

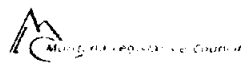
SENATE BILL 126

Introduced by Aklestad, et al.

1/17	Introduced
1/18	Referred to Local Government
1/18	First Reading
1/29	Hearing
2/01	Tabled in Committee

1 *Senate* BILL NO. *126*
 2 INTRODUCED BY *ALFRED BERNHARDT*
 3 *Frank Hager* *Ernie* *Bob Brown* *William Rea*
 4 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING LOCAL
 5 GOVERNMENT ELECTIONS TO BE HELD ON A NONPARTISAN BASIS;
 6 ALLOWING ELECTORS, AFTER THE EFFECTIVE DATE OF THIS ACT, TO
 7 APPROVE A REFERENDUM OR INITIATIVE REQUIRING ELECTIONS TO BE
 8 ON A PARTISAN BASIS; AMENDING SECTIONS 7-3-111, 7-3-112,
 9 7-3-113, 7-3-114, 7-3-219, 7-3-314, 7-3-413, 7-3-513,
 10 7-3-704, 7-4-2106, AND 7-4-2206, MCA; AND PROVIDING AN
 11 IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."
 12
 13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 14 **Section 1.** Section 7-3-111, MCA, is amended to read:
 15 "7-3-111. Statutory basis for elected county official
 16 government. (1) For the purpose of determining the statutory
 17 basis of existing units of local government after May 2,
 18 1977, each unit of local government organized under the
 19 general statutes authorizing the elected county official
 20 form of government shall be governed by the following
 21 sections:
 22 (a) 7-3-401;
 23 (b) 7-3-402;
 24 (c) 7-3-412(3);
 25 (d) 7-3-413(1);

1 (e) 7-3-414(1);
 2 (f) 7-3-415(2);
 3 (g) 7-3-416(2);
 4 (h) 7-3-417(2);
 5 (i) 7-3-418;
 6 (j) 7-3-432(1);
 7 (k) 7-3-433(1);
 8 (l) 7-3-434(1);
 9 (m) 7-3-435(1);
 10 (n) 7-3-436(1);
 11 (o) 7-3-437(1);
 12 (p) 7-3-438(1);
 13 (q) 7-3-439(1);
 14 (r) 7-3-440(1);
 15 (s) 7-3-441(1);
 16 (t) 7-3-442(1) if the county has elected an auditor;
 17 (u) 7-3-442(6) if the county has not elected an
 18 auditor.
 19 (2) This form has terms of 4 years for all elected
 20 officials except commissioners who are elected to 6-year
 21 terms. The commission consists of three members."
 22 **Section 2.** Section 7-3-112, MCA, is amended to read:
 23 "7-3-112. Statutory basis for county manager
 24 government. (1) For the purpose of determining the statutory
 25 basis of existing units of local government after May 2,



1 1977, each unit of local government organized under the
2 general statutes authorizing the county manager form of
3 government shall be governed by the following sections:

- 4 (a) 7-3-301;
- 5 (b) 7-3-303;
- 6 (c) 7-3-304;
- 7 (d) 7-3-305;
- 8 (e) 7-3-312(2);
- 9 (f) 7-3-313(1) or (2);
- 10 (g) 7-3-314~~(2)~~;
- 11 (h) 7-3-315(1);
- 12 (i) 7-3-316(2);
- 13 (j) 7-3-317(2);
- 14 (k) 7-3-318.

15 (2) Commissioners are elected to 6-year terms. The size
16 of the commission shall be established by ordinance, but it
17 may not exceed five members."

18 **Section 3.** Section 7-3-113, MCA, is amended to read:

19 "7-3-113. Statutory basis for municipal council-mayor
20 government. (1) For the purpose of determining the statutory
21 basis of existing units of local government, each unit of
22 local government organized under the general statutes
23 authorizing the municipal council-mayor form of government,
24 which does not adopt a new form, shall be governed after May
25 2, 1977 by the following sections:

- 1 (a) 7-3-201;
- 2 (b) 7-3-202(1);
- 3 (c) 7-3-203;
- 4 (d) 7-3-212(2);
- 5 (e) 7-3-213(3);
- 6 (f) 7-3-214(2);
- 7 (g) 7-3-215(2);
- 8 (h) 7-3-216(2);
- 9 (i) 7-3-217(1);
- 10 (j) 7-3-218(2);
- 11 (k) 7-3-219~~(1)~~;
- 12 (l) 7-3-220(1);
- 13 (m) 7-3-221(3);
- 14 (n) 7-3-222(2);
- 15 (o) 7-3-223(2).

16 (2) This form has terms of 4 years for all elected
17 officials. The size of the commission shall be established
18 by ordinance, but it may not exceed 20 members."

