

MINUTES

MONTANA SENATE
51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON EDUCATION

Call to Order: By Senator H. W. Hammond, on March 17, 1989,
at 1:00 pm in Room 402 at the State Capitol

ROLL CALL

Members Present: Senators: H. W. Hammond, Dennis Nathe,
Chet Blaylock, R. J. "Dick" Pinsoneault, Pat Regan,
William Farrell, John Anderson Jr., and Joe Mazurek

Members Excused: Senator Bob Brown

Members Absent: None

Staff Present: Dave Cogley, Staff Researcher and
Julie Harmala, Committee Secretary

Announcements/Discussion:

None

HEARING ON SB 464

Presentation and Opening Statement by Sponsor:

SENATOR PAUL RAPP-SVRCEK, Senate District #26, stated that this is a bill that addresses the problem that his superintendent raised when trustees are not sure what to do with the levies, so they wait until after the legislature is finished with their business before they have an election. Many of the years there are trustee elections at the same time as levies are voted on and right now by law these trustee elections are mandated to be held on the first Tuesday in April. So the way the bill is written, is that a trustee election either has to be held on a regularly scheduled school day or it can be held on the same day as the levy election. This is a way to save money.

He said he tried to keep the language as tight as possible so it would not affect other election that are held on the first Tuesday in April. He also said he thought it was important to try and help out the local districts. If the committee should act favorably on this bill he said he wanted to run it through the process as quickly as possible.

List of Testifying Proponents and What Group they Represent:

GENE OSTWALD, Superintendent of Schools in Thompson
Falls, Montana
BOB ANDERSON, The Montana School Board Association

Testimony:

GENE OSTWALD stood in support for SB 464.

BOB ANDERSON of the MSBA, stated that they support this bill because it gives flexibility to the districts for special levy elections, during the time when the legislature is in session.

List of Testifying Opponents and What Group They Represent:

LYLE NAGAL, The Montana Firefighters Association
HENRY BADT, The Montana Association of County School
Superintendents
MARGARET DAVIS, League of Women Voters
SUE BARTLETT, The Montana Association of Clerks and
Recorders

Testimony:

LYLE NAGAL, (See Exhibit #3)

HENRY BADT of the MACSS stood in opposition to SB 464.

MARGARET DAVIS, (See Exhibit #4)

SUE BARTLETT, (See Exhibit #5)

Closing by Sponsor:

SENATOR RAPP-SVRCEK thanked the committee for taking the time to hear SB 464. He said after hearing the testimonies it is obvious that the bill has some problems.

He asked that the committee be gentle with the bill when acting on it.

DISPOSITION OF SB 464

Recommendation and Vote:

Senator Farrell moved to table SB 464.

Senator Blaylock called for the question.

THE MOTION CARRIED UNANIMOUSLY, THAT SB 464 BE TABLED.

DISPOSITION OF HB 569

Recommendation and Vote:

Senator Regan moved that HB 569 do be concurred in.

Senator Blaylock called for the question.

THE MOTION CARRIED 8 TO 1, with Senator Farrell voting against it.

Senator Blaylock will carry HB 569 to the floor of the Senate.

DISPOSITION OF HB 597

Amendments and Votes:

Senator Pineseault moved that all three amendment to HB 596 do pass. (See Exhibit #1)

Senator Blaylock called for the question.

THE MOTION CARRIED UNANIMOUSLY.

Recommendation and Vote:


Senator Pinsoneault moved that HB 597 do be concurred in as amended.

Senator Nathe called for the question.

THE MOTION CARRIED UNANIMOUSLY.

ADJOURNMENT

Adjournment At: 2:30 pm



Senator H. W. Hammond, Chairman

HH/jh

Senmin.317

ROLL CALL

EDUCATION

COMMITTEE

51st LEGISLATIVE SESSION -- 1989

Date 3-17-89

NAME	PRESENT	ABSENT	EXCUSED
Chairman Swede Hammond	✓		
Vice Chairman Dennis Nathe	✓		
Senator Chet Blaylock	✓		
Senator Bob Brown			✓
Senator Dick Pinsoneault	✓		
Senator William Farrell	✓		
Senator Pat Regan	✓		
Senator John Anderson Jr.	✓		
Senator Joe Mazurek	✓		

Each day attach to minutes.

