. Decennial selection of reapportionment commission.  
 43-109. Appointment of commissioners.  
 43-110. Vacancy.  
 43-111. Compensation of reapportionment commissioners.  
 43-112. Technical and clerical services for commission.  
 43-113. Co-operation of state agencies.  
 43-114. Public hearing on reapportionment plan.  
 43-115. Time for submission of plan.  
 43-116. Legislative recommendations.  
 43-117. Filing of final plan—dissolution of commission.  
 43-118. Commissioners ineligible for legislative office.

**43-108. Decennial selection of reapportionment commission.** During the 1973 legislative session and in each session preceding each federal population census, a commission of five (5) citizens, none of whom may be public officials, shall be selected to prepare a plan for redistricting and reapportioning the state into legislative and congressional districts.

**History:** En. Sec. 1, Ch. 21, L. 1973. 14 of the 1972 Montana constitution by providing for a districting and apportionment commission; and providing for an immediate effective date.

**Title of Act**  
 An act implementing article V, section

**43-109. Appointment of commissioners.** The majority and minority leaders of each house shall each designate one (1) commissioner. Two commissioners must be residents of the western congressional district and two commissioners must be residents of the eastern congressional district. The majority leader in each house shall have first choice of the congressional district from which he will select a commissioner. Within twenty (20) days after their designation, the four (4) commissioners shall select the fifth member, who shall serve as chairman of the commission. If the four (4) members fail to select the fifth member within the time prescribed, a majority of the supreme court shall select him.

**History:** En. Sec. 2, Ch. 21, L. 1973.

**43-110. Vacancy.** In the event a vacancy occurs on the commission, the appointing authority of the vacated seat shall designate a successor.

**History:** En. Sec. 3, Ch. 21, L. 1973.

**43-111. Compensation of reapportionment commissioners.** Commissioners are entitled to compensation of twenty dollars (\$20) per day plus travel and actual expenses while attending commission meetings or in carrying out the official duties of the commission.

**History:** En. Sec. 4, Ch. 21, L. 1973.

**43-112. Technical and clerical services for commission.** The executive director of the legislative council, under the direction of the commission, shall provide the technical staff and clerical services which the commission needs to prepare its districting and apportionment plan.

**History:** En. Sec. 5, Ch. 21, L. 1973.

**43-113. Co-operation of state agencies.** Upon request state agencies shall co-operate with the commission and furnish technical assistance and consulting personnel.

**History:** En. Sec. 6, Ch. 21, L. 1973.

**43-114. Public hearing on reapportionment plan.** Before the commission submits its plan to the legislature, it shall hold at least one (1) public hearing on the plan at the state capitol. The commission may hold other hearings as it deems necessary.

**History:** En. Sec. 7, Ch. 21, L. 1973.

**43-115. Time for submission of plan.** The first commission shall submit its plan to the 1974 legislature by the tenth legislative day; each subsequent commission shall submit its plan to the legislature by the tenth legislative day of the first regular session after its appointment or after the census figures are available.

**History:** En. Sec. 8, Ch. 21, L. 1973.

**43-116. Legislative recommendations.** Within thirty (30) days after the commission submits its plan to the legislature, the legislature shall return the plan to the commission with its recommendations.

**History:** En. Sec. 9, Ch. 21, L. 1973.

**43-117. Filing of final plan—dissolution of commission.** Within thirty (30) days after receiving the plan and the legislature's recommendations, the commission shall file its final plan with the secretary of state. Upon filing, the plan shall become law and the commission shall be dissolved.

**History:** En. Sec. 10, Ch. 21, L. 1973.

**43-118. Commissioners ineligible for legislative office.** A member of the commission may not run for election to a legislative seat within two (2) years after the districting and apportionment plan in which he participated becomes effective.

**History:** En. Sec. 11, Ch. 21, L. 1973.

## CHAPTER 2—THE LEGISLATIVE ASSEMBLY—ITS COMPOSITION, ORGANIZATION, OFFICERS AND EMPLOYEES

43-218.

[Section 98, Ch. 126, Laws 1974, substituted "department of administration" in this section for "state controller."]



**TITLE 44—LIBRARIES****CHAPTER 2—LIBRARY FEDERATION**

**44-213. Participation of other governmental units.** When a library federation shall have been established, the legislative body of any government unit in the designated library federation area may decide, with the concurrence of the board of trustees of its library, if it is maintaining a library, to participate in the library federation. Each local entity may determine the amount of services it wishes to supply to fulfill the needs of its unit. After the necessary contract has been executed and beginning with the next fiscal year, the said governmental unit shall participate in the library federation and its residents shall be entitled to the benefits of the library federation, and property within its boundaries shall be subject to taxation for library federation purposes.

The state board of regents may contract with the government of any city or county, or the governments of both the city and the county, in which a unit of the university of Montana is located for the establishment and operation of joint library services. Any such contract which proposes the erection of a building shall be subject to the approval of the legislature. Any joint library services established pursuant to this section shall be operated and supported as provided in such contract and under this chapter.

**History:** En. Sec. 2, Ch. 132, L. 1939;  
amd. Sec. 1, Ch. 249, L. 1963; amd. Sec. 3,  
Ch. 357, L. 1974.

**TITLE 59—OFFICES AND OFFICERS****CHAPTER 2—EXECUTIVE OFFICERS—CLASSIFICATION AND ELECTION**

## Section

59-203. Certain officers, how elected.

**59-203. (111) Certain officers, how elected.** The mode of election of the governor, lieutenant-governor, secretary of state, state auditor, attorney general and superintendent of public instruction is prescribed by the constitution.

**History:** En. Sec. 340, Pol. C. 1895; re-en. Sec. 128, Rev. C. 1907; re-en. Sec. 111, R. C. M. 1921; amd. Sec. 22, Ch. 100, L. 1973. Cal. Pol. C. Sec. 348.

**CHAPTER 3—DISQUALIFICATIONS AND RESTRICTIONS**

## Section

59-301. Age and citizenship.

**59-301. (410) Age and citizenship.** No person is eligible to hold civil office in this state, who at the time of his election or appointment is not of the age of eighteen (18) years or older and a citizen of this state.

**History:** En. Sec. 960, Pol. C. 1895; re-en. 1971; amd. Sec. 1, Ch. 9, L. 1973; amd. Sec. 342, Rev. C. 1907; re-en. Sec. 410, Sec. 21, Ch. 94, L. 1973. Cal. Pol. C. Sec. R. C. M. 1921; amd. Sec. 14, Ch. 240, L. 841.



