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ELECTION LAWS

OF THE

STATE OF MONTANA

1971 SUPPLEMENT

Containing

CONSTITUTIONAL AMENDMENTS PROPOSED AND APPROVED
SINCE PUBLICATION OF THE 1970 EDITION OF ELECTION
LAWS OF THE STATE OF MONTANA AND AMENDMENTS
TO ACTS AND NEW LAWS ENACTED BY THE 42ND
LEGISLATIVE ASSEMBLY IN REGULAR AND FIRST
AND SECOND EXTRAORDINARY SESSIONS

Compiled by
Frank Murray, Secretary of State
Helena, Montana

Published by Authority





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Election laws of the State of
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TABLE OF CONTENTS

Title	Page
Constitution of United States	1
Constitution of Montana	3
1. Aeronautics	9
11. Cities and Towns	11
16. Counties	23
19. Definitions and General Provisions	27
23. Elections	29
43. Legislature and Enactment of Laws	47
75. Schools	53
84. Taxation	111
89. Waters and Irrigation	113
93. Civil Procedure	115
94. Crimes and Criminal Procedure	117
Ready-Reference Index	119

AMENDMENTS TO THE CONSTITUTION OF
THE UNITED STATES

AMENDMENT 26

1. The right of citizens of the United States, who are eighteen years of age or older, to vote shall not be denied or abridged by the United States or by any State on account of age.

2. The Congress shall have the power to enforce this article by appropriate legislation.

The twenty-sixth amendment was submitted by Congress on January 21, 1971, declared in force July 5, 1971.

CONSTITUTION

OF THE

STATE OF MONTANA

ARTICLE IX—RIGHTS OF SUFFRAGE AND QUALIFICATIONS TO HOLD OFFICE

Sec. 2. Every person of the age of nineteen (19) years or over, possessing the following qualifications, shall be entitled to vote at all general elections and for all officers that now are, or hereafter may be, elective by the people, and, except as hereinafter provided, upon all questions which may be submitted to the vote of the people or electors: first, he shall be a citizen of the United States; second, he shall have resided in this state one year immediately preceding the election at which he offers to vote, and in the town, county or precinct such time as may be prescribed by law. If the question submitted concerns the creation of any levy, debt or liability the person, in addition to possessing the qualifications above mentioned, must also be a taxpayer whose name appears upon the last preceding completed assessment roll, in order to entitle him to vote upon such question. Provided, first, that no person convicted of felony shall have the right to vote unless he has been pardoned or restored to citizenship by the governor; provided, second, that nothing herein contained shall be construed to deprive any person of the right to vote who has such right at the time of the adoption of this constitution; provided, that after the expiration of five years from the time of the adoption of this constitution, no person except citizens of the United States shall have the right to vote.

Compiler's Notes

This constitutes sec. 2 of Article IX as amended by act approved January 31, 1969 (Ch. 14, Laws 1969), adopted at the general election of November 3, 1970, and effective under the governor's proclamation of November 20, 1970. The amendment changed the voting age from 21 to 19 years.

Proposed Amendment

Chapter 159, Laws 1971, proposes to amend this section to read as follows:

"Section 2. Every person of the age of eighteen (18) years or over, possessing the following qualifications, shall be entitled to vote at all general elections and for all officers that now are, or hereafter

may be, elective by the people, and, except as hereinafter provided, upon all questions which may be submitted to the vote of the people or electors: First, he shall be a citizen of the United States; second, he shall have resided in this state thirty (30) days immediately preceding the election at which he offers to vote, and in the town, county or precinct such time as may be prescribed by law. Provided that no person convicted of felony shall have the right to vote unless he has been pardoned or restored to citizenship by the governor."

Cross-References

Electors' qualifications in election on school district levy, debt or liability, sec. 75-6410.1.

ARTICLE XIX—MISCELLANEOUS SUBJECTS AND FUTURE AMENDMENTS

Sec. 8.

Referred Measure

Laws 1969, ch. 65 submitted to electors the question whether a constitution convention should be called. The act read:

"Section 1. At the general election to be held in November 1970 there shall be submitted to the electors of the state of Montana the question whether the legislative assembly at the 1971 session, and in accordance with article XIX, section 8 of the Montana constitution, shall call a convention to revise, alter, or amend the constitution of Montana."

The measure was approved by the voters at the general election of November 3, 1970.

Constitutional Convention [Chapter 296, Laws 1971; Chapter 1, Ex. Laws 1971]

Chapter 296, Laws of 1971, as amended by ch. 1, Ex. Laws of 1971, provided for a constitutional convention to meet in 1971 and 1972, to submit proposals to the electorate not more than six months after adjournment of the convention. The act, as amended, read:

Section 1. A constitutional convention to propose revisions, alterations, or amendments to the constitution of the state of Montana is hereby called.

Section 2. The number of members of the convention and the districts from which they are elected shall be the same as that provided for the election of members of the house of representatives of the Montana legislative assembly at the general election to be held November 7, 1972.

Section 3. The qualifications of members shall be the same as that of members of the senate of the Montana legislative assembly as provided in article V, section 3 of the constitution of the state of Montana: "No person shall be a senator who shall not have attained the age of twenty-four (24) years, and who shall not be a citizen of the United States and who shall not (for at least twelve (12) months next preceding his election) have resided within the county or district in which he shall be elected."

Section 4. (1) Delegates to the constitutional convention shall be elected in the same manner as members of the house of representatives, except the special primary election shall be held September 14, 1971 and the special general election shall be held November 2, 1971.

(2) Thirty (30) days or more before the special general election, the secretary of state shall certify to the registrars the name and description of each person

nominated, as specified on the certificate of nomination filed with him.

Section 5. Each member, before entering upon his duties, shall take and subscribe the following oath or affirmation prescribed by section 1 of article XIX of the constitution of the state of Montana: "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; and that I have not paid, or contributed, or promised to pay or contribute, either directly or indirectly, any money or other valuable thing to procure my nomination or election (or appointment) except for necessary and proper expenses expressly authorized by law; that I have not knowingly violated any election law of this state, or procured it to be done by others in my behalf; that I will not knowingly receive, directly or indirectly, any money or other valuable thing for the performance or nonperformance of any act or duty pertaining to my office other than the compensation allowed by law, so help me God."

Section 6. Vacancies occurring in the convention shall be filled in the manner provided for filling vacancies in the legislative assembly as provided in sections 43-215 and 43-216, R. C. M. 1947:

"43-215. Filling vacancies in legislative assembly—appointment by board of county commissioners—calling of board meeting. When a vacancy occurs in either house of the legislative assembly, the vacancy shall be filled by appointment by the board of county commissioners, or, in the event of a multicounty district, the boards of county commissioners comprising the district sitting as one appointing board. The chairman of the board of county commissioners of the county in which the person resided whose vacancy is to be filled shall call a meeting for the purpose of appointing the member of the legislative assembly, and he shall act as the presiding officer of the meeting."

"43-216. Alternative method of selection—failure of one candidate to receive majority vote. In the event that a decision cannot be made by the appointing board because of failure of any candidate to receive a majority of the votes, the final decision may be made by lot from a number of candidates, not exceeding the number of counties comprising the district, in accordance with rules of selection

adopted by the appointing board."

Section 7. (1) It shall be the duty of the delegates elected to assemble in the chambers of the house of representatives in the state capitol building in the city of Helena at 10:00 a.m. on November 29, 1971, for an organizational meeting of no longer than three (3) days duration.

(2) This meeting shall be for the purpose of electing permanent convention officers, adopting rules of procedure, and providing for such interim committees and staff members as may be necessary to prepare for the plenary meeting of the convention.

(3) Until the convention has adopted rules of procedure, "Mason's Manual of Legislative Procedure" shall govern the procedure of the convention. A majority of the whole number of delegates to the convention shall constitute a quorum for the transaction of business, but a smaller number may adjourn from day to day. The convention may compel the attendance of its members.

(4) The governor shall call the first meeting of the constitutional convention to order and shall preside until a temporary president is elected. The governor shall:

(a) call the roll of the members-elect, (as shown by the official election returns on file in the office of the secretary of state);

(b) cause the oath called for by this act to be administered to those members-elect who are present;

(c) call for nominations of convention members for the office of temporary president;

(d) cause the roll of members to be called for the purpose of voting for temporary president, and

(e) declare to be elected the person receiving a plurality of the votes cast for the office of temporary president.

(5) The temporary president shall then assume the duties of the presiding officer, and the convention shall proceed to the election of a president from within its membership in like manner as the temporary president was elected except that a majority of the votes cast is required to elect the president of the convention. The convention shall then proceed to elect one of its members as vice-president of the convention to preside in the absence of the president.

(6) It shall be the duty of the delegates elected to assemble in plenary session in the chambers of the house of representatives in the state capitol building in the city of Helena at 10:00 a.m. on January 17, 1972. The convention, which may recess from time to time, shall then remain in session as long as necessary.

Section 8. In going to and returning from the convention and during its sessions, the members shall in all cases, except treason, felony or breach of the peace, be privileged from arrest; and they shall not be questioned in any other place for any speech or debate in the convention.

Section 9. The convention may select and employ such employees as it may deem necessary to the efficient conduct of its business, each of whom shall receive such compensation as may be fixed by the convention. The convention may make such other expenditures as it deems proper to carry out its work, but shall not authorize total expenditures in excess of the amount appropriated by law for its expenses.

Section 10. (1) The convention shall determine the rules of its procedure, and be the judge of the election, returns and qualifications of its members. The convention shall keep a verbatim journal of its proceedings and a transcript of its debates. Each committee of the convention shall keep a record of its proceedings and reports. The convention may also provide for the publication of any of its other documents and reports.

(2) The verbatim journal of its proceedings, the transcript of the debates of the convention, and the committee reports and proceedings shall be filed in the office of the secretary of state.

Section 11. (1) It shall be the duty of all public officers and employees to furnish the convention with any and all statements, papers, books, records and public documents that the convention requires on request of the convention or its committees, and appear before the convention or any committee thereof. The convention, and its committees, may compel the attendance and testimony of witnesses and the production of books, records and documents. Oaths may be administered by the president or any other officer of the convention. Subpoenas and subpoenas duces tecum may be issued over the signature of the president or any other officer of the convention, and may be served by any adult person designated by the issuing officer.

(2) Any district court judge, upon application of the convention, may compel the attendance of witnesses, the production of books, records or documents, and the giving of testimony before the convention by an attachment for contempt or otherwise in the same manner as production of evidence, not privileged by law, may be compelled before the court.

Section 12. (1) The convention may use the facilities of the state, municipal or county government when such use is not

disruptive of regular governmental activities.

(2) State, municipal and county officers and employees, at the request of the convention 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 constitutional convention. If leave with pay is granted they shall receive no other compensation, except mileage and per diem, from the convention.

Section 13. The convention may also prepare a schedule of proposed legislation for submission to the 1973 legislative assembly that will complement the proposed revisions, alterations or amendments.

Section 14. The convention shall prepare a schedule of transitional provisions and fix the date or dates upon which revisions, alterations or amendments, if adopted by the voters, take effect.

Section 15. (1) Sections 43-801 to 43-808, R. C. M. 1947, providing for the licensing of legislative lobbyists shall apply to lobbying at the constitutional convention.

(2) Licensed lobbyists shall file with the secretary of state a report on February 1, 1972; February 15, 1972; March 1, 1972; March 15, 1972; April 1, 1972; June 15, 1972. The report, under oath, must include all expenditures made by him relative to promoting or opposing constitutional provisions. On the fifth day a report is delinquent, the secretary of state shall suspend the license of any licensed lobbyist who fails to file a report until such report is filed. The suspension shall be entered on the docket, and the president of the convention notified.

(3) Reports must be filed even though no expenditure may have been made.

(4) Reports need not include:

(a) reasonable internal expenditures such as office expenses, mailing and routine research, and

(b) reasonable expenditures for his personal food, lodging and travel.

(5) Expenditures of twenty-five dollars (\$25) or less may be reported in total amounts rather than in detail.

(6) A lobbyist who terminates his duties shall give the secretary of state, within thirty (30) days after the date of such termination, written notice and shall include a report of his expenditures covering the period of time since his last report. Such reports shall be final.

(7) The secretary of state shall provide forms and shall keep such reports on file for three (3) years. All records are to be open to the public.

(8) Failure to file reports or the filing of incomplete information is a violation of section 43-808, R. C. M. 1947.

Section 16. (1) For each day of the organizational, plenary and signing sessions of the convention, members of the convention shall be paid the same per diem, and expenses as provided in section 43-310, R. C. M. 1947, for members of the legislative assembly.

(2) The president and vice-president of the convention shall be paid the same per diem, and expenses as the president of the senate and speaker of the house of representatives as provided in section 43-311, R. C. M. 1947.

(3) Members and officers shall be entitled to mileage for three (3) trips to and from their residences and Helena by the nearest traveled route at the rate provided for the legislative assembly in section 43-310, R. C. M. 1947.

(4) Officers and employees of the state and its political subdivisions who are not prohibited by the Montana constitution or laws of Montana from serving as delegates and who are elected and serve as delegates to the convention shall have leave, without pay, from their employment during the time the convention is in session, and they shall be entitled to the per diem, expenses and mileage for delegates as provided in this section.

Section 17. (1) The revision or alteration of, or the amendments to the constitution, adopted by the convention, shall be submitted to the electors of this state for ratification or rejection, at an election appointed by the convention for that purpose, not less than two (2) months nor more than six (6) months after the adjournment of the convention.

(2) The convention may submit proposals to the electorate for ratification in any of the following forms:

(a) submitted as a unit in the form of a new constitution;

(b) submitted as a unit with the exception of separate proposals to be voted upon individually, or

(c) submitted in the form of a series of separate amendments.

(3) The proposals adopted by the convention shall be certified by the president and secretary of the convention to the secretary of state.

(4) Each proposed revision, alteration, or amendment, together with appropriate information explaining each revision, alteration, or amendment, shall be published in full and disseminated to the electors upon adjournment of the convention but not later than thirty (30) days preceding the election and in such manner as the convention prescribes.

(5) The convention shall also publish a report to the people explaining its proposals.

(6) Notice of the election shall be given

in the manner and form prescribed by the convention.

(7) The convention shall prescribe the manner and form of voting at such election.

(8) The votes cast at such election shall be tabulated, returned and canvassed in such manner as may be directed by the convention.

(9) If a majority of the electors voting at the special election shall vote for the proposals of the convention the governor shall by his proclamation declare the proposals to have been adopted by the people of Montana. The new constitutional provisions shall take effect as provided therein, or as provided in a schedule of transitional provisions attached thereto.

(10) The election laws of the state of Montana shall apply in all other respects to the election conducted under this section.

Section 18. Every person who, at the time of holding of the elections provided for in this act, is a qualified voter under the constitution and laws of this state shall be entitled to vote in such election.

Section 19. All state and local officials shall do all those things which are appropriate to the holding of each of the special elections provided for in this act and which are required under the general election laws.

Section 20. (1) A temporary state agency known as the Montana constitutional convention commission consisting of sixteen (16) members is hereby created to prepare for the constitutional convention. Legislators whose terms of office have not expired shall not be appointed to the commission. Members of the commission shall be appointed for a term ending upon sine die adjournment of the constitutional convention, consideration being given to geographic, economic, and other pertinent factors as follows:

(a) four (4) members appointed by the speaker of the house of representatives, no more than two (2) of whom shall be affiliated with the same political party;

(b) four (4) members appointed by the committee on committees of the senate, no more than two (2) of whom shall be affiliated with the same political party;

(c) four (4) members appointed by the governor, no more than two (2) of whom shall be affiliated with the same political party;

(d) four (4) members appointed by the supreme court, no more than two (2) of whom shall be affiliated with the same political party.

(2) Commission members shall be reimbursed for actual and necessary expenses incurred as commission members.

(3) Vacancies in the membership of the

commission shall be filled in the same manner as the original appointments, except when the legislature is not in session a vacancy among members appointed by the speaker of the house and the committee on committees of the senate may be filled by selection of another member by the remaining members of commission.

(4) The commission shall select from its membership a chairman and any other officers it considers necessary.

(5) The commission may employ and fix the compensation and duties of necessary staff.

(6) State, municipal and county officers and employees, at the request of the 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 constitutional convention commission. If leave with pay is granted they shall receive no other compensation, except mileage and per diem, from the commission.

(7) It shall be the duty of the commission, in order to prepare for the constitutional convention: to undertake studies and research; to compile, prepare and assemble essential information for the delegates, without any recommendation.

(8) The chairman shall schedule meetings of the commission as deemed necessary. The chairman shall give due notice of the time and place of the meetings to members of the commission. The director shall report at each meeting.

(9) The 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 commission during regular office hours.

(10) Upon request, state agencies shall co-operate with the commission by furnishing assistance and data to the extent possible.

(11) The commission may accept and expend any federal funds which may be available for support of the preparatory study.

(12) The commission shall report its findings and any recommendations it considers necessary to the convention and transfer its files to the constitutional convention within ten (10) days after the constitutional convention has convened.

Section 21. (1) The following amount is appropriated from the general fund to the constitutional convention commission:

For the period ending February 1, 1972 ----- \$149,540

Any amount unexpended from this appropriation on February 1, 1972 is appropriated to the constitutional convention for the biennium ending June 30, 1973.

(2) The following amount is appropriated from the federal and private revenue

fund to the constitutional convention commission:

For the period ending February 1, 1972 -----\$146,461

Any amount unexpended from this appropriation on February 1, 1972 is appropriated to the constitutional convention for the biennium ending June 30, 1973.

(3) The following amount is appropriated from the general fund to the constitutional convention:

For the biennium ending June 30, 1973 -----\$499,281

(4) The following amount is appropriated from the general fund to the secretary of state for the elections relating to the constitutional convention:

For the biennium ending June 30, 1973 -----\$41,000

Section 22. 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.

Section 23. This act is effective on its passage and approval.

Section 24. This act is repealed effective June 30, 1973."

Title of Act

An act to provide for a constitutional convention; making appropriations in connection therewith; providing for an immediate effective date; and further providing for an automatic repealer.

Sec. 9. Amendments to this constitution may be proposed in either house of the legislative assembly, and if the same shall be voted for by two-thirds of the members elected to each house, such proposed amendments, together with the ayes and nays of each house thereon, shall be entered in full on their respective journals; and the secretary of state shall cause the said amendment or amendments to be published in full in at least one newspaper in each county (if such there be) for three months previous to the next general election for members to the legislative assembly; and at said election the said amendment or amendments shall be submitted to the qualified electors of the state for their approval or rejection and such as are approved by a majority of those voting thereon shall become part of the constitution. Should more amendments than one (1) be submitted at the same election, they shall be so prepared and distinguished by numbers or otherwise that each can be voted upon separately. Not more than three amendments to this constitution shall be submitted at the same election, except that there may be submitted at each of the general elections held in the years 1972, 1974 and 1976, in addition to the three amendments otherwise authorized by this section, an amendment or amendments providing for the reorganization of the executive department of government which may include the revision or repeal of sections of this constitution relating to any boards, offices, and departments other than legislative and judicial offices. The reorganization of the executive department is a single subject, and an additional amendment relating to that subject authorized by this section may be submitted to the qualified electors of the state in the form of a title clearly expressing its subject.

Compiler's Notes

This constitutes sec. 9 of article XIX as amended by act approved February 21, 1969 (Ch. 66, Laws 1969), adopted at the general election of November 3, 1970, and

effective under the governor's proclamation of November 20, 1970. The amendment added to the next to last sentence the exceptions applicable to the elections of 1972, 1974 and 1976, and it added the last sentence to the section.

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, 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, based upon the benefits it is determined each shall derive from the project. 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, and are hereby declared necessary in the interests of the public health and safety.

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

CHAPTER 9—MUNICIPAL AND REGIONAL AIRPORT AUTHORITIES

Section

1-917. County tax levy for airport purposes.

1-917. County tax levy for airport purposes. In counties supporting airports or airport authorities, a levy, as provided for in section 1-804, R.C.M. 1947, may be made for such purposes.

History: En. 1-917 by Sec. 16, Ch. 433, L. 1971.

TITLE 11—CITIES AND TOWNS

CHAPTER 7—OFFICERS AND ELECTIONS

Section

11-709. Biennial elections in cities and towns—terms of office.

11-721.1. Recall of elective officers.

11-709. (5003) Biennial elections in cities and towns—terms of office. On the first Tuesday of April of every second year a municipal election must be held, at which the qualified electors of each town or city must elect the officers of the city as defined in section 11-701 whose terms of office will expire, with aldermen to be voted for by the wards they respectively represent; the mayor to hold office for a term of four (4) years, and until the qualification of his successor; and each alderman so elected to hold office for a term of four (4) years, and until the qualification of his successor; and also in cities of the first, second and third class, a police judge and a city treasurer, who shall hold office for a term of four (4) years, and until the qualification of their successors; provided, however, that in the election to be held the first Tuesday of April, 1973, one alderman from each ward will be elected for a term of two (2) years and one alderman from each ward will be elected for a term of four (4) years, and in the next succeeding election and thereafter, one alderman from each ward will be elected for a four (4) year term. The city council shall by resolution determine which office of alderman in each ward shall be for a term of two (2) years and which for four (4) years at the election to be held on the first Tuesday of April, 1973.

History: Ap. p. Sec. 4, p. 122, L. 1893; M. 1921; amd. Sec. 1, Ch. 60, L. 1935; amd. Sec. 4748, Pol. C. 1895; re-en. Sec. amd. Sec. 1, Ch. 193, L. 1971; amd. Sec. 3224, Rev. C. 1907; re-en. Sec. 5003, R. C. 1, Ch. 343, L. 1971.

11-721.1. Recall of elective officers. (1) The holder of any elective office under a mayor-council form of municipal government may be removed at any time by the electors qualified to vote. The procedure to effect the removal of an incumbent of an elective office shall be as follows: A petition signed by twenty-five per cent (25%) of all qualified electors registered for the last preceding general municipal election, demanding an election for recall of the person sought to be recalled, shall be filed with the city clerk, which petition shall contain a general statement of the grounds for which the removal is sought. The signatures to the petition need not be appended to one paper, but each signer shall add to his signature his place of residence, giving the street and number. One of the signers of such paper shall make oath before an officer competent to administer oaths that the statements therein are true as he believes, and that each signature to the paper appended is the genuine signature of the person whose name it purports to be.

(2) Within ten (10) days from the date of filing such petition the city clerk shall examine, and from the voters' register ascertain whether or not said petition is signed by the requisite number of qualified electors, and, if necessary, the council shall allow him extra help for that purpose; and he shall attach to said petition his certificate, showing the result of said examination. If, by the clerk's certificate, the petition is shown to be insufficient, it may be amended within ten (10) days from the date of said certificate. The clerk shall, within ten (10) days after such amendment, make like examination of the amended petition, and if his certificate shall show the same to be insufficient, it shall be returned to the person filing the same; without prejudice, however, to the filing of a new petition to the same effect. If the petition shall be deemed to be sufficient, the clerk shall submit the same to the council without delay. If the petition shall be found to be sufficient, the council shall order and fix a date for holding said election, not less than seventy (70) days nor more than eighty (80) days from the date of the clerk's certificate to the council that a sufficient petition is filed.

(3) The council shall make, or cause to be made, publication of notice and all arrangements for holding such election, and the same shall be conducted, returned, and the result thereof declared, in all respects as are other elections.

(4) Any vacancy created as a result of such recall election shall be filled as prescribed in section 11-721, R.C.M. 1947.

History: En. Sec. 1, Ch. 329, L. 1971.

tive officers of cities and towns under a mayor-council form of government.

Title of Act

An act to provide for removal of elec-

CHAPTER 12—CONTRACTS AND FRANCHISES

Section

11-1202. Awarding contracts—advertisements—limitations—installments—sales of supplies—construction of buildings—purchases from government agencies—exemptions.

11-1202. (5070) Awarding contracts—advertisements—limitations—installments—sales of supplies—construction of buildings—purchases from government agencies—exemptions. All contracts for the purchase of any automobile, truck, or other vehicle or road machinery, or for any other machinery, apparatus, appliances, or equipment, or for any materials or supplies of any kind, or for construction for which must be paid a sum exceeding four thousand dollars (\$4,000), must be let to the lowest responsible bidder after advertisement for bids; provided that no contract shall be let extending over a period of five (5) years or more without first submitting the question to a vote of the taxpaying electors of said city or town. Such advertisement shall be made in the official newspaper of the city or town, if there be such official newspaper, and if not it shall be made in a daily newspaper of general circulation published in the city or town, if there be such, otherwise by posting in three (3) of the most public places in the city or town. Such advertisement if by publication in a newspaper shall be made once each week for two consecutive weeks and the second publication shall be made not less than five (5) days

nor more than twelve (12) days before the consideration of bids. If such advertisement is made by posting, fifteen (15) days must elapse, including the day of posting, between the time of the posting of such advertisement and the day set for considering bids. The council may postpone action as to any such contract until the next regular meeting after bids are received in response to such advertisement, may reject any and all bids and readvertise as herein provided. The provisions of this section as to advertisement for bids shall not apply upon the happening of any emergency caused by fire, flood, explosion, storm, earthquake, riot or insurrection, or any other similar emergency, but in such case the council may proceed in any manner which, in the judgment of three-fourths ($\frac{3}{4}$) of the members of the council present at the meeting, duly recorded in the minutes of the proceedings of the council by aye and nay vote, will best meet the emergency and serve the public interest. Such emergency shall be declared and recorded at length in the minutes of the proceedings of the council at the time the vote thereon is taken and recorded.

When the amount to be paid under any such contract shall exceed four thousand dollars (\$4,000) the council may provide for the payment of such an amount in installments extending over a period of not more than five (5) years; provided that when such amount is extended over a term of two (2) years at least forty per centum (40%) thereof shall be paid the first year and the remainder the second year, and when such amount is extended over a term of three (3) years, at least one-third ($\frac{1}{3}$) thereof shall be paid each year, and if such amount is extended over a term of four (4) years, at least one-fourth ($\frac{1}{4}$) is to be paid each year, and if such amount is extended over a term of five (5) years, at least one-fifth ($\frac{1}{5}$) is to be paid each year; provided that at the time of entering into such contract, there shall be an unexpended balance of appropriation in the budget for the then current fiscal year available and sufficient to meet and take care of such portion of the contract price as is payable during the then current fiscal year, and the budget for each following year, in which any portion of such purchase price is to be paid, shall contain an appropriation for the purpose of paying the same.

Old supplies or equipment may be sold by the city or town to the highest responsible bidder, after calling for bid purchasers as herein set forth for bid sellers, and such city or town may trade in supplies or old equipment on new supplies or equipment at such bid price as will result in the lowest net price.

Also a city or town may, without bid, when there are sufficient funds in the budget for supplies or equipment, purchase such supplies or equipment from government agencies available to cities or towns when the same can be purchased by such city or town at a substantial saving to such city or town.