SENATE STANDING COMMITTEE REPORT

March 17, 1989

MR. PRESIDENT:

We, your committee on Education and Cultural Resources, having had under consideration HB 569 (third reading copy -- blue), respectfully report that HB 569 be concurred in.

Sponsor: Nisbet (Blaylock)

BE CONCURRED IN

Signed: _____
H. W. Hammond, Chairman

*H.C. 154
3/17/89
4:20 p.m.*

SENATE STANDING COMMITTEE REPORT

March 17, 1989

MR. PRESIDENT:

We, your committee on Education and Cultural Resources, having had under consideration HB 597 (third reading copy -- blue), respectfully report that HB 597 be amended and as so amended be concurred in:

Sponsor: Darko (Mazurek)

1. Page 1, line 15.
Following: "district"
Insert: "assessment for"

2. Page 1, line 16.
Strike: "testing"

3. Page 7, line 6.
Following: "schools"
Insert: ", of the county in which the home school is located, in"

AND AS AMENDED BE CONCURRED IN

Signed: _____
H. W. Hammond, Chairman

4/10
3/17/89
d. p. m.

MONTANA STATE VOLUNTEER
FIREFIGHTERS ASSOCIATION INC.
LYLE P. NAGEL, LOBBYIST

TESTIMONY AGAINST SB 464

I can see where passage of SB 464 could cause a possible problem for fire districts as well as others such as water or sewer districts.

Fire district elections authorized in statute 7-33-2106 refer to 13-1-104(3) and 13-1-401 MCA. These sections pertain to the dates of annual elections and the permission to combine them with regular school elections to reduce the election costs for each district involved.

It is not only possible for a fire district to consist of more than one school district a but very common fact. In many cases the boundaries are similar so a combined election would be permissible. Since fire district trustees would be elected at several school elections you can see what would happen if one or more of the school districts decided to hold their elections on different dates. This would require that the fire district hold their own election on the first tuesday in April regardless of the school elections. This will be an added cost to both.

There are other methods for election of trustees that a fire district could use such as balloting by mail but it all comes down to one fact, the election costs will be higher. In times of strained budgets, I don't see the need for adding more costs.

This would also apply in the same manner for fire service areas with boards of trustees other than the county commissioners. The elections laws applying to fire districts also apply to fire service areas.

13-1-104. Times for holding general elections. (1) A general election shall be held throughout the state in every even-numbered year on the first Tuesday after the first Monday of November to vote on ballot issues required by Article III, section 6, or Article XIV, section 8, of the Montana constitution to be submitted by the legislature to the electors at a general election, unless an earlier date is provided in a law authorizing a special election on an initiative or referendum pursuant to Article III, section 6, and to elect federal officers, state or multicounty district officers, members of the legislature, judges of the district court, and county officers when the terms of such offices will expire before the next scheduled election for the offices or when one of the offices must be filled for an unexpired term as provided by law.

(2) A general election shall be held throughout the state in every odd-numbered year on the first Tuesday after the first Monday in November to elect municipal officers, officers of political subdivisions wholly within one county and not required to hold annual elections, and any other officers specified by law for election in odd-numbered years when the term for the offices will expire before the next scheduled election for the offices or when one of the offices must be filled for an unexpired term as provided by law.

(3) The general election for any political subdivision, other than a municipality, required to hold elections annually shall be held on school election day, the first Tuesday of April of each year, and is subject to the election procedures provided for in 13-1-401.

(4) The general election for a municipality required to hold elections annually may be held either on school election day as provided in subsection (3) or on the first Tuesday after the first Monday in November, at the discretion of the governing body.

History: En. Sec. 4, Ch. 368, L. 1969; R.C.M. 1947, 23-2604; amd. Sec. 4, Ch. 571, L. 1979; amd. Sec. 5, Ch. 27, L. 1981; amd. Sec. 2, Ch. 603, L. 1983; amd. Sec. 2, Ch. 216, L. 1987; amd. Sec. 1, Ch. 644, L. 1987.