**TITLE 70—PUBLIC UTILITIES****CHAPTER 1—PUBLIC SERVICE COMMISSION—REGULATION  
OF PUBLIC UTILITIES**

**70-101. (3879) Creation of public service commission.** A public service commission is hereby created, whose duty it shall be to supervise and regulate the operations of the public utilities hereinafter named, such supervision and regulation to be in conformity with this act. The commission shall consist of five (5) members who shall be qualified electors of the district from which they are elected with each such member elected from a separate district of the state. At the next general election, there shall be elected five (5) commissioners for said commission except as hereinafter provided. Any commissioner whose term has not expired on the effective date of this act shall continue in office until the end of his term. Of the commissioners elected at the first election under this act, three (3) shall serve for a term of two (2) years, and two (2) for a term of four (4) years. At their first meeting the commissioners shall determine by lot which of them shall serve the terms less than four (4) years. Every term thereafter shall be for a period of four (4) years commencing from the expiration of the first term. Said commissioners when elected will qualify at the time and in the manner provided by law for other state officers, and shall take office on the first Monday of January, next after their election. Each of said members of said board so elected shall serve until his successor is elected and qualified. A chairman shall be selected by the commission from its membership at the first meeting of each year after a general election.

Any vacancy occurring in the board shall be filled by appointment by the governor, and such appointee shall hold office until the next general election, and until his successor is elected and qualified. At the biennial election following the occurrence of any vacancy in the board, there shall be elected one (1) member to fill out the unexpired term for which such vacancy exists.

**History:** En. Sec. 1, Ch. 52, L. 1913;  
re-en. Sec. 3879, R. C. M. 1921; amd. Sec.  
1, Ch. 339, L. 1974.

**70-101.1. Public service commission districts.** In this state there are five (5) public service commission districts, with one (1) commissioner elected from each district distributed as follows:

First district: Blaine, Chouteau, Daniels, Dawson, Fergus, Garfield, Glacier, Golden Valley, Hill, Liberty, McCone, Musselshell, Petroleum, Phillips, Pondera, Prairie, Richland, Roosevelt, Sheridan, Toole, Valley, and Wibaux counties.

Second district: Big Horn, Carbon, Carter, Custer, Fallon, Powder River, Rosebud, Stillwater, Sweetgrass, Treasure, and Yellowstone counties.

Third district: Broadwater, Cascade, Jefferson, Judith Basin, Lewis and Clark, Meagher, Teton, and Wheatland counties.

Fourth district: Beaverhead, Deer Lodge, Gallatin, Granite, Madison, Park, Powell, Ravalli, and Silver Bow counties.

Fifth district: Flathead, Lake, Lincoln, Mineral, Missoula, and Sanders counties.

**History:** En. 70-101.1 by Sec. 2, Ch. 339,  
L. 1974.

**TITLE 75—SCHOOLS****CHAPTER 57—SUPERINTENDENT OF PUBLIC INSTRUCTION**

## Section

75-5702. Election and qualification.

**75-5702. Election and qualification.** A superintendent of public instruction for the state of Montana shall be elected by the qualified electors of the state at the general election preceding the expiration of the term of office of the incumbent.

Any person shall be qualified to assume the office of superintendent of public instruction who:

- (1) is twenty-five (25) years of age or older at the time of his election;
- (2) to (4). \* \* \* [Same]

**History:** En. 75-5702 by Sec. 11, Ch. 5,  
L. 1971; amd. Sec. 1, Ch. 17, L. 1973.

**CHAPTER 58—COUNTY SUPERINTENDENT**

## Section

75-5802. Election and qualification.

**75-5802. Election and qualification.** A county superintendent shall be elected in each county of the state unless a county manager form of government has been organized in the county. The county superintendent shall be elected at the general election preceding the expiration of the term of office of the incumbent.

Any person shall be qualified to assume the office of the county superintendent who:

- (1) is a qualified elector;
- (2) and (3). \* \* \* [Same]

**History:** En. 75-5802 by Sec. 20, Ch. 5,  
L. 1971; amd. Sec. 29, Ch. 100, L. 1973.

**CHAPTER 59—SCHOOL DISTRICT TRUSTEES AND OFFICERS**

## Section

- 75-5903. Request and determination of number of high school district additional trustee positions.
- 75-5912. Annual election.
- 75-5914.1. Nomination of candidates by petition in first class elementary district.
- 75-5915. Conduct of election and ballot.
- 75-5916. Qualification and oath.
- 75-5933. Powers and duties.

**75-5903. Request and determination of number of high school district additional trustee positions.** As provided in subsection (2) (b) of section 75-5902, each high school district, except a high school district operating a county high school, may have additional trustee positions when the trustees of a majority of the elementary districts with territory located in the high school district, but without representation on the high school district trustees under the provision of subsection (2) (a) of section 75-5902, request the establishment of such additional trustee positions.

A request for additional trustee positions shall be made to the county



superintendent by a resolution of the trustees of each elementary district. When a resolution has been received from a majority of the elementary districts without representation on the high school district trustees, the county superintendent shall determine the number of additional trustee positions for the affected high school district in accordance with the following procedure:

(1) to (3). \* \* \* [Same]

The number determined in subsection (3) above shall be the number of additional trustee positions except that the number of additional trustee positions shall not exceed four (4) in a first or second class high school district or two (2) in a third class high school district except when two-thirds ( $2/3$ ) or more of the high school enrollment of the high school district and two-thirds ( $2/3$ ) or more of the taxable valuation of the high school district are located outside of the elementary district which has its trustees placed on the high school district trustees. When this situation exists, three (3) additional trustees shall be elected from the elementary school districts where the high school is not located and one (1) additional trustee shall be elected at large in the high school district.

**History:** En. 75-5903 by Sec. 32, Ch. 5, L. 1971; amd. Sec. 1, Ch. 328, L. 1973.

**75-5912. Annual election.** In each district an election of trustees shall be conducted annually on the regular school election day, the first Tuesday of April. Election of trustees shall comply with the election provisions of this title.

**History:** En. 75-5912 by Sec. 41, Ch. 5, L. 1971; amd. Sec. 2, Ch. 109, L. 1974.

#### **75-5914. Repealed.**

##### **Repeal**

Section 75-5914 (Sec. 43, Ch. 5, L. 1971), relating to nomination of trustee candidates in first class elementary districts by a nominating caucus, was re-

pealed by Sec. 3, Ch. 165, Laws 1973. For new law, see sec. 75-5914.1. Section 1 of Ch. 259, Laws 1973 purported to amend this section. Under the provisions of section 43-515, the amendment is void.

