

Senate Bill 97

In The Senate

January 12, 1981	Introduced and referred to Committee on Agriculture, Livestock and Irrigation.
February 2, 1981	Committee recommend bill do pass as amended.
February 3, 1981	Bill printed and placed on members' desks.
February 4, 1981	Second reading do pass.
February 5, 1981	Correctly engrossed.
February 6, 1981	Third reading passed.

In The House

February 7, 1981	Introduced and referred to Committee on Local Government.
April 23, 1981	Died in Committee.

1 Senate BILL NO. 97
 2 INTRODUCED BY Etcheart

3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO REMOVE THE ANNUAL
 5 ELECTIONS OF IRRIGATION DISTRICTS AND DRAINAGE DISTRICTS
 6 FROM THE CONSOLIDATING PROVISIONS OF TITLE 13; TO PROVIDE
 7 THAT SUCH ELECTIONS BE HELD ON THE FIRST TUESDAY IN APRIL OF
 8 EACH YEAR; TO PROVIDE THAT SUCH ELECTIONS BE CONDUCTED IN
 9 THE MANNER PRESCRIBED BY LAW BEFORE THE 1979 REVISION AND
 10 CONSOLIDATION OF THE GENERAL ELECTION LAWS OF MONTANA;
 11 AMENDING SECTIONS 13-1-104, 85-7-1702, 85-7-1710, AND
 12 85-8-302 THROUGH 85-8-305, MCA."

13
 14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

15 Section 1. Section 13-1-104, MCA, is amended to read:
 16 "13-1-104. Times for holding general elections. (1) A
 17 general election shall be held throughout the state in every
 18 even-numbered year on the first Tuesday after the first
 19 Monday of November to elect federal officers, state or
 20 multicounty district officers, members of the legislature,
 21 judges of the district court, and county officers when the
 22 terms of such offices will expire before the next scheduled
 23 election for the offices or when one of the offices must be
 24 filled for an unexpired term as provided by law.

25 (2) A general election shall be held throughout the

1 state in every odd-numbered year on the first Tuesday after
 2 the first Monday in November to elect municipal officers,
 3 officers of political subdivisions wholly within one county,
 4 ~~except those political subdivisions otherwise provided for~~
 5 ~~in subsection (4),~~ and any other officers specified by law
 6 for election in odd-numbered years when the term for the
 7 offices will expire before the next scheduled election for
 8 the offices or when one of the offices must be filled for an
 9 unexpired term as provided by law.

10 (3) The general election for any political subdivision
 11 required to hold elections annually shall be held with the
 12 general election provided for in subsections (1) and (2),
 13 ~~except those political subdivisions otherwise provided for~~
 14 ~~in subsection (4).~~ If a primary election is necessary, it
 15 shall be held at the same time as the primary provided for
 16 the regular general election for that year.

17 ~~(4) The general election for irrigation districts and~~
 18 ~~drainage districts shall be held annually on the first~~
 19 ~~Tuesday in April of each year."~~

20 Section 2. Section 85-7-1702, MCA, is amended to read:
 21 "85-7-1702. Regular election -- term of office. The
 22 regular election for commissioners in each district shall be
 23 held annually ~~in accordance with 13-1-104, and on the first~~
 24 ~~Tuesday in April, within~~ within 40 days following their
 25 election the commissioners shall meet and organize as a

1 board by electing a president from their number and a
 2 secretary, who may or may not be a commissioner, and who
 3 shall each hold office during the pleasure of the board. The
 4 term of office of each commissioner shall begin on the date
 5 of the organizational meeting after the regular election and
 6 shall continue for 3 years and until the election and
 7 qualification of his successor. Commissioners are elected by
 8 the electors of the entire district."

9 NEW SECTION. Section 3. Election precincts. (1) The
 10 board of commissioners, within 6 months after organization
 11 of the district, shall divide the district into one or more
 12 election precincts.