19 **Section 4.** Section 7-3-114, MCA, is amended to read:

20 "7-3-114. Statutory basis for municipal
21 commission-manager government. (1) For the purpose of
22 determining the statutory basis of existing units of local
23 government after May 2, 1977, each unit of local government
24 organized under the general statutes authorizing the
25 municipal commission-manager form of government shall be

1 governed by the following sections:

- 2 (a) 7-3-301;
 3 (b) 7-3-302(1);
 4 (c) 7-3-303;
 5 (d) 7-3-304;
 6 (e) 7-3-305;
 7 (f) 7-3-312(3);
 8 (g) 7-3-313(1);
 9 (h) 7-3-314(2);
 10 (i) 7-3-315(2);
 11 (j) 7-3-316(2);
 12 (k) 7-3-317(2);
 13 (l) 7-3-318.

14 (2) This form has terms of 4 years for all elected
 15 officials. The size of the commission shall be established
 16 by ordinance, but it may not exceed five members."

17 **Section 5.** Section 7-3-219, MCA, is amended to read:

18 "7-3-219. Type of election. (1) Local government
 19 elections shall be conducted on a:

- 20 ~~(1) partisan basis; or~~
 21 ~~(2) nonpartisan basis unless after [the effective date~~
 22 ~~of this act], the electors approve a referendum or~~
 23 ~~initiative requiring elections to be on a partisan basis.~~

24 (2) The governing body of a local government may
 25 determine the need for a primary election according to

1 13-14-115."

2 **Section 6.** Section 7-3-314, MCA, is amended to read:

3 "7-3-314. Type of election. (1) Local government
 4 elections shall be conducted on a:

- 5 ~~(1) partisan basis; or~~
 6 ~~(2) nonpartisan basis unless after [the effective date~~
 7 ~~of this act], the electors approve a referendum or~~
 8 ~~initiative requiring elections to be on a partisan basis.~~

9 (2) The governing body of a local government may
 10 determine the need for a primary election according to
 11 13-14-115."

12 **Section 7.** Section 7-3-413, MCA, is amended to read:

13 "7-3-413. Type of election. (1) Local government
 14 elections shall be conducted on a:

- 15 ~~(1) partisan basis; or~~
 16 ~~(2) nonpartisan basis unless after [the effective date~~
 17 ~~of this act], the electors approve a referendum or~~
 18 ~~initiative requiring elections to be on a partisan basis.~~

19 (2) The governing body of a local government may
 20 determine the need for a primary election according to
 21 13-14-115."

22 **Section 8.** Section 7-3-513, MCA, is amended to read:

23 "7-3-513. Type of election. (1) Local government
 24 elections shall be conducted on a:

- 25 ~~(1) partisan basis; or~~

1 ~~(2)~~ nonpartisan basis unless after [the effective date
2 of this act], the electors approve a referendum or
3 initiative requiring elections to be on a partisan basis.

4 (2) The governing body of a local government may
5 determine the need for a primary election according to
6 13-14-115."

7 **Section 9.** Section 7-3-704, MCA, is amended to read:

8 **"7-3-704. Legislative body.** (1) The charter shall
9 provide for an elected legislative body (called a commission
10 or council) or shall provide for a legislative body
11 comprised of all qualified electors. For elected legislative
12 bodies, the charter shall specify the number of members
13 thereof, their term of office, election on a partisan or
14 nonpartisan basis, the grounds for their removal, and the
15 method for filling vacancies.

16 (2) The charter shall provide for the nomination and
17 election of commissions:

18 (a) at large;

19 (b) by districts in which candidates must reside and
20 which are apportioned by population;

21 (c) by a combination of districts, in which candidates
22 must reside and which are apportioned by population, and at
23 large; or

24 (d) elected at large and nominated by a plan of
25 nomination that may not preclude the possibility of the

1 majority of the electors nominating candidates for the
2 majority of the seats on the commission from persons
3 residing in the district or districts where the majority of
4 the electors reside.

5 (3) (a) Local government elections must be conducted on
6 a nonpartisan basis unless after [the effective date of this
7 act], the electors approve a referendum or initiative
8 requiring elections to be on a partisan basis.

9 (b) The governing body of a local government may
10 determine the need for a primary election according to
11 13-14-115."

12 **Section 10.** Section 7-4-2106, MCA, is amended to read:

13 **"7-4-2106. Vacancy on board of county commissioners.**

14 (1) For the purposes of this part, "vacancy" has the same
15 meaning as prescribed in 2-16-501.