**75-5914.1. Nomination of candidates by petition in first class elementary district.** Any twenty (20) electors qualified under the provisions of section 75-6410 of any first class elementary district may nominate by petition as many trustee candidates as there are trustee positions subject to election at the ensuing election. The name of each person nominated for candidacy shall be submitted to the clerk of the district not less than forty (40) days before the regular school election day at which he is to be a candidate. If there are different terms to be filled, the term for which each candidate is nominated shall also be indicated. The election shall be conducted with the ballot as specified in section 75-5915.

**History:** En. 75-5914.1 by Sec. 1, Ch. 165, L. 1973.

**75-5915. Conduct of election and ballot.** The trustees of each district shall call a trustee election on the regular school election day of each school fiscal year under the provisions of section 75-6406, except as provided in section 75-5914.1. The trustees shall call and conduct the trustee

election in the manner prescribed in this title for school elections. Any elector qualified to vote under the provisions of section 75-6410 may vote at a trustee election. The trustee election ballots shall be substantially in the following form:

**OFFICIAL BALLOT  
SCHOOL TRUSTEE ELECTION**

**INSTRUCTIONS TO VOTERS: \* \* \* [Same]**

In preparing the ballots, only those portions of the prescribed ballot that are applicable to the election to be conducted need to be used. The ballot also shall be prepared with blank lines and vacant squares in front of the lines in a sufficient number to allow write-in voting for each trustee position that is subject to election.

When additional trustees in a high school district are to be elected, a separate ballot shall be used in each nominating district showing only the names of those candidates for which the electors of such district are entitled to vote.

**History:** En. 75-5915 by Sec. 44, Ch. 5, L. 1971; amd. Sec. 2, Ch. 165, L. 1973; amd. Sec. 2, Ch. 259, L. 1973.

**75-5916. Qualification and oath.** Any person who receives a certificate of election as a trustee under the provisions of section 75-6423 shall not assume the trustee position until he has qualified. Such person shall qualify by completing and filing an oath of office with the county superintendent not more than fifteen (15) days after the receipt of the certificate of election. After a person has qualified for a trustee position, he shall hold such position for the term of the position and until his successor has been elected or appointed and has been qualified.

If the elected person does not qualify in accordance with this requirement, a person shall be appointed in the manner provided by section 75-5918 and shall serve until the next regular election.

**History:** En. 75-5916 by Sec. 45, Ch. 5, L. 1971; amd. Sec. 1, Ch. 91, L. 1973.

**75-5933. Powers and duties.** As prescribed elsewhere in this title, the trustees of each district shall have the power and it shall be its duty to perform the following duties or acts:

(1) employ or dismiss a teacher, principal or other assistant upon the recommendation of the district superintendent, the county high school principal, or other principal as the board may deem necessary, accepting or rejecting such recommendation as the trustees shall in their sole discretion determine, in accordance with the provisions of the school personnel chapter of this title;

(2) to (16). \* \* \* [Same as parent volume.]

(17) establish and maintain the school food services of the district in accordance with the provisions of the school food services chapter of this title;

(18) perform any other duty and enforce any other requirements for the government of the schools prescribed by this title, the policies of the



board of education or the rules and regulations of the superintendent of public instruction; and

(19) may require that all children at the time they are first enrolled in school, or within a reasonable time thereafter, be successfully immunized against those communicable diseases, as recommended by the state department of health and environmental sciences.

The immunizations required and the manner and frequency of their administration shall conform to recognized standards of medical practice and shall be set by the state department of health and environmental sciences.

A child may be exempted from this requirement upon certification from a licensed physician stating that the physical condition of the child is such that the immunization would seriously endanger his life or health, or a written statement signed by one (1) parent or guardian that he is an adherent of a religious denomination whose religious teachings are opposed to the immunization.

**History:** En. 75-5933 by Sec. 62, Ch. 5, L. 1971; amd. Sec. 1, Ch. 69, L. 1973; amd. Sec. 1, Ch. 280, L. 1973.

#### CHAPTER 64—SCHOOL ELECTIONS

##### Section

75-6404. Regular school election day and special school elections.

75-6410. Qualifications of elector.

75-6412. Elector challenges.

**75-6404. Regular school election day and special school elections.** The first Tuesday of April of each year shall be the regular school election day. Unless otherwise provided by law, special school elections may be conducted at such times as determined by the trustees.

**History:** En. 75-6404 by Sec. 140, Ch. 5, L. 1971; amd. Sec. 1, Ch. 109, L. 1974.

**75-6410. Qualifications of elector.** Every person is entitled to vote at school elections if he has the following qualifications:

(1) He has registered to vote with the county registrar as a resident in the school district in which he resides and proposes to vote in the manner provided by the general state election laws except in regard to the closure of elector registration as provided in section 75-6413;

(2) He is eighteen (18) years of age or older;

(3) He has been a resident of Montana for at least thirty (30) days; and

(4). \* \* \* [Same]

No person convicted of a felony has the right to vote while he is serving a sentence in a penal institution.

No person adjudicated to be of unsound mind has the right to vote unless he has been restored to capacity as provided by law.

**History:** En. 75-6410 by Sec. 146, Ch. 4, Ch. 91, L. 1973; amd. Sec. 31, Ch. 100, 5, L. 1971; amd. Sec. 2, Ch. 83, L. 1971; L. 1973.  
amd. Sec. 1. Ch. 118, L. 1971; amd. Sec.

**75-6410.1. Repealed.**

**Repeal**

Section 75-6410.1 (Sec. 1, Ch. 83, L. 1971), relating to qualifications of voters on school tax questions, was repealed by

Sec. 58, Ch. 100, Laws 1973. Chapter 391, Laws of 1973, purported to amend this section, but such amendment was void under the rule in section 43-515.

**75-6412. Elector challenges.** An elector may challenge the qualifications of another elector under the provisions of section 23-3015. Any person offering to vote in a school election may be challenged by any elector of the district on any of the grounds for challenge established in section 23-3611, R.C.M., 1947. Such challenge shall be determined in the same manner, using the same oath as provided in chapter 36 of Title 23, R.C.M., 1947.

Any person who shall have been challenged under any of the provisions of this section and who shall swear or affirm falsely before any school election judge shall be guilty of perjury and shall be punished accordingly.

**History:** En. 75-6412 by Sec. 148, Ch. 5, L. 1971; amd. Sec. 3, Ch. 83, L. 1971; amd. Sec. 5, Ch. 91, L. 1973.

## CHAPTER 65—SCHOOL DISTRICT ORGANIZATION AND REORGANIZATION

**75-6508. Elementary district annexation.** An elementary district may be annexed to another elementary district located in the same county when one of the conditions of section 75-6507 is met in accordance with the following procedure:

(1) to (6). \* \* \* [Same]

**History:** En. 75-6508 by Sec. 167, Ch. 5, L. 1971; amd. Sec. 6, Ch. 91, L. 1973.

**75-6509. Consolidation or annexation election with assumption of bonded indebtedness.** (1) to (3) \* \* \* [Same.]

(4) When the trustees in each elementary district conducting an election canvass the vote under the provisions of section 75-6423, they shall decide according to the following procedure, if the proposition has been approved:

(a) \* \* \* [Same.]