History: En. Sec. 1, Ch. 48, L. 1907; 153, L. 1947; amd. Sec. 1, Ch. 139, L. Sec. 3278, Rev. C. 1907; re-en. Sec. 5070, 1949; amd. Sec. 1, Ch. 220, L. 1959; amd. R. C. M. 1921; amd. Sec. 1, Ch. 22, L. Sec. 1, Ch. 26, L. 1963; amd. Sec. 1, Ch. 1927; amd. Sec. 1, Ch. 18, L. 1939; amd. 121, L. 1969; amd. Sec. 1, Ch. 371, L. Sec. 1, Ch. 59, L. 1941; amd. Sec. 1, Ch. 1971.

CHAPTER 22—SPECIAL IMPROVEMENT DISTRICTS

Section

- 11-2217. Cities and towns may establish sewage treatment and disposal plant systems and water supply and distribution systems.
11-2218. May issue revenue bonds—sinking fund—refunding revenue bonds.
11-2271. Loans from revolving fund for paying improvement district warrants—authorization by electors.
11-2275. Creation and maintenance of fund.

11-2217. Cities and towns may establish sewage treatment and disposal plant systems and water supply and distribution systems. Any city or town may when authorized so to do by a majority vote of the qualified electors voting on the question establish, build, construct, reconstruct and/or extend a storm and/or sanitary sewerage system and/or a plant or plants for treatment or disposal of sewage therefrom, or a water supply and/or distribution system, or any combinations of such systems, and may operate and maintain such facilities for public use, and in addition to all other powers granted to it, such municipality shall have authority, by ordinance duly adopted by the governing body to charge just and equitable rates, charges or rentals for the services and benefits directly or indirectly furnished thereby. Such rates, charges or rentals shall be as nearly as possible equitable in proportion to the services and benefits rendered, and sewer charges may take into consideration the quantity of sewage produced and its concentration and water pollution qualities in general and the cost of disposal of sewage and storm waters. The sewer charges may be fixed on the basis of water consumption or any other equitable basis the governing body may deem appropriate and, if the governing body determines that the sewage treatment and/or storm water disposal prevents pollution of sources of water supply, may be established as a surcharge on the water bills of water consumers or on any other equitable basis of measuring the use and benefits of such facilities and services. In the event of nonpayment of charges for either water or sewer service and benefits to any premises, the governing body may direct the supply of water to such premises to be discontinued until such charges are paid.

In this act "qualified electors" shall mean registered electors of the municipality. The question of building, constructing, reconstructing or extending the system, plant or plants and the question of issuing and selling revenue bonds for such purpose may be submitted as a single proposition or as separate propositions. Any election under this act may be called by a resolution of the governing body which it may adopt without being previously petitioned to do so.

History: En. Sec. 1, Ch. 149, L. 1943;
amd. Sec. 1, Ch. 100, L. 1947; amd. Sec.
1, Ch. 98, L. 1955; amd. Sec. 7, Ch. 158,
L. 1971.

11-2218. May issue revenue bonds—sinking fund—refunding revenue bonds. (1) Any such municipality may issue, and sell negotiable revenue bonds for the construction of any such water or sewer system or combined water and sewer system when authorized so to do by a majority vote of the qualified electors voting on the question at an election called by the

city council or other governing body of the municipality for that purpose, and noticed and conducted in accordance with the provisions of sections 11-2308 to 11-2310, inclusive; and all bonds shall mature within forty (40) years from date of bonds, and may be registered as to ownership of principal only with the treasurer of said municipality, if so directed by the governing body. No bonds shall be sold for less than par, and each of said bonds shall state plainly on its face that it is payable only from a sinking fund, naming said fund and the ordinance and resolution creating it, and that it does not create an indebtedness within the meaning of any charter, statutory or constitutional limitation upon the incurring of indebtedness.

(2) to (8) * * * [Same as parent volume.]

(9) In any case where refunding bonds are issued and sold six (6) months or more before the earliest date on which all bonds refunded thereby mature or are prepayable in accordance with their terms, the proceeds of the refunding bonds, including any premium and accrued interest, shall be deposited in escrow with a suitable bank or trust company, having its principal place of business within or without the state, which is a member of the federal reserve system and has a combined capital and surplus not less than one million dollars (\$1,000,000), and shall be invested in such amount and in securities maturing on such dates and bearing interest at such rates as shall be required to provide funds sufficient to pay when due the interest to accrue on each bond refunded to its maturity or if it is prepayable, to the earliest prior date upon which such bond may be called for redemption, and to pay and redeem the principal amount of each such bond at maturity, or, if prepayable, at its earliest redemption date, and any premium required for redemption on such date; and the resolution or ordinance authorizing the refunding bonds shall irrevocably appropriate for these purposes the escrow fund and all income therefrom, and shall provide for the call of all prepayable bonds in accordance with their terms. The securities to be purchased with the escrow fund shall be limited to general obligations of the United States, securities whose principal and interest payments are guaranteed by the United States, and securities issued by the following United States government agencies: banks for co-operatives, federal home loan banks, federal intermediate credit banks, federal land banks, and the federal national mortgage association. Such securities shall be purchased simultaneously with the delivery of the refunding bonds.

(10) * * * [Same as parent volume.]

History: En. Sec. 2, Ch. 149, L. 1943; 1957; amd. Sec. 1, Ch. 51, L. 1963; amd. amd. Sec. 1, Ch. 146, L. 1951; amd. Sec. Sec. 13, Ch. 234, L. 1971. 2, Ch. 98, L. 1955; amd. Sec. 1, Ch. 38, L.

11-2271. (5277.3) Loans from revolving fund for paying improvement district warrants—authorization by electors. (1) Whenever any special improvement district bond or sidewalk, curb and alley approach warrants, or any interest thereon, shall be, at the time of the passage of this act, or shall thereafter become due and payable, and there shall then be either no money or not sufficient money in the appropriate district fund with which to pay the same, an amount sufficient to make up the deficiency may, by order of the council, be loaned by the revolving fund to such

district fund, and thereupon such bond or warrant or such interest thereon, or in case of such bonds or warrants due at the time of the passage of this act, such part of the amount due on such bond or warrant, whether it be for principal or for interest or for both as the council may in its discretion elect or determine shall be paid from the money so loaned or from the money so loaned when added to such insufficient amount, as the case may require.

(2) In connection with any public offering of special improvement district bonds or sidewalk, curb and alley approach warrants, the city or town council may undertake and agree to issue orders annually authorizing loans or advances from the revolving fund to the district fund involved in amounts sufficient to make good any deficiency in the bond and interest accounts thereof to the extent that funds are available, and may further undertake and agree to provide funds for such revolving fund pursuant to the provisions of section 11-2270 by annually making such tax levy (or, in lieu thereof, such loan from the general fund) as the city or town council may so agree to and undertake, subject to the maximum limitations imposed by said section 11-2270, which said undertakings and agreements shall be binding upon said city or town so long as any of said special improvement district bonds or sidewalk, curb and alley approach warrants so offered, or any interest thereon, remain unpaid.

History: En. Sec. 3, Ch. 24, L. 1929; amd. Sec. 1, Ch. 179, L. 1945; amd. Sec. 17, Ch. 158, L. 1971; amd. Sec. 3, Ch. 255, L. 1971.

Compiler's Notes

This section was amended twice in 1971, once by Ch. 158 and once by Ch. 255. Neither amendatory act referred to or incorporated the changes made by the other. Since the two amendments do not appear to conflict, the compiler has made a composite section embodying the amendments made by both 1971 acts.

Amendments

Chapter 158, Laws of 1971, deleted from the end of subsection (1) a proviso and a sentence requiring that the revolving fund be approved by the taxpayers. For prior text, see parent volume.

Chapter 255, Laws of 1971, inserted "sidewalk, curb and alley approach" before "warrants" near the beginning of subsection (1) and near the beginning and near the end of subsection (2); and made a minor change in phraseology.

11-2275. Creation and maintenance of fund. A supplemental revolving fund may be created by ordinance subject to the approval of a majority of the qualified electors voting upon the question at a general or special election. As used in this act "qualified electors" shall mean registered electors of the municipality. The supplemental revolving fund shall be created and maintained solely from the net revenues of parking meters and the ordinance may pledge to said fund all or any part of the said net revenues of parking meters which may be then owned or leased or rented or thereafter acquired by the city or town. Said ordinance shall contain such provisions in respect to the purchase, control, operation, repair and maintenance of parking meters, including rates to be charged, and the application of the net revenues therefrom and the management and use of the supplemental revolving fund as the council shall deem necessary.

History: En. Sec. 2, Ch. 260, L. 1947; amd. Sec. 8, Ch. 158, L. 1971.

CHAPTER 23—MUNICIPAL BONDS AND INDEBTEDNESS

Section

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

11-2310. Registration of electors.

11-2306. (5278.6) Petition for election—form—proof. No bonds shall be issued by a city or town 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, and no such election shall be called unless there has been presented to the city or town council 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 as parent volume.]

(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.

11-2310. (5278.10) Registration of electors. Upon the adoption of the resolution calling for the election the city or town clerk shall notify the county clerk of the date on which the election is to be held and the county clerk must cause to be published in the official newspaper of the city or town, if there be one, and if not in a newspaper circulated generally in the said city or town and published in the county where the said city or town

is located, a notice signed by the county clerk stating that registration for such bond election will close at noon on the fifteenth (15th) day prior to the date for holding such election and at that time the registration books shall be closed for such election. Such notice must be published at least five (5) days prior to the date when such election books shall be closed.

After the closing of the registration books for such election the county clerk shall promptly prepare lists of the qualified electors of such city or town who are entitled to vote at such election and shall prepare precinct registers for such election as provided in section 23-3012 and deliver the same to the city or town clerk who shall deliver the same to the judges of election prior to the opening of the polls. It shall not be necessary to publish or post such lists of qualified electors.

History: En. Sec. 10, Ch. 160, L. 1931; 17, Ch. 64, L. 1959; amd. Sec. 10, Ch. 158, amd. Sec. 1, Ch. 182, L. 1939; amd. Sec. L. 1971.

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, 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; provided, that the issuance of refunding revenue bonds may be authorized by resolution or resolutions of the governing body of the municipality without an 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 pub-

lished 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; 1963; amd. Sec. 11-106, Ch. 264, L. 1963; amd. Sec. 2, Ch. 145, L. 1951; amd. Sec. 2, amd. Sec. 11, Ch. 158, L. 1971; amd. Sec. Ch. 38, L. 1957; amd. Sec. 1, Ch. 52, L. 5, Ch. 234, L. 1971.

CHAPTER 31—COMMISSION FORM OF GOVERNMENT

Section

11-3116. Bribery—false answers concerning qualifications of elector—voting by disqualified person.

11-3116. (5379) 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 requirements for voting as provided by the constitution of the state of Montana, or who is not of the minimum age provided by the constitution 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 in a sum not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500); and be imprisoned in the county jail not less than ten (10) nor more than ninety (90) days.

History: En. Sec. 14, Ch. 57, L. 1911; re-en. Sec. 5379, R. C. M. 1921; amd. Sec. 1, Ch. 166, L. 1971.

CHAPTER 32—COMMISSION-MANAGER FORM OF GOVERNMENT

Section

11-3229. Bribery—false answers concerning qualifications of elector—voting by disqualified person.

11-3248. Compensation of commissioners and mayor.

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 constitution 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.

11-3248. (5447) Compensation of commissioners and mayor. The salary of each commissioner may be as follows: The salary of each commissioner shall be as established by ordinance in all classes of cities. The salary of the commissioner acting as mayor may be one and one-half times that of the other commissioners.

History: En. Sec. 49, Ch. 152, L. 1917; L. 1949; amd. Sec. 1, Ch. 71, L. 1965; amd.
amd. Sec. 2, Ch. 44, L. 1919; re-en. Sec. Sec. 1, Ch. 289, L. 1969; amd. Sec. 1, Ch.
5447, R. C. M. 1921; amd. Sec. 1, Ch. 10, 33, L. 1971.

CHAPTER 39—URBAN RENEWAL LAW

Section

11-3906. Preparation and approval of urban renewal projects and urban renewal plans.

11-3906. Preparation and approval of urban renewal projects and urban renewal plans. (a) A municipality shall not approve an urban renewal project for an urban renewal area unless the local governing body has, by resolution, determined such area to be a blighted area and designated such area as appropriate for an urban renewal project. The local governing body shall not approve an urban renewal plan until a comprehensive plan or parts of such plan for an area which would include an

urban renewal area for the municipality have been prepared. For this purpose, and other municipal purposes, authority is hereby vested in every municipality to prepare, to adopt, and to revise from time to time, a comprehensive plan or parts thereof for the physical development of the municipality as a whole (giving due regard to the environs and metropolitan surroundings), to establish and maintain a planning commission for such purpose and related municipal planning activities, and to make available and to appropriate necessary funds therefor. A municipality shall not acquire real property for an urban renewal project unless the local governing body has approved the urban renewal project plan in accordance with subsection (d) hereof.

(b) to (f). * * * [Same as parent volume.]

(g) If the plan or any subsequent modification thereof involves financing by the issuance of general obligation bonds of the municipality as authorized in section 11-3913, subsection (c), or the financing of water or sewer improvements by the issuance of revenue bonds under the provisions of Title 11, chapter 24, or of sections 11-2217 to 11-2221, inclusive, the question of approving the plan and issuing such bonds shall be submitted to a vote of the qualified electors of such municipality in accordance with the provisions of sections 11-2303 to 11-2310, inclusive, at the same election and shall be approved by a majority of those qualified electors voting on such question. Aiding in the planning, undertaking or carrying out of an urban renewal project approved in accordance with this section shall be deemed a single purpose for the issuance of general obligation bonds, and the proceeds of such bonds authorized for any such project may be used to finance the exercise of any and all powers conferred upon the municipality by section 11-3907 which are necessary or proper to complete such project in accordance with the approved plan and any modification thereof duly adopted by the local governing body. Sections 11-2306 and 11-2307 shall not be applicable to the issuance of such bonds.

(h) The municipality may elect to undertake and carry out urban renewal activities on a yearly basis. In such event, the activities shall be included in the yearly budget of the municipality. Such activities need not be limited to contiguous areas; however, such activities shall be confined to the areas as outlined in the urban renewal plan as approved by the municipality in accordance with this act. The yearly activities shall constitute a part of the urban renewal plan and the municipality may elect to undertake certain yearly activities and total urban renewal projects simultaneously. The undertaking of urban renewal activities on a yearly basis shall be designated as a "neighborhood development program" and the financing of such activities shall be approved in accordance with section 11-3906, subsection (g).

History: En. Sec. 6, Ch. 195, L. 1959; amd. Sec. 2, Ch. 38, L. 1965; amd. Sec. 2, Ch. 210, L. 1969; amd. Sec. 18, Ch. 158, L. 1971.

TITLE 16—COUNTIES

CHAPTER 4—LOCATION OF COUNTY SEATS

Section

16-405. Registration of voters.

16-405 (4382) Registration of voters. The period for the registration of electors shall be between the hours of nine a.m. and nine p.m. on all legal days from nine a.m. of the fourth Monday prior to the date of said election to nine p.m. of the second following Saturday. It shall be the duty of each registry agent to publish and post notices of the time and places of registration in the manner provided by law for the publication of notices of registration for general elections. No person shall be entitled to register and vote at such special election unless he is a qualified voter of the state of Montana of the minimum age provided by the constitution of the state of Montana and has met the residency requirement for voting provided by the constitution of the state of Montana, and also takes and subscribes to the oath provided in section 479, R.C.M. 1947.

The general election laws of this state governing the registration of electors and defining the duties of the registry agents shall apply to and govern the registration of electors in elections held under this act in so far as the same do not conflict herewith.

History: En. Sec. 5, Ch. 135, L. 1911;
re-en. Sec. 4382, R.C.M. 1921; amd. Sec. 1,
Ch. 119, L. 1971.

CHAPTER 20—COUNTY FINANCE—BONDS AND WARRANTS

Section

16-2021. Petition and election required for bonds issued for other purposes.

16-2022. Form, contents and proof of petition.

16-2026. Registration.

16-2021. (4630.7) Petition and election required for bonds issued for other purposes. County bonds for any other purpose than those enumerated in section 16-2013 shall not be issued 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 county and approved, as provided in section 16-2027; and no such bond election shall be called unless there has been presented to the board of county commissioners a petition, asking that such election be held and such question be submitted, signed by not less than twenty per centum (20%) of the qualified electors of the county.

History: En. Sec. 7, Ch. 188, L. 1931;
amd. Sec. 12, Ch. 158, L. 1971.

16-2022. (4630.8) Form, contents and proof of petition. Every petition for the calling of an election to vote upon the question of issuing county bonds shall plainly and clearly state the purpose or purposes for which the proposed bonds are to be issued, 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) if each purpose, with an estimate of the amount of bonds necessary 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 county clerk as hereinafter provided. The petition shall give the post-office address and 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 county 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 and the seal of his office, which certificate shall set forth:

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

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

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

History: En. Sec. 8, Ch. 188, L. 1931;
amd. Sec. 13, Ch. 158, L. 1971.

16-2026. (4630.12) Registration. Upon the adoption of the resolution calling for the election, the county clerk must cause to be published in the official newspaper of the county a notice, signed by him, stating that registration for such bond election will close at noon on the fifteenth day prior to the date for holding such election and at that time the registration books shall be closed for such election. Such notice must be published at least ten (10) days prior to the day when such registration books will be closed.

After the closing of the registration books for such election the county clerk shall promptly prepare lists of the registered electors of such voting precinct who are entitled to vote at such election, and shall prepare precinct registers for such election, as provided in section 23-3012, and deliver the same to the judges of election prior to the opening of the polls. It shall not be necessary to publish or post such list of qualified electors.

History: En. Sec. 12, Ch. 188, L. 1931;
amd. Sec. 1, Ch. 138, L. 1939; amd. Sec.
18, Ch. 64, L. 1959; amd. Sec. 14, Ch.
158, 1971.

CHAPTER 24—COUNTY OFFICERS—QUALIFICATIONS—
GENERAL PROVISIONS

Section

16-2401. General qualifications for county office.

16-2402. General qualifications for district and township offices.

16-2401. (4723) General qualifications for county office. No person is eligible to a county office who at the time of his election is not of the age of voting as required by the Montana constitution, a citizen of the state, and an elector of the county in which the duties of the office are to be exercised, or for which he is elected.

History: En. Sec. 4310, Pol. C. 1895;
re-en. Sec. 2955, Rev. C. 1907; re-en. Sec.
4723, R.C.M. 1921; amd. Sec. 1, Ch. 423,
L. 1971. Cal. Pol. C. Sec. 4101.

16-2402. (4724) General qualifications for district and township offices. No person is eligible to a district or township office who is not of the age of voting as required by the Montana constitution, a citizen of the state, and an elector of the district or township in which the duties of the office are to be exercised, for which he is elected.

History: En. Sec. 4311, Pol. C. 1895;
re-en. Sec. 2956, Rev. C. 1907; re-en. Sec.
4724, R.C.M. 1921; amd. Sec. 2, Ch. 423,
L. 1971. Cal. Pol. C. Sec. 4102.

16-2406. (4728) County and other officers, when elected, etc.**Compiler's Notes**

Section 19, Art. VIII of the Constitution, as amended in 1962, provides for a four-year term of office for county attorneys. This supersedes the provision in the

third paragraph of section 16-2406, as set forth in the parent volume, that county attorneys shall be elected "at each general election."

CHAPTER 43—PUBLIC HOSPITAL DISTRICTS

Section

16-4307. Government of district—appointment, election and terms of trustees.

16-4307. Government of district—appointment, election and terms of trustees. Said hospital district shall be governed and managed by a board of three (3) trustees, elected by the registered electors residing in the district. The trustees must be elected from among the registered electors qualified to vote at general elections within said district. The first board of trustees shall be elected at the same election held upon the creation of the district, subject to the creation thereof, shall qualify upon the organization of the district, if created, and the trustees may be nominated and have their names appear upon the ballots upon the filing with the board of county commissioners of a petition signed by any five (5) qualified electors of the district. Any elector may sign as many nominating petitions as there are persons to be elected. The trustees elected for the first board shall serve for terms commencing upon their being elected and qualified and terminating one (1), two (2) and three (3) years respect-

ively, from the first Monday in May following their election, and until their respective successors shall be elected and qualify. Annually thereafter there may be elected a trustee to serve for a term of three (3) years and until his successor shall be qualified and such term of three (3) years shall commence on the first Monday in May following the said trustee's election. All elections and nominations for election of trustees thereafter, shall be conducted by said qualified voters in the same manner as provided by the laws of the state of Montana for the election of school trustees of a second or third class school district, provided that wherever in the said laws of the state of Montana it is provided that certain action shall be performed or filings made with the clerk of the school board, the trustees or the board of trustees of the school district or the county superintendent of schools, the same shall, for the purposes of this act, be taken to refer to the clerk of the board of trustees of the public hospital district, the trustees or the board of trustees of the public hospital district or the county clerk, respectively. If there is no nomination petition filed it shall not be necessary to hold an election but the board of county commissioners shall appoint a trustee to fill the term, the term to be the same as if the trustee were elected. The trustees at their first meeting shall adopt bylaws for the government and management of the district, and shall appoint a qualified person to serve as clerk of the said board, who may or may not be one of their number. The trustees shall serve without pay. A vacancy upon the board of trustees, or in the office of clerk shall be filled by appointment by the remaining members and the appointee shall serve until the next ensuing election for trustees.

History: En. Sec. 7, Ch. 155, L. 1953; amd. Sec. 1, Ch. 97, L. 1955; amd. Sec. 7, Ch. 257, L. 1969; amd. Sec. 1, Ch. 399, L. 1971.

CHAPTER 45—COUNTY WATER AND SEWER DISTRICTS

Section

16-4517. Bonded indebtedness.

16-4517. Bonded indebtedness. Whenever the board of directors deem it necessary for the district to incur a bonded indebtedness, it shall by a resolution so declare and state the purpose for which the proposed debt is to be incurred, the land within the district to be benefited thereby, the amount of debt to be incurred, the maximum term the bonds proposed to be issued shall run before maturity, which shall not exceed forty (40) years, and the proposition to be submitted to the electors.

History: En. Sec. 17, Ch. 242, L. 1957; amd. Sec. 26, Ch. 234, L. 1971.

TITLE 19—DEFINITIONS AND GENERAL PROVISIONS

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

Section
19-107. Legal holidays and business days defined.

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

- (1) Each Sunday.
- (2) New Year's Day, January 1.
- (3) Lincoln's Birthday, February 12.
- (4) Washington's Birthday, the third Monday in February.
- (5) Memorial Day, the last Monday in May.
- (6) Independence Day, July 4.
- (7) Labor Day, the first Monday in September.
- (8) Columbus Day, the second Monday in October.
- (9) Veterans' Day, the fourth Monday in October.
- (10) Thanksgiving Day, the fourth Thursday in November.
- (11) Christmas Day, December 25.
- (12) State general election day.

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) Each Sunday.
- (2) New Year's Day, January 1.
- (3) Memorial Day, the last Monday in May.
- (4) Independence Day, July 4.
- (5) Labor Day, the first Monday in September.
- (6) Thanksgiving Day, the fourth Thursday in November.
- (7) Christmas Day, December 25.

(8) On such days as banks are closed in accordance with sections 1 through 5 [5-1058 to 5-1062] of this act.

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, the fourth Monday in October, 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: Ap. p. Sec. 10, Pol. C. 1895; re-en. Sec. 10, Rev. C. 1907; amd. Sec. 1, Ch. 21, 1921; re-en. Sec. 10, R. C. M. 1921; amd. Sec. 1, Ch. 209, L. 1955; amd. Sec. 1, Ch. 6, L. 1965; amd. Sec. 1, Ch. 89, L. 1969; amd. Sec. 6, Ch. 32, L. 1971. Cal. Pol. C. Secs. 10-11.

TITLE 23—ELECTIONS

CHAPTER 26

DEFINITIONS AND GENERAL PROVISIONS

23-2605. Time of opening and closing of polls.

Cross-References

School bond elections, secs. 75-7110 to 75-7117.

School elections, secs. 75-6401 to 75-6423.

CHAPTER 27

QUALIFICATIONS AND PRIVILEGES OF ELECTORS

Section

23-2701. Qualifications of voter.

23-2701.1. Legislative policy and purpose.

23-2701. Qualifications of voter. (1) No person may be entitled to vote at general and special elections for officers which are elective, and upon questions submitted to the vote of the people unless he has the following qualifications:

(a) He must be registered as required by law;

(b) He must be of the minimum age for voting prescribed by the constitution of the state of Montana, except that to vote for president and vice-president of the United States, or for United States senator or representative, he must be eighteen (18) years of age;

(c) He has met the residence requirements for voting provided in the constitution of the state of Montana and has resided in the county thirty (30) days immediately preceding the election at which he offers to vote, except that if he has resided in the state for thirty (30) days immediately preceding the election at which he offers to vote, he shall be allowed to vote for president and vice-president of the United States;

(d) He must be a citizen of the United States.

(2) No person convicted of a felony has the right to vote unless he has been pardoned.

(3) No person adjudicated insane 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.

Compiler's Notes

This section was amended twice in 1971, once by Ch. 120 and once by Ch. 158. Neither amendatory act mentioned nor incorporated all of the changes made by

the other. Since the changes made by the two amendments do not appear to conflict, the compiler has made a composite section incorporating the changes made by both amendatory acts.

Amendments

Chapter 120, Laws of 1971 deleted "Except as provided in section 23-2702" at

the beginning of subsection (1); substituted a new subdivision (1)(a), now subdivision (1)(b), for a subdivision (1)(a) reading "He must be twenty-one (21) years of age;" and substituted a new subdivision (1)(b), now subdivision (1)(c), for a subdivision (1)(b) reading "He must have resided in the state one (1) year and in the county thirty (30) days immediately preceding the election at which he offers to vote."

Chapter 158, Laws of 1971, rewrote the preliminary paragraph in subsection (1), which formerly read: "Except as provided in section 23-2702, every person, if registered as required by law, is entitled to vote at all general and special elections for all officers which are elective, and upon all questions submitted to the vote of the people if he has the following qualifications:"; inserted a new subdivision (1)(a); substituted a new subdivision (1)(b) reading "He must be of the minimum age for voting provided by the constitution of the State of Montana" for a former subdivision (1)(a) reading "He must be twenty-one (21) years of age;" and redesignated former subdivisions (b) and (c) of subsection (1) as subdivisions (c) and (d) respectively.

Effective Date

Section 3 of Ch. 120, Laws 1971 provided the act should be in effect from and after its passage and approval. Approved March 1, 1971.

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. *United States v. Arizona*, — US —, — L Ed 2d —, 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. *United States v. Arizona*, — US —, — L Ed 2d —, 91 S Ct 260.

Voting Age

Provisions of the Voting Rights Act Amendments of 1970, 42 U. S. C. § 1973bb-1, setting minimum voting age at 18 are constitutional and enforceable in so far as they pertain to federal elections but are unconstitutional and unenforceable in so far as they pertain to state and local elections. *United States v. Arizona*, — US —, — L Ed 2d —, 91 S Ct 260.

