

## **POLICY QUESTIONS FOR SJR 14 SUBCOMMITTEE**

For Conference Call Meeting

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1. Internal references. In amending Title 20, School Election Laws, and all the Special District election laws in Title 7, Title 76, and Title 85, to add consistency with some of the deadlines in Title 13, you have a choice between three approaches (Option a., Option b., or Option c):
  - a. Refer to the deadlines in Title 13 without restating the actual days of the deadlines. For example, for candidate filing deadlines, amend into each statute concerning candidate filing "the deadline provided in section 13-10-201". The upside is that if a legislator ever requested a bill to change this deadline, this option will allow a bill drafter to simply change the deadline in 13-10-201 and it will automatically change the deadlines in all sections that refer to 13-10-201. The downside is that readers of the individual statutes would have to constantly refer back to Title 13 to read the deadline.
  - b. Refer to the deadline in Title 13, but also restate in each individual statute what the days are so that a reader of the statute would not have to go to Title 13 to read the deadline. For example, each statute referencing candidate filing would read, "pursuant to 13-10-201, a candidate shall file no sooner than 145 days and no later than 85 days before the election". This option is preferred by the School district stakeholders who would like Title 20 to stand alone. However, if this approach were also be applied to Title 7, Title 75, and Title 85 statutes concerning special district elections, this would affect a "ton" of statutes. The upside is the clarity for the reader. The downside is that if a legislator ever requested a bill to change the deadline, the bill drafter would have to pull in to the bill every section that restated the days and then change the days, resulting in a very long bill. But, the bill would contain all the ripple effects of the change so a person reading the bill would see exactly what other elections would be affected by the change in the deadline.
  - c. A possible middle ground for the School District stakeholders would be to create a new umbrella statute in Title 20, School Elections, that would restate the days for the deadlines and that would contain the references to Title 13. The school district readers would have to refer to the umbrella statute in Title 20, but no have to refer all the way to Title 13. This approach could also be taken with Title 7, but Title 76 and Title 85 statutes would refer to the umbrella section in Title 7 and then to Title 13. A future bill request to change the deadlines would be smaller than the Option b. but larger than the Option a. The downside is that to draft this into this bill will be more complicated and the end result will be a more complex set of internal references to be checked each time a bill draft is proposed to change the deadlines.

2. Polling place hours. The stakeholders were all concerned about changing the polling hours for small precincts to require all polls to be open from 7a.m. to 8 p.m. Those stakeholder who had initially supported this change are backing off and would suggest that you consider keeping the polling place hours as is. How would you like to proceed?

- Option a. Stick by your previous decision to make polling place hours uniform
- Option b. Reconsider your previous action and make no change to current hours
- Option c. Some other change you may want ??

3. Annual meeting elections. There are two types of special purpose districts that allow board members to be elected at annual meetings: irrigation districts and water conservancy districts. Do you want to continue to allow this option or require the election to be held as a regular election?

4. Alternative forms of government elections. Current law provides many various forms of local government. Most statutes concerning an election about a form of government require the election to be held on the same day as a primary or general election. However, some statutes also allow the election to be on a special day. I could amend all the sections to conform with the requirement that the election be held on the same day as the primary or general election, or I could amend all of the sections to allow greater latitude, e.g, the governing body (or the people with respect to a petition for a referendum) to decide whether to hold it with a general or primary, or on a special date. How much latitude do you want to provide concerning when an election concerning an alternative form of government must be held?