(b) When the proposition is approved under subsection (4)(a), determine the number of votes "FOR" and "AGAINST" the proposition. The proposition shall be approved in the district if a majority of those voting approve the proposition. If the proposition is disapproved under either the provisions of subsection (4)(a) or (4)(b), the proposition shall be disapproved in the district.

**History:** En. 75-6509 by Sec. 168, Ch. 5, L. 1971; amd. Sec. 5, Ch. 83, L. 1971; amd. Sec. 1, Ch. 155, L. 1974.

**75-6516.1. Boundary adjustments in elementary school districts.** The trustees of an elementary school district may, by resolution, request a change in the boundaries between their district and an adjacent district. The resolution shall be addressed to the county superintendent of schools, who, upon receiving such a resolution, shall proceed as set forth in section 75-6516.

**History:** En. Sec. 1, Ch. 29, L. 1974.



**75-6516.2. Review of boundaries by county superintendent.** A county superintendent of schools shall, at least once every three (3) years, review the existing elementary school district boundaries in the county. This review and any recommended boundary changes shall be presented by the superintendent at a hearing conducted under section 75-6516. If the superintendent orders a boundary change after the hearing, he shall forward copies of his review and the testimony at the hearing to the board of county commissioners and the state superintendent of public instruction.

**History:** En. Sec. 2, Ch. 29, L. 1974.

**75-6517. Limitations for creation of new elementary district.** A new elementary district may be created out of the territory of an existing elementary district or districts when:

(1) and (2). \* \* \* [Same]

(3) the ANB in any of the existing districts is not reduced to less than fifteen (15).

**History:** En. 75-6517 by Sec. 176, Ch. 5, L. 1971; amd. Sec. 4, Ch. 137, L. 1973.

#### CHAPTER 69—STATE EQUALIZATION AID TO PUBLIC SCHOOLS

##### Section

**75-6923.** Additional levy for general fund and election for authorization to impose.

**75-6923. Additional levy for general fund and election for authorization to impose.** The trustees of any district may propose to adopt a general fund budget in excess of the general fund budget amount for such district as established by the schedule in section 75-6905 for any of the following purposes:

(1) to (4) \* \* \* [Same.]

However, the trustees may not adopt a total general fund budget which exceeds one hundred twelve per cent (112%) of the general fund budget for the preceding year, unless such budget is adopted under conditions as provided in sections 75-6723 through 75-6730, or under the following conditions:

(a) new programs which are approved under 75-6903 or existing programs which are expanded as a result of ANB increases approved under 75-6903;

(b) federal programs which are continued with local funds if federal funds are withdrawn or withheld;

(c) new programs of special education are approved.

In subsection (2) (a), above, the budget may exceed one hundred twelve per cent (112%) of the preceding year's budget by a dollar amount equal to the increase in the maximum budget without a vote resulting from the introduction of the new or expanded program and in subsection (2) (b), above, by a dollar amount not to exceed the amount received from federal sources for the preceding year. Nothing in this act shall prevent a school district from adopting a budget at least as large as the maximum budget without a vote as provided in section 75-6905, provided, however, for the fiscal year 1975, the trustees may adopt a total general fund budget which exceeds one hundred twelve per cent (112%) of the general fund budget for the preceding year if they file a notice of this increase with the

superintendent of public instruction, setting forth the specific reasons for so increasing the budget.

When the trustees of any district determine that an additional amount of financing is required for the general fund budget that is in excess of the statutory schedule amount, the trustees shall submit the proposition of an additional levy to raise such excess amount of general fund financing to the electors who are qualified, under section 75-6410, to vote upon such proposition except that the Twin Bridges high school district may increase its general fund budget as established by section 75-6905, R. C. M. 1947, by the amount of tuition paid to the district the previous year under section 75-6319, R. C. M. 1947. Such special election shall be called and conducted in the manner prescribed by this title for school elections. The ballot for such election shall state the amount of money to be raised by additional property taxation, the approximate number of mills required to raise such money, and the purpose for which such money will be expended, and it shall be in the following format:

### PROPOSITION

Shall a levy be made in addition to the levies authorized by law in such number of mills as may be necessary to raise the sum of (state the amount to be raised by additional tax levy), and being approximately (give number) mills, for the purpose of (insert the purpose for which the additional tax levy is made)?

☐ FOR the additional levy.

☐ AGAINST the additional levy.

If the election on any additional levy for the general fund is approved by a majority vote of those electors voting at such election, the proposition shall carry and the trustees may use any portion or all of the authorized amount in adopting the preliminary general fund budget. The trustees shall certify the additional levy amount authorized by such a special election on the budget form that is submitted to the county superintendent and the county commissioners shall levy such number of mills on the taxable value of all taxable property within the district as prescribed in section 75-6926, as are required to raise the amount of such additional levy.

Authorization to levy an additional tax under the provisions of this section shall be effective for only one school fiscal year and shall be authorized by a special election conducted before the first day of August of the school fiscal year for which it is effective. Only one such additional levy for the maintenance and operation of the school programs of a high school district may be imposed by a high school district in a given school fiscal year.

**History:** En. 75-6923 by Sec. 273, Ch. 5, L. 1971; amd. Sec. 7, Ch. 83, L. 1971; amd. Sec. 6, Ch. 355, L. 1973; amd. Sec. 1, Ch. 214, L. 1974; amd. Sec. 1, Ch. 230, L. 1974; amd. Sec. 1, Ch. 346, L. 1974.

## CHAPTER 71—SCHOOL DISTRICT AND COUNTY SCHOOL BONDS

### Section

75-7116. Notice of bond election by separate purpose.