23-2701.1. Legislative policy and purpose. Section 2 of article IX of the Montana constitution provides that in order to entitle a person to vote upon a question which may be submitted to a vote of the people or electors, if the question concerns the creation of any levy, debt or liability, he must, in addition to possessing other qualifications, be a taxpayer whose name appears on the last preceding completed assessment roll. Recent decisions of the supreme court of the United States hold that similar provisions in the constitutions and statutes of other states are in conflict with the equal protection clause of the fourteenth amendment to the constitution of the United States. The ability of the state and of its counties, cities, towns and school districts and other political subdivisions to provide funds needed for essential governmental purposes depends in substantial part upon their ability to create valid debts and liabilities and, when the same are required by law or the constitution to be submitted to a vote of the people or electors, to record and canvass such vote in such manner as to determine finally and conclusively whether or not the debt or liability has been approved by the required majority vote of the electors qualified and offering to vote thereon. It is therefore the policy and purpose of this law to eliminate all statutory electors' qualifications for voting on the creation of any public debt or liability except such qualifications as are validly by or pursuant to the Montana constitution; to provide an adequate procedure for hearing

and determination of any issue raised with reference to such qualifications; and to limit to a reasonable time the period within which such issues may be raised.

History: En. Sec. 1, Ch. 158, L. 1971.

Title of Act

An act relating to elections upon questions which concern or may concern the creation of a public debt or liability and the qualifications of persons petitioning for and voting at such elections: amending sections 1-804, 23-2701, 23-2702, 23-2703, 23-3012, 23-4201, 11-2217, 11-2271, 11-2275, 11-2306, 11-2310, 11-2404, 11-3906,

16-2021, 16-2022, 16-2026 and 93-2612, R.C.M. 1947; prescribing a period of limitation upon actions and defenses raising an issue as to such qualifications; and providing an effective date.

Repealing Clause

Section 2 of Ch. 120, Laws 1971 read "Sections 23-2702 and 23-2703, R.C.M. 1947, are hereby repealed."

23-2702, 23-2703. Repealed.

Repeal

Sections 23-2702 and 23-2703 (Sees. 7, 8, Ch. 368, L. 1969), relating to qualifications of electors at elections on incurring state indebtedness, were repealed by Sec. 2, Ch. 120, Laws 1971.

Compiler's Notes

Sections 3 and 4, Ch. 158, Laws of 1971, purported to amend these sections. However, the purported amendments are void under the provisions of section 43-515.

CHAPTER 30

REGISTRATION OF ELECTORS

Section

- 23-3001. Highway patrol to submit new-voter lists to major political parties.
- 23-3004.1. Resident school district included in registration.
- 23-3012. Lists of registered electors—precinct register—indication of taxpayer electors.
- 23-3013. Cancellation of registry for failure to vote—reregistration—cancellation of registry of elector in United States service.
- 23-3014. Cancellation of registry for other reasons—reregistration.
- 23-3016. Close of registration—procedure.
- 23-3022. Residence, rules for determining.
- 23-3023. Printing of list of electors shown on precinct registers.
- 23-3027. Charges to city or school district—warrant—when no precinct registers required.

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, 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.

piled on a county by county basis" in the first sentence; and made a minor change in phraseology.

Amendments

The 1971 amendment inserted "com-

23-3004.1. Resident school district included in registration. In the discretion prescribed by section 23-3004, R.C.M. 1947, the county registrar

shall record the resident school district of each person registering to vote to allow the preparation of registered elector lists for each school district of the county.

History: En. Sec. 1, Ch. 243, L. 1971.

Title of Act

An act to require recording of the

school district of residence when registering electors; and amending sections 23-3023 and 23-3027, R.C.M. 1947, providing for precinct registers.

23-3012. Lists of registered electors—precinct register—indication of taxpayer electors. (1) 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.

(2) The registrar shall stamp "taxpayer" beside the name of an elector who is a taxpayer to show he is qualified to vote in an election at which voting is validly limited by the constitution to taxpayers.

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

Amendments

The 1971 amendment substituted "an election at which voting is validly limited by the constitution to taxpayers" at the end of the first sentence of subsection (2)

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

23-3013. Cancellation of registry for failure to vote—reregistration—cancellation of registry of elector in United States service. (1) Except as provided in subsections (3) and (4) of this section, immediately after every general biennial election, 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 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 in the United States service may be cancelled upon failure to vote in the previous two (2) general elections.

(4) The registration of an elector who actually votes by absentee ballot shall not be cancelled 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.

(4)" in subsection (1); added subsection (4); and made minor changes in phraseology and punctuation.

Amendments

The 1971 amendment inserted "and

23-3014. Cancellation of registry for other reasons—reregistration. (1) The registrar shall cancel any registration card:

(a) At the written request of the person registered;

(b) When a certificate of the death of any elector is filed;

(c) Within forty-five (45) days prior to the closing of registration three (3) qualified registered electors residing within the precinct may challenge an elector by filing affidavits giving the name of the challenged elector, his registry number, his residence, and stating of the personal knowledge of the affiant the person registered does not reside at the place designated on his registration card;

(d) When the insanity of the elector is legally established;

(e) If a certified copy of a final judgment of conviction of any elector of a felony is filed;

(f) If a certified copy of a court order directing the cancellation is filed with the registrar.

(2) Within thirty (30) days after registration has been canceled, the registrar shall send written notice to the elector at the address shown on the registration card. If a person proves to the registrar that he is qualified, he may reregister.

(3) At the close of registration, the court clerk of each county shall send a list of those electors whose registrations have been cancelled due to a felony conviction to the secretary of state. The secretary of state shall compile a list of all such electors and send a copy of the list to each registrar.

History: En. Sec. 33, Ch. 363, L. 1969;
amd. Sec. 1, Ch. 299, L. 1971.

Amendments

The 1971 amendment added subsection (3).

23-3016. Close of registration—procedure. (1) The registrar shall:

(a) Close registrations as follows: (i) for thirty (30) days before any federal election; (ii) at noon the day before election for voters entitled under the provisions of section 23-3724, R.C.M. 1947, to register to that time; (iii) for forty (40) days before any election other than hereinabove provided.

(b) Immediately after closing registration send the secretary of state a certificate showing the number of voters registered in each precinct in a county;

(c) Sixty (60) days before the election, publish notice in a newspaper of general circulation in the county specifying the day registrations will close and post the notice in each precinct. The published notice shall continue for a period of twenty (20) days.

(2) The notice shall state that electors may register for the ensuing election by appearing before the registrar or before any deputy registrar as provided by law.

History: En. Sec. 35, Ch. 368, L. 1969;
amd. Sec. 1, Ch. 385, L. 1971.

of the second paragraph of subdivision (1) (b); and made minor changes in style and phraseology.

Amendments

The 1971 amendment rewrote subdivision (1) (a) which formerly read, "Close all registration for forty (40) days before any election"; substituted "Sixty days before the election" for "Twenty (20) days before the closing" at the beginning

Effective Date

Section 2 of Ch. 385, Laws 1971 provided the act should be in effect from and after its passage and approval. Approved March 15, 1971.

23-3022. Residence, rules for determining. For registration or voting, the residence of any person shall be determined by the following rules as far as they are applicable.

(1) The residence of a person is where his habitation is fixed, and to which, whenever he is absent, he has the intention of returning.

(2) A person may not gain or lose a residence while a student at any institution of learning, while kept involuntarily at any public institution not necessarily at public expense, while confined in any public prison, or while residing on a military reservation.

(3) A person in the armed forces of the United States may not become a resident in consequence of being stationed at a military facility in the state. A person may not acquire a residence by reason of being employed or stationed at a training or other transient camp maintained by the United States within the state.

(4) A person does not lose his residence if he goes into another state, or other district of this state, for temporary purposes with the intention of returning unless he exercises the election franchise in the other state or district.

(5) A person may not gain a residence in a county if he comes in for temporary purposes without the intention of making that county his home.

(6) If a person moves to another state with the intention of making it his residence, he loses his residence in this state.

(7) If a person moves to another state with the intention of residing there for an indefinite time, he loses his residence in this state even though he intends to return to this state at some future period.

(8) The place where a man's family resides is presumed his place of residence. However, a man who takes up or continues his residence at a place other than where his family resided with the intention of remaining is a resident of the place where he resides.

(9) A change of residence can only be made by the act of removal joined with intent to remain in another place. There can only be one residence.

(10) The term of residence must be computed by including the day of election.

History: En. Sec. 41, Ch. 368, L. 1969; amd. Sec. 1, Ch. 394, L. 1971.

Amendments

The 1971 amendment deleted "while em-

ployed in the service of the United States or of this state" after "lose a residence" in subdivision (2); and made a minor change in punctuation.

23-3023. Printing 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) Ten (10) days or more before any election, a copy of the list of registered voters shall be posted in each precinct. 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 or posted.

(5) The list of registered voters prepared for a primary election may be posted and 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 and posted.

(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; class school district" after "city" in subsection (1); and deleted "or school district" after "city" in subsection (6).
amd. Sec. 2, Ch. 243, L. 1971.

Amendments

The 1971 amendment deleted "or first

23-3027. Charges to city or school district—warrant—when no precinct registers required. (1) For each name entered on a precinct register prepared for a city or school district, the registrar shall charge the city or school district three cents (\$.03). He shall also charge the actual expense incurred on account of the city or school district.

(2) The council or board of school trustees shall order a warrant drawn for the expenses specified in subsection (1) of this section within thirty (30) days after notification of the charges.

(3) If no general city election is required, the registrar shall not prepare precinct registers.

(4) If there are only as many candidates nominated as there are vacancies on a first class school district board of trustees, the registrar shall not prepare precinct registers.

(5) Within two (2) days after nominations are legally closed, the city clerk or clerk of a first class school district shall notify the registrar when no precinct registers are required.

History: En. Sec. 46, Ch. 368, L. 1969; tence of subsection (1); and deleted "in
amd. Sec. 3, Ch. 243, L. 1971. printing and posting the lists of electors, publishing notice, and other expenses incurred" after "actual expense incurred" in the second sentence of subsection (1).

Amendments

The 1971 amendment deleted "first class" before "school district" in the first sen-

CHAPTER 32

JUDGES AND CLERKS OF ELECTIONS

Section

- 23-3201. Appointment of election judges and clerks—second board of election judges—duties.
- 23-3202. Manner of choosing election judges and clerks—vacancies—candidates and their relatives ineligible—exceptions.
- 23-3203. Judges and clerks to serve until others appointed.
- 23-3204. Registrar to notify judges and clerks of their appointment and of impending general elections—judges to post notices of election.
- 23-3206. Instruction of judges and clerks.

23-3201. Appointment of election judges and clerks—second board of election judges—duties. (1) At their regular meeting next preceding a

general primary election, the commissioners shall appoint five (5) election judges and two (2) clerks for each precinct having two hundred (200) or more electors and three (3) election judges and two (2) clerks for each precinct having less than two hundred (200) electors. Judges for new precincts shall be appointed based upon the estimated number of electors.

(2) If a precinct has three hundred fifty (350) or more electors, the commissioners may appoint a second board of five (5) election judges and two (2) clerks who shall have the same qualifications as the first board. The second board shall:

(a) Meet at their respective polling places as ordered;

(b) Count and tabulate ballots as soon as the first board has completed their duties in regard to the voting.

(3) If counting and tabulating the ballots is not completed by 8 a. m. on the day following the election, the first board shall reconvene and relieve the second board until 8 p. m. when the second board shall again reconvene and relieve the first board until the ballots are counted and tabulated.

(4) The election judges constituting the boards shall number the ballots and count the tally upon the tally sheets and indicate upon the tally sheets the work of each board. The board completing the county shall certify the returns as required by law.

History: En. Sec. 49, Ch. 368, L. 1969;
amd. Sec. 1, Ch. 258, L. 1971.

Amendments

The 1971 amendment inserted "and two (2) clerks" in two places in subsection (1) and in one place in subsection (2).

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.

(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.

clerks" in subsections (1), (2), and (3); and substituted "may" for "must" after "The list of each party" in subsection (2).

Amendments

The 1971 amendment inserted "and

23-3203. Judges and clerks to serve until others appointed.

(1) The election judges and clerks continue to be judges of all elections held in their precincts until other judges and clerks are appointed.

(2) The commissioners shall fill vacancies which occur in the office of election judge or clerk.

History: En. Sec. 51, Ch. 368, L. 1969; amd. Sec. 3, Ch. 258, L. 1971.

Amendments

The 1971 amendment deleted former subsection (1) reading, "The election judges may appoint two (2) persons having the

same qualifications as themselves to act as clerks of the election who serve at the pleasure of the judges"; redesignated former subsections (2) and (3) as subsections (1) and (2); inserted "and clerks" in two places in subsection (1); and added "or clerk" in subsection (2).

23-3204. Registrar to notify judges and clerks of their appointment and of impending general elections—judges to post notices of election.

(1) The registrar must notify the election judges and clerks in writing of their appointment.

(2) Twenty (20) days or more before any general election, the registrar shall mail two (2) notices of the election to the election judges. The notices shall be in the form prescribed by the secretary of state.

(3) Ten (10) days or more prior to the election, the election judges shall post one (1) notice at the place where the election will be held and the other in one (1) of the most public places in the precinct.

History: En. Sec. 52, Ch. 368, L. 1969; amd. Sec. 4, Ch. 258, L. 1971.

Amendments

The 1971 amendment inserted "and clerks" in subsection (1).

23-3206. Instruction of judges and clerks. (1) Before each election, all election judges and clerks who do not possess a certificate of instruction shall be instructed by a person named by the commissioners in the powers, duties, and liabilities of election judges.

(2) The instructor shall call meetings as necessary.

(a) The election judges and clerks shall attend each meeting and receive at least two (2) hours of instruction.

(b) Each election judge and clerk shall receive compensation fixed by the commissioners at the prevailing federal minimum wage for instruction to be paid at the same time and in the same manner as for services on election day.

(3) Each judge and clerk shall receive a certificate of completion from the instructor upon completion of the course. Each certificate is valid for a period of two (2) years.

(4) No person shall serve as election judge or clerk without a valid certificate. However, this does not apply to persons filling vacancies in emergencies.

(5) Notice of place and time of instruction must be given to the county chairmen of the two (2) major political parties by the commissioners.

History: En. Sec. 54, Ch. 368, L. 1969; amd. Sec. 5, Ch. 258, L. 1971.

Amendments

The 1971 amendment inserted "and

clerks" in subdivisions (1), (2) (a), (2) (b), and (3); and inserted "or clerk" in subsection (4).

CHAPTER 33

PRIMARY ELECTIONS AND NOMINATIONS BY CERTIFICATE

Section

- 23-3302. Primaries in cities over certain size—procedure.
23-3318. Certificates of nomination by individuals or parties not appearing on prior ballot—requisites—applicability.
23-3318.1. Determination of number of signatures required in census divisions.
23-3321. Declining nomination—vacancies before and after primary.

23-3302. Primaries in cities over certain size—procedure. In cities having a population of three thousand five hundred (3,500) or more as shown by the most recent federal or state census:

(1) The nomination of candidates by primary election for city offices shall be subject to the provisions of this chapter;

(2) Political parties shall file declarations of nominations for city offices with the city clerk;

(3) The duties of the city clerk are the same as the registrar in conducting the primary elections, and the city clerk shall send notices of the primary election in the same manner as registrars send notices for nominations for county offices at primary elections;

(4) On the fourteenth day preceding a city election, the cities shall hold primary elections;

(5) If no declarations are filed forty (40) days or more before the primary election, no primary election shall be held and the city clerk shall certify to the registrar thirty-five (35) days or more before the date of the primary election that no petitions have been filed;

(6) The council shall;

(a) establish city voting precincts and wards,

(b) appoint city judges and clerks of elections and other officers necessary for the election.

(c) perform other necessary duties in the same manner prescribed for city elections.

History: En. Sec. 57, Ch. 368, L. 1969;
amd. Sec. 2, Ch. 343, L. 1971.

Amendments

The 1971 amendment made a minor change in punctuation.

23-3318. Certificates of nomination by individuals or parties not appearing on prior 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 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 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 election.

(5) The candidates for nomination shall file the certificates ninety (90) days prior to the date of the general election. 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. 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.

the filing of certificates of nomination by candidates for municipal offices.

Amendments

The 1971 amendment added the second sentence of paragraph (5), relating to

Effective Date

Section 2 of Ch. 59, Laws 1971 provided the act should be in effect from and after its passage and approval. Approved February 24, 1971.

23-3318.1. Determination of number of signatures required in census divisions. In the case of candidates for the Montana House of Representatives, the Montana Senate, and the Montana Constitutional Convention who may be required to run in districts embracing census enumerator divisions located in more than one county, the secretary of state shall, for those counties split along census enumerator divisions, determine the number of signatures needed for nominating petitions of independent candidates in such districts. The determination shall be based on the most recent federal census population figures for the district.

History: En. Sec. 1, Ch. 6, 2nd Ex. L. 1971.

read "This act is effective on its passage and approval and shall remain in effect until such time as the procedures in section 23-3318, R. C. M. 1947, can be followed."

Effective Date

Section 2 of Ch. 6, 2nd Ex. Laws 1971

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.

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

Amendments

The 1971 amendment substituted "any district however constituted" for "a multi-county district" in subsection (3); in-

serted "or district" after "from each county" in subdivision (3) (a); inserted "of the county or district" after "central committees" in subdivision (3) (a); and inserted "accompanied by the proper filing fee" in subdivision (3) (c).

CHAPTER 35**ELECTION SUPPLIES AND BALLOTS****Section**

23-3509. Printing of candidate's name and party designation on ballot—no party designation for candidates for supreme and district court judgeships—persons nominated by more than one party.

23-3509. Printing of candidate's name and party designation on ballot—no party designation for candidates for supreme and district court judgeships—persons nominated by more than one party. (1) Candidates' names shall be printed in one place on the ballot with the name of the party or political organization, as found in the certificate of nomination in not more than three (3) words, printed opposite the name.

(2) The names of candidates for chief justice, associate justices, and district court judges shall be followed by: "Nominated without party designation."

(3) If a person is nominated for the same office by more than one (1) party, he shall file a written election with the officer with whom he filed his declaration of nomination in the time required to file the declaration. If he fails or neglects to file an election, his name shall appear under the party with whom his nominating declaration was first filed.

History: En. Sec. 92, Ch. 368, L. 1969; amd. Sec. 2, Ch. 254, L. 1971.

Amendments

The 1971 amendment substituted "his

name shall appear under the party with whom his nominating declaration was first filed" for "no party designation shall be placed opposite his name" at the end of the second sentence of subsection (3).

CHAPTER 36**CONDUCT OF ELECTIONS—THE POLLS—VOTING AND BALLOTS****Section**

23-3610. Marking precinct register book before elector votes—procedure.

23-3610. Marking precinct register book before elector votes—procedure. (1) The election judges at every primary, general or special election shall, in the precinct register book, mark a cross (X) upon the line opposite to the name of the elector.

(2) Before an elector is permitted to vote, the election judges shall require the elector to sign his name on the place designated in the precinct register.

(3) The election judges shall require an elector not able to sign his name to produce two (2) electors who shall make an affidavit before the election judges, or one (1) of them, in a form prescribed by the secretary of state.

(4) The affidavit shall be filed by the election judges, and returned to the registrar with the returns of the election. One (1) of the judges shall write the elector's name, note the fact of his inability to sign, and the names of the two (2) electors.

(5) If the elector fails or refuses to sign his name, and if unable to write fails to procure two (2) electors who will take the oath required, he shall not be allowed to vote.

(6) Immediately after the canvass of the returns, the election judges shall deliver to the registrar the official register, sealed, with the election returns and pollbook which have been used for the election.

(7) Each precinct shall keep a list of persons voting, and the name of each person who votes shall be entered in it and numbered in the order voting. This list is known as the pollbook.

History: En. Sec. 110, Ch. 368, L. 1969;
amd. Sec. 3, Ch. 254, L. 1971.

Amendments

The 1971 amendment inserted "primary" in subsection (1).

CHAPTER 37

ABSENTEE VOTING AND REGISTRATION

Section

- 23-3706. Mailing ballot to elector—affidavit—electors in the United States service.
- 23-3709. Delivery of ballots to election judges—ballots to be rejected—ballots not to count.
- 23-3718. "Elector in the United States service" defined.
- 23-3720. Oath for elector in United States service.
- 23-3721. Classification of federal post card application.
- 23-3724. Registration of electors whose United States service or employment has terminated.

23-3706. Mailing ballot to elector—affidavit—electors in the United States service. (1) Either upon receipt of the application or immediately after the official ballot for the precinct of the applicant's residence has been printed, the registrar, city clerk, or clerk of a first class school district shall send by mail, postage prepaid, whatever official ballots are necessary.

(2) The proper officer shall enclose an envelope with the ballots which has written on the front the name, title, and post-office address of the officer sending it, and upon the other side a printed affidavit in a form prescribed by the secretary of state.

(3) Both the envelope in which the ballot is mailed to an elector in the United States service and the return envelope shall have printed across the face two parallel horizontal red bars, each one-quarter ($\frac{1}{4}$) inch wide, extending from one side of the envelope to the other, with an intervening space of one-quarter ($\frac{1}{4}$) inch, with the words "Official Elec-

tion Ballot Material—via Air Mail,” between the bars. In the upper right-hand corner shall be printed “Free of U.S. Postage.” In the upper left-hand corner shall be blanks sufficient for the recipient to place his return address. All printing on the face of the envelope shall be in red. The gummed flap of the envelope supplied for the return of the ballot shall be separated by wax paper or other appropriate protective insert. Voting instructions provided in subparagraph (5) of this section shall include a procedure to be followed by absentee voters, such as notation of the facts on the back of the envelope duly signed by the voter and witnessing officer, in instances of adhesion of the balloting material.

(4) The return address shall be self-addressed to the registrar or city clerk.

(5) Instructions for voting shall be enclosed with the ballots for electors in the United States service. Instructions shall include information concerning the type or types of writing instruments which may be used to mark the absentee ballot.

History: En. Sec. 124, Ch. 368, L. 1969; and sixth sentences to subsection (3); and
amd. Sec. 1, Ch. 246, L. 1971. added the second sentence to subsection (5).

Amendments

The 1971 amendment added the fifth

23-3709. Delivery of ballots to election judges—ballots to be rejected—ballots not to count. (1) If the absentee ballot is received prior to delivery of the official ballots to the election judges, the registrar or clerk shall deliver the larger envelope to the judges at the same time the ballots are delivered.

(2) If absentee ballots are received after the ballots are delivered to the election judges, but prior to the close of the polls, the registrar or clerk shall immediately deliver the larger envelopes to the judges.

(3) If absentee ballots are received by the registrar or clerk for which application was not received prior to twelve (12) noon on the day preceding an election, or received after the close of the polls, the clerk shall endorse upon the voter’s envelope the date and exact time of receipt and the words “To be rejected.” Absentee ballots so endorsed shall be delivered to the election judges of the precinct or retained by the registrar or clerk if the judges have adjourned and shall be rejected.

(4) If an elector votes absentee ballot and dies between the time of balloting and election day, his ballot will not count.

History: En. Sec. 127, Ch. 368, L. 1969; inserted “or received after the close of the
amd. Sec. 4, Ch. 254, L. 1971. polls” in the first sentence of subsection (3); inserted “or retained by the registrar or clerk if the judges have adjourned” in the second sentence of subsection (3); and made minor changes in phraseology and style.

Amendments

The 1971 amendment inserted “but prior to the close of the polls” in subsection (2); deleted “by mail postage prepaid” after “larger envelopes” in subsection (2); in-

serted “or received after the close of the polls” in the first sentence of subsection (3); inserted “or retained by the registrar or clerk if the judges have adjourned” in the second sentence of subsection (3); and made minor changes in phraseology and style.

23-3718. “Elector in the United States service” defined. “Elector in the United States service” means:

(1) A member of the armed forces in the active service, and his spouse and dependents;

(2) A member of the merchant marine of the United States and his

spouse and dependents;

(3) A member of a religious group or welfare agency assisting members of the armed forces of the United States who are officially attached to and serving the armed forces, and his spouse and dependents;

(4) A citizen of the United States temporarily residing outside the territorial limits of the United States and the District of Columbia and his spouse and dependents when residing with or accompanying him.

History: En. Sec. 136, Ch. 368, L. 1969; amd. Sec. 1, Ch. 249, L. 1971.

Amendments

The 1971 amendment inserted subdivision (2); and revised and redesignated

as subdivision (4) former subdivision (2) reading "A civilian employee of the United States in all categories serving outside the territorial limits of the several states of the United States or in the District of Columbia and his spouse and dependents when residing or accompanying him."

23-3720. Oath for elector in United States service. (1) Any oath required for electors in the United States service to register, request a ballot, or vote, may be administered and attested, within or without the United States, by any commissioned officer in active service, any member of the merchant marine of the United States designated for this purpose by the secretary of commerce, the head of any department or agency of the United States, any civilian official empowered by state or federal law to administer oaths, or any civilian employee designated by the head of any department or agency of the United States.

(2) No official seal is required to be affixed to the oath and neither the elector nor the certifying officer need disclose his whereabouts at the time of taking the oath except to the extent required by the federal post card application.

History: En. Sec. 138, Ch. 368, L. 1969; amd. Sec. 1, Ch. 248, L. 1971.

Amendments

The 1971 amendment inserted "any member of the merchant marine * * * or

agency of the United States" in the middle of subsection (1); added "or any civilian employee designated by the head of any department or agency of the United States" at the end of subsection (1); and made a minor change in phraseology.

23-3721. Classification of federal post card application. (1) Upon receipt by the registrar of a federal post card application properly filled out and signed under oath, the registrar shall classify the application according to the precinct in which the elector resides and arrange the cards in each precinct in alphabetical order.

(2) The registrar shall, upon receipt of any federal post card application, immediately enter upon the official register of the county in the proper precinct the full information given by the elector.

(3) Immediately upon entry in the official registry of the name of the elector the registrar shall send to him by the fastest mail service available a notice that he has been registered and informing him that in order to secure a ballot he must mail at any time within forty-five (45) days preceding the election another federal post card application to his registrar or city clerk.

(4) A federal post card application received from an elector in the United States service within forty-five (45) days preceding an election shall be treated as a simultaneous application for registration and for ballot.

Where the elector is already registered the federal post card application shall be treated as an application for a ballot.

History: En. Sec. 139, Ch. 368, L. 1969; amd. Sec. 1, Ch. 250, L. 1971.

Amendments

The 1971 amendment rewrote subsection (3) which formerly read, "If an elector in the United States service has not already requested an absentee ballot, the registrar shall, immediately upon entry

in the official registry of the name of the elector send to him by the fastest mail service available a notice that he has been registered and informing him that in order to secure a ballot he must mail at any time within forty-five (45) days preceding the election another federal post card application to his registrar or city clerk"; and added subsection (4).

23-3724. Registration of electors whose United States service or employment has terminated. Electors in the United States service who have been honorably discharged from the armed forces of the United States or who have terminated their service or employment outside the territorial limits of the United States too late to register at the time when, and place where, registration is required, shall be entitled to register for the purpose of voting at the next ensuing election after such discharge or termination of employment up to 12 noon on the day before the election, provided that said elector shall execute a sworn affidavit qualifying him under this section, to be filed in the office of his registration. County registrar shall provide to the person registering under the provisions of this section, a certificate stating the precinct in which he is entitled to vote which shall be presented to the election judges of that precinct at the time of voting.