Compiler's Comments

1967 Amendment: Chapter 216 in (3), after "subdivision", inserted "other than a municipality"; and inserted (4).

Contingent 1987 Amendment: Chapter 644 in (3) substituted "regular school election day" for "school election day, the first Tuesday of April of each year".

Section 14(1), Ch. 644, L. 1987, provided that the amendment to this section was effective on passage and approval of legislation or adoption of party rules establishing the fourth Tuesday of March as the presidential primary election date or caucus date in any two of the states of Idaho, Washington, or Oregon prior to August 1, 1987. Contingency did not occur.

Cross-References

Vote on initiative and referendum measures, Art. III, sec. 6, Mont. Const.

Constitutional amendment by legislative referendum, Art. XIV, sec. 8, Mont. Const.

Constitutional amendment by initiative, Art. XIV, sec. 9, Mont. Const.

General election day legal holiday, 1-1-216.

Vacancies in Senate, 5-2-406, 5-2-407.

Election on question of creating new county, 7-2-2215.

Election on question of annexation by petition, 7-2-4602.

Election of City Judge, 7-3-1342, 7-3-4462.

Time for election of directors of county water and sewer districts, 7-13-2236.

Vote on creation of municipal housing authority, 7-15-4408.

Election on tax levy for county parks, 7-16-2102.

Time for election of trustees of fire district, 7-33-2106.

Manner of conducting general elections for political subdivisions required to hold annual elections, 13-1-401.

Election day school holiday under certain circumstances, 20-1-305.

Election day as bank holiday, 32-1-481.

Time for election of commissioners of irrigation districts, 85-7-1702.

Time for election of commissioners of drainage districts, 85-8-302.

(2) The secretary of state, in consultation with the state records committee, shall prepare a suggested plan for retention and destruction of all other election records. Each election administrator shall prepare a plan for retention and destruction of election records in the county and shall submit it to the secretary of state for approval. After approval of such a plan, records may be destroyed as provided in the plan.

History: En. Sec. 17, Ch. 571, L. 1979.

Cross-References

Recount procedures, Title 13, ch. 16.

13-1-304. Duties of officials when election not held. If a scheduled election is not necessary or is canceled for any reason, the governing body or official making the determination shall immediately notify the election administrator in writing. If the election is not necessary because of the number of candidates filed, the election administrator shall make the determination and notify the proper governing body.

History: En. Sec. 25, Ch. 571, L. 1979.

Cross-References

Registration lists not required when election not to be held, 13-2-115.

Precinct register not required when election not held, 13-2-116.

When primary election unnecessary, 13-10-209.

When nonpartisan primary election unnecessary, 13-14-115.

Part 4

Political Subdivision Elections

13-1-401. Manner of conducting general elections for political subdivisions required to hold annual elections. (1) Any political subdivision required to hold annual elections under 13-1-104(3) may cooperate with school districts having similar district boundaries to hold the election at the same location. The election administrator or deputy election administrator appointed under the provisions of 13-1-301 shall cooperate with the school district election administrator to share costs, as provided in 13-1-302.

(2) A political subdivision subject to 13-1-104(3) may, with the consent of the election administrator or deputy election administrator, conduct its annual election at an annual meeting of the political subdivision or at another convenient location within the political subdivision.

(3) A political subdivision election subject to 13-1-104(3) may be conducted by mail ballot as provided in Title 13, chapter 19.

(4) The election administrator or deputy election administrator conducting an election under the provisions of subsection (1), (2), or (3) shall give notice of the election not less than 20 days or more than 40 days before the day of the election by display advertisement at least two times in a newspaper of general circulation within the political subdivision. The election administrator or deputy election administrator may notify the public of the election by additional posting of notices or radio and television announcements.

History: En. Sec. 8, Ch. 27, L. 1981; amd. Sec. 29, Ch. 196, L. 1985.

Cross-References

Time for election of directors of county water

Time for election of trustees of fire district,

Time for election of directors of county water

Time for election of trustees of fire district,

13-1-105. Repealed. Sec. 407, Ch. 571, L. 1979.