**75-7116. Notice of bond election by separate purpose.** Any school district bond election shall be conducted in accordance with the school election



provisions of this Title except that the election notice required therein shall be in substantially the following form :

NOTICE OF SCHOOL DISTRICT BOND ELECTION

Notice is hereby given by the trustees of School District No. \_\_\_\_\_ of \_\_\_\_\_ County, state of Montana, that pursuant to a certain resolution duly adopted at a meeting of the board of trustees of said school district held on the \_\_\_\_\_ day of \_\_\_\_\_, A.D., 19\_\_\_\_\_, an election of the registered electors of School District No. \_\_\_\_\_ of \_\_\_\_\_ County, state of Montana, will be held on the \_\_\_\_\_ day of \_\_\_\_\_, A.D., 19\_\_\_\_\_, at \_\_\_\_\_ for the purpose of voting upon the question of whether or not the trustees shall be authorized to issue and sell bonds of said school district in the amount of \_\_\_\_\_ dollars (\$\_\_\_\_\_.), bearing interest at a rate not more than seven per cent (7%) per annum, payable semiannually, for the purpose of \_\_\_\_\_ (here state purpose). The bonds to be issued will be either amortization or serial bonds, and amortization bonds will be the first choice of the board of trustees. The bonds to be issued, whether amortization or serial bonds, will be payable in installments over a period not exceeding \_\_\_\_\_ (state number) years.

The polls will be open from \_\_\_\_\_ o'clock \_\_\_\_\_m. and until \_\_\_\_\_ o'clock \_\_\_\_\_m. of the said day.

Dated and posted this \_\_\_\_\_ day of \_\_\_\_\_, A.D., 19\_\_\_\_\_.

\_\_\_\_\_  
Chairman of School District No.  
\_\_\_\_\_ of \_\_\_\_\_ County,  
State of Montana

If the bonds proposed to be issued are for more than one purpose, then each purpose shall be separately stated in the notice together with the proposed amount of bonds therefor.

History: En. 75-7116 by Sec. 317, Ch. 5, L. 1971; amd. Sec. 40, Ch. 234, L. 1971; amd. Sec. 1, Ch. 176, L. 1973.

CHAPTER 74—SCHOOL TERMS AND HOLIDAYS

**75-7406. School holidays.** Pupil instruction and pupil-instruction-related days shall not be conducted on the following holidays:

- (1) to (4) \* \* \* [Same.]
- (5) Thanksgiving day (fourth Thursday in November),
- (6) Christmas day (December 25),
- (7) State and national election days when the school building is used as a polling place and the conduct of school would interfere with the election process at the polling place. When these holidays fall on Saturday or Sunday, the preceding Friday or the succeeding Monday shall not be a school holiday.

History: En. 75-7406 by Sec. 370, Ch. 5, L. 1971; amd. Sec. 1, Ch. 159, L. 1974.

CHAPTER 81—COMMUNITY COLLEGE DISTRICTS

- Section  
75-8107. Election of trustees—districts from which elected—terms of office.  
75-8113. Qualifying and organization of board of trustees.

**75-8107. Election of trustees—districts from which elected—terms of office.** The regents shall provide for the election of trustees of the proposed community college district at the election held for the approval of its organization. Seven (7) trustees shall be elected at large, except that should there be in such proposed community college district one (1) or more high school districts or part of a high school district within the community college district with more than forty-three per cent (43%) and not more than fifty per cent (50%) of the total population of the proposed district, as determined by the last census, then each such district or part of district shall elect three (3) trustees and the remaining trustees shall be elected at large from the remainder or [of] the proposed community college district. Should any such high school district or such part of a high school district have more than fifty per cent (50%) of the population of the proposed district, then four (4) trustees shall be elected from such high school district or such part of high school district and three (3) trustees at large from the remainder of the proposed community college district. If the trustees are elected at large throughout the entire proposed community college district, the one receiving the greatest number of votes shall be elected for a term of seven (7) years, the one receiving the next greatest number of votes, for a term of six (6) years, the one receiving the next greatest number of votes, for a term of five (5) years, the one receiving the next greatest number of votes for a term of four (4) years, the one receiving the next greatest number of votes for a term of three (3) years, the one receiving the next greatest number of votes for a term of two (2) years, and the elected one receiving the least number of votes for a term of one (1) year. If the trustees are elected in any manner other than at large throughout the entire proposed community college district, then the trustees elected shall determine by lot the one who shall serve for seven (7) years, the one who shall serve for six (6) years, the one who shall serve for five (5) years, the one who shall serve for four (4) years, the one who shall serve for three (3) years, the one who shall serve for two (2) years, and the one who shall serve for one (1) year. Thereafter, all trustees elected shall serve for terms of seven (7) years each.

**History:** En. 75-8107 by Sec. 454, Ch. 5, L. 1971; amd. Sec. 4, Ch. 406, L. 1971; amd. Sec. 14, Ch. 137, L. 1973.

**75-8113. Qualifying and organization of board of trustees.** Newly elected members of the board of trustees of the community college district shall be qualified by taking the oath of office prescribed by the constitution of Montana. At the organization meeting called by the board of education, the board of trustees shall be organized by the election of a president and vice-president and a secretary; said secretary may be or may not be a member of the board. The treasurer of the community college district shall be the county treasurer of the county in which the community college facilities are located.

**History:** En. 75-8113 by Sec. 460, Ch. 5, L. 1971; amd. Sec. 33, Ch. 100, L. 1973.

## CHAPTER 82—SCHOOL SITES, CONSTRUCTION AND LEASING

### Section

**75-8205.** Trustees may sell property when resolution passed after hearing, and appeal procedure.



**75-8205. Trustees may sell property when resolution passed after hearing, and appeal procedure.** Whenever the trustees of any district determine that a site, building, or any other real or personal property of the district is or is about to become abandoned, obsolete, undesirable, or unsuitable for the school purposes of such district, the trustees may sell or otherwise dispose of such real or personal property in accordance with this section and without conforming to the provisions of section 75-8204.

The trustees of any district shall adopt a resolution stating their intention to sell or otherwise dispose of district real or personal property because it is or is about to become abandoned, obsolete, undesirable, or unsuitable for the school purposes of the district. When such a resolution is adopted, the trustees shall set the date of the trustees meeting when they shall consider the adoption of a resolution to authorize the sale or other disposition of such real or personal property. The trustees shall cause notices to be posted in the manner required for school elections that state the text of the resolution of intention to sell or dispose of the real or personal property and the time, date, and place when the resolution authorizing the sale or other disposition will be considered for adoption. Any elector of the district shall have the right to be present and protest the passage of the resolution. If the trustees adopt the resolution and an elector has protested such adoption at the trustee meeting conducted for the hearing on the resolution, such resolution shall not become effective for five (5) days after the date of its adoption.

Any taxpayer may appeal the resolution of the trustees, at any time within five (5) days after the date of the resolution, to the district court by filing a verified petition with the clerk of such court and serving a copy of such petition upon the district. The petition shall set out in detail the objections of the petitioner to the adoption of the resolution or to the disposal of the property. The service and filing of the petition shall stay the resolution until final determination of the matter by the court. The court shall immediately fix the time for a hearing at the earliest, convenient time. At the hearing, the court shall hear the matter de novo and may take testimony as it deems necessary. Its proceedings shall be summary and informal, and its decision shall be final.