History: En. 23-3724 by Sec. 1, Ch. 247, L. 1971.

Title of Act

An act to amend Title 23, Chapter 37, R.C.M. 1947, by adding a new section re-

lating to absentee voting and registration, providing for the registration of electors whose United States services or employment has terminated too late to register in person to vote in the next ensuing election.

CHAPTER 40

CANVASS OF VOTES—RETURNS AND CERTIFICATES

23-4016. State canvassers, composition and meeting of board.

Cross-References

Board transferred to office of secretary of state, sec. 82A-2102.

CHAPTER 42

CONTESTS OF BOND ELECTIONS

Section

23-4201. Grounds for challenge.

23-4201. Grounds for challenge. (1) Any elector qualified to vote in a bond election of a county, city, or of any political subdivision of either may contest a bond election, for any of the following causes:

(a) That the precinct board in conducting the election or in canvassing

the returns, made errors sufficient to change the result of the election;

(b) That any official charged with a duty under this act, failed to perform that duty;

(c) That in conducting the election, any official charged with a duty under this act, violated any of the provisions of this act relating to bond elections;

(d) That electors qualified to vote in the election under the provisions of the constitutions of Montana and the United States were not given opportunity to vote in the election;

(e) That electors not qualified to vote in the election under the provisions of the constitutions of Montana and the United States were permitted to vote in the election.

(2) Within sixty (60) days after the election, the contestant shall file a verified petition with the clerk of the court in the judicial district where the election was held.

History: En. Sec. 212, Ch. 368, L. 1969;
amd. Sec. 6, Ch. 158, L. 1971.

(d) and (e) to subsection (1); and
changed the filing time specified in sub-
section (2) from five days to sixty days
after the election.

Amendments

The 1971 amendment added subdivisions

TITLE 43—LEGISLATURE AND ENACTMENT OF LAWS

CHAPTER 1—SENATORIAL, REPRESENTATIVE AND CONGRESSIONAL DISTRICTS

- Section
43-106.6. Number of senators—senatorial districts and apportionment.
43-106.7. Number of representatives—representative districts and apportionment.
43-106.8. Division of multi-member districts into single-member districts.
43-106.9. Adjustment of senatorial terms.
43-107. Congressional districts.

43-106.1, 43-106.2. Repealed.

Repeal

Sections 43-106.1, 43-106.2 (Secs. 1, 2, Ch. 194, L. 1967), relating to legislative apportionment, were repealed by Sec. 6, Ch. 8, 2nd Ex. Laws 1971.

43-106.3 to 43-106.5. Unconstitutional.

Unconstitutional

These sections (Secs. 1, 2, 4, Ch. 3, 1st Ex. L. 1971) were held unconstitutional by a three-judge federal court in a decision rendered on June 11, 1971, in *Wold v. Anderson*, 28 Montana St. Rep. 585, — F. Supp. —.

43-106.6. Number of senators—senatorial districts and apportionment. The senate of the legislative assembly shall consist of fifty (50) members. The senatorial districts and the number of senators elected from each district are as follows:

Senatorial District Number	Number of Senators	District consists of County or Counties
1	1	Big Horn, Powder River, Carter, less Ekalaka census enumerator division of Carter
2	1	Custer and Ekalaka census enumerator division of Carter
3	2	Richland, Dawson, Wibaux, Fallon
4	2	Sheridan, Roosevelt, Daniels and Valley less the Fort Peck and Hinsdale census enumerator divisions of Valley
5	1	Blaine, Phillips and the Fort Peck and Hinsdale census enumerator divisions of Valley
6	1	Garfield, Rosebud, McCone, Prairie and Treasure

Senatorial District Number	Number of Senators	District consists of County or Counties
7	1	Stillwater, Carbon and south of the Yellowstone census enumerator division of Sweet Grass
8	6	Yellowstone less the Buffalo Creek census enumerator division, the Shepherd enumerator division and the Huntley Project census enumerator division
9	1	Meagher, Wheatland, Golden Valley, Musselshell and north of the Yellowstone census enumerator division of Sweet Grass and Buffalo Creek census enumerator division and Huntley Project enumerator division of Yellowstone and Shepherd division of the census enumerator of Yellowstone
10	1	Fergus and Petroleum
11	3	Gallatin and Park
12	3	Broadwater, Jefferson and Lewis and Clark
13	6	Cascade
14	2	Hill, Chouteau, Judith Basin and Liberty
15	2	Glacier, Toole, Pondera, Teton
16	3	Flathead
17	1	Lake
18	4	Missoula less Bonner-Clinton census enumerator division of Missoula
19	2	Powell, Deer Lodge, Granite and Bonner-Clinton census enumerator division of Missoula
20	3	Silver Bow
21	1	Madison and Beaverhead
22	1	Ravalli
23	2	Mineral, Sanders and Lincoln

History: En. Sec. 1, Ch. 8, 2nd Ex. L. 1971. assembly according to the 1970 federal census; and repealing sections 43-106.1 and 43-106.2, R. C. M. 1947.

Title of Act

An act to apportion the legislative as-

43-106.7. Number of representatives—representative districts and apportionment. Representatives of the legislative assembly shall consist of one hundred (100) members. The representatives elected from each district are as follows:

DISTRICTS

43-106.7

Representative District Number	Number of Representatives	District consists of County or Counties
1	2	Big Horn, Powder River, Carter less Ekalaka census enumerator division of Carter
2	2	Custer and Ekalaka census enumerator division of Carter
3	4	Richland, Dawson, Wibaux, and Fallon
4	4	Sheridan, Roosevelt, Daniels and Valley, less the Fort Peck and Hinsdale census enumerator divisions of Valley
5	2	Blaine, Phillips and the Fort Peck and Hinsdale census enumerator divisions of Valley
6	2	Garfield, Rosebud, McCone, Prairie and Treasure
7	2	Stillwater, Carbon and south of the Yellowstone census enumerator division of Sweet Grass
8	12	Yellowstone less the Buffalo Creek census enumerator division, the Shepherd enumerator division and the Huntley Project census enumerator division
9	2	Meagher, Wheatland, Golden Valley, Musselshell and north of the Yellowstone census enumerator division of Sweet Grass and Buffalo Creek census enumerator division and Huntley Project enumerator division and Shepherd division of the census enumerator of Yellowstone
10	2	Fergus and Petroleum
11	6	Gallatin and Park
12	6	Broadwater, Jefferson and Lewis and Clark
13	12	Cascade
14	4	Hill, Chouteau, Judith Basin and Liberty
15	4	Glacier, Toole, Pondera, Teton
16	6	Flathead
17	2	Lake

Representative District Number	Number of Representatives	District consists of County or Counties
18	8	Missoula less Bonner-Clinton census enumerator division of Missoula
19	4	Powell, Deer Lodge, Granite and Bonner-Clinton census enumerator division of Missoula
20	6	Silver Bow
21	2	Madison and Beaverhead
22	2	Ravalli
23	4	Mineral, Sanders and Lincoln

History: En. Sec. 2, Ch. 8, 2nd Ex. L.
1971.

43-106.8. Division of multi-member districts into single-member districts. A multi-member district may be divided into single-member districts within a senatorial district in the following manner:

(1) Eight per cent (8%) of the registered voters of the multi-member district as determined by the last registration lists applicable to the counties in such multi-member districts must first petition and said petition shall substantially meet all of the requirements of a petition for initiative and referendum as provided in sections 37-101, 37-102 and 37-103, R. C. M. 1947, for such division. If the multi-member district is located within a single county, the petition signed by the required number of voters shall be filed with the clerk and recorder of that county. If the multi-member district embraces areas in more than one (1) county, the required petition shall be filed in the office of the clerk and recorder of any county embraced in whole or in part in the district and certified copies of such petition shall be sent by that clerk and recorder to the clerks and recorders of all other counties embraced in whole or in part in such multi-member districts.

(2) The clerks and recorders with whom such petitions, whether originals or certified copies, are filed shall as promptly as possible examine such petition as to the signatures thereon which are of residents of their respective counties and shall certify to the clerk and recorder of the county in which the original petition was filed as to the number of valid signatures on said petition as to the number of registered voters in their respective counties and included within the multi-member district. The clerk and recorder with whom the original petition was filed shall also as promptly as possible examine the petition as to the signatures thereon which are of residents of his county and shall determine the number of valid signatures as to his county. Upon receipt of the certificates of the other clerks and recorders, the clerk and recorder with whom the original petition was filed shall total the number of valid signatures on said petition and, if such petition contains valid signatures of at least eight per cent (8%) of the registered voters of the multi-member district, he shall

so certify to the county commissioners of each county affected in whole or in part.

(3) The county commissioners of each county affected in whole or in part, upon receipt of the certification by the clerk and recorder, shall meet together as promptly as possible and shall establish a time of election, at which shall be presented the question whether the district shall be divided into single-member districts.

(4) If a majority of the voters voting at such election shall vote in favor of dividing the multi-member district, the county commissioners of the affected counties shall meet together as promptly as possible after the results of such election have been certified, and shall divide the multi-member district into single-member districts. Any such plan of division shall require the approval of the majority of the commissioners of each of the counties affected.

(5) Single-member districts shall be as compact as possible, comprise contiguous territory and shall be as nearly equal as practicable in population. Boundaries of the single-member districts shall follow the census enumerator division lines.

History: En. Sec. 3, Ch. 8, 2nd Ex. L.
1971.

43-106.9. Adjustment of senatorial terms. The senators shall be elected for the term of four (4) years and they shall be divided into two (2) classes with terms concluding in alternate bienniums. The terms of office of those senators in districts 8, 13, 16, 17, 18, 20, 21 and 22 will continue as they presently exist, and they will run for re-election upon expiration of their present terms of office. The terms of office of all other senators will expire on the first Monday of January, 1973.

The senators elected in districts 1, 2, 5 and 6 shall be elected for a term of four (4) years. The senators elected in districts 3, 4, 11, 12, 14, 15, 19 and 23 shall, pursuant to the regulations to be promulgated by the secretary of state, draw lots for the purpose of determining which of said elected senators of said districts shall serve for four (4) years and which shall serve for two (2) years to the end that in each of the said districts, in so far as possible, one-half ($\frac{1}{2}$) of the senators shall serve for four (4) years and one-half ($\frac{1}{2}$) for two (2) years; provided, however, that in districts 11 and 12 the senators there elected shall draw lots to determine which one of the three in each district shall be subject to the drawing hereinafter mentioned.

The remaining senators from districts 11 and 12 shall themselves draw lots to determine which shall serve for four (4) years and which shall serve for two (2) years. The names of elected senators from districts 7, 9 and 10 including the one (1) from each of districts 11 and 12, aforesaid, shall be placed in a receptacle from which the secretary of state shall draw three (3) names. The senators whose names are thus drawn shall serve for four (4) years and the remainder not drawn shall serve for two (2) years.

History: En. Sec. 4, Ch. 8, 2nd Ex. L. 1971.

Separability Clause

Section 5 of Ch. 8, 2nd Ex. Laws 1971 read "If any clause, sentence, paragraph, section, or any part of this act shall be declared and adjudged to be invalid and/or unconstitutional, such invalidity or unconstitutionality shall not affect, impair, invalidate or nullify the remainder of this act."

Repealing Clause

Section 6 of Ch. 8, 2nd Ex. Laws 1971 read "Sections 43-106.1 and 43-106.2, R. C. M. 1947, are repealed."

Effective Date

Section 7 of Ch. 8, 2nd Ex. Laws 1971 provided the act should be in effect from and after its passage and approval. Approved June 29, 1971.

43-107. (48) Congressional districts. The counties of Beaverhead, Broadwater, Deer Lodge, Flathead, Gallatin, Granite, Jefferson, Lake, Lewis and Clark, Lincoln, Madison, Mineral, Missoula, Powell, Ravalli, Sanders, Silver Bow, Glacier, Toole, Liberty, Pondera, Meagher, and Park shall constitute the first congressional district of the state. The counties of Big Horn, Blaine, Carbon, Carter, Cascade, Chouteau, Custer, Daniels, Dawson, Fallon, Fergus, Garfield, Golden Valley, Hill, Judith Basin, McCone, Musselshell, Petroleum, Phillips, Powder River, Prairie, Richland, Rosebud, Roosevelt, Sheridan, Stillwater, Sweet Grass, Teton, Treasure, Valley, Wheatland, Wibaux and Yellowstone shall constitute the second congressional district of the state.

Whenever any county is created, comprised partly of the territory of both such districts, said county shall belong to and become a part of the district to which major portion of the territory of said county belonged and was a part prior to the creation of such new county.

History: Ap. p. Sec. 120, Pol. C. 1895; re-en. Sec. 47, Rev. C. 1907; amd. Sec. 1, Ch. 44, L. 1917; re-en. Sec. 48, R. C. M. 1921; amd. Sec. 1, Ch. 113, L. 1945; amd. Sec. 1, Ch. 124, L. 1967; amd. Sec. 1, Ch. 187, L. 1971.

TITLE 75

SCHOOLS

CHAPTER 57

SUPERINTENDENT OF PUBLIC INSTRUCTION

Section	75-5702.	Election and qualification.
	75-5703.	Term, oath and vacancy.
	75-5707.	Powers and duties.

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) has attained the thirtieth anniversary of his birth date at the time of his election ;

(2) has resided within the state for the two (2) years next preceding his election ;

(3) holds at least a bachelor's degree from any unit of the Montana university system or from an institution recognized as equivalent by the board of education for teacher certification purposes ; and

(4) otherwise possesses the qualifications for such office which are required by the constitution of the state of Montana.

History: En. 75-5702 by Sec. 11, Ch. 5,
L. 1971.

75-5703. Term, oath and vacancy. The superintendent of public instruction shall hold office at the seat of government for the term of four (4) years. He shall assume office on the first Monday of January following his election and shall hold the office until his successor has been elected and qualified. Any person elected as the superintendent of public instruction shall take the oath of a civil officer.

If the office of superintendent of public instruction becomes vacant, it shall be filled in the manner prescribed by the constitution of the state of Montana.

History: En. 75-5703 by Sec. 12, Ch. 5,
L. 1971.

75-5707. Powers and duties. The superintendent of public instruction shall have the general supervision of the public schools and districts of the state, and he shall have the power and shall perform the following duties or acts in implementing and enforcing the provisions of this Title :

(6) prescribe absentee voting forms and rules in accordance with the provisions of section 75-6416;

(24) prescribe the form and contents of and approve or disapprove interstate contracts in accordance with the provisions of section 75-7308;

(37) determine the result of an organization election for a community college district and the related election of trustees in accordance with the provisions of section 75-8112;

History: En. 75-5707 by Sec. 16, Ch. 5,
L. 1971.

CHAPTER 58

COUNTY SUPERINTENDENT

Section 75-5802. Election and qualification.
75-5803. Term, oath and vacancy.

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) possesses the qualifications required by the constitution of the state of Montana;

(2) holds a valid teacher certificate issued by the superintendent of public instruction; and

(3) has not less than three (3) years of successful teaching experience.

History: En. 75-5802 by Sec. 20, Ch. 5,
L. 1971.

75-5803. Term, oath and vacancy. The county superintendent shall hold office for a term of four (4) years. He shall assume office on the first Monday of January following his election and shall hold the office until his successor has been elected and qualified.

Any person elected as the county superintendent shall take the oath or affirmation of office and shall give an official bond, as required by law.

If the office of county superintendent becomes vacant, the board of county commissioners shall appoint a replacement to fill the vacancy. Such replacement shall serve until the next regular general election when a person shall be elected to serve the remainder of the initial term, if there be any remaining term.

History: En. 75-5803 by Sec. 21, Ch. 5,
L. 1971.

CHAPTER 59

SCHOOL DISTRICT TRUSTEES AND OFFICERS

Section	75-5902.	Number of trustee positions.
	75-5903.	Request and determination of number of high school district additional trustee positions.
	75-5904.	Establishment and purpose of trustee nominating districts.
	75-5905.	Redetermine additional trustee positions and subsequent adjustments.
	75-5906.	Election and term of office.
	75-5907.	Legislative intent to elect less than majority of trustees.
	75-5908.	Determination of terms after creation or consolidation of elementary districts.
	75-5909.	Determination of terms after establishment or re-establishment of additional trustee positions.
	75-5910.	Determination of terms after change of district classification.
	75-5911.	Term of vacated trustee position after election.
	75-5912.	Annual election.
	75-5913.	Candidate qualification and nomination.
	75-5914.	Nomination caucus in first class elementary district and election waiver.
	75-5915.	Conduct of election and ballot.
	75-5916.	Qualification and oath.
	75-5917.	Vacancy of trustee position.
	75-5918.	Filling vacated trustee position, appointee qualification and term of office.
	75-5919.	Trustee removal.
	75-5920.	Trustees membership of high school district operating county high school.
	75-5921.	Appointment of trustees for high school district operating county high school.
	75-5922.	Vacancy and filling of appointed trustee position.
	75-5923.	Election to approve the election of the trustees of high school district operating county high school.
	75-5924.	Membership of elected trustees of high school district operating county high school and nomination of candidates.
	75-5925.	Determination of terms of office and filling vacancy of trustee position.
	75-5933.	Powers and duties.

75-5902. Number of trustee positions. The number of trustee positions in a district shall vary in the following manner according to the type of district:

(1) The number of trustee positions in each elementary district shall vary according to the district's classification, as established by section 75-6503;

(a) there shall be seven (7) trustee positions in a first class elementary district;

(b) there shall be five (5) trustee positions in a second class elementary district; or

(c) there shall be three (3) trustee positions in a third class elementary district.

(2) The trustees of a high school district, except a high school district operating a county high school, shall be composed of:

(a) the trustees of the elementary district where the high school building is located, or, if there is more than one (1) elementary district where high school buildings are located, the trustees of the elementary district designated by the high school boundary commission; and

(b) the additional trustee positions determined in accordance with section 75-5903.

(3) The trustees of a high school district operating a county high school shall be composed of seven (7) trustee positions.

History: En. 75-5902 by Sec. 31, Ch. 5,
L. 1971.

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) The taxable valuation of the elementary district which has its trustees placed on the high school trustees shall be divided by the number of positions on the trustees of such elementary district to determine the taxable valuation per trustee position.

(2) The taxable valuation used for the calculation in subsection (1) above shall be subtracted from the taxable valuation of the high school district to determine the taxable valuation of the territory of the high school district without representation on the high school district trustees.

(3) The taxable valuation determined in subsection (2) above shall be divided by the taxable valuation per trustee position calculated in subsection (1) above. The resulting quotient shall be rounded off to the nearest whole number.

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 that is not eligible for an additional trustee position at large.

The county superintendent shall designate a third additional trustee position in a third class high school district 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 is located outside of the elementary district which has its trustees placed on the high school district trustees. The person who fills such additional trustee position shall be elected at large from the entire high school district.

History: En. 75-5903 by Sec. 32, Ch. 5,
L. 1971.

75-5904. Establishment and purpose of trustee nominating districts. After the county superintendent has determined the number of additional

trustee positions, he shall establish trustee nominating districts in that portion of the high school district without representation on the high school trustees. There shall be one (1) trustee nominating district for each additional trustee position, except the additional trustee at large. Unless it is impossible, the trustee nominating district boundaries shall be coterminous with elementary district boundaries.

The purpose of the trustee nominating district shall be to establish a representative district for the nomination and election of a resident of such district to be an additional member of the trustees of a high school district. The electors qualified to vote in the high school district under the provisions of section 75-6410 and who reside in the trustee nominating district shall be the only electors who may vote for the additional trustee representing such district. They also shall be permitted to vote for a trustee position at large, if there is one, but for no other high school trustee position.

Any additional trustee position established under the provisions of this section shall be filled in a manner prescribed under the provisions of section 75-5918. Each additional trustee position filled by appointment under this section shall be subject to election at the next regular school election.

History: En. 75-5904 by Sec. 33, Ch. 5,
L. 1971.

75-5905. Redetermine additional trustee positions and subsequent adjustments. At any time there is a revision of the taxable valuation of the high school district or the elementary districts within it, or there is a reclassification of the elementary district which has its trustees placed on the high school district trustees, the county superintendent shall redetermine the number of additional trustee positions for the high school district in accordance with section 75-6406. If there is a change in the allowable number of additional trustee positions, the county superintendent shall re-establish the trustee nominating districts in accordance with section 75-5904. If the number of additional trustee positions is less than the previous number of positions, the county superintendent shall designate which present additional positions shall terminate upon his order re-establishing the trustee nominating districts. If the number of additional trustee positions is more than the previous number of positions, such additional trustee positions shall be filled in the manner prescribed under the provisions of section 75-5918. Each additional trustee position filled by appointment under this section shall be subject to election at the next regular school election.

History: En. 75-5905 by Sec. 34, Ch. 5,
L. 1971.

75-5906. Election and term of office. Every trustee position prescribed by this Title, except the trustee positions of a high school district operating a county high school, shall be subject to election and the term of office

for each position shall be three (3) years unless it is otherwise specifically prescribed by this Title.

History: En. 75-5906 by Sec. 35, Ch. 5,
L. 1971.

75-5907. Legislative intent to elect less than majority of trustees. It is the intention of the legislature that the terms of a majority of the trustee positions of any district with elected trustees shall not regularly expire and be subject to election on the same regular school election day. Therefore, in elementary districts, there shall not be more than three (3) trustee positions in first class districts, two (2) trustee positions in second class districts, or one (1) trustee position in third class districts regularly subject to election at the same time. In high school districts there shall not be more than two (2) additional trustee positions in first or second class districts, or more than one (1) in third class districts regularly subject to election at the same time.

While it is the intention of the legislature that the terms of a majority of trustees of any district shall not regularly expire and be subject to election at the same time, it is recognized that the following circumstances, relating to the terms of trustees appointed to newly created positions or to positions vacated by death, resignation or operation of law, may lead to a subsequent school election in which a majority of trustee positions are subject to election at the same time:

(1) the creation of a new elementary district under the provisions of section 75-6518;

(2) the consolidation of two (2) of more elementary districts to form an elementary district under the provisions of section 75-6506;

(3) the establishment of additional trustee positions of a high school district under the provisions of section 75-5904 or 75-5905;

(4) the change of a district's classification under the provisions of section 75-6503;

(5) the filling of a trustee position which has become vacant under the provisions of section 75-5917 or any other provision of law; or

(6) any other circumstance arising under the law wherein a trustee position is filled by appointment subject to election at the next regular school election.

History: En. 75-5907 by Sec. 36, Ch. 5,
L. 1971.

75-5908. Determination of terms after creation or consolidation of elementary districts. Whenever the trustees are elected at one (1) regular school election under the circumstances described in subsections (1) and (2) of section 75-5907, the members who are elected shall draw by lot to determine their terms of office. Such terms of office by trustee position shall be:

(1) three (3) for three (3) years, two (2) for two (2) years, and two (2) for one (1) year in a first class elementary district;

(2) two (2) for three (3) years, two (2) for two (2) years, and one (1) for one (1) year in a second class elementary district; or

(3) one (1) for three (3) years, one (1) for two (2) years, and one (1) for one (1) year in a third class elementary district.

History: En. 75-5908 by Sec. 37, Ch. 5,
L. 1971.

75-5909. Determination of terms after establishment or re-establishment of additional trustee positions. Whenever all of the additional trustee positions are subject to election at one (1) regular school election under the circumstance described in subsection (3) of section 75-5907, the members who are elected shall draw by lot to determine their terms of office. Such terms of office by number of members elected shall be:

- (1) two (2) for three (3) years, if four (4) are elected;
- (2) one (1) for three (3) years, if one (1), two (2) or three (3) are elected;
- (3) one (1) for two (2) years, if two (2), three (3) or four (4) are elected; and
- (4) one (1) for one (1) year, if three (3) or four (4) are elected.

Whenever the re-establishment of the additional trustee positions for a high school district under the provisions of section 75-5905 results in an increased number of additional trustee positions, the members who are elected at the next regular school election shall draw by lot to determine their terms of office and such terms shall be determined in accordance with the additional trustee terms prescribed in this section.

History: En. 75-5909 by Sec. 38, Ch. 5,
L. 1971.

75-5910. Determination of terms after change of district classification. Whenever the change of an elementary district classification requires the addition of trustee positions to the trustees of such district under the circumstance described in subsection (4) of section 75-5907, the members who are elected shall draw by lot to determine their terms of office which shall be one (1) for three (3) years and one (1) for two (2) years.

History: En. 75-5910 by Sec. 39, Ch. 5,
L. 1971.

75-5911. Term of vacated trustee position after election. Whenever a trustee position is subject to election because a vacancy of such position has occurred since the last regular school election day, the term of the trustee position shall not change and the member elected to fill such position shall serve the remainder of the unexpired term.

History: En. 75-5911 by Sec. 40, Ch. 5,
L. 1971.

75-5912. Annual election. In each district an election of trustees shall be conducted annually on the regular school election day, the first Saturday of April, unless an election of trustees is excused under the provisions of section 75-5914. Election of trustees shall comply with the election provisions of this Title.

History: En. 75-5912 by Sec. 41, Ch. 5,
L. 1971.

75-5913. Candidate qualification and nomination. Any person who is qualified to vote in a district under the provisions of section 75-6410 shall be eligible for the office of trustee.

Any five electors qualified under the provisions of section 75-6410 of any district, except a first class elementary district, may nominate 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 twenty (20) 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.

History: En. 75-5913 by Sec. 42, Ch. 5,
L. 1971.

75-5914. Nomination caucus in first class elementary district and election waiver. In first class elementary districts, trustee candidates shall be nominated at a caucus attended by not less than twenty (20) electors of the district who are qualified under the provisions of section 75-6410. The caucus shall be conducted not less than forty (40) days nor more than sixty (60) days before the regular school election day.

When a candidate nominating caucus is conducted, it shall be a public meeting and a caucus chairman and secretary shall be elected by the caucus participants. The caucus may nominate any number of candidates.

Within ten (10) days after the date of the caucus meeting, the chairman and secretary of the caucus shall certify and file the nominations of the candidates with the clerk of the district by stating the date and place of the caucus, and the name of each candidate nominated. If there are different terms to be filled, the term for which each candidate is nominated also shall be stated.

Any votes for a person who has not been nominated in the manner provided by this section shall not be considered by the trustees of a first class elementary district when canvassing and certifying the election results. Whenever not more than one candidate per trustee position subject to election has been nominated, the clerk of the district shall report such fact to the trustees. The trustees shall certify the election of the nominated candidates and no trustee election shall be conducted on the regular school election day.

History: En. 75-5914 by Sec. 43, Ch. 5,
L. 1971.

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. 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: Make an X or similar mark in the vacant square before the name of the candidate for whom you wish to vote.

Vote for (indicate number to be elected) for a three (3) year term:

- ☐ (List the names of the candidates for a three (3) year term with a vacant square in front of each name.)

