

VOLUME NO. 35

Opinion No. 34

CONSTITUTIONAL LAW — Legislators, residency qualifications; LEGISLATURE, members of, residency qualifications; OFFICES AND OFFICERS — State officers, legislators, residency qualifications. Article V, section 4, Constitution of Montana.

- HELD:**
- 1. Legislative candidates who reside in a district crossing county boundaries may run in another district in the county of residency which is wholly contained within that county.**
 - 2. Legislative candidates who reside in a district crossing county boundaries may not run in another district in the county of residency which also crosses into another county.**
 - 3. Legislative candidates who reside in a district wholly contained within the county of residency may not run in another district in the county of residency which also crosses into another county.**
 - 4. Legislative candidates who reside in a district wholly contained within the county of residency may run in another district in the county of residency which is also wholly contained within that county.**

November 1, 1973

Mr. Joseph Marra, Chairman
Reapportionment and
Redistricting Commission
Montana Legislative Council
State Capitol
Helena, Montana 59601

Dear Mr. Marra:

You have requested my opinion concerning the residency qualifications of candidates for legislative office under Article V, section 4 of the Constitution of Montana. Specifically, you have asked the following questions:

1. Whether candidates who reside in a district crossing county boundaries may run in another district in the county of residency which is wholly contained within that county.
2. Whether candidates who reside in a district crossing county boundaries may run in another district in the county of residency which also crosses into another county.
3. Whether candidates who reside in a district wholly contained within the county of residency may run in another district in the county of residency which also crosses into another county.

4. Whether candidates who reside in a district wholly contained within the county of residency may run in another district in the county of residency which is also wholly contained within that county.

Article V, section 4 of the Constitution of Montana, establishes residence qualifications of candidates for legislative office. That section provides:

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

In construing a constitutional provision, the chief purpose is to give effect to the intent of its framers and the people who adopted it. **State v. State Board of Examiners**, 74 Mont. 1, 238 Pac. 316. Also, words in a constitution are to be given the natural and popular meaning in which they are usually understood by the people who adopted them. **State v. Moody**, 71 Mont. 473, 230 Pac. 575.

A review of the transcript of proceedings of the 1972 Montana constitutional convention indicates that section 4 of Article V, relating to residence qualifications of legislative candidates, was a compromise between the populous urban areas and the less populous rural communities. As revealed by the debate on the convention floor, the purpose of section 4 was to allow persons from an urban area to run for office in a district within an area of concentrated population without being a resident of the particular district in which he chooses to run. However, to preserve the essence of single-member districts and representation from districts in rural areas, the delegates also provided that one had to be a resident of the district in order to be qualified to run in that particular district, if the district comprised an entire county or cut across county boundaries. **Transcript of Proceedings, Mt. Const. Convention**, Vol. 14, pp. 2463-66, 2471-72, 2476-78, 2488-90.

The second sentence of section 4, then, has two essential provisions. First, it provides that a candidate must be a resident of the county if the county contains one or more districts. The ordinary meaning of "contains" is to enclose, to have within. **Webster's New International Dictionary**, 2d Ed., G. & C. Company, Publishers (1941). This meaning is consistent with that prescribed by the delegates in the debate on this section at the 1972 constitutional convention. **Transcript of Proceedings, Montana Constitutional Convention**, Vol. IV, p. 2471. Thus, a person can reside anywhere in a county, regardless of district boundaries, and run for office in any district wholly contained within that county.

The second element of section 4 provides that a candidate must be a resident of the district if the district contains all of one county, or parts of more than one county. Any time, therefore, that a district is comprised of only one county, or a district crosses a county boundary, a person must reside in the district in order to be qualified to run as a legislator from that district.

Applying this construction to Article V, section 4, the residence qualifications for candidates for legislative office can be delineated.

In response to your first question, a candidate who resides in a district crossing county boundaries may run in another district in the county of residency which is wholly contained within that county. The candidate meets the requirements of section 4 in that he is a resident of the county, and the district in which he chooses to run is wholly within that county. Likewise, in response to your fourth question, a candidate who resides in a district wholly contained within the county of residency may run in another district in the county of residency which is wholly contained within that county because he is a resident of the county, and the district in which he chooses to run is wholly within that county.

However, replying to your second and third questions, I conclude that a candidate who resides in a district crossing county boundaries, or a candidate who resides in a district wholly contained within the county of residency may not run in another district in the county of residency which crosses into another county. In these instances, the district in which the candidate wishes to run crosses a county boundary. The last phrase of section 4 specifically provides that a candidate must be a resident "of the district if it contains all or parts of more than one county." To run for office in a district which crosses county boundaries, a candidate must reside in that particular district.

THEREFORE, IT IS MY OPINION:

1. Candidates who reside in a district crossing county boundaries may run in another district in the county of residency which is wholly contained within that county.
2. Candidates who reside in a district crossing county boundaries may not run in another district in the county of residency which also crosses into another county.
3. Candidates who reside in a district wholly contained within the county of residency may not run in another district in the county of residency which also crosses into another county.
4. Candidates who reside in a district wholly contained within the county of residency may run in another district in the county of residency which is also wholly contained within that county.

Very truly yours,

ROBERT L. WOODAHL
Attorney General