The trustees of a district that has adopted a resolution to sell or otherwise dispose of district real or personal property and, if appealed, has been upheld by the court shall sell or dispose of such real or personal property in any reasonable manner that they determine to be in the best interests of the district. The moneys realized from the sale or disposal shall be credited to the debt service fund, building fund, general fund, or any combination of these three funds, at the discretion of the trustees.

**History:** En. 75-8205 by Sec. 477, Ch. 5, L. 1971; amd. Sec. 8, Ch. 91, L. 1973.

**TITLE 82—STATE OFFICERS, BOARDS AND DEPARTMENTS****CHAPTER 5—CLERK OF SUPREME COURT****Section**

82-501. Election and term of office.

**82-501. (370) Election and term of office.** There must be a clerk of the supreme court, who must be elected by the electors at large of the state, and hold his office for the term of six years from the first Monday of January next succeeding his election.

**History:** En. Sec. 870, Pol. C. 1895; re-en. Sec. 299, Rev. C. 1907; re-en. Sec. 370, R. C. M. 1921; amd. Sec. 45, Ch. 100, L. 1973. Cal. Pol. C. Secs. 749-758.



**TITLE 84—TAXATION****CHAPTER 49—INCOME TAX**

**84-4906.1. Definitions.** For the purposes of this act, unless the context requires otherwise: (1) “Department” means the department of revenue provided for in Title 82A, chapter 18.

(2) “Individual” means a natural person.

(3) “Political contribution” means a contribution or gift of money to:

(a) the national committee of a national political party;

(b) the state central committee of any political organization which at the last preceding election for governor polled at least three per cent (3%) of the votes for governor;

(c) the county central committee of any political organization which at the last preceding election for governor polled at least three per cent (3%) of the votes for governor.

**History:** En. 84-4906.1 by Sec. 1, Ch. 229, L. 1974.

**84-4906.2. Allowance of deduction.** (1) In the case of an individual in computing net income under section 84-4906, there shall be allowed as a deduction any political contribution made by the individual within the taxable year.

(2) Limitations.

(a) Amount. The deduction under subsection (1) shall not exceed fifty dollars (\$50) or one hundred dollars (\$100) in the case of a joint return under section 84-4914.

(b) Verification. The deduction under subsection (1) shall be allowed, with respect to any political contribution, only if such political contribution is verified in a manner prescribed by the department.

**History:** En. 84-4906.2 by Sec. 2, Ch. 229, L. 1974.

**TITLE 89—WATERS AND IRRIGATION****CHAPTER 23—DRAINAGE DISTRICTS—COMMISSIONERS—  
ELECTION—ORGANIZATION—REPORTS**

**89-2330.1. Taxpayers' approval required for assessments on improvements.** It shall require a vote of the persons on the assessment rolls in any existing district to make this law applicable to such districts.

**History:** En. Sec. 10, Ch. 409, L. 1973;  
amd. Sec. 1, Ch. 147, L. 1974.

**89-2330.3. Procedures for elections in drainage districts.** The election provided for by section 89-2330.1 shall be governed by the following rules.

(1) Notice of the election shall be as provided in section 89-2303 except that the form of the ballot shall be as hereinafter provided.

(2) The manner of conducting the election shall be as provided in section 89-2304.

(3) The qualifications of electors shall be as provided in section 89-2305 except that, in addition to persons holding title, or evidence of title to lands within the district, any person as therein defined who does not own land within the district but has been assessed or will have his improvements assessed under chapter 409, Laws of 1973, or who will be assessed for benefits received, shall be entitled to one (1) vote. Commissioners shall prepare a list of such persons and give them notice as provided in section 89-2303.

(4) The commissioners of any district in existence prior to the effective date of chapter 409, Laws of 1973, who wish to hold an election to determine if the district shall be governed by chapter 409, Laws of 1973, shall at any regular or special meeting adopt a resolution calling for an election to determine whether or not the voters of said district wish to be governed by chapter 409, Laws of 1973. The resolution shall contain a short summary of the changes made by chapter 409, Laws of 1973 and shall include the summary as part of the notice provided for by section 89-2303. In addition, the commission shall provide copies of chapter 409, Laws of 1973 to any person interested in obtaining a copy of the same and the notice to the persons in the district calling the election shall describe where and how copies may be obtained. The commissioners may authorize a reasonable charge for providing said copies, not to exceed twenty cents (\$.20) per page.

(5) The ballot shall include the summary as provided for in the preceding paragraph and the form of the ballot shall conform, as closely as possible, to that set forth in section 37-106.

(6) A simple majority of those who cast valid ballots shall determine the outcome of the election.

**History:** En. 89-2330.3 by Sec. 2, Ch. 147, L. 1974.



## CHAPTER 34—CONSERVANCY DISTRICTS

**89-3403. Definitions.** As used in this act unless the context clearly indicates otherwise:

(1) and (2) \* \* \* [Same.]

(3) "Elector" means a person qualified to vote under section 89-3423.

(4) and (5) \* \* \* [Same.]

(6) "Department" means the department of natural resources and conservation provided for in Title 82A, chapter 15.

(7) and (8) \* \* \* [Same.]

(9) "Cost of works" means the cost of construction, acquisition, improvement, extension and development of works, including financing charges, interest and professional services.

(10) to (13) \* \* \* [Same.]

**History:** En. Sec. 3, Ch. 100, L. 1969;  
amd. Sec. 183, Ch. 253, L. 1974.

**89-3404. Preliminary survey—petition.** (1) To request a preliminary survey for a proposed conservancy district, the applicants shall present a written petition to the department.

(2) The petition shall:

(a) be signed by at least ten per cent (10%) of the registered voters residing within the boundaries of the proposed conservancy district;

(b) generally describe the proposed boundaries of the district;

(c) specify the purpose or purposes of the district;

(d) list the works contemplated;

(e) request that a preliminary survey be initiated.

(3) The department may initiate a preliminary survey without any prior written petition.

**History:** En. Sec. 4, Ch. 100, L. 1969;  
amd. Sec. 1, Ch. 19, L. 1973.

**89-3405. Action by water board upon receipt of request.** (1) Sooner than eleven (11) days after the request is received, the department shall acknowledge the request.

(2) The department shall itself, or through co-operating agencies, or together with co-operating agencies:

(a) to (f) \* \* \* [Same.]

(g) sooner than one (1) year after receipt of the request, send a report of the preliminary survey to the applicants, the board of supervisors, fish and game commission, department of health and environmental sciences, and other affected state and federal resource agencies for their comments.