Vote for (indicate number to be elected) for a two (2) year term:

- ☐ (List the names of the candidates for a two (2) year term with a vacant square in front of each name.)

Vote for (indicate number to be elected) for a one (1) year term:

- ☐ (List the names of the candidates for a one (1) year term with a vacant square in front of each name.)

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, except that write-in voting shall not be available in a first class elementary district.

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.

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 less 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.

75-5917. Vacancy of trustee position. Any elected trustee position shall be vacant whenever the incumbent:

- (1) dies;
- (2) resigns;
- (3) moves his residence from the applicable district, or from the nominating district in the case of an additional trustee in a high school district;

(4) is no longer a registered elector of the district under the provisions of section 75-6410;

(5) is absent from the district for sixty (60) consecutive days;

(6) fails to attend three consecutive meetings of the trustees without a good excuse;

(7) has been removed under the provisions of section 75-5919; or

(8) ceases to have the capacity to hold office under any other provision of law.

A trustee position also shall be vacant when an elected candidate fails to qualify under the provisions of section 75-5916.

History: En. 75-5917 by Sec. 46, Ch. 5,
L. 1971.

75-5918. Filling vacated trustee position, appointee qualification and term of office. Whenever a trustee position becomes vacant in a first or second class district, the remaining members of the trustees shall declare such position vacant and they shall appoint, in writing, a competent person as a successor. The trustees shall notify the appointee and the county superintendent of such appointment.

Whenever a trustee position becomes vacant in a third class district, the remaining members of the trustees shall declare such position vacant and notify the county superintendent of the vacancy. The county superintendent shall appoint, in writing, a competent person as a successor and notify such person of his appointment.

Any person who has been appointed to a trustee position shall qualify by completing and filing an oath of office with the county superintendent in not less than fifteen (15) days after receiving notice of his appointment. Failure to file the oath of office shall constitute a continuation of the trustee position vacancy which shall be filled under the provisions of this section.

Any person assuming a trustee position under the provisions of this section shall serve until the next regular school election and his successor has qualified.

History: En. 75-5918 by Sec. 47, Ch. 5,
L. 1971.

75-5919. Trustee removal. Any trustee may be removed from his trustee position by a court of competent jurisdiction under the law providing for the removal of elected civil officials. When charges are preferred against a trustee and good cause is shown, the board of county commissioners may suspend such trustee from his trustee position until the charges can be heard in the court of competent jurisdiction.

History: En. 75-5919 by Sec. 48, Ch. 5,
L. 1971.

75-5920. Trustees membership of high school district operating county high school. There shall be seven (7) trustee positions for the trustees of a high school district operating a county high school. Unless it has been

otherwise established under law, the trustees of such a high school district shall be composed of the following :

- (1) the county superintendent; and
- (2) six (6) members appointed by the board of county commissioners, no more than three (3) of whom shall reside outside of the elementary district where the county high school building is located.

History: En. 75-5920 by Sec. 49, Ch. 5,
L. 1971.

75-5921. Appointment of trustees for high school district operating county high school. When trustees of a high school district operating a county high school are appointed by the board of county commissioners, the commissioners, at their December meeting, shall appoint members of the trustees for those terms which are expiring. Each member shall be appointed for a term of two (2) years beginning on the first Monday of January except that a one (1) year appointment shall be made whenever it is required to maintain the following balance of membership:

- (1) The terms of not more than three (3) appointed members shall expire at the same time; and
- (2) The terms of not more than two (2) appointed members who reside outside of the elementary district where the county high school building is located shall expire at the same time.

Any member appointed under this section shall serve until his successor has been appointed and qualifies by filing an oath of office with the county superintendent.

History: En. 75-5921 by Sec. 50, Ch. 5,
L. 1971.

75-5922. Vacancy and filling of appointed trustee position. In those instances where the board of county commissioners appoint the trustees of a high school district operating a county high school, a trustee position shall become vacant whenever the incumbent:

- (1) fails to be qualified or have the capacity to hold the trustee position under any of the applicable conditions prescribed under section 75-5917;
- (2) moves his residence from the elementary district where the county high school building is located but within the high school district, and such change of residence will cause a majority of the appointed members to reside outside of such elementary district.

Whenever a trustee position is vacated, the remaining members of the trustees shall declare such position vacant and notify the board of county commissioners. The board of county commissioners shall immediately appoint a person to serve the remainder of the term for such vacated trustee position. Their appointment shall comply with the requirements of section 75-5921.

History: En. 75-5922 by Sec. 51, Ch. 5,
L. 1971.

75-5923. Election to approve the election of the trustees of high school district operating county high school. The trustees of a high school district operating a county high school may be elected when the conditions of this section are satisfied.

Twenty per cent (20%) or more of the electors who are qualified to vote in the high school district under the provisions of section 75-6410 may petition the board of county commissioners to call an election to consider the proposition of electing the trustees of the high school district. Whenever the board of county commissioners receives a valid petition requesting such an election, they shall, within ten (10) days after the receipt of the petition and as provided by section 75-6406, order the trustees of the high school district to call an election on the proposition to elect the trustees.

The high school district trustees shall call and conduct an 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 on the proposition. The ballot for the election shall utilize the following proposition:

Shall the trustees of the high school district for the county high school be elected?

☐ FOR the election of trustees.

☐ AGAINST the election of trustees.

If a majority of the electors voting at the election approve the proposition, the trustees shall thereafter be elected beginning on the first regular school election day after such approval. If a majority of the electors disapprove, the trustees shall continue to be appointed under the provisions of section 75-5921.

History: En. 75-5923 by Sec. 52, Ch. 5, L. 1971.

75-5924. Membership of elected trustees of high school district operating county high school and nomination of candidates. Whenever the election of the trustees of a high school district operating a county high school has been approved by the electorate, the trustees shall be composed of the following:

(1) four (4) trustee positions filled by members residing in the elementary district where the county high school building is located; and

(2) three (3) trustee positions filled by members one of whom resides in each of the three (3) trustee nominating districts in the territory of the high school district outside of the elementary district where the county high school building is located. The county superintendent and board of county commissioners shall establish the nominating districts and, unless it is impossible, such districts shall have coterminous boundaries with elementary district boundaries.

The provisions of section 75-5913 shall govern the nomination of candidates for the trustee election prescribed in this section.

History: En. 75-5924 by Sec. 53, Ch. 5, L. 1971.

75-5925. Determination of terms of office and filling vacancy of trustee position. The members of the trustees of a high school district operating

a county high school who are elected at the first election after the voters approve the election of trustees, shall draw by lot to determine their terms. Such terms of office shall be:

(1) two (2) for three (3) years, one (1) for two (2) years and one (1) for one (1) year for the trustee positions filled by members of the trustees from the elementary district where the county high school building is located; and

(2) one (1) for three (3) years, one (1) for two (2) years and one (1) for one (1) year for the trustee positions filled by members of the trustees from the trustee nominating districts.

Thereafter, all terms of office shall be for three (3) years and until the successor has qualified, except in the case of electing a member to serve the remainder of an unexpired term for a vacated elected trustee position.

Whenever an elected trustee position vacancy occurs under any of the circumstances prescribed by section 75-5917, the remaining members of the trustees shall declare such position vacant and they shall appoint, in writing, a competent person as a successor. The trustees shall notify the appointee and the county superintendent of the appointment. The appointee shall qualify by completing and filing an oath of office with the county superintendent, and shall serve until the next regular school election and his successor has qualified for the remainder of the unexpired term of the trustee position.

History: En. 75-5925 by Sec. 54, Ch. 5,
L. 1971.

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:

(3) call, conduct and certify the elections of the district in accordance with the provisions of the school election chapter of this Title;

History: En. 75-5933 by Sec. 62, Ch. 5,
L. 1971.

CHAPTER 61

SCHOOL ELECTIONS

Section	75-6401.	Definition.
	75-6402.	Precedence of school election provisions.
	75-6403.	Election by ballot.
	75-6404.	Regular school election day and special school elections.
	75-6405.	Poll hours.
	75-6406.	Conditions under which school election called.
	75-6407.	Time limitation for conduct of election.
	75-6408.	Resolution for poll hours, polling places, judges, and ballot format.
	75-6409.	Election notice.
	75-6410.	Qualifications of elector.
	75-6410.1.	Legislative policy and purpose.
	75-6411.	Repealed.
	75-6412.	Elector challenges.
	75-6413.	Closure of registration.
	75-6414.	Listing of registered electors.
	75-6415.	Delivery of and charge for lists of registered electors.

- Section 75-6416. Absentee voting.
75-6417. Voting machines and electronic voting systems.
75-6418. General supervision and supplies.
75-6419. Clerk of election judges and appointment for absent judge.
75-6420. Election expenses.
75-6421. Conduct of election.
75-6422. Delivery of ballot, pollbook, tally sheet, and certifying election result.
75-6423. Trustees canvass of votes and issuance of election certificate.

75-6401. Definition. As used in this Title, unless the context clearly indicates otherwise: "school election" means any election conducted by a district or community college district for the purpose of electing trustees, for authorizing taxation, for authorizing the issuance of bonds by an elementary district or a high school district, or for accepting or rejecting any proposition that may be presented to the electorate for decision in accordance with the provisions of this Title.

History: En. 75-6401 by Sec. 137, Ch. 5, L. 1971.

75-6402. Precedence of school election provisions. Unless specifically identified in any section of the election laws prescribed in Title 23, R. C. M., 1947, school elections shall be governed by the provisions of this Title. Should there be a conflict between the requirements of Title 23 and the provisions of this Title regulating school elections, the provisions of this Title shall govern.

History: En. 75-6402 by Sec. 138, Ch. 5, L. 1971.

75-6403. Election by ballot. All school elections shall be by ballot.

History: En. 75-6403 by Sec. 139, Ch. 5, L. 1971.

75-6404. Regular school election day and special school elections. The first Saturday 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.

75-6405. Poll hours. The polls for any school election in any district shall open not later than 12 noon. The trustees may order the polls to open earlier, but no earlier than 8 a.m. However, the polls shall open at 8 a.m. if the school election is held on the same day, at the same polling places and with the same judges and clerks as a general, primary, county or city election.

Once opened, the polls shall be kept open continuously until 8 p.m. except that whenever all the registered electors at any poll have voted, the poll shall be closed immediately.

History: En. 75-6405 by Sec. 141, Ch. 5, L. 1971.

75-6406. Conditions under which school election called. At least thirty-five (35) days before any school election, the trustees of any district shall call such school election by resolution, stating the date and purpose of such election, and conduct it in accordance with the procedures required by law, when:

- (1) an election must be held on the regular school election day;
- (2) in their discretion, such trustees order an election for a purpose authorized by law;
- (3) the county superintendent orders an election in accordance with the law authorizing such an order;
- (4) the board of education orders an election in accordance with the law authorizing such an order;
- (5) the county commissioners order an election in accordance with the law authorizing such an order;
- (6) the board of trustees of a community college district orders an election in accordance with the law authorizing such an order, in which case the community college district shall bear its share of the cost of such election; or
- (7) a school election is required by law under any other circumstances.

The resolution calling any school election shall be transmitted immediately to the county registrar in order to enable him to close the registration and prepare the lists of registered electors as required by school election laws.

History: En. 75-6406 by Sec. 142, Ch. 5,
L. 1971.

75-6407. Time limitation for conduct of election. Whenever the trustees of any district receive an order to call an election, they shall conduct such election any time within sixty (60) days after the date of the order unless the law or order otherwise regulates the day or timing of such election.

History: En. 75-6407 by Sec. 143, Ch. 5,
L. 1971.

75-6408. Resolution for poll hours, polling places, judges, and ballot format. At the trustee meeting when a school election is called, the trustees also shall:

- (1) Establish the time at which the polls are to open, if in their discretion they determine that the polls shall be open before 12 noon.
- (2) Establish the polling places for such election. There shall be one polling place in each district unless the trustees establish additional polling places. If more than one polling place is established, the trustees shall define the boundaries for each polling place and such trustee defined polling place boundaries shall be coterminous with county precinct boundaries existing within a district. If the site of a polling place is changed from the polling place site used for the last preceding school election, special reference to the changed site of the polling place shall be included in the notice for such election.

(3) Appoint from among the qualified electors of the district, three judges for each polling place for such election and notify each judge of such appointment not less than ten days before the election.

(4) Establish the format of the ballot for the election unless the ballot format is specified by the law which authorizes the election.

History: En. 75-6408 by Sec. 144, Ch. 5,
L. 1971.

75-6409. Election notice. When the trustees of any district call a school election, they shall give notice of the election not less than twenty (20) days nor more than thirty (30) days before the day of the election by posting notices in three public places in the district; provided that in incorporated cities and towns at least one notice shall be posted at a public place in each ward. Whenever, in the judgment of the trustees, the best interest of the district will be served by the supplemental publication of the school election notice in a newspaper or by a radio or television broadcast, the trustees may cause such notification to be made.

The notice of a school election, unless otherwise required by law, shall specify:

- (1) the date and polling places of the election;
- (2) the hours the polling places will be open;
- (3) each proposition to be considered by the electorate; and
- (4) if there are trustees to be elected, the number of positions subject to election and the length of term of each position.

If more than one proposition is to be considered at the same school election, each proposition shall be set apart and separately identified in the same notice, or published in separate notices.

History: En. 75-6409 by Sec. 145, Ch. 5,
L. 1971.

Cross-References

Notice of school bond election, sec. 75-7116.

75-6410. Qualifications of elector. Except as provided in section 75-6411, 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 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 shall be of a minimum age for voting provided by the constitution of the state of Montana;

(3) He has met the residency requirement for voting as provided by the constitution of the state of Montana; and

(4) He is a citizen of the United States.

No person convicted of a felony has the right to vote unless he has been pardoned.

No person adjudicated insane has the right to vote unless he has been restored to capacity as provided by law.

History: En. 75-6410 by Sec. 146, Ch. 5, L. 1971; amd. Sec. 2, Ch. 83, L. 1971; amd. Sec. 1, Ch. 118, L. 1971.

Compiler's Notes

Section 75-6410 was amended twice in 1971, once by Ch. 83, § 2 and once by Ch. 118, § 1. Both amendatory acts made similar changes in the language of subds. (2) and (3). In the original enactment by Ch. 5, § 146, these provisions read:

"(2) He is twenty-one (21) years of age or older;

"(3) He has resided in the state one (1) year and in the district thirty (30)

days immediately preceding the election at which he offers to vote; and." The effective dates of the amendatory acts, Ch. 83 and Ch. 118, are February 27 and March 1, respectively. The language set forth above is that of Ch. 118, § 1.

Section 75-6411, cited in the first sentence of this section, was repealed by Sec. 14, Ch. 83, Laws 1971. The section provided additional qualifications for voters in elections to authorize property taxation or issuance of bonds.

Cross-Reference

Qualifications of electors, Const., Art. IX, § 2.

75-6410.1. Legislative policy and purpose. Section 2 of article IX of the Montana constitution provides that in order to entitle a person to vote upon a question which may be submitted to a vote of the people or electors, if the question concerns the creation of any levy, debt or liability, he must, in addition to possessing other qualifications, be a taxpayer whose name appears on the last preceding completed assessment roll. Recent decisions of the supreme court of the United States hold that similar provisions in the constitutions and statutes of other states are in conflict with the equal protection clause of the fourteenth amendment to the Constitution of the United States. The ability of the school districts to provide funds needed for essential governmental purposes depends in substantial part upon their ability to create valid levies, debts and liabilities and, when the same are required by law or the constitution to be submitted to a vote of the people or electors, to record and canvass such vote in such manner as to determine finally and conclusively whether or not the levy, debt or liability has been approved by the required majority vote of the electors qualified and offering to vote thereon. It is therefore the policy and purpose of this law to eliminate all statutory electors' qualifications for voting on the creation of any school district levy, debt or liability except such qualifications as are validly required by or pursuant to the Montana constitution.

History: En. Sec. 1, Ch. 83, L. 1971.

Title of Act

An act to repeal the taxpayer qualification of electors voting at school elections for issuing school district bonds, additional levy for general fund, consolidation or annexation with assumption of bonded indebtedness, and building reserve

fund authorization; to repeal the taxpayer qualification of petitioners for elementary district territory transfer; amending sections 75-6410, 75-6412, 75-6414, 75-6509, 75-6516, 75-6923, 75-7112, 75-7113, 75-7114, 75-7117, 75-7134, and 75-7205, R. C. M. 1947; repealing section 75-6411, R. C. M. 1947; and providing an effective date.

75-6411. Repealed—Chapter 83, Laws of 1971.

Repeal

Section 75-6411 (Sec. 147, Ch. 5, L. 1971), providing additional qualifications

for voters in elections to authorize property taxation or issuance of bonds, was repealed by Sec. 14, Ch. 83, Laws 1971.

75-6412. Elector challenges. 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.

75-6413. Closure of registration. Registration for school elections shall close for thirty (30) days before any school election, but it shall not be necessary to publish any notice of such closing of registration.

History: En. 75-6413 by Sec. 149, Ch. 5,
L. 1971.

75-6414. Listing of registered electors. After closing registration the county registrar shall prepare a list of registered electors for each polling place established by the trustees. The list for each polling place shall be prepared in the format of a precinct register book.

History: En. 75-6414 by Sec. 150, Ch. 5,
L. 1971; amd. Sec. 4, Ch. 83, L. 1971.

75-6415. Delivery of and charge for lists of registered electors. Before the day of the election, the registrar shall deliver a certified copy of the lists of registered electors for each polling place to the district which shall deliver them to the election judges prior to the opening of the polls. A charge of three cents (\$.03) per name shall be paid by the district to the county for preparing the lists of registered electors.

History: En. 75-6415 by Sec. 151, Ch. 5,
L. 1971.

75-6416. Absentee voting. A qualified registered elector who will be absent from the district or physically incapacitated and unable to go to the polls on the day of a school election may vote by casting an absentee ballot. The superintendent of public instruction shall prepare the form of application for absentee ballots and other forms necessary for absentee voting at school elections and may make necessary rules to carry out the purpose of absentee voting as established by the provisions of the general state election laws of Montana.

History: En. 75-6416 by Sec. 152, Ch. 5,
L. 1971.

Cross-Reference

State superintendent of public instruction to prepare forms and rules, sec. 75-5707.

75-6417. Voting machines and electronic voting systems. Whenever voting machines or electronic voting systems are available to a district, such voting devices may be used for a school election. Any district that uses a voting machine or an electronic voting system shall do so in accordance with the provisions of chapter 38 or chapter 39 of Title 23 of the Revised Codes of Montana. In construing the provisions of those chapters,

the "county commissioners" and the "registrar" shall, for the purposes of this section, be considered to refer to trustees and "county" shall be considered to refer to district.

History: En. 75-6417 by Sec. 153, Ch. 5,
L. 1971.

75-6418. General supervision and supplies. The trustees are the general supervisors of school elections. They are authorized to and shall administer oaths to election judges. Before the opening of the polls, the trustees shall cause the judges and each polling place to be supplied with:

- (1) a sufficient number of ballots for each proposition election or trustee election to be conducted;
- (2) at least six (6) cards instructing electors in the process of how to vote;
- (3) a list of electors prepared in the format of a precinct register book;
- (4) a pollbook for the poll list;
- (5) tally sheets;
- (6) a sufficient number of booths, each provided with a door or a curtain to screen the voter from view and furnished adequately to enable the voter to prepare his ballot;
- (7) ballot boxes or canvas pouches with a lock and key; and
- (8) any other supplies necessary for the proper conduct of the election.

History: En. 75-6418 by Sec. 154, Ch. 5,
L. 1971.

75-6419. Clerk of election judges and appointment for absent judge. Before conducting the school election and on the day of the election, the judges shall designate one of their number to act as clerk of such election. If any of the judges appointed by the trustees are not present at the time for the opening of the poll, the electors present at that time may appoint a qualified elector for such election to act in the place of the absent judge.

History: En. 75-6419 by Sec. 155, Ch. 5,
L. 1971.

75-6420. Election expenses. All expenses necessarily incurred in the matter of holding school elections shall be paid out of the school funds of the district, except when such expenses are by law to be shared by a community college district for which the district is conducting an election. The trustees may pay the election judges of a school election at a rate not to exceed the prevailing federal minimum wage per hour of service in connection with such election.

History: En. 75-6420 by Sec. 156, Ch. 5,
L. 1971.

75-6421. Conduct of election. Election judges shall conduct school elections in a manner that ensures a fair and unbiased determination of the matters put before the electorate, and see that each elector has an

adequate opportunity to cast his vote. To that end election judges shall:

(1) post at least one (1) instruction card in each voting booth and not less than three (3) such cards elsewhere about the polling place;

(2) proclaim the opening and closing of the polls;

(3) ensure that no more than one (1) person occupies a voting booth at one (1) time and that no person occupies a booth longer than is reasonably necessary;

(4) enforce the rules against certain prohibited conduct as provided in section 23-3605, R. C. M., 1947;

(5) aid a disabled elector in marking his ballot in the manner provided by section 23-3609, R. C. M., 1947; and

(6) follow the remaining provisions of chapter 36 of Title 23, R. C. M., 1947, regulating the conduct of elections, and chapter 14 of Title 94, R. C. M., 1947, except that no deviation from those regulations shall vitiate the election so long as it can reasonably be concluded that neither the outcome of the election nor any individual elector was prejudiced by such deviation.

History: En. 75-6421 by Sec. 157, Ch. 5, L. 1971.

75-6422. Delivery of ballot, pollbook, tally sheet, and certifying election result. The judges shall conduct school elections in the following manner:

(1) The election judges shall deliver the ballots to the elector offering to vote and shall cause the recording of such elector's signature on the registered elector listing for the polling place.

(2) A pollbook shall be kept by the election clerk. The clerk shall record the name of each elector in the pollbook at the time his ballot is deposited in the ballot box. One pollbook may be kept for two or more school elections conducted simultaneously at the same poll.

(3) Immediately after closing the polls, the judges shall count ballots. If there are more ballots than the recorded number of electors in the pollbook, the judges shall draw by lot from the ballots, without seeing them, a sufficient number of ballots to equalize the number of ballots and the number of electors.

(4) After the number of electors and ballots have been equalized, the judges shall proceed to count the ballots. The clerk shall enter on the tally sheet for the trustee election the name of every person voted for trustee, grouping them by length of term of the trustee position for which they were a candidate. The votes cast for a person shall be tallied opposite his name. When a proposition is presented at a school election, the clerk shall enter "for" and "against" on the tally sheet and record each vote opposite the appropriate entry on the tally sheet. A separate tally sheet shall be kept for each election of trustees and for each proposition.

(5) After the votes have been entered on a tally sheet, the judges and clerk shall sign it and certify upon the tally sheet the following in-

formation:

(a) the number of votes cast for each person who received votes for trustee and the length of term for which he received these votes; or

(b) the total number of votes cast "for" and "against" a proposition. The certified totals shall be verified by the judges as being correct to the best of their knowledge, before an officer authorized to administer oaths. No informality in such certification shall vitiate the election, if the number of votes for each person or for or against each proposition can reasonably be ascertained from each tally list.

(6) The school election judges shall return the pollbook, ballots, certified tally sheets, and the registered elector listing to the trustees of the district as soon as possible.

History: En. 75-6422 by Sec. 158, Ch. 5,
L. 1971.

75-6423. Trustees canvass of votes and issuance of election certificate. At the first regular or special meeting of the trustees conducted after the receipt of the certified tally sheets of any school election from all the polls of the district, the trustees shall canvass the vote. Such canvass shall include a redetermination of the total votes cast for each person for trustee or the total votes cast "for" and "against" each proposition, as shown on the tally sheet or sheets.

After the redetermination of the total votes cast, the trustees shall issue a certificate of election. In the case of a trustee election, the certificate shall be issued to the elected trustee and the county superintendent designating the term of the trustee position to which he has been elected. In the case of an election on a proposition, the trustees shall issue a certificate specifying the outcome of the election. The certificate shall be issued within fifteen (15) days after the election to that official or public body which ordered the election. When the election has been ordered by resolution of the trustees, the canvassed results shall be published immediately in a newspaper that will give notice to the largest number of people of the district.

History: En. 75-6423 by Sec. 159, Ch. 5,
L. 1971.

Cross-Reference
School bond elections, canvassing, sec.
75-7117.

CHAPTER 65

SCHOOL DISTRICT ORGANIZATION AND REORGANIZATION

- Section 75-6506. Elementary district consolidation.
75-6507. Conditions for elementary district annexation.
75-6508. Elementary district annexation.
75-6509. Consolidation or annexation election with assumption of bonded indebtedness.
75-6510. Consolidation or annexation election without assumption of bonded indebtedness.
75-6511. Elementary district consolidation of two or more counties to organize joint elementary district.
75-6512. Elementary district abandonment.
75-6513. Joint elementary district abandonment.

- 75-6514. Joint elementary district dissolution.
- 75-6515. Boundary change of licensed child care institution elementary district.
- 75-6516. Transfer of territory from one elementary district to another.
- 75-6517. Limitations for creation of new elementary district.
- 75-6518. Procedure for creation of a new elementary district.
- 75-6519. Methods of changing high school district boundaries.
- 75-6520. Establishment of high school districts in a county.
- 75-6521. High school boundary commission and boundary change, division or redivision hearing procedure.
- 75-6522. Approval of high school district boundary when elementary district territory divided by commission.
- 75-6523. Counter-proposed high school district boundaries by electors and election.
- 75-6524. High school district abandonment.
- 75-6525. Limitations for organization of joint high school district.
- 75-6526. Procedure for organization of joint high school district.
- 75-6538. County high school unification.
- 75-6539. Transactions after approved county high school unification.

75-6506. Elementary district consolidation. Any two (2) or more elementary districts in one (1) county may consolidate to organize an elementary district. The consolidation shall be conducted under the following procedure:

(1) At the time the consolidation proposition is first considered, the districts involved shall jointly determine whether the consolidation shall be made with or without the mutual assumption of the bonded indebtedness of each district by all districts included in the consolidation proposition.

(2) A consolidation proposition may be introduced, individually, in each of the districts by either of the two following methods:

(a) the trustees may pass a resolution requesting the county superintendent to order an election to consider a consolidation proposition involving their district; or

(b) not less than twenty per cent (20%) of the electors of an elementary district who are qualified to vote under the provisions of section 75-6410 may petition the county superintendent requesting an election to consider a consolidation proposition involving their resident district.

(3) When the county superintendent has received a resolution or a valid petition from each of the districts included in the consolidation proposition, he shall, within ten (10) days after the receipt of the last resolution or petition and as provided by section 75-6406, order the trustees of each elementary district included in the consolidation proposition to call a consolidation election.

(4) Each district, individually, shall call and conduct an election in the manner prescribed in this Title for school elections. In addition:

(a) if the districts to be consolidated are to mutually assume the bonded indebtedness of each district involved in the consolidation, the consolidation election also shall follow the procedures prescribed in section 75-6509; or

(b) if the districts to be consolidated are not to mutually assume the bonded indebtedness of each district involved in the consolidation, the

consolidation election also shall follow the procedures prescribed in section 75-6510.