5. Absentee ballots and the ripple effect. Federal law requires that in a federal election absentee ballots must be mailed to overseas and military voters no later than 45 days before the federal election. However, with respect to the state primary in even-numbered years, the deadline is 30 days before the election and odd-numbered years, the deadline is 20 days before the election. There are no provisions addressing this deadline specifically for school elections or special purpose district elections. The absentee ballot deadline goes hand-in-hand with the deadline for when ballots must be certified. And, ballot certification goes hand-in-hand with the deadline for candidate filing and the deadline for verifying signatures or certifying a ballot issue question for the ballot. So, you have the following policy questions all stemming from the first question below about when you want absentee ballots to be available:

- a. Do you want to set a uniform deadline for when absentee ballots must be available, such as making all the elections conform with the 45-day requirement for federal elections?
- b. Do you then also want to set a uniform deadline for ballot certification in all elections, e.g, 10 days after the close of candidate filing (85 days before the election), which would make ballot certification 75 days before the election? If the absentee ballots must be available by 45 days prior to the election, this gives election administrators 30 days to have the ballots formatted properly and printed.

The applicable current law section for a primary election ballot certification is as follows:

**13-10-208. Certificate of primary ballot -- preparing ballot.** (1) Not more than 85 days and not less than 75 days before the date of the primary election, the secretary of state shall certify to the election administrators the names and designations of candidates, except as provided in 13-37-126, and any ballot issues as shown in the official records of the secretary of state's office in the manner provided in 13-10-209 and Title 13, chapter 12, part 2.

(2) (a) Except as provided in subsection (2)(b), not more than 67 days and not less than 62 days before the date of the primary election, the election administrator shall certify the names and designations of candidates, except as provided in 13-37-126, and any ballot issues as shown in the official record of the election administrator's office and must have the official ballots prepared in the manner provided in 13-10-209 and Title 13, chapter 12, part 2.

(b) For a primary election conducted pursuant to 13-1-107(1), the election administrator shall, not more than 75 days and not less than 70 days before the date of the primary election, certify the names and designations of candidates, except as provided in 13-37-126, and any ballot issues as shown in the official record of the election administrator's office and must have the official ballots prepared in the manner provided in 13-10-209 and Title 13, chapter 12, part 2.

(3) If a candidate for the legislature is no longer eligible under Article V, section 4, of the Montana constitution to seek the office for which the candidate has filed because the candidate has changed residence, the secretary of state shall notify the candidate that the candidate is required to withdraw as provided in 13-10-325.

- b. How would you like to handle deadlines for validating ballot issue questions? The Montana constitution requires that petitions for a statewide initiative must be filed with the secretary of state's office no later than three months prior to the election. Would you like to mirror this deadline (i.e., set 90 days before the election) as the deadline with respect to any ballot issue question for a local government or special purpose district? This goes hand-in-hand with the uniform candidate filing deadline of 85 days before the election. which you decided at your last meeting to apply to all of these local special purpose elections, some of which must be held on the same day as a regular school election, and some of which may be held on either the regular school election, primary, or general election day, or on a special day as a special election. The key issue for election administrators, candidates, and petition filers is not having a different deadlines for filing information, ballot certification, and absentee voting when the election is held on the same day as a primary or general election. But, the statewide deadlines if the election is not in conjunction with a primary or general election may be seen as too far in advance of the election.

Just brainstorming: An option not yet discussed is requiring all special purpose district elections to be mail ballot special elections. Then, these elections could have their own candidate filing, petition filing, and ballot certification deadlines. Obviously there are policy implications and pros and cons to be considered.

## **NEW**

6. Voter qualifications. For special purpose districts where a tax may be imposed, all but one type of district (county water and/or sewer districts) allows a nonresident owner of taxable property to vote in the election as long as the person is registered to vote in any county of the state. However, in the county water and/or sewer district statutes, a nonresident owner of taxable property may vote in the election as long as the person is registered to vote in any state of the country.

The policy question is, do you want to make all special purpose district voter qualifications the same? If so, do you want to include or exclude out-of-state taxable property owners? There is a legal question about whether there is an equal protection constitutional issue involved that would actually prohibit the state from excluding out-of-state property owners. Ms. Aldrich is researching this and may have information for the subcommittee by the time of the conference call. If not, it may be further discussed by the full SAVA at the April 9 meeting.