**History:** En. Sec. 5, Ch. 100, L. 1969;  
amd. Sec. 1, Ch. 302, L. 1971; amd. Sec.  
184, Ch. 253, L. 1974.

**89-3406. Hearing by department.** (1) Upon receipt of the preliminary survey report the applicants, or any one of them, may request the

department to hold a hearing. The department shall hold the hearing sooner than sixty-one (61) days after receipt of the request. Notice of the hearing shall be given in accordance with section 89-3403 (11).

(2) If the department itself initiated the preliminary survey, it may hold a hearing without being requested to do so.

**History:** En. Sec. 6, Ch. 100, L. 1969;  
amd. Sec. 185, Ch. 253, L. 1974.

**89-3407. Feasibility study and report—adjustment of proposed boundaries.** After the hearing, the applicants, or any one of them, may request the department to prepare a detailed feasibility study of the proposed district. If the department concludes that the proposed district is feasible, desirable, and consistent with the state water plan, it shall prepare a feasibility report, and sooner than one (1) year after receipt of the request, send copies to the applicants, if any, the fish and game commission, department of health and environmental sciences, and other affected state and federal water resource agencies. For good cause shown based upon the actual technical problems in completing the report, the department may use necessary additional time to complete and distribute the report. The detailed feasibility report shall describe the proposed works and contain an estimate of the cost of the works, the means of financing, and the estimated costs of operation and maintenance. The department may adjust the boundaries of the proposed district to improve the feasibility, desirability and consistency with the state water plan, and to exclude land which would receive no direct or indirect benefits from the proposed district.

**History:** En. Sec. 7, Ch. 100, L. 1969;  
amd. Sec. 1, Ch. 303, L. 1971; amd. Sec.  
186, Ch. 253, L. 1974.

**89-3408. Procedure for organization of district.** If in the opinion of the department the feasibility study shows that a district is feasible and consistent with the state water plan, the procedure for organization is:

(1) the department shall file a petition requesting organization with the court;

(2) and (3) \* \* \* [Same.]

**History:** En. Sec. 8, Ch. 100, L. 1969;  
amd. Sec. 187, Ch. 253, L. 1974.

**89-3410. Filing of documents after organization.** Sooner than thirty-one (31) days after the district has been decreed organized, the clerk of the court shall transmit to the secretary of state, the department, and to the county clerk and recorder in each of the counties having lands in the district, copies of the election results, the decree of the court incorporating the district, and a description of the boundaries of the district. Copies of the same documents shall be filed in the office of the secretary of state in the same manner as articles of incorporation are required to be filed under the laws governing corporations. Copies shall also be filed in the office of the county clerk and recorder of each county in which a part of the district may be. The clerk and recorder of each county where the articles are filed and the secretary of state shall collect filing fees as provided by law.

**History:** En. Sec. 10, Ch. 100, L. 1969;  
amd. Sec. 188, Ch. 253, L. 1974.



**89-3411. Reimbursement for expenses of organizing election.** If organized, the district shall reimburse the county, or counties, for the expenses incurred in the organizing election.

The costs of conducting the preliminary and feasibility studies shall be considered costs of construction of an approved project and shall be included in determination of the repayment schedules by the directors of the district.

**History:** En. Sec. 11, Ch. 100, L. 1969;  
amd. Sec. 1, Ch. 18, L. 1973.

## TITLE 93—CIVIL PROCEDURE

## CHAPTER 2—SUPREME COURT

Section 93-201. Justices—number increased to five—election and term of office.

93-201. (8790) Justices—number increased to five—election and term of office. The supreme court consists of a chief justice and four associate justices, who are elected by the qualified electors of the state at large at the general state elections next preceding the expiration of the terms of office of their predecessors, respectively, and hold their offices for the term of eight (8) years from and after the first Monday of January next succeeding their election.

History: En. Sec. 12, C. Civ. Proc. Sec. 8790, R. C. M. 1921; amd. Sec. 1, 1895; re-en. Sec. 6244, Rev. C. 1907; Ch. 13, L. 1973. Cal. C. Civ. Proc. Sec. 40. amd. Sec. 1, Ch. 31, Ex. L. 1919; re-en.

## 93-202 to 93-206. (8791 to 8795) Repealed.

## Repeal

Sections 93-202 to 93-206 (Secs. 2 to 6, Ch. 31, Ex. L. 1931), relating to appointments of additional justices to increase

the supreme court from three to five justices, were repealed by Sec. 2, Ch. 13, Laws 1973.

## 93-209. (8798) Repealed.

## Repeal

Section 93-209 (Sec. 14, C. Civ. Proc. 1895), relating to filling of vacancies in

office of supreme court justice, was repealed by Sec. 14, Ch. 470, Laws 1973. For new law, see secs. 93-705 to 93-717.

## 93-220. Repealed.

## Repeal

Section 93-220 (Sec. 2, Ch. 139, L. 1957), relating to filling vacancy on su-

preme court, was repealed by Sec. 14, Ch. 470, Laws 1973. For new law, see secs. 93-705 to 93-717.

## CHAPTER 3—DISTRICT COURTS

Section 93-301. Judicial districts defined.

93-302. Number of judges.

93-301. (8812) Judicial districts defined. In this state there are eighteen judicial districts, distributed as follows:

First district: Lewis and Clark and Broadwater counties.

Second district: Silver Bow county.

Third district: Deer Lodge, Granite, and Powell counties.

Fourth district: Missoula, Mineral, Lake, Ravalli, and Sanders counties.

Fifth district: Beaverhead, Jefferson, and Madison counties.

Sixth district: Park and Sweet Grass counties.

Seventh district: Dawson, McCone, Richland, and Wibaux counties.

Eighth district: Cascade and Chouteau counties.

Ninth district: Teton, Pondera, Toole, and Glacier counties.



Tenth district: Fergus, Judith Basin, and Petroleum counties.

Eleventh district: Flathead and Lincoln counties.

Twelfth district: Liberty, Hill, and Blaine counties.

Thirteenth district: Yellowstone, Big Horn, Carbon, Stillwater, and Treasure counties.

Fourteenth district: Meagher, Wheatland, Golden Valley, and Musselshell counties.

Fifteenth district: Roosevelt, Daniels, and Sheridan counties.

Sixteenth district: Custer, Carter, Fallon, Prairie, Powder River, Garfield, and Rosebud counties.

Seventeenth district: Phillips and Valley counties.

Eighteenth district: Gallatin county.

History: En. Sec. 6256, Rev. C. 1907; re-en. Sec. 8812, R. C. M. 1921; amd. Sec. 1, Ch. 91, L. 1929; amd. Sec. 1, Ch. 23, L. 1973.