16 (2) Whenever a vacancy occurs in the board of county
17 commissioners from a failure to elect or otherwise, the
18 remaining county commissioners must fill the vacancy, and
19 such appointee shall hold office until the next general
20 election unless otherwise provided in subsection (3) or (4).
21 The procedure to be used to fill the vacancy is as follows:

22 (a) If local government elections are conducted on a
23 partisan basis and the former incumbent represented a party
24 eligible for a primary election under 13-10-601, the county
25 central committee of that party shall submit to the

1 remaining commissioners three names of people who have lived
 2 in the unrepresented district for at least 2 years preceding
 3 the day the vacancy occurs, and the remaining commissioners
 4 shall appoint one of these three to fill the vacancy.
 5 Whenever the remaining commissioners are unable to elect an
 6 appointee from the submitted list, they shall request a
 7 second list of three names from the county central
 8 committee. The second list may not contain any of the names
 9 submitted on the first list. The remaining commissioners
 10 shall then select an appointee from the individuals named on
 11 both lists.

12 (b) If local government elections are conducted on a
 13 nonpartisan basis, if the former incumbent was independent
 14 or was originally nominated by a party that does not meet
 15 the requirements of 13-10-601, or if the vacancy occurs from
 16 a failure to elect, the remaining commissioners shall invite
 17 applications for the vacancy in a notice published as
 18 provided in 13-1-108 and shall accept an application from
 19 any person who has lived in the unrepresented district for
 20 at least 2 years preceding the day the vacancy occurs. The
 21 remaining commissioners shall appoint one of these
 22 applicants to fill the vacancy.

23 (3) Whenever a vacancy occurs 75 days or more before
 24 the general election held during the second or fourth year
 25 of the term, an individual shall be elected to complete the

1 term at that general election. The election procedure to be
 2 used to elect the successor is as follows:

3 (a) Whenever the vacancy occurs 75 days or more before
 4 the primary election during the second or fourth year of the
 5 term, the same procedure shall be utilized as is used to
 6 elect county commissioners to full 6-year terms.

7 (b) Whenever If local government elections are
 8 conducted on a partisan basis, whenever the vacancy occurs
 9 after the 75th day preceding the primary election, any
 10 political party desiring to enter a candidate in the general
 11 election shall select a candidate as provided in 13-38-204.
 12 A political party shall notify the clerk and recorder of the
 13 party nominee. A person desiring to be a candidate as an
 14 independent shall follow the procedures provided in
 15 13-10-501 and 13-10-502. The petition for an independent
 16 candidate shall be filed with the clerk and recorder on or
 17 before the 75th day prior to the general election. A
 18 candidate for a nonpartisan office shall file as provided in
 19 Title 13, chapter 14.

20 (4) Whenever a vacancy occurs after the 75th day
 21 preceding the general election held during the fourth year
 22 of the term, the person appointed by the remaining county
 23 commissioners under ~~7-4-2106(2)~~ subsection (2) shall serve
 24 until the end of the term."

25 **Section 11.** Section 7-4-2206, MCA, is amended to read:

1 **"7-4-2206. Vacancies.** (1) For the purposes of this
2 part, "vacancy" has the same meaning as prescribed in
3 2-16-501.

4 (2) Vacancies in all county offices, except that of
5 county commissioner, shall be filled by appointment by the
6 board of county commissioners. Except for the justice of the
7 peace, the appointee shall hold his office, if elective,
8 until the next general election unless otherwise provided in
9 subsections (3) or (4), and if not elective, the appointee
10 serves at the pleasure of the commissioners.

11 (3) Whenever a vacancy occurs 75 days or more before
12 the general election held during the second year of the
13 term, an individual shall be elected to complete the term at
14 that general election. The election procedure to be used to
15 elect the successor is as follows:

16 (a) Whenever the vacancy occurs 75 days or more before
17 the primary election during the second year of the term, the
18 same procedure shall be utilized as is used to elect a
19 person to that office for a full 4-year term.

20 (b) Whenever If local government elections are
21 conducted on a partisan basis, whenever the vacancy occurs
22 after the 75th day preceding the primary election, any
23 political party desiring to enter a candidate in the general
24 election shall select a candidate as provided in 13-38-204.
25 A political party shall notify the clerk and recorder of the

1 party nominee. A person desiring to be a candidate as an
2 independent shall follow the procedures provided in
3 13-10-501 and 13-10-502. The petition for an independent
4 candidate shall be filed with the clerk and recorder on or
5 before the 75th day prior to the general election. A
6 candidate for a nonpartisan office shall file as provided in
7 Title 13, chapter 14.

8 (4) Whenever a vacancy occurs after the 75th day
9 preceding the general election held during the second year
10 of the term, the person appointed by the commissioners under
11 ~~7-4-2206(2)~~ subsection (2) shall serve until the end of the
12 term.

13 (5) Vacancies occurring in the office of justice of the
14 peace shall be filled as provided in Title 3, chapter 10,
15 part 2."

16 NEW SECTION. Section 12. Effective date. [This act] is
17 effective on passage and approval and applies to elections
18 held on or after January 1, 1992.

-End-