(5) After the county superintendent has received the election certification under the provisions of section 75-6423 from the trustees of each district included in a consolidation proposition, he shall determine if the consolidation proposition has been approved in each district. If each district has approved the consolidation proposition, he shall, within ten (10) days after the receipt of the last election certificate, order the consolidation of such districts. If it be for consolidation with the mutual assumption of bonded indebtedness of each elementary district by all districts included in the consolidation order, such order shall specify that all the taxable real and personal property of the consolidated district shall assume the bonded indebtedness of each district. In addition, such order shall specify the number of the consolidated elementary district and shall contain the county superintendent's appointment of the trustees for the consolidated district who shall serve until a successor is elected at the next succeeding regular school election and qualified. The superintendent shall send a copy of such order to the board of county commissioners and to the trustees of each district incorporated in the consolidation order. If any district included in the consolidation proposition disapproves the consolidation proposition, the consolidation of all districts shall fail and the county superintendent shall notify each district of the disapproval of the consolidation proposition.

History: En. 75-6506 by Sec. 165, Ch. 5,
L. 1971.

Cross-References

Conditions under which school election called, sec. 75-6406.

75-6507. Conditions for elementary district annexation. An elementary district may be annexed to another elementary district located in the same county when:

(1) a third-class district where a high school is not located is annexed to a third-class district where a high school is located, a first-class district, or a second-class district.

(2) a third-class district where a high school is located is annexed to a first-class district or a second-class district; or

(3) a second-class district is annexed to a first-class district.

The annexation of elementary districts shall be conducted under the provisions of section 75-6508.

History: En. 75-6507 by Sec. 166, Ch. 5,
L. 1971.

75-6508. Elementary district annexation. An elementary district may be annexed to another elementary district located in the same county in accordance with the following procedure:

(1) At the time the annexation proposition is first considered, the districts involved shall jointly determine whether the annexation shall be made with or without the joint assumption of the bonded indebtedness of the annexing district by the district to be annexed and the annexing district.

(2) An annexation proposition may be introduced in the district to be annexed by either of the two following methods:

(a) the trustees may pass a resolution requesting the county superintendent to order an election to consider an annexation proposition for their district; or

(b) not less than twenty per cent (20%) of the electors of the district who are qualified to vote under the provisions of section 75-6410 may petition the county superintendent requesting an election to consider an annexation proposition for their district.

(3) Before ordering an election on the proposition the county superintendent shall first receive from the trustees of the annexing district a resolution giving him the authority to annex such district.

(4) When the county superintendent has received authorization from the annexing district, he shall, within ten (10) days after the receipt of the resolution or a valid petition from the district to be annexed and as provided by section 75-6406, order the trustees of the district to be annexed to call an annexation election.

(5) The district shall call and conduct an election in the manner prescribed in this Title for school elections. In addition:

(a) if the district to be annexed is to jointly assume with the annexing district, the bonded indebtedness of the annexing district, the annexation election shall also follow the procedures prescribed in section 75-6509; or

(b) if the district to be annexed is not to jointly assume with the annexing district, the bonded indebtedness of the annexing district, the annexation election shall also follow the procedures prescribed in section 75-6510.

(6) After the county superintendent has received the election certificate from the trustees of the district conducting the annexation election under the provisions of section 75-6423 and if the annexation proposition has been approved by such election, he shall order the annexation of the territory of the elementary district voting on such proposition to the elementary district that has authorized the annexation to its territory. Such order shall be issued within ten (10) days after the receipt of the election certificate and, if it be for annexation with the assumption of bonded indebtedness, shall specify that all the taxable real and personal property of the annexed territory shall jointly assume with the annexing district the existing bonded indebtedness of the annexing district. The county superintendent shall send a copy of the order to the board of county commissioners and to the trustees of the districts involved in the annexation order. If the annexation proposition is disapproved in the district to be annexed, it shall fail and the county superintendent shall notify each district of the disapproval of the annexation proposition.

History: En. 75-6508 by Sec. 167, Ch. 5,
L. 1971.

75-6509. Consolidation or annexation election with assumption of bonded indebtedness. A consolidation election involving the mutual assump-

tion of bonded indebtedness by the elementary districts to be consolidated, as prescribed in section 75-6506, or an annexation election involving the joint assumption of bonded indebtedness by the elementary district to be annexed, as prescribed in section 75-6508, shall comply with the following procedures in addition to those prescribed by this Title for other school elections:

(1) In a consolidation election the ballots shall read, after stating the consolidation proposition, "FOR consolidation with assumption of bonded indebtedness" and "AGAINST consolidation with assumption of bonded indebtedness."

(2) In an annexation election the ballots shall read, after stating the annexation proposition, "FOR annexation with assumption of bonded indebtedness" and "AGAINST annexation with assumption of bonded indebtedness."

(3) Any elector qualified to vote under the provisions of section 75-6410 may vote.

(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) Determine if a sufficient number of the qualified electors of the district have voted to validate the election and have voted to approve the election proposition in the same manner required for bond elections by section 75-7117; and

(b) When the proposition is approved under subsection (3)(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 (3)(a) or (3)(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.

Cross-Reference

School elections generally, sec. 75-6401 et seq.

75-6510. Consolidation or annexation election without assumption of bonded indebtedness. A consolidation election without the assumption of bonded indebtedness by the elementary districts to be consolidated, as prescribed in section 75-6506, or an annexation election without the joint assumption of bonded indebtedness by the elementary district to be annexed, as prescribed in section 75-6508, shall be conducted in the manner prescribed by this title for school elections. Any elector qualified to vote under the provisions of section 75-6410 may vote at the election.

In a consolidation election the ballots shall read, after stating the consolidation proposition, "FOR consolidation without assumption of bonded indebtedness" and "AGAINST consolidation without assumption of bonded indebtedness." The consolidation proposition shall be approved by a district if a majority of those voting in a district approve the proposition, otherwise it shall be disapproved.

In an annexation election the ballots shall read, after stating the annexation proposition, "FOR annexation without assumption of bonded indebtedness" and "AGAINST annexation without assumption of bonded indebtedness." The annexation proposition shall be approved by a district if a majority of those voting approve the proposition, otherwise it shall be disapproved.

History: En. 75-6510 by Sec. 169, Ch. 5,
L. 1971.

Cross-Reference
School elections generally, sec. 75-6401
et seq.

75-6511. Elementary district consolidation of two or more counties to organize joint elementary district. Any two (2) or more elementary districts located in more than one (1) county and whose territory is contiguous may consolidate to organize a joint elementary district. When a joint district consolidation proposition is to be introduced and considered in two (2) or more districts, the consolidation procedure for elementary district consolidation without the assumption of bonded indebtedness prescribed in sections 75-6506 and 75-6510 shall be used except that each district shall submit its resolution or petition and its election certificate to the county superintendent of its resident county and the several county superintendents shall jointly perform the duties prescribed for the county superintendent in section 75-6506.

History: En. 75-6511 by Sec. 170, Ch. 5,
L. 1971.

75-6512. Elementary district abandonment. The county superintendent shall declare an elementary district to be abandoned and order the attachment of the territory of such district to a contiguous district of the county when:

(1) a school has not been operated by a district for at least one hundred eighty (180) days under the provisions of section 75-7402 for each of three (3) consecutive school fiscal years; or

(2) there is an insufficient number of residents who are qualified electors of the district that can and will serve as the trustees and clerk of the district so that a legal board of trustees can be organized.

The county superintendent shall notify the elementary district that has not operated a school for two (2) consecutive years before the first day of the third year that the failure to operate a school for one hundred eighty (180) days during the ensuing school fiscal year shall constitute grounds for abandonment of such district at the conclusion of the succeeding school fiscal year. Failure by the county superintendent to provide such notification shall not constitute a waiver of the abandonment requirement prescribed in subsection (1) above.

Any abandonment under subsection (1) shall become effective on the first day of July. Any abandonment under subsection (2) of an elementary district shall become effective immediately on the date of the abandonment order.

History: En. 75-6512 by Sec. 171, Ch. 5,
L. 1971.

75-6513. Joint elementary district abandonment. Any joint elementary district shall be abandoned for the reasons prescribed in section 75-6512 or when the taxable value of the taxable property of the portion of the joint district that is located within any one of the counties is of so little value that the continued inclusion of such portion in the joint district is not justified. The county superintendent designated by section 75-6720 for school budgeting purposes shall be responsible for ordering the abandonment of the joint district and shall immediately send a copy of such order to the county superintendent of each county with territory in the joint district.

After the issuance or receipt of the abandonment order, each county superintendent shall attach the territory within his county to a contiguous elementary district within his county; except when the district is abandoned because of the lack of taxable property in one county's territory of the district and a school is operated in another county's territory of the district which territory has a taxable value of seventy-five thousand dollars (\$75,000) or more, the county superintendent of the county where such territory is located shall not attach it to another district. Such territory shall continue to operate as an elementary district within the county.

Any abandonment of a joint elementary district shall become effective on the date of the abandonment order except that district abandonments under the provisions of subsection (1) of section 75-6512 shall become effective on the first day of July.

History: En. 75-6513 by Sec. 172, Ch. 5, L. 1971.

75-6514. Joint elementary district dissolution. Any joint elementary district may be dissolved. A proposition to dissolve a joint elementary district shall be introduced by a petition signed by a majority of the electors, qualified under the provisions of section 75-6410, who reside in the territory of the joint district that is located within one (1) county. Such petition shall be addressed and presented to the county superintendent of the county of residence of the petitioners.

Whenever a county superintendent receives a valid petition for the dissolution of a joint elementary district, he shall immediately notify the county superintendents of all the other counties with territory located in the joint district. The county superintendents jointly shall, within ten (10) days after the receipt of the petition and as provided by section 75-6406, order the trustees of the joint district to call an election. The trustees shall call and conduct, at the same time, separate elections in each portion of the joint district that is located in a separate county. Such elections shall be called and conducted in the manner prescribed in this title for school elections and shall be considered as if each were an election in a separate district. An elector who may vote at a joint district dissolution election shall be qualified to vote under the provisions of section 75-6410. The election judges for each separate election in the joint district shall send the election certificate to the county superintendent of the county in which they serve.

After the receipt of the election certificates, the county superintendents

shall jointly determine the result of such election on the following basis:

(1) If a majority of all the joint district electors voting at each election conducted in the joint district are in favor of the dissolution of the joint district, the dissolution of the joint elementary district shall be approved;

(2) If two-thirds (2/3) of the electors voting at one of the elections conducted in a county's portion of the joint district vote in favor of the joint district dissolution, the dissolution of that portion of such joint district may be approved if all the county superintendents involved in such dissolution proposition agree that such dissolution will not place an undue hardship on any other county's portion of the joint district and there is no good and sufficient reason why such dissolution should not be made; or

(3) If the conditions of either subsection (1) or (2) cannot be satisfied, the dissolution of the joint district shall be disapproved.

The county superintendents shall jointly order the joint elementary district dissolution if the proposition is approved and, whether it has been approved or disapproved, shall jointly notify the joint district of the result. The dissolution of a joint district shall become effective on the first day of the ensuing school fiscal year.

When the dissolution of a joint elementary district has been approved and ordered under subsection (1) above, the county superintendent of each county shall individually order the attachment of the territory of the dissolved joint elementary district within his county to a contiguous elementary district within his county; except when a school is operated in such territory, in which case the territory shall operate as a separate elementary district of the county.

When the dissolution of a joint elementary district has been approved and ordered under the provisions of subsection (2) above, the county superintendent of the county where the dissolved portion of the joint elementary district is located shall attach such territory to a contiguous elementary district within his county.

In the event a dissolution proposition is disapproved, no subsequent joint elementary district dissolution election shall be held within three (3) years thereafter.

History: En. 75-6514 by Sec. 173, Ch. 5, L. 1971.

75-6515. Boundary change of licensed child care institution elementary district. The boundaries of any elementary district created under the provisions of chapter 105, Laws of 1965 shall be changed by the acquisition of any land contiguous to the district by the licensed child care institution for which such district was created. The boundaries shall be changed to include the additional acquired land in the district.

History: En. 75-6515 by Sec. 174, Ch. 5, L. 1971.

Compiler's Note

Chapter 105, Laws of 1965 (sec. 75-5501 et seq.), referred to in the first paragraph, was repealed by Sec. 496, Ch. 5, Laws 1971.

75-6516. Transfer of territory from one elementary district to another. A majority of the electors of any elementary district, who are qualified

to vote under the provisions of section 75-6410 and who reside in territory which is a part of an elementary district, may petition the county superintendent to transfer such territory to another elementary district when:

(1) such territory is contiguous to the district to which it is to be attached;

(2) such territory is not located within three miles, over the shortest practical route, of an operating school of the district from which it is to be detached; and

(3) the transfer of such territory will not reduce the taxable value of the district to less than seventy-five thousand dollars (\$75,000) unless the remaining territory of the district will contain not less than fifty thousand (50,000) acres of nontaxable Indian land.

The petition shall be addressed to the county superintendent and shall describe the territory that is requested to be transferred and to what district it is to be transferred, state the reasons why such transfer is requested and state the number of elementary school-age children residing in such territory.

On receipt of a valid petition for a territory transfer, the county superintendent shall file such petition, set a hearing place, date, and time for consideration of the petition that is not more than forty (40) days after receipt of the petition and give notice of the place, date, and time of the hearing. The notices shall be posted in the districts affected by the request in the manner prescribed in this title for school elections, with at least one such notice posted in the territory to be transferred.

The county superintendent shall conduct the hearing as scheduled, and any resident or taxpayer of the affected districts shall be heard. If the county superintendent shall deem it advisable and in the best interests of the residents of such territory, he shall grant the petitioned request and order the change of district boundaries to coincide with the boundary description in the petition. Otherwise, he shall, by order, deny the request. Either of the orders shall be final thirty (30) days after its date unless it is appealed to the board of county commissioners by a resident or taxpayer of either district affected by the territory transfer. The decision of the board of county commissioners, after a hearing on such matter and consideration of the material presented at the county superintendent's hearing, shall be final.

Whenever a petition to transfer territory from one elementary district to another elementary district would create a joint elementary district or affect the boundary of an existing joint elementary district, the petition shall be presented to the county superintendent of the county where the territory is located. Such county superintendent shall notify any other county superintendents of counties with districts affected by such petition and the duties prescribed in this section for the county superintendent and the board of county commissioners shall be performed jointly by such county officials.

History: En. 75-6516 by Sec. 175, Ch. 5,
L. 1971; amd. Sec. 6, Ch. 83, L. 1971.

75-6517. Limitations for creation of new elementary district. A new elementary district may be created out of the territory of an existing ele-

mentary district or districts when :

(1) the taxable value of the taxable property of the territory proposed to be included in such new district is seventy-five thousand dollars (\$75,000) or more, except that when fifty thousand (50,000) acres or more of such new district are nontaxable Indian land, this limitation shall not be applicable;

(2) the taxable value of the taxable property of each existing district from which territory would be detached will be seventy-five thousand dollars (\$75,000) or more after the territory is detached; and

(3) the number of school census children between the ages of six (6) and sixteen (16) years according to the last completed district census reports 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.

75-6518. Procedure for creation of a new elementary district. The petition requesting the creation of a new elementary district out of the territory of an elementary district or districts shall be addressed to the county superintendent and shall :

(1) describe the territory that is requested to be incorporated in the new district and the taxable value of such territory as shown by the last completed assessment roll;

(2) state the reasons why the creation of a new district is requested; and

(3) be signed by the parents or guardians of not less than ten (10) children between the ages of six (6) and sixteen (16) years who reside in the territory that would be included in the new district and who reside more than three (3) miles over the shortest practical route from an operating school.

When a county superintendent receives a valid petition requesting the creation of a new district, he shall file such petition, set a hearing place, date, and time for consideration of such petition that is not more than forty (40) days after the receipt of the petition and give notice of the place, date, and time of the hearing. The notices shall be posted in the districts affected by the request in the manner prescribed in this Title for school elections, with at least one such notice posted in the territory to be included in the new district.

The county superintendent shall conduct the hearing as scheduled unless before or at the time of the hearing he receives a protest petition signed by a majority of the electors of the proposed new district who are qualified to vote under the provisions of section 75-6410. A valid protest petition shall conclusively deny the creation of a new district. If a hearing is conducted, any resident or taxpayer of the affected districts shall be heard. If the county superintendent shall deem it advisable and in the best interests of the residents of the proposed new district, he shall grant the petitioned request and order the creation of a new elementary district

with its boundaries coinciding with the boundaries defined in the petition. Otherwise, he shall, by order, deny the request.

Either of the county superintendent's orders may be appealed to the board of county commissioners within thirty (30) days after the date of such order. Such appeal shall be in writing, signed by not less than three (3) resident taxpayers, and shall state sufficient facts to show the appellants' right to appeal the order. The board of county commissioners shall call a hearing of such appeal for the first regular meeting of the commission that will allow notice of the hearing to be given in accordance with the requirements for notice of school elections. After considering the material presented at the county superintendent's hearing and such other material as is presented at its hearing, the board of county commissioners shall render a decision on the creation of such new elementary district. Such decision shall be final.

When a new elementary district is created, the county superintendent shall appoint the trustees of the new district giving preference in his selections to any trustees who were trustees of an old district and who reside in the new district. Any trustee position vacancies that may occur in the other districts shall be filled in the manner provided for filling trustee position vacancies for such district. Any trustee appointed under the provisions of this section shall serve until a successor is elected at the next regular school election and qualified.

The order of the county superintendent or, if his order is appealed, the decision of the board of county commissioners creating a new district under this section shall be null and void and the new district shall cease to exist, if such district does not open and operate a school within eight (8) months after the date of such order or decision. If the new district does not satisfy this requirement, the territory shall be re-incorporated in the district or districts in which it was located before the creation of such new district, and the trustees shall, thereafter, be without capacity to act.

History: En. 75-6518 by Sec. 177, Ch. 5,
L. 1971.

75-6519. Methods of changing high school district boundaries. The trustees of any high school district, except the trustees of a high school located in a county which has not been divided into high school districts or become a high school district by county high school unification, may request a change of the high school boundaries of their district or county as provided by this section.

Whenever the trustees of a high school district shall pass a resolution requesting the change of their district's boundary or the redivision of the county into high school districts, they shall send such resolution to the county superintendent. When the trustees request a boundary change of their district or a redivision of the county into high school districts, they shall describe the requested boundary change or redivision and give the reasons therefor. A requested boundary change of a district shall conform to one of the following types:

(1) consolidation of high school districts shall be the merging of two (2) or more high school districts to form a single high school district;

(2) annexation shall be the attachment of all the territory of a high school district to another high school district or districts;

(3) transfer of territory shall be the detachment of territory from a high school district and the attachment of such territory to another high school district or districts; or

(4) creation of a new high school district shall be the formation of a new high school district from the territory presently incorporated in the requesting high school district.

Whenever the trustees of any high school district request a boundary change or a redivision that would create a joint high school district or, in any way, affect the boundary of an existing joint high school district, they shall send the boundary change resolution to the county superintendent of each county that would be affected by such boundary change.

History: En. 75-6519 by Sec. 178, Ch. 5, L. 1971.

75-6520. Establishment of high school districts in a county. The trustees of a high school district located in a county, which has not been divided into high school districts or become a high school district by county high school unification, may request the division of the county into a high school district or districts. The request shall be sent to the county superintendent.

History: En. 75-6520 by Sec. 179, Ch. 5, L. 1971; amd. Sec. 1, Ch. 44, L. 1971.

75-6521. High school boundary commission and boundary change, division or redivision hearing procedure. Each county of the state of Montana shall have a high school boundary commission consisting of the board of county commissioners and the county superintendent. Whenever a county superintendent receives a resolution from the trustees of any high school district requesting a boundary change or a request to divide or redivide the county into high school districts, he shall immediately notify the high school boundary commission. Such commission shall set a time, date, and place for a public hearing on the request. The hearing shall be set for a date within sixty (60) days after the receipt of the request and any interested person may appear and be heard on such request. The county superintendent shall send a written notice of the public hearing on a requested boundary change, division, or redivision to the trustees of each elementary and high school district of the county which has territory that would be affected by the change. The county superintendent shall also give notice of such public hearing in accordance with the requirement for school election notices prescribed by school election provisions of this Title. The certificate of the county superintendent filed with the high school boundary commission reciting that such notice requirements have been satisfied shall be conclusive.

In considering a request to change high school district boundaries or to divide or redivide the county into high school districts, the high

school boundary commission shall give primary consideration to the convenience of the high school pupils of the territory under consideration. Such commission also shall consider the grouping of elementary districts to be encompassed by a high school district or districts, and shall group contiguous elementary districts within a high school district unless obstacles of travel such as mountains, rivers, impractical routes of travel, or distance make such grouping impractical. After the hearing, the high school boundary commission may grant or deny any request, made under the provisions of section 75-6519, for a high school district boundary change, but shall order the division of the county into high school districts whenever requested under the provisions of section 75-6520. In the latter case the commission's discretion shall extend only to the establishing of boundaries for the newly created high school district or districts.

History: En. 75-6521 by Sec. 180, Ch. 5,
L. 1971.

75-6522. Approval of high school district boundary when elementary district territory divided by commission. If the order of a high school boundary commission would divide the territory of any elementary district between two (2) or more high school districts or would divide the territory of a joint elementary district which is located within the county between high school districts, the county superintendent shall, under the provisions of section 75-6406, order the trustees of such elementary district to call an election. The election shall be called and conducted in the manner prescribed in this Title for school elections. An elector who may vote on the proposition shall be qualified under the provisions of section 75-6410. If the election is required because of the division of the territory of a joint elementary district located in the county, the electors shall be residents of such territory. If a majority of the electors voting at such election approve the division of the elementary district or the county's territory in a joint elementary district, the order of the high school boundary commission shall be approved. If a majority of the electors voting at such election do not approve such division, the high school boundary commission shall reconsider its action and shall establish different high school boundary lines, subject to the same limitations herein described.

History: En. 75-6522 by Sec. 181, Ch. 5,
L. 1971.

75-6523. Counter-proposed high school district boundaries by electors and election. Whenever a high school boundary commission issues an order to change high school district boundary lines, twenty per cent (20%) or more of the electors of any elementary district with territory affected by the high school boundary change who are qualified to vote under the provisions of section 75-6410 may protest the boundaries established by the order of the commission within thirty (30) days after the date of such order. Such protest shall be in the form of a petition addressed to the county superintendent and it shall provide a counter-proposition to the new high school boundaries established by the order of the commission for the disposition of the territory of the elementary district for high school districting purposes. The provisions of this section shall not be

used in elementary districts that have approved high school boundaries under the provisions of section 75-6522.

When the county superintendent receives a valid petition from an elementary district, he shall, within ten (10) days after the receipt of such petition, and as provided by section 75-6423, order the trustees of such elementary district to call an election to consider the high school boundary counter proposition described in such petition. The trustees shall call and conduct the election in the manner prescribed in this Title for school elections. An elector who may vote on the proposition shall be qualified to vote under the provisions of section 75-6410. If a majority of the electors voting at the election approve the counter-proposition, the high school boundaries described by the counter-proposition shall be approved, and the order of the high school boundary commission shall be amended to establish such high school boundaries. If a majority of the electors voting at such election disapprove the counter-proposition, the order of the high school boundary commission shall be confirmed and shall be final.

History: En. 75-6523 by Sec. 182, Ch. 5,
L. 1971.

75-6524. High school district abandonment. Within six (6) months after a high school district fails to operate an accredited high school within its boundaries for a period of one (1) year, the county superintendent shall order the high school district abandoned. At least twenty (20) days before issuing an abandonment order, the county superintendent shall notify the trustees of the high school district of the impending abandonment. When the order is issued, the county superintendent also shall order the attachment of the territory of each elementary district of the abandoned high school district to another high school district or districts of the county.

History: En. 75-6524 by Sec. 183, Ch. 5,
L. 1971.

75-6525. Limitations for organization of joint high school district. The boundaries of any high school district which encompass a county's portion of a joint elementary district where an elementary school is operated may be changed to establish a joint high school district. Such high school district boundary change shall be a transfer of all the territory located in another county's portion of the same joint elementary district. No such boundary change shall be made when:

(1) the territory transfer would reduce the taxable value of the taxable property of another high school district to less than seven hundred fifty thousand dollars (\$750,000); or

(2) a portion of the territory to be transferred is less than three (3) miles from an operating, accredited high school located in another high school district.

History: En. 75-6525 by Sec. 184, Ch. 5,
L. 1971.

75-6526. Procedure for organization of joint high school district. The high school district boundary changes permitted under section 75-6525

shall be made according to the following procedure :

(1) A majority of the electors of a joint elementary district who are qualified to vote under the provisions of section 75-6410 and who reside in a county where the elementary school is not located may petition the county superintendent of their resident county to transfer the territory of the joint elementary district where they reside to establish a joint high school district. Such petition also shall state the reasons for requesting such a boundary change and the number of high school pupils residing in the territory.

(2) When the county superintendent receives a valid petition requesting the establishment of a joint high school district, he shall set a time, date, and place for a public hearing on the request which is not more than forty (40) days after the receipt of the petition. He shall give notice of such hearing in accordance with the election requirements for school election notices prescribed by school election provisions of this Title. The county superintendent shall also notify the county superintendent of the county where the high school is located and the trustees of the high school district.

(3) The county superintendent shall hear the request to change the high school district boundaries at the place, time, and date set for the hearing, and any interested person may appear and be heard on the request. If the county superintendent deems it advisable and in the best interests of the residents of the territory to be transferred, he shall grant the petitioned request and order the change of high school boundaries to establish a joint high school district. Otherwise, he shall, by order, deny the request.

(4) If the county superintendent orders the establishment of a joint high school district, he shall immediately send the order to the county superintendent of the county where the high school is located. If the county superintendent of such county approves the order, he shall send such order to the trustees of the high school district. If the trustees approve the order, the boundary change shall become effective. Without the approval of such county superintendent and trustees, the boundary change shall fail.

(5) At any time within thirty (30) days after the date of the county superintendent's order to grant or deny the request to establish a joint high school district, an appeal may be made to the board of county commissioners of the county in which the petition originated. The board of county commissioners shall conduct a hearing for the appeal, and their decision shall be final, subject to the approvals required by subsection (4).

History: En. 75-6526 by Sec. 185, Ch. 5,
L. 1971.

75-6538. County high school unification. Any county high school may be unified with the elementary district where the county high school building is located to establish a unified school system under a unified board of trustees. If the county has not been divided into high school districts, a high school district with boundaries coterminous with the county bounda-

ries shall be created, except that such high school district shall not include the territory of any existing joint high school district located in the county. The territory of an existing joint high school district shall remain a part of such joint high school district. The creation of high school districts under this provision shall be in lieu of the high school district division provisions of section 75-6520.

A proposition to unify a county high school with the elementary district where the county high school building is located shall be introduced whenever:

(1) the trustees of the county high school and the trustees of the elementary district individually pass resolutions requesting the county superintendent to order an election to consider a unification proposition; or

(2) not less than twenty per cent (20%) of the electors of the county or, if the county has been divided into high school districts, the electors of the high school district where the county high school is located, and who are qualified to vote under the provisions of section 75-6410, petition the county superintendent to order an election to consider a unification proposition.