#### 93-301.1 to 93-301.4. Repealed.

##### Repeal

Sections 93-301.1 to 93-301.4 (Secs. 1 to 4, Ch. 80, L. 1947), creating the

eighteenth judicial district, were repealed by Sec. 2, Ch. 23, Laws 1973. For present law, see sec. 93-301.

93-302. (8813) Number of judges. In each judicial district there must be the following number of judges of the district court, who must be elected by the qualified voters of the district, and whose term of office must be six (6) years, to wit: In the first, second, eleventh and sixteenth, two judges each, in the thirteenth, eighth and fourth, three judges, and, in all other districts, one judge each.

History: En. Sec. 1, p. 156, L. 1901; re-en. Sec. 6264, Rev. C. 1907; re-en. Sec. 8813, R. C. M. 1921; amd. Sec. 2, Ch. 91, L. 1929; amd. Sec. 1, Ch. 18, L.

1955; amd. Sec. 1, Ch. 91, L. 1957; amd. Sec. 1, Ch. 161, L. 1959; amd. Sec. 1, Ch. 229, L. 1963; amd. Sec. 1, Ch. 14, L. 1973.

#### 93-309. (8820) Repealed.

##### Repeal

Section 93-309 (Sec. 35, C. Civ. Proc. 1895), relating to vacancies on the district

court bench, was repealed by Sec. 14, Ch. 470, Laws 1973. For new law, see secs. 93-705 to 93-717.

## CHAPTER 4—JUSTICES' AND POLICE COURTS

Section 93-401. Justices' courts and justices of the peace.

93-401. (8833) Justices' courts and justices of the peace. (1) There must be at least one (1) justice court in each county of the state. The board of county commissioners of each county of the state shall have authority to constitute one (1) additional justice court in their respective counties as the board deems necessary. One (1) justice court in each county must be located at the county seat and the board of county commissioners shall determine the location of the other justice court in their respective counties. Each justice of the peace must be elected by the qualified electors of the county at the general state election next preceding the expiration of the term of office of his predecessor.

(2) A justice of the peace shall be nominated and elected on the nonpartisan judicial ballot in the same manner as are judges of the district court. Each judicial office shall be a separate and independent office for election purposes and each office shall be numbered by the county commissioners and each candidate for justice of the peace shall specify the number of the office for which he seeks to be elected. A candidate may not file for more than one (1) office. Section 23-4511 prohibiting political party endorsement for judicial officers shall also apply to justices of the peace.

(3) Each justice of the peace, elected or appointed, after he has received his certificate of election or appointment, shall, before entering upon the duties of his office take the constitutional oath of office, which must be filed with the county clerk.

(4) Before the county clerk may file the oath the elected or appointed justice must satisfy the clerk that he is either:

(a) an attorney at law authorized to practice law in the state of Montana, or

(b) a person who has held the office of justice of the peace within the preceding five (5) years, or

(c) a person who has completed the orientation course of study held under the direction of the university of Montana law school; or if a person is appointed after the course is offered he must agree to take the course at the next offering and failure to do so will disqualify him.

(5) The university of Montana law school shall present a course of study as soon as is practical following each general election. Mileage and per diem shall be paid the elected or appointed justice of the peace for attending the course and shall be a proper charge against the county wherein the justice of the peace will hold court.

History: En. Sec. 60, C. Civ. Proc. 1895; re-en. Sec. 6279, Rev. C. 1907; re-en. Sec. 8833, R. C. M. 1921; amd. Sec. 4, Ch. 491, L. 1973; amd. Sec. 1, Ch. 23, L. 1974; amd. Sec. 1, Ch. 276, L. 1974. Cal. C. Civ. Proc. Sec. 85.

93-405. (8837) **Terms of office.** The term of office of justices of peace is four (4) years from the first Monday in January next succeeding their election.

History: En. Sec. 64, C. Civ. Proc. 1895; re-en. Sec. 6283, Rev. C. 1907; re-en. Sec. 8837, R. C. M. 1921; amd. Sec. 8, Ch. 491, L. 1973. Cal. C. Civ. Proc. Sec. 110.

## CHAPTER 7—QUALIFICATIONS, APPOINTMENT AND DISCIPLINE OF JUDICIAL OFFICERS

### Section

93-705 Judicial nomination commission—creation—composition.

93-713. Confirmation by senate—interim appointment.

93-714. Term of appointment—election for unexpired term.

93-705. **Judicial nomination commission — creation — composition.** There is created a judicial nomination commission for the state of



Montana, whose function it shall be to provide the governor with a list of candidates for nominee to fill any vacancy on the supreme court or any district court of the state of Montana. The commission shall be composed of seven (7) members as follows:

(1) four (4) lay members, who are neither judges or attorneys, active or retired, and who shall reside in different geographical areas of the state; each of these four (4) members shall be representative of a different industry, business or profession, whether or not actively so engaged or retired; such members shall be appointed by the governor;

(2) two (2) attorneys, actively engaged in the practice of law, one (1) from each congressional district, who shall be appointed by the supreme court;

(3) one (1) district judge elected by the district judges under an elective procedure initiated and conducted by the supreme court and certified to such election by the chief justice of the supreme court, and which for the purpose of the language of this act shall be considered as an appointment.

History: En. Sec. 1, Ch. 470, L. 1973.

**93-713. Confirmation by senate—interim appointment.** Each nomination shall be confirmed by the senate, but a nomination made while the senate is not in session is effective as an appointment until the end of the next session. If the nomination is not confirmed, the office shall be vacant and another selection and nomination shall be made.

History: En. Sec. 9, Ch. 470, L. 1973.

**93-714. Term of appointment—election for unexpired term.** A nominee confirmed by the senate serves until the next succeeding general election. The candidate elected at that election holds the office for the remainder of the unexpired term.

History: En. Sec. 10, Ch. 470, L. 1973.

TITLE 94—CRIMES AND CRIMINAL PROCEDURE

CHAPTER 14—ELECTION FRAUDS AND OFFENSES—CORRUPT PRACTICES ACT

Section

94-1401 to 94-1460. [Transferred.]

94-1462 to 94-1476. [Transferred.]

94-1401 to 94-1460. [Transferred.]

Compiler's Notes

Section 29, Ch. 513, Laws of 1973, re-numbered these sections as secs. 23-4701 to 23-4760. Supplementary materials relating to these sections may be found in the current supplement to Volume Two, Part 2, as follows:

Old Sec.

94-1430

94-1431

94-1436

94-1460

Vol. 2, Pt. 2

23-4730

23-4731

23-4736

23-4760

94-1462 to 94-1476. [Transferred.]

Compiler's Notes

Section 29, Ch. 513, Laws of 1973, re-numbered these sections as secs. 23-4761 to 23-4775.



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