History: En. Sec. 56, Ch. 27, L. 1981; R.C.M. 1947, 2-230.

LEAGUE OF WOMEN VOTERS OF MONTANA**17
15 MARCH 89**

Joy Bruck, president, 1601 Illinois, Helena, Montana 59601

SB 464 - An act allowing school district trustees to conduct the election of trustees on a date other than the regular school election day....

The League of Women Voters of Montana opposes SB 464.

The goal of reducing the election costs to school districts appears at first glance to be a worthy one, especially in a year when there is much uncertainty surrounding the funding of public education. However, the problems raised by giving school trustees more latitude in setting trustee elections to coincide with levy elections do not justify this proposed cost-saving measure.

The technical problems include the following:

The effect this proposed law might have on the terms of office for trustees.

The handling of mid-term vacancies on the board of trustees and whether the vacant position should be filled by appointment or election.

The links between the regular school election day, the first Tuesday in April, and other general elections as stipulated in 13-1-104. 13-1-401 permits cooperation between political subdivisions covered by 13-1-104 (3) and (4) and school district election administrators for the purpose of sharing costs.

Voter confusion in counties or urban areas where there are multiple districts, and therefore the possibility of advertised elections on different dates.

When the election laws were revamped in 1979, school districts asked that they not be covered under Title 13. Except for the establishment of the first Tuesday in April as the regular school election day, reference to school election procedure in Title 13 is minimal. It is the League's belief that maintaining the traditional date for the election of school trustees gives important continuity to citizen participation in local school district elections.

Margaret S. Davis

816 Flowerree, Helena, Montana 59601, 443-3487

Sue Bartlett



SENATE EDUCATION

City-County Building
P.O. Box 1721
Helena, Montana 59624
Telephone 406/443-1010

EXHIBIT NO. 3
DATE 3-17-89
BILL NO. SB 464

LEWIS AND CLARK COUNTY

Office of Clerk and Recorder

March 17, 1989

INFORMATION REGARDING SB 464:

Statutes controlling the calling of school elections and filing periods for trustee candidates:

- 20-20-201 requires the trustees to call for a school election at least 40 days before any school election.
- 20-3-344 requires nominations for first-class elementary district trustee offices to be submitted not less than 40 days before the election.
- 20-3-305 requires nominations for all other elementary district trustee offices to be submitted not less than 40 days before the election.
- Title 20 is silent on when trustee filing periods open.
- 13-10-201(6) requires declarations for nomination to be filed no sooner than 135 days before the election in which the office first appears on the ballot.

SB 464 allows school boards to set a date other than the first Tuesday of April as the date for the election of trustees. Clearly, such an election will need to be called more than 40 days before the election if candidates are to have an opportunity to file for office. Consideration also needs to be given to the question of when the filing period will open and whether Title 13 controls in this area of school elections. If so, the election will need to be called at least more than 135 days before the date set for the election.

Statute on term of office for school trustees:

- 20-3-301 specifies that the term of office for each trustee position shall be 3 years unless otherwise specifically prescribed by this title.

Does SB 464 constitute an "otherwise specific prescription" to allow a specific trustee's term to be lengthened or shortened by one to three months, depending upon when the trustee election is scheduled?

Statute controlling voting hours for other districts (fire, hospital, irrigation, drainage, and park):

- 13-1-106(2) allows these districts to use the voting hours set for a school election when the district election is held in the same polling place as the school election. Otherwise the voting hours for these districts must be 7 a.m. to 8 p.m.

When no school election is held on the first Tuesday of April, the full costs of an election must be borne by the other special districts. Those costs will automatically increase because the voting hours (and judges' wages) will be extended.

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H. W. Hammond, Chairman

W.C.
3/17/89
H.P.M.

DATE

March 17, 1989

COMMITTEE ON

EDUCATION

(1:00 MWF)

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
Gene Ostwald	SD.#2 - Thompson Falls	SB. 464	X	
J. King	MACSS	464		✓
Wyle Nagel	Mt. St. Vol. Firefighters Assn	SB 464		✓
Maureen Davis	LWMT	464		X
Sue Bartlett	MT Assoc. of Clerks & Recorders	464		X