When the county superintendent has received the trustees' resolutions or a valid petition, he shall, within ten (10) days after the receipt of the last resolution or petition and under the provisions of section 75-6406, order the county high school to call an election to consider a unification proposition. The trustees of the county high school shall call and conduct an election in the manner prescribed in this title for school elections. An elector who may vote on the unification proposition shall be qualified to vote under the provisions of section 75-6410. The ballot for a county high school unification proposition shall be substantially in the following form:

OFFICIAL BALLOT

COUNTY HIGH SCHOOL UNIFICATION ELECTION

Shall County High School be unified with District No., County to establish a unified school system under a unified board of trustees?

- ☐ FOR the unification of the county high school.
☐ AGAINST the unification of the county high school.

When the county superintendent receives the election certificate from the trustees of the county high school, he shall issue an order declaring the unification of the county high school with the elementary district identified on the ballot as of the next succeeding July 1, if a majority of those electors voting at such election have voted for the unification proposition.

If a majority of those electors voting at the election have voted against the unification proposition, he shall order the disapproval of the unification proposition.

History: En. 75-6538 by Sec. 197, Ch. 5, L. 1971.

75-6539. Transactions after approved county high school unification. Whenever a county high school is unified with the elementary district where the county high school building is located, the following transactions shall be completed on or before the first of July when the unification becomes effective:

(1) The high school boundary commission, without the approval of the superintendent of public instruction, shall order the creation of a high school district if the county has not already been divided into high school districts.

(2) The county high school trustees, who shall not have the capacity to govern the high school district upon unification, shall surrender all minutes, documents and other records of the county high school to the trustees of the high school district.

(3) The county superintendent shall order the establishment of additional high school trustee nominating areas in the manner prescribed in sections 75-5903 and 75-5904, if requested to do so by a majority of the outlying elementary districts located in the high school district. When the county superintendent establishes such areas, he shall appoint additional high school district trustees from each area who shall hold office until a successor is elected at the next regular school election and qualified.

(4) The county treasurer, after allowing for any outstanding or registered warrants, shall transfer all end-of-the-year fund cash balances of the county high school to similar funds established for the high school district. All previous years' taxes levied and collected for the county high school shall be credited to the appropriate fund of the high school district.

(5) The board of county commissioners shall execute, in the name of the county, all necessary and appropriate deeds, bills of sale and other instruments for the conveyance of title to all real and personal property of the county high school, including all appurtenances and hereditaments, to the high school district.

All county high school bonds outstanding at the time of unification shall remain the obligation of the county or that portion of the county against which the bonds were originally issued. The high school district shall be responsible for the maintenance of the debt service fund for such bonds. It shall be the duty of the board of county commissioners and the trustees of the high school district to perform the duties prescribed in the school budgeting and bond redemption provisions of this title for the redemption and interest payments of the county high school bonds in the same manner and by the same means as though the county high school had not been unified.

History: En. 75-6539 by Sec. 198, Ch. 5,
L. 1971.

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) building, altering, repairing or enlarging any schoolhouse of the district;
- (2) furnishing additional school facilities for the district;
- (3) acquisition of land for the district;
- (4) proper maintenance and operation of the school programs of the district.

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. 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.

CHAPTER 70

SCHOOL BUSES AND TRANSPORTATION OF PUPILS

Section 75-7015. Duties of the county transportation committee.

75-7015. Duties of the county transportation committee. It shall be the duty of the county transportation committee to:

(1) establish the transportation service areas within the county, without regard to district boundary lines, which will define the geographic area of responsibility for school bus transportation for each district that operates a school bus transportation program;

(2) approve, disapprove, or adjust the school bus routing submitted by the trustees of each district in conformity with the transportation service areas established in subsection (1);

(3) approve, disapprove, or adjust applications, approved by the trustees, for increased reimbursements for individual transportation due to isolated conditions of the eligible transportee's residence; and

(4) conduct hearings to establish the facts of transportation controversies which have been appealed from the decision of the trustees, and act on such appeals on the basis of the facts established at such hearing.

After a fact-finding hearing and decision on a transportation controversy, the trustees or a patron of the district may appeal such decision to the superintendent of public instruction who shall render a decision on the basis of the facts established at the county transportation committee hearing.

The trustees of any district which objects to a particular school bus route or transportation service areas to which it has been assigned may request a transfer to another school bus route or transportation service areas to which it has been assigned may request a transfer to another school bus route or transportation service area. The county transportation committee may transfer the territory of such district to an adjacent district's transportation service area or approved school bus route with the consent of such adjacent district. When the qualified electors of the district object to the decision of the county transportation committee and the adjacent district is willing to provide school bus service, twenty per cent (20%) of the qualified electors, as prescribed in section 75-6410, may petition the trustees to conduct an election on the proposition that the territory of such district be transferred for school bus transportation purposes to such consenting, adjacent district. When a satisfactory petition is presented to the trustees, the trustees shall call an election in accordance with section 75-6406 for the next ensuing regular school election day. Such election shall be conducted in accordance with the school election laws. If a majority of those voting at such election approve the transfer,

it shall become effective on the first day of July of the ensuing school fiscal year.

Unless a transfer of a district from one transportation service area or approved school bus route to another such area or route is approved by the county transportation committee and the superintendent of public instruction, the state transportation reimbursement shall be limited to the reimbursement amount for school bus transportation to the nearest operating public elementary school or public high school, whichever is appropriate for the affected pupils.

History: En. 75-7015 by Sec. 292, Ch. 5,
L. 1971.

CHAPTER 71

SCHOOL DISTRICT AND COUNTY SCHOOL BONDS

- Section 75-7109. Refunding bonds may be issued without an election.
- 75-7110. Election required to authorize the issuance of school district bonds and the methods of introduction.
- 75-7111. Additional requirements for trustees resolution calling bond election.
- 75-7112. Form, contents and circularization of petition proposing school district bond election.
- 75-7113. Validation of petition and county registrar's certificate.
- 75-7114. Trustees' consideration of validated petition proposing bond election.
- 75-7115. Preparation and form of ballots for bond election.
- 75-7116. Notice of bond election by separate purpose.
- 75-7117. Determination of approval or rejection of proposition at bond election.
- 75-7118. Trustees resolution to issue school district bonds.
- 75-7134. Purposes and petition for county high school bonds.
- 75-7135. Duty of board of county commissioners to call election and issue bonds.
- 75-7136. Proration of county bond proceeds between high schools of the county.

75-7109. Refunding bonds may be issued without an election. Bonds of a school district issued for the purpose of providing the money needed to redeem outstanding bonds may be issued without submitting the proposition to the electorate at an election. In order to issue bonds for such purpose, the trustees, at a regular meeting or a duly called special meeting, shall adopt a resolution setting forth:

- (1) the facts regarding the outstanding bonds that are to be redeemed;
- (2) the reasons for issuing new bonds; and
- (3) the term and details of the new bond issue.

After the adoption of such resolution, the trustees shall give notice of the sale of such new bonds in the same manner that notice is required to be given for the sale of bonds authorized at a school election. Such new bonds shall be sold in open competitive bidding, by written bids, or by sealed bids. Bonds shall not be refunded by the issuance of new bonds unless the rate of interest offered on the new bonds is at least one-half ($\frac{1}{2}$) of one per cent (1%) per annum less than the rate of interest in the bonds to be refunded or redeemed.

History: En. 75-7109 by Sec. 310, Ch. 5,
L. 1971.

75-7110. Election required to authorize the issuance of school district bonds and the methods of introduction. A school district shall not issue bonds for any purpose other than that provided in section 75-7109 unless the issuance of bonds has been authorized by the qualified electors of the school district at an election called for the purpose of considering a proposition to issue such bonds. A school district bond election shall be called by a resolution as prescribed under the provisions of section 75-6406 when:

(1) the trustees, of their own volition, adopt a resolution to that effect; or

(2) the trustees have received a petition which asks that an election be held to consider a bond proposition and which has been validated under the provisions of section 75-7114.

History: En. 75-7110 by Sec. 311, Ch. 5,
L. 1971.

Cross-References

County school bond issues, election required, sec. 75-7135.

School elections, sec. 75-6401 et seq.

75-7111. Additional requirements for trustees resolution calling bond election. In addition to the requirements for calling an election that are prescribed in sections 75-6406 and 75-6408, the trustees' resolution calling a school district bond election shall:

(1) fix the exact amount of the bonds proposed to be issued, which may be more or less than the amounts estimated in a petition;

(2) fix the maximum number of years in which the proposed bonds would be paid; and

(3) in the case of initiation by a petition, state the essential facts about the petition and its presentation.

History: En. 75-7111 by Sec. 312, Ch. 5,
L. 1971.

75-7112. Form, contents and circularization of petition proposing school district bond election. Any petition for the calling of an election on the proposition of issuing school district bonds shall:

(1) plainly state each purpose of the proposed bond issue and the estimated amount of the bonds that would be issued for each purpose;

(2) be signed by not less than twenty per cent (20%) of the school district electors qualified to vote under the provisions of section 75-6410 in order to constitute a valid petition;

(3) be a single petition or it may be composed of more than one petition, all being identical in form, and after being circulated and signed they shall be fastened together to form a single petition when submitted to the county registrar;

(4) be circulated by any one or more qualified electors of the school district; and

(5) contain an affidavit of each registered elector circulating a petition attached to the portion of the petition he circulated. Such affidavit shall attest to the authenticity of the signatures and that the signers knew the contents of the petition at the time of signing it.

History: En. 75-7112 by Sec. 313, Ch. 5,
L. 1971; amd. Sec. 8, Ch. 83, L. 1971.

75-7113. Validation of petition and county registrar's certificate. The petitioners for a school district bond election shall submit their petition to the county registrar of the county where the school district is located for validation of the signatures on the petition. The county registrar shall examine the petition and shall attach or endorse thereon a certificate which shall state:

(1) the total number of electors of the school district who are, at the time, qualified to vote under the provisions of section 75-6410;

(2) which and how many of the persons whose names are subscribed to the petition possess the qualifications to vote on a bond proposition; and

(3) whether the number of qualified signers established in subsection (2) is more or less than twenty per cent (20%) of the total number of qualified electors established in subsection (1).

After completing the examination, the county registrar shall immediately send the petition and his certificate to the school district. The county registrar shall not receive compensation for the examination of school district bond petitions.

History: En. 75-7113 by Sec. 314, Ch. 5, L. 1971; amd. Sec. 9, Ch. 83, L. 1971.

75-7114. Trustees' consideration of validated petition proposing bond election. When a school district receives a school district bond petition from the county registrar, a meeting of the trustees shall be called for the consideration of the petition. The trustees shall be the judges of the adequacy of the petition and their findings shall be conclusive against the school district in favor of the innocent holder of bonds issued pursuant to the election called and held by reason of the presentation of such petition. The petition shall be valid if the trustees find that it is in proper form and bears the signatures of not less than twenty per cent (20%) of the school district electors who are qualified to vote under the provisions of section 75-6410.

History: En. 75-7114 by Sec. 315, Ch. 5, L. 1971; amd. Sec. 10, Ch. 83, L. 1971.

75-7115. Preparation and form of ballots for bond election. The school district shall cause ballots to be prepared for all bond elections, and whenever bonds for more than one purpose are to be voted upon at the same election, separate ballots shall be prepared for each purpose. All such ballots shall be substantially in the following form:

OFFICIAL BALLOT

SCHOOL DISTRICT BOND ELECTION

INSTRUCTIONS TO VOTERS: Make an X or similar mark in the vacant square before the words "BONDS—YES" if you wish to vote for the bond issue; if you are opposed to the bond issue make an X or similar mark in the square before the words "BONDS—NO."

Shall the board of trustees be authorized to issue and sell bonds of this

school district in the amount of dollars (\$.....) bearing interest at a rate not more than seven per cent (7%) per annum, payable semiannually, during a period not more than years, for the purpose (here state the purpose the same way as in the notice of election).

☐ BONDS — YES.

☐ BONDS — NO.

History: En. 75-7115 by Sec. 316, Ch. 5, L. 1971; amd. Sec. 39, Ch. 234, L. 1971.

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....., and election of the registered electors of School District No. of County, state of Montana, who are taxpayers therein and whose names appear on the last completed assessment roll for state, county and school district taxes prior to the holding of such election, 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'clockm. and until o'clockm. 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.

75-7117. Determination of approval or rejection of proposition at bond election. When the trustees canvass the vote of a school district bond election under the provisions of section 75-6423, they shall determine the approval or rejection of the school bond proposition in the following manner:

(1) determine the total number of electors of the school district who are qualified to vote under the provisions of section 75-6410 from the list of electors supplied by the county registrar for such school bond election;

(2) determine the total number of qualified electors who voted at the school bond election from the tally sheet or sheets for such election;

(3) calculate the percentage of qualified electors voting at the school bond election by dividing the amount determined in subsection (2) by the amount determined in subsection (1); and

(4) when the calculated percentage in subsection (3) is forty per cent (40%) or more, the school bond proposition shall be deemed to have been approved and adopted if a majority of the votes shall have been cast in favor of such proposition, otherwise it shall be deemed to have been rejected; or

(5) when the calculated percentage in subsection (3) is more than thirty per cent (30%) but less than forty per cent (40%), the school bond proposition shall be deemed to have been approved and adopted if sixty per cent (60%) or more of the votes shall have been cast in favor of such proposition, otherwise it shall be deemed to have been rejected; or

(6) when the calculated percentage in subsection (3) is thirty per cent (30%) or less, the school bond proposition shall be deemed to have been rejected.

If the canvass of the vote establishes the approval and adoption of the school bond proposition, the trustees shall issue a certificate proclaiming the passage of such proposition and the authorization to issue bonds of the school district for the purposes specified on the ballot for such school district bond election.

History: En. 75-7117 by Sec. 318, Ch. 5, L. 1971; amd. Sec. 11, Ch. 83, L. 1971.

75-7118. Trustees resolution to issue school district bonds. Within sixty (60) days after the date of the election certificate or as soon thereafter as is practical in the judgment of the trustees, the trustees shall adopt a resolution providing for the issuance of bonds of the school district. Such resolution also shall specify:

(1) the number of series or installments in which the bonds are to be issued;

(2) the amount of bonds to be issued;

(3) the maximum rate of interest;

(4) the purpose or purposes of the issue;

(5) the date the issue will bear;

(6) the period of time through which the issue will be paid;

- (7) the manner of execution of the bonds;
- (8) that amortization bonds will be preferred but also fix the denomination of serial bonds; and
- (9) the date and time that the sale of the bonds shall be conducted.

History: En. 75-7118 by Sec. 319, Ch. 5,
L. 1971.

75-7134. Purposes and petition for county high school bonds. Any county where a county high school that has not been placed in a high school district is located may become indebted by the issuance of bonds for the purposes of:

- (1) purchasing or erecting a building or buildings for high school purposes;
- (2) remodeling, enlarging, or repairing a building or buildings for high school purposes;
- (3) purchasing equipment for high school purposes;
- (4) purchasing, erecting, or equipping a high school dormitory or gymnasium;
- (5) purchasing a suitable site or sites for such high school building; or
- (6) refunding or redeeming any outstanding bonds originally issued for any of the foregoing purposes.

In order to initiate any bonding proposition for the above purposes, a petition signed by not less than twenty per cent (20%) of the electors of the county who are qualified under section 75-6410 shall be presented to the trustees of the county high school. Such petition shall request the submission of a bond proposition to the qualified electors of the county, and shall specify the purpose or purposes of the proposed bond issue and the amount of bonds to be issued. Such petition shall conform with the petition requirements prescribed in section 75-7112. If the trustees of the county high school approve a validated petition for a bond proposition, they shall request the board of county commissioners of the county to submit such bond proposition to the qualified electors of the county.

History: En. 75-7134 by Sec. 335, Ch. 5,
L. 1971; amd. Sec. 12, Ch. 83, L. 1971.

75-7135. Duty of board of county commissioners to call election and issue bonds. Immediately upon the receipt of any bond proposition request from the trustees of the county high school, it shall be the duty of the board of county commissioners to submit such question to the qualified electors of the county in the manner otherwise provided by law for the submission of the proposition of the issuance of other county bonds. If a majority of the qualified electors of the county, voting upon the proposition so submitted, shall approve such issue, then the board of county commissioners shall issue and market the bonds authorized as in the case of other county bonds.

History: En. 75-7135 by Sec. 336, Ch. 5,
L. 1971.

75-7136. Proration of county bond proceeds between high schools of the county. In any county where a county high school is located and such county high school is not located in a county that has been divided into high school districts and another high school is maintained by an elementary district of the county, bonds of the county may likewise be issued in accordance with the provisions of sections 75-7134 and 75-7135. The proceeds of such issue shall be divided among the county high school and the districts maintaining a high school. The question submitted to the electors of the county shall state the amount which is to be allotted to the county high school and the amount which is to be apportioned to or among such districts. In all such cases, the amount allotted to the county high school and the amount to be apportioned among the districts shall be computed upon the basis of the taxable valuation of the county that is used for county high school property taxation purposes and the taxable valuation of the districts maintaining a high school. Any such bond moneys apportioned to a district shall not be expended until the purpose for the expenditure has been approved by a vote of the qualified electors at an election held in the same manner prescribed for a school district bond election.

History: En. 75-7136 by Sec. 337, Ch. 5,
L. 1971.

CHAPTER 72

ELEMENTARY TUITION AND SPECIAL PURPOSE FUNDS

Section 75-7205. Purpose and authorization of a building reserve fund by an election.

75-7205. Purpose and authorization of a building reserve fund by an election. The trustees of any district, with the approval of the qualified electors of the district, may establish a building reserve for the purpose of raising money for the future construction, equipping or enlarging of school buildings or other buildings needed for school purposes in the district. In order to submit to the qualified electors of the district a building reserve proposition for the establishment of or addition to a building reserve, the trustees shall pass a resolution that specifies:

- (1) the purpose or purposes for which the new or addition to the building reserve will be used;
- (2) the duration of time over which the new or addition to the building reserve will be raised in annual, equal installments;
- (3) the total amount of money that will be raised during the duration of time specified in subsection (2); and
- (4) any other requirements under section 75-6406 for the calling of an election.

The total amount of building reserve when added to the outstanding indebtedness of the district shall not be more than five per cent (5%) of the value of the taxable property of the district. Such limitation shall be determined in the manner provided in section 75-7104. A building reserve tax authorization shall not be for more than twenty (20) years.

The election shall be conducted in accordance with the school election laws of this Title and the electors qualified to vote in the election shall be qualified under the provisions of section 75-6410. The ballot for a building reserve proposition shall be substantially in the following form:

OFFICIAL BALLOT

SCHOOL DISTRICT BUILDING RESERVE ELECTION

INSTRUCTIONS TO VOTERS: Make an X or similar mark in the vacant square before the words "BUILDING RESERVE—YES" if you wish to vote for the establishment of a building reserve (addition to the building reserve); if you are opposed to the establishment of a building reserve (addition to the building reserve) make an X or similar mark in the square before the words "BUILDING RESERVE—NO."

Shall the trustees be authorized to impose an additional levy each year for years to establish a building reserve (add to the building reserve) of this school district to raise a total amount of dollars (\$.....), for the purpose(s) (here state the purpose or purposes for which the building reserve will be used).

☐ BUILDING RESERVE—YES.

☐ BUILDING RESERVE—NO.

The building reserve proposition shall be approved if a majority of those electors voting at the election approve the establishment of or addition to such building reserve. The annual budgeting and taxation authority of the trustees for a building reserve shall be computed by dividing the total authorized amount by the specified number of years. The authority of the trustees to budget and impose the taxation for the annual amount to be raised for the building reserve shall lapse when, at a later time, a bond issue is approved by the qualified electors of the district for the same purpose or purposes for which the building reserve fund of the district was established. Whenever a subsequent bond issue is made for the same purpose or purposes of a building reserve, the money in the building reserve shall be used for such purpose or purposes before any money realized by the bond issue is used.

History: En. 75-7205 by Sec. 344, Ch. 5, L. 1971; amd. Sec. 13, Ch. 83, L. 1971.

CHAPTER 73

PUBLIC SCHOOL FUND, EDUCATIONAL CO-OPERATIVE AGREEMENTS AND GRANTS TO SCHOOLS

Section 75-7308. Joint interstate school agreements.

75-7308. Joint interstate school agreements. The trustees of any district adjacent to another state may enter into a contract with a school district in such adjoining state to provide for the joint erection, operation and maintenance of school facilities for both districts upon such terms and conditions as may be mutually agreed to by such districts and as are in

accord with this section. Any such contract proposed for adoption by the trustees shall be in the form and contain only terms that may be prescribed by the superintendent of public instruction, and any such contract shall be approved by the superintendent of public instruction before it is considered by the electors of the district.

Before any contract negotiated under the provisions of this section shall be executed, the trustees shall call an election under the provisions of section 75-6406 and submit to the qualified electors of the district the proposition that such contract be approved and that the trustees execute such contract. No agreement shall be valid until it has been approved at an election. The electors at the election shall be qualified to vote under the provisions of section 75-6410 and the election shall be conducted under the school election provisions of this Title. The ballot for the election shall be substantially in the following form :

PROPOSITION

SCHOOL DISTRICT NO.,COUNTY

Shall the trustees of this district be authorized and directed to execute the proposed contract with school district number of county, state of, for the purpose of (insert the purpose of such contract) ?

- ☐ FOR EXECUTION OF CONTRACT
- ☐ AGAINST EXECUTION OF CONTRACT

The trustees of any district executing a contract under this section shall have the power and authority to levy taxes and issue bonds for the purpose of erecting and maintaining the facilities authorized by this section. Furthermore, the facilities erected or maintained under this section may be located in either Montana or the adjoining state.

History: En. 75-7308 by Sec. 363, Ch. 5,
L. 1971.

CHAPTER 74

SCHOOL TERMS AND HOLIDAYS

Section 75-7406. School holidays.

75-7406. School holidays. Pupil instruction and pupil-instruction-related days shall not be conducted on the following holidays :

- (1) New Year's day (January 1),
- (2) Memorial day (last Monday in May),
- (3) Independence day (July 4),
- (4) Labor day (first Monday in September),
- (5) Veterans' day (fourth Monday in October),
- (6) Thanksgiving day (fourth Thursday in November),
- (7) Christmas day (December 25),

(8) 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.

CHAPTER 81

COMMUNITY COLLEGE DISTRICTS

- Section 75-8104. Requirements for organization of community college district.
75-8105. Petition to propose organization of community college district.
75-8106. Call of community college district organization election and proposition statement.
75-8107. Election of trustees, districts from which elected and terms of office.
75-8108. Call for nominations of trustee candidates and notice.
75-8109. Nomination of candidates and provision of sample ballot.
75-8110. Notice of organization election.
75-8111. Conduct of election.
75-8112. Determination of approval or disapproval of proposition and subsequent procedures if approved.
75-8113. Qualifying and organization of board of trustees.
75-8114. Election of trustees after organization of community college district.
75-8115. Tabulation, declaration and certification of elected trustees.
75-8116. Vacancy of trustee position.
75-8125. Annexation of territory of districts to community college district.
75-8131. Additional levy proposition—submission to electors.

75-8104. Requirements for organization of community college district. The registered electors in any area of the state of Montana may request an election for the organization of a community college district where the proposed community college district conforms to the following requirements:

(1) The proposed area shall coincide with the then existing boundaries of contiguous elementary districts of one or more counties.

(2) The assessed valuation of the proposed area is at least thirty million dollars (\$30,000,000).

(3) There are at least seven hundred (700) pupils regularly enrolled in public and private high schools located in the proposed area.

History: En. 75-8104 by Sec. 451, Ch. 5,
L. 1971.

75-8105. Petition to propose organization of community college district. When the area of a proposed community college district satisfies the specified requirements, the registered electors of the area may petition the regents to call an election for the organization of a community college district. Such petition shall be signed by at least twenty per cent (20%) of the registered electors within each county or a part of a county included in the area of the proposed community college district.

History: En. 75-8105 by Sec. 452, Ch. 5,
L. 1971; amd. Sec. 2, Ch. 406, L. 1971.

75-8106. Call of community college district organization election and proposition statement. A petition for the organization of a community college district shall be presented to the regents. The regents shall examine the petition to determine if the petition satisfies the petitioning and community college district organizational requirements.

If the regents determine that the petition satisfies such requirements, the regents shall order the elementary districts encompassed by the proposed community college district to conduct an election on the community college district organization proposition. Such election shall be held on the next succeeding regular school election day, except that an election required by a petition received by the regents less than sixty (60) days before the regular school election day shall be held at the regular school election in the following school fiscal year.

At such election, the proposition shall be in substantially the following form:

PROPOSITION

Shall there be organized within the area comprising the School Districts of (elementary districts shall be listed by county), State of Montana, a community college district for the offering of 13th and 14th year courses, to be known as the Community College District of, Montana, under the provisions of the laws authorizing community college districts in Montana, as prayed in the petition filed with the Board of Regents at Helena, Montana, on the day of, 19.....

☐ For organization

☐ Against organization

History: En. 75-8106 by Sec. 453, Ch. 5, L. 1971; amd. Sec. 3, Ch. 406, L. 1971.

75-8107. Election of trustees, districts from which elected and 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 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 school census of the proposed district, as determined by the last school 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 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 total school census 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.

75-8108. Call for nominations of trustee candidates and notice. A call for nominations of trustee candidates for the proposed community college district shall be made by the regents. Notice of the call for nominations shall be published in at least one newspaper of general circulation in each county or any portion of a county included in the proposed community college district, once a week for three consecutive weeks, the last insertion to be no less than five weeks prior to the date of the election. Such notice shall describe the geographical composition of the board of trustees membership, nomination procedure, and the proposal for the organization of a community college district.

History: En. 75-8108 by Sec. 455, Ch. 5,
L. 1971; amd. Sec. 5, Ch. 406, L. 1971.

75-8109. Nomination of candidates and provision of sample ballot. Nominations of candidates for the trustee positions must be filed with the regents at least thirty (30) days prior to the date of the election. Any five qualified electors may file nominations of as many persons as are to be elected to the board of trustees of the proposed community college district from their respective community college trustee election areas. The regents shall provide the trustees of each district ordered to conduct the community college district organization election with a sample of the ballot for the election of the board of trustees. Such sample ballot shall be reproduced by the trustees in a sufficient number to be used as the trustee election ballot.

History: En. 75-8109 by Sec. 456, Ch. 5,
L. 1971; amd. Sec. 6, Ch. 406, L. 1971.

75-8110. Notice of organization election. Notice of the community college district organization election and the accompanying election of a board of trustees for the proposed community college district shall be given by the regents by publication in at least one newspaper of general circulation in each county or any portion of a county included in the pro-

posed community college district, once a week for three consecutive weeks, the last insertion to be no more than one week prior to the date of the election.

History: En. 75-8110 by Sec. 457, Ch. 5, L. 1971; amd. Sec. 7, Ch. 406, L. 1971.

75-8111. Conduct of election. The election for the organization of the community college district and the election of trustees for such community college district shall be conducted, in accordance with the school election laws, by the trustees of the elementary districts ordered to call such election. The cost of conducting such election shall be borne by the districts.

History: En. 75-8111 by Sec. 458, Ch. 5, L. 1971.

Cross-Reference

School elections generally, sec. 75-6401 et seq.

75-8112. Determination of approval or disapproval of proposition and subsequent procedures if approved. The proposal to organize the community college district, to carry, must receive a majority of the total number of votes cast thereon and the co-ordinator of community college districts, from the results so certified and attested, shall determine whether the proposal has received the majority of the votes cast thereon for each county within the proposed district and shall certify the results to the regents. Approval for the organization of a new community college district shall be granted at the discretion of the legislature acting upon the recommendation of the regents. Should the certificate of the co-ordinator of community college districts show that the proposition to organize such community college district has received a majority of the votes cast thereon in each county within the proposed district, the regents may make an order declaring the community college district organized and cause a copy thereof to be recorded in the office of the county clerk and recorder in each county in which a portion of such new district is located. If the proposition carries, the regents also shall determine which candidates have been elected trustees. Should the proposition to organize the community college district fail to receive a majority of the votes cast thereon, no tabulation shall be made to determine the candidates elected trustees.

Within thirty (30) days of the date of the organization order, the regents shall set a date and call an organization meeting for the board of trustees of the community college district and shall notify the duly elected trustees of their membership and of the organization meeting. Such notification shall designate a temporary chairman and secretary for the purposes of organization.

History: En. 75-8112 by Sec. 459, Ch. 5, L. 1971; amd. Sec. 1, Ch. 164, L. 1971; amd. Sec. 2, Ch. 407, L. 1971.

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 article XIX, section 1, of 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.

75-8114. Election of trustees after organization of community college district. After organization, the registered electors of the community college district shall vote for trustees on the first Saturday in April, and such elections shall be conducted by the component elementary school districts within such community college district upon the order of the board of trustees of the community college district. Such order shall be transmitted to the appropriate trustees not less than forty (40) days prior to the regular school election day.

Notice of the community college district trustee election shall be given by the board of trustees of the community college district by publication in one (1) or more newspaper of general circulation within each county, not less than once a week for two (2) consecutive weeks, the last insertion to be no longer than one (1) week prior to the date of the election. This notice shall be in addition to the election notice to be given by the trustees of the component elementary districts under the school election laws.

Should trustees be elected other than at large throughout the entire district, then only those qualified voters within the area from which the trustee or trustees are to be elected shall cast their ballots for the trustee or trustees from that area. All candidates for the office of trustee shall file their declarations of candidacy with the secretary of the board of trustees of the community college district not less than thirty (30) days prior to the date of election. If an electronic voting system or voting machines are not used in the component elementary school district or districts which conduct the election, then the board of trustees of the community college district shall cause ballots to be printed and distributed for the polling places in such component districts at the expense of the community college district, but in all other respects said elections shall be conducted in accordance with the school election laws. All costs incident to election of the community college trustees shall be borne by the community college district including one-half ($\frac{1}{2}$) of the compensation of the judges for the school elections; provided that, if the election of the community college district trustees is the only election conducted, the community college district shall compensate the district for the total cost of the election.

History: En. 75-8114 by Sec. 461, Ch. 5,
L. 1971.

75-8115. Tabulation, declaration and certification of elected trustees. When the board of trustees of the community college district has received all the certified results of the election from the component elementary districts, the then qualified members of the board of trustees of such community college district shall tabulate the results so received, shall declare and certify the candidate or candidates receiving the greatest number of

votes to be elected to the position or positions to be filled, and shall declare and certify the results of the votes cast on any proposition presented at such election.

History: En. 75-8115 by Sec. 462, Ch. 5,
L. 1971.

75-8116. Vacancy of trustee position. Any vacancy of a trustee's position shall be filled by appointment by the remaining trustees, and the person appointed shall hold office until the next regular school election day, when a trustee shall be elected for the remainder of the unexpired term.

History: En. 75-8116 by Sec. 463, Ch. 5.
L. 1971.

75-8125. Annexation of territory of districts to community college district. Whenever ten per cent (10%) of the registered electors of an elementary district or districts of one county petition the board of trustees of a community college district for annexation of the territory encompassed in such elementary school districts, the board of trustees of the community college district shall order an annexation election in the area defined by the petition. Such election shall be ordered within sixty (60) days of the receipt of the petition.

The election shall be conducted in the proposed area for annexation in accordance with the requirements of the community college organization election except that the board of trustees of the community college shall perform the requirements of the board of education and there shall not be an election of the board of trustees of the community college.

The proposition on the ballot shall be as follows:
"Shall school districts be annexed to and become a part of the community college district of Montana?

- ☐ For Annexation
- ☐ Against Annexation"

To carry, the proposals to annex must receive a majority of the total votes cast thereon. Upon receipt of the certified results of the election from the elementary districts encompassed in the proposed area to be annexed, the board of trustees of the community college district shall canvass the vote and declare the results of the election. If the annexation proposition carries, a certified copy of the canvassing resolution shall be filed in the office of the county clerk and recorder of the county encompassing the area to be annexed and upon such filing, the area to be annexed shall then become a part of the community college district.

History: En. 75-8125 by Sec. 472, Ch. 5,
L. 1971; amd. Sec. 1, Ch. 162, L. 1971.

75-8131. Additional levy proposition — submission to electors. The board of trustees of a community college district may elect to adopt a general fund budget in excess of the budget funded by the legislature. When the board of trustees proposes such a budget, it shall submit an additional levy proposition to the electors of the district. The additional

levy proposition shall be submitted to the electorate in accordance with general school election laws.

History: En. Sec. 5, Ch. 401, L. 1971.

Cross-Reference

School elections, sec. 75-6401 et seq.

CHAPTER 82

SCHOOL SITES, CONSTRUCTION AND LEASING

- Section 75-8201. Trustees power over property.
75-8202. Land acquired by conditional deed or at will or sufferance.
75-8203. Selection of school sites, approval election, and lease of state lands.
75-8204. Trustees authority to acquire or dispose of sites and buildings, and when election required.
75-8205. Trustees may sell property when resolution passed after hearing, and appeal procedure.

75-8201. Trustees power over property. The trustees of any district, other than a high school district operating a county high school, shall have the power and the responsibility to hold in trust all real and personal property of the district for the benefit of the schools and children of the district. In the name of the county, the trustees of a high school district operating a county high school, as defined by section 75-6501, shall have the power and the responsibility to hold in trust all real and personal property of the district for the benefit of the schools and children of the district.

History: En. 75-8201 by Sec. 473, Ch. 5, L. 1971.

75-8202. Land acquired by conditional deed or at will or sufferance. Whenever, after the effective date of chapter 206, Laws of 1939, the trustees acquire land by deed conditioned upon the use of the land for the conduct of school or related activities or whenever land has been used by the trustees at the will or sufferance of the land's owner or claimant and the district has constructed buildings or made other improvements on the land, the owner or claimant may repossess the land if it ceases to be used as specified by deed, or if not specified, for the conduct of school or related activities. However, the owner or claimant shall first notify the trustees in writing of his intent to repossess the land, and the trustees shall thereafter have one (1) year to remove any buildings or improvements placed there by the district. The trustees failure to remove the buildings or improvements within that time shall constitute a forfeiture of such buildings or improvements. Before the owner or claimant shall have the right to give notice of repossession, the district's intention to permanently cease using the land shall have been established by resolution of the trustees and vote of the district's electors.

History: En. 75-8202 by Sec. 474, Ch. 5, L. 1971.

Compiler's Note

Chapter 206, Laws of 1939, referred to at the beginning of this section, was repealed by Sec. 496, Ch. 5, Laws 1971.

75-8203. Selection of school sites, approval election, and lease of state lands. The trustees of any district shall have the authority to select the

sites for school buildings or for other school purposes but such selection shall first be approved by the qualified electors of the district before any contract for the purchase of such site is entered into by the trustees, except the trustees shall have the authority to purchase or otherwise acquire property contiguous to an existing site that is in use for school purposes without a site approval election. Furthermore, the trustees may take an option on a site prior to the site approval election.

The election for the approval of a site shall be called under the provisions of section 75-6406 and shall be conducted in the manner prescribed by this Title for school elections. An elector who may vote at a school site election shall be qualified to vote under the provisions of section 75-6410. If a majority of those voting at the election approve the site selection, the trustees shall have the authority to purchase such sites. A site approval election shall not be required when the site was specifically identified in an election at which an additional levy or the issuance of bonds was approved for the purchase of such site.

Any site for a school building or other building of the district that is selected or purchased by the trustees shall:

- (1) be in a place that is convenient, accessible and suitable;
- (2) comply with the minimum size and other requirements prescribed by the board of health of the state of Montana; and
- (3) comply with the state-wide building regulations, if any, promulgated by the state building code council.

The state board of land commissioners shall have the authority to sell, at the appraised value, or to lease for any period of time less than ninety-nine (99) years, at an amount of one dollar (\$1) per year, to a district any tract of state land of not more than ten (10) acres to be used as a school site in such district.

History: En. 75-8203 by Sec. 475, Ch. 5, L. 1971.

75-8204. Trustees authority to acquire or dispose of sites and buildings, and when election required. The trustees of any district shall have the authority to purchase, build, exchange, or otherwise acquire or sell or otherwise dispose of sites and buildings of the district. Such action shall not be taken by the trustees without the approval of the qualified electors of the district at an election called for such approval unless:

- (1) a bond issue has been authorized for the purpose of constructing, purchasing, or acquiring the site or building;
- (2) an additional levy under the provisions of section 75-6923 has been approved for the purpose of constructing, purchasing, or acquiring the site or building;
- (3) the cost of constructing, purchasing, or acquiring the site or building is financed without exceeding the maximum-general-fund-budget-without-a-vote amount prescribed in section 75-6905, and, in the case of a site purchase, the site has been approved under the provisions of section 75-8203; or
- (4) moneys are otherwise available under the provisions of this Title

and the ballot for the site approval for such building incorporated a description of the building to be located on the site.

When an election is conducted under the provisions of this section, it shall be called under the provisions of section 75-6406 and shall be conducted in the manner prescribed by this Title for school elections. An elector qualified to vote under the provisions of section 75-6410 shall be permitted to vote in such election. If a majority of those electors voting at the election approve the proposed action, the trustees may take the proposed action.

History: En. 75-8204 by Sec. 476, Ch. 5,
L. 1971.

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 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 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 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 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 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 property and, if appealed, has been upheld by the court shall sell or dispose of such real 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.

CHAPTER 83

MISCELLANEOUS PROVISIONS

Section 75-8304. Oath of office.

75-8304. Oath of office. Any person elected or appointed to any public office authorized by this Title shall take the oath of office before qualifying for and assuming the office. In case an officer has a written appointment or commission, his oath shall be endorsed thereon; otherwise it may be taken orally; and, in either case, it may, without charge or fee, be sworn to before an officer authorized to administer oaths for such public office.

History: En. 75-8304 by Sec. 488, Ch. 5,
L. 1971.

TITLE 84—TAXATION

REFERENDUM UPON THE 1971 MONTANA REVENUE ACT

Chapter 9, 2nd Ex. L. 1971, enacted "The 1971 Montana Revenue Act," providing for a sales tax and use tax in lieu of a portion of the surtax on the income tax, subject to referendum at a special general election to be held on November 2, 1971. The Title of the Act and sections 42 and 43 read as follows:

An act providing for a referendum to be submitted to the electors in November 1971 for a law which provides for the levying of a two per cent (2%) sales and use tax to support state government; providing for the administration thereof and for penalty in case of violation thereof; providing for an income tax refund or credit for sales and use tax upon food, drugs and related items; providing an increase in income tax surtax to forty per cent (40%) by amending section 84-4902.1, R. C. M. 1947, for calendar year 1971 if the referendum passes; providing for the continuance of such surtax rate to December 31, 1972 if the referendum fails; providing for repeal of acts or parts of acts in conflict herewith and providing effective dates.

* * *

Section 42. Referendum. There shall be a referendum upon this act except for sections 40 and 46 to be submitted to the electors of this state at a special general election to be held November 2, 1971 for their approval or rejection.

Section 43. The referendum shall be submitted to the electors on an official ballot which shall contain the title of this act and the number of the referendum. The question shall be presented in the following form:

☐ For referendum measure no. _____

For reduction of the 40% Income Tax Surtax to 10% and for the enactment of the 2% Sales and Use tax.

☐ Against referendum measure no. _____

Against reduction of the 40% Income Tax Surtax to 10% and against enactment of the 2% Sales and Use Tax.

* * *

TITLE 89—WATERS AND IRRIGATION

CHAPTER 34—CONSERVANCY DISTRICTS

Section 89-3405. Action by water board upon receipt of request.
89-3407. Feasibility study and report—adjustment of proposed boundaries.

89-3405. Action by water board upon receipt of request. (1) Sooner than eleven (11) days after the request is received, the water board shall acknowledge the request.

(2) The water board shall itself, or through co-operating agencies, or together with co-operating agencies:

(a) consult with the board of supervisors and all persons who may participate in the proposed project;

(b) conduct a preliminary survey of the proposed district;

(c) estimate costs of works, maintenance, and operation;

(d) determine sources of financing;

(e) reach a tentative decision on the feasibility, desirability and compatability with the state water plan of the proposed district;

(f) adjust the boundaries of the proposed district to improve the feasibility, desirability or consistency with the state water plan;

(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, state soil conservation committee, state board of health, 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.

Amendments

The 1971 amendment increased from six months to one year the time allowed by subdivision (2)(g) for the report of preliminary survey.

89-3407. Feasibility study and report—adjustment of proposed boundaries. After the hearing, the applicants, or any one of them, may request the water board to prepare a detailed feasibility study of the proposed district. If the water board 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, state soil conservation committee, state board of health, and other affected state and federal water resource agencies. For good cause shown based upon the actual technical problems in completing the report, the water board may use necessary additional time to complete and dis-

tribute 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 water board 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; allowed for the feasibility report by the
amd. Sec. 1, Ch. 303, L. 1971. second sentence from six months to one
year.

Amendments

The 1971 amendment increased the time

TITLE 93—CIVIL PROCEDURE

CHAPTER 26—LIMITATION OF OTHER ACTIONS

Section 93-2612. Actions relating to bond issues, time for bringing.

93-2612. (9040) Actions relating to bond issues, time for bringing. No action can be brought for the purpose of restraining the issuance and sale of bonds or other obligations by the state of Montana or any school district, county, city, town, or political subdivision of the state, or for the purpose of restraining the levy and collection of taxes for the payment of such bonds or other obligations, after the expiration of sixty (60) days from the date of the election on such bonds or obligations or, if no election was held thereon, after the expiration of sixty (60) days from the date of the order, resolution or ordinance authorizing the issuance thereof, on account of any defect, irregularity, or informality in giving notice of or not holding the election; nor shall any defense based upon any such defect, irregularity, or informality be interposed in any action unless brought within this period. This section applies but is not limited to any action and defense in which the issue is raised whether a voted debt or liability has carried by the required majority vote of the electors qualified and offering to vote thereon.

History: En. Sec. 1, Ch. 114, L. 1919; re-en. Sec. 9040, R. C. M. 1921; amd. Sec. 15, Ch. 158, L. 1971.

TITLE 94—CRIMES AND CRIMINAL PROCEDURE

CHAPTER 14—ELECTION FRAUDS AND OFFENSES—CORRUPT PRACTICES ACT

Section

94-1436. Record of statements—copies.

94-1436. (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.

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.”

READY-REFERENCE INDEX

References are to Sections of the Montana Codes and Constitution

Absentee voting

- death of elector before election, ballot does not count, 23-3709
- delivery of ballots to election judges, 23-3709
- mailing ballots to elector, envelopes, instructions, 23-3706
- registration
 - cancellation for failure to vote, 23-3013
- rejection of ballots, 23-3709
- school elections, 75-6416
- United States servicemen and citizens temporarily residing outside territorial limits
 - cancellation of registry for failure to vote, 23-3013
 - classification of Federal postcard application, 23-3721
 - "elector in the United States service" defined, 23-3718
 - oath required, 23-3720
 - registration of electors whose service or employment has terminated, 23-3724

Airports, tax levy for establishment by counties and cities, 1-804, 1-917

Apportionment and representation

- congressional districts, 43-107
- legislative apportionment, 43-106.6 to 43-106.9

Ballots

- absentee ballots, mailing to electors, envelopes, instructions, 23-3706
- names of candidates and party designation printed on ballots, 23-3509
- school elections, 75-6403, 75-6408

Bond issues

- contest of election, grounds for challenge, time for filing petition, 23-4201
- limitation of actions relating to bond issues, 93-2612
- qualifications of voters, Const. Art. IX, § 2
 - legislative policy and purpose, 23-2701.1
 - school elections, 75-6410.1
- "taxpayer" stamped on precinct register, 23-3012
- school district bond issues, 75-7110 to 75-7118
- county bond issues for high school purposes, 75-7134 to 75-7136

Candidate's statement of expenditures, preservation of record, copies, 94-1436

Cities and towns

- biennial elections of officers, 11-709
- bond issues, petition and election requirements, 11-2306, 11-2310
 - limitation of actions relating to bond issues, 93-2612
- Revenue Bond Act of 1939, election requirements, 11-2404
- commission form of government, violations in elections, 11-3116
- commission-manager form of government
 - compensation of commissioners and mayor, 11-3248
 - violations in elections, 11-3229
- contracts for purchases or construction over five years, election, 11-1202
- nominations
 - declining nomination, procedure, 23-3321
 - independent candidates, certificates of nomination by individuals or parties not on prior ballot, 23-3318
 - vacancies before and after primary, filling, 23-3321
- primary election provisions applicable, 23-3302
- recall of elective officers, 11-721.1
- sewage system, establishment, bond issues, elections, 11-2217, 11-2218
- special improvement district revolving funds, 11-2271, 11-2275
- terms of officers, 11-709
- urban renewal projects and plans, bond elections, 11-3906
- water supply system, establishment, bond issues, elections, 11-2217, 11-2218

Clerks of elections, 23-3201 to 23-3204, 23-3206

READY-REFERENCE INDEX

References are to Sections of the Montana Codes and Constitution

Community college districts

- annexation of territory to district, 75-8125
- election on organization, 75-8106 to 75-8112
- petition for organization of district, 75-8105
- requirements for organization, 75-8104
- tax levy, additional levy proposition, 75-8131
- trustees of district, 75-8107, 75-8113 to 75-8116

Conservancy districts, preliminary survey, feasibility study, 89-3405, 89-3407

Constitution of Montana

- constitutional convention, Const. Art. XIX, § 8, note
- proposed amendments, submission to electors, Const. Art. XIX, § 9

Corrupt Practices Act, preservation of records of statement of expenses, copies, 94-1436

County bond issues, petition and election, 16-2021, 16-2022, 16-2026

- limitation of actions relating to bond issues, 93-2612

County officers, qualifications for office, 16-2401

County seats, election on location, registration of voters, 16-405

County superintendent of schools, election, qualifications, term, oath, vacancy, 75-5802, 75-5803

County water and sewer districts, bond election, 16-4517

District officers, qualifications for office, 16-2402

Holidays, state general election day, 19-107

- school holidays, 75-7406

Hospital districts, election of board of trustees, 16-4307

Independent candidates, certificates of nomination, 23-3318

- secretary of state's determination of number of signatures required in census divisions, 23-3318.1

Judges and clerks of elections, 23-3201 to 23-3204, 23-3206

Legislative assembly, apportionment, 43-106.6 to 43-106.9

Levy, debt or liability question

- limitation of actions relating to bond issues, 93-2612
- qualifications of voters, Const. Art. IX, § 2
 - legislative policy and purpose, 23-2701.1
 - school elections, 75-6410.1

- "taxpayer" stamped on precinct register, 23-3012

Nominations

- declining nomination, procedure, 23-3321

independent candidates, certificates of nomination, 23-3318

- secretary of state's determination of number of signatures required in census divisions, 23-3318.1

- vacancies before and after primary, filling, 23-3321

Pollbook, list of persons voting known as pollbook, 23-3610

Precinct register, preparation, contents, delivery, 23-3012

- city or school district, charges for preparation, when not required, 23-3027

- marking by election judges at polls, procedure, 23-3610

- printing and posting list of voters, 23-3023

Primary elections

- cities over 3,500 population, applicable provisions, 23-3302

precinct register, marking, procedure, 23-3610

- vacancies before and after primary, filling, 23-3321

Qualifications of electors

- age for voting, Const. Art. IX, § 2, 23-2701(1)

- United States Const., Amend. 26

- citizenship requirements, Const. Art. IX, § 2, 23-2701(1)

- felons prohibited from voting, Const. Art. IX, § 2, 23-2701(2)

- cancellation of registry, 23-3014

- insane persons prohibited from voting, 23-2701(3)

levy, debt or liability question, Const. Art. IX, § 2

- legislative policy and purpose, 23-2701.1

- school elections, 75-6410.1

- "taxpayer" stamped on precinct register, 23-3012

READY-REFERENCE INDEX

References are to Sections of the Montana Codes and Constitution

Qualifications of electors (Continued)

- registration required, 23-2701(1)
- residence requirements, rules, Const. Art. IX, § 2, 23-2701(1), 23-3022
- school elections, 75-6410

Registration, requirement for, 23-2701(1)

- cancellation of registry, 23-3013, 23-3014
- close of registration, time for, procedure, 23-3016
- highway patrol to submit new-voter lists to political parties, 23-3001
- precinct register and lists, preparation by registrar, 23-3012
- school district residence included in registration, 23-3004.1

Residence, qualifications of electors, rules, Const. Art. IX, § 2, 23-2701(1), 23-3022

School buildings and sites, elections on site selection, purchase, building, exchange, acquisition or sale of sites and buildings, 75-8203, 75-8204

- repossession by original owner after abandonment for school purposes, 75-8202
- sale or disposition of abandoned or unsuitable property, 75-8205
- trustees' responsibility for property, 75-8201

School districts and trustees

- abandonment of district, 75-6512, 75-6513
 - high school district, attachment to another district, 75-6524
- annexation of districts
 - elementary districts, 75-6507 to 75-6510
 - high school districts, 75-6519 to 75-6526
- appointment of trustees in high school district operating county high school, 75-5921
 - vacancy in office, filling, 75-5922
- bond issues of district, election required, procedure, 75-7110 to 75-7117
 - qualifications of electors, policy of state, 75-6410.1
 - refunding bonds, election not required, 75-7109
 - resolution for issue, 75-7118
- building reserve fund, authorization and purpose, 75-7205
- child care institution district boundaries changed by land acquisition, 75-6515
- community college districts, 75-8104 et seq.—See Community college districts, above
- consolidation of districts
 - elementary districts, procedure, 75-6506, 75-6509 to 75-6511
 - high school districts, procedure, 75-6519 to 75-6526
- dissolution of joint elementary district, procedure, 75-6514
- division of county into high school districts, 75-6520 to 75-6522
- election of trustees, annual election, 75-5912
 - ballots, conduct of election, 75-5915
 - high school district operating county high school, conversion to elective system for trustees, 75-5923, 75-5924
 - nominations for office, 75-5913, 75-5914
- elections on school matters, 75-6401 et seq.—See School elections, below
- eligibility for office of trustee, 75-5913
- interstate agreements for joint school facilities, 75-7308
- new districts, creation
 - elementary district, 75-6517, 75-6518
 - high school district, 75-6521 to 75-6523
- number of trustee positions, 75-5902
 - additional positions in high school districts, 75-5903 to 75-5905
 - high school district operating county high schools, 75-5920
- oath of office, 75-5916
 - time of taking oath, 75-8304
 - vacancy, person appointed to fill, 75-5918
- property of district, trustees' power over, 75-8201
- qualifications for district offices, generally, 16-2402
- removal of trustee from office, 75-5919
- tax levies
 - additional levy approved by electors for special purposes, 75-6923
 - qualifications of electors, policy of state, 75-6410.1
- terms of office of trustees, 75-5906 to 75-5910
 - high school district operating county high school, 75-5925
 - vacancy, term for filled, 75-5911

READY-REFERENCE INDEX

References are to Sections of the Montana Codes and Constitution

School districts and trustees (Continued)

- transfer of territory between districts
 - elementary districts, 75-6516
 - high school districts, 75-6519 to 75-6526
- transportation, transfer of territory for school bus transportation purposes, election, 75-7015
- unified county high school and elementary district, procedure, adjustments and transactions after approval, 75-6538, 75-6539
- vacancy in office, circumstances creating, filling, 75-5917, 75-5918

School elections

- absentee voting, 75-6416
 - superintendent of public instruction to prepare forms and rules, 75-5707
- annual election days, 75-6404
- ballot required in all elections, 75-6403
 - format of ballot, establishment by trustees, 75-6408
- bond issues, election procedure in districts, 75-7110 to 75-7118
 - county bond issues for high school purposes, 75-7134 to 75-7136
- canvass of votes by trustees, 75-6423
- certificate of election, issuance, 75-6423
- challenge of electors, 75-6412
- clerk of election, designation, 75-6419
- conduct of election, 75-6421, 75-6422
- conflicting provisions in general election law, 75-6402
- counting of ballots, 75-6422
- elections to which provisions apply, 75-6401
- electronic voting systems, use in elections, 75-6417
- expenses of election, sources of payment, 75-6420
- hours of polling, 75-6405, 75-6408
- judges of election, appointment and notice, 75-6408
 - compensation of judges, 75-6420
 - relatives of candidates eligible, 23-3202
 - replacement of absent judge, 75-6419
- list of registered electors prepared for polling places, 75-6414, 75-6415
 - resident school district recorded in registration by county registrar, 23-3004.1
 - signature of list by electors voting, 75-6422
- notice of election, posting, publication and contents, 75-6409
- opening and closing of polls, 75-6405
- order for election, time limitation for election, 75-6407
- pollbook kept by election clerk, 75-6422
- polling places for elections, 75-6408
- precinct register, preparation, charge by county registrar, when not required, 23-3012, 23-3023, 23-3027
- publication of election results, 75-6423
- qualifications of electors, 75-6410
 - tax or debt questions, policy of state on qualifications, 75-6410.1
- registration of voters, closing, 75-6413
- resolution of election, contents, when adopted and transmittal, 75-6406
- return of records and supplies to trustees, 75-6422
- special elections, when called, 75-6404
- supervision of elections by trustees, 75-6418
- supplies provided to polling places, 75-6418
- trustees' election duties, 75-5933
- trustees, election of, 75-5912 et seq.
- voting machines, use in school elections, 75-6417

School holidays, 75-7406

School superintendents

- county superintendent, election, qualifications, term, oath, vacancy, 75-5802, 75-5803
- superintendent of public instruction, election, qualifications, term, oath, vacancy, 75-5702, 75-5703
 - powers and duties relating to elections, 75-5707

Secretary of state, independent candidates, determination of number of signatures needed for nominating petitions in census divisions, 23-3318.1

Taxation, referendum upon the 1971 Montana Revenue Act, Title 84, note

Township officers, qualifications for office, 16-2402