13 (2) The board of commissioners may change the
 14 boundaries of the election precincts of the district
 15 whenever the best interests of the district and the
 16 convenience of the electors would be served by such a
 17 change. No such change may be made less than 30 days before
 18 any election to be held in the district. To be effective,
 19 such a change must be approved by the district court. In
 20 making such changes, the several precincts of the district
 21 shall be kept as nearly equal in area and population as
 22 practicable.

23 NEW SECTION. Section 4. Election notice and election
 24 officers. Fifteen days before any election held under this
 25 part, the secretary of the board of commissioners shall post

1 notices of the time and places of holding the election in
 2 three public places in each election precinct and in the
 3 office of the Board. Prior to the time for posting notices,
 4 the board, by a resolution or order entered on their
 5 records, shall designate the house or place within each
 6 precinct where the election will be held and shall appoint
 7 for each precinct, from the electors thereof, three judges,
 8 who will constitute a board of election for such precinct.
 9 The judges of each precinct shall appoint one of their
 10 number to act as clerk. If the board of commissioners fails
 11 to appoint a board of election or the members appointed do
 12 not attend at the opening of the polls on the morning of
 13 election, the electors of the precinct present at that hour
 14 may appoint the board of election or supply the place of any
 15 absent member. The board of commissioners shall prescribe
 16 the forms and provide for the printing and distribution of
 17 the ballots for all elections held under this part.

18 NEW SECTION. Section 5. Oaths of election officers.
 19 The judges may administer all oaths required in the progress
 20 of an election and appoint judges and clerks if, during the
 21 progress of election, any judge or clerk ceases to act. Any
 22 member of the board of election may administer and certify
 23 oaths required to be administered during the progress of an
 24 election. Before opening the polls, each member of the board
 25 of election must take and subscribe an oath faithfully to

1 perform the duties imposed upon him by law. Any elector of
2 the precinct may administer and certify any such oath.

3 NEW SECTION. Section 6. Conduct of election. (1) Any
4 election held under this part must be conducted, except as
5 otherwise provided, as nearly as practicable in accordance
6 with the provisions of the general election laws of this
7 state, except that no registration of electors is required.

8 (2) As soon as all the votes are counted, a
9 certificate must be attached to each of the papers
10 containing the poll list and tallies, stating the number of
11 votes cast for each candidate or for each proposition and
12 designating the office or proposition voted for. Each
13 certificate must be signed by the clerk and judges.

14 (3) The ballots, together with the certificates and
15 the attached poll list and tallies, must be sealed by the
16 judges and clerk, endorsed as the election returns of the
17 precinct, and delivered to the secretary of the board of
18 commissioners by the judges or some other safe and
19 responsible carrier. The ballots must be kept by the board
20 of commissioners in the same manner as ballots are kept in
21 other elections.

22 NEW SECTION. Section 7. Canvass. No poll list, tally
23 paper, or certificate returned from any election may be set
24 aside or rejected merely for want of form, if it can be
25 satisfactorily understood. The board of commissioners of the

1 district shall meet on the first Monday after the election
2 to canvass the returns. If, at the time of the meeting, the
3 returns have been received from each precinct in the
4 district in which the polls were opened, the board shall
5 proceed to canvass the returns. If all the returns have not
6 been received, the canvass must be postponed from day to day
7 until all the returns have been received. The canvass must
8 be made in public. The board shall declare elected the
9 person receiving the highest number of votes for each office
10 and also declare the result of the vote on any question
11 submitted.

12 NEW SECTION. Section 8. Statement of election
13 results. (1) The secretary of the board of commissioners, as
14 soon as the result of any election held under the provisions
15 of this part is declared, shall enter in the records of the
16 board and file with the county election administrator the
17 following statement of the results:

- 18 (a) a copy of the election notice and proof of posting
19 the same;
20 (b) the names of the judges and clerks of the
21 election;
22 (c) the whole number of votes cast in the district and
23 in each precinct of the district;
24 (d) the names of the persons voted for;
25 (e) the offices to be filled by the election;

1 (f) the number of votes given in each precinct for
2 each person;

3 (g) the number of votes given in the district for each
4 person;

5 (h) the names of the persons declared elected;

6 (i) the proposition of propositions submitted, the
7 vote for and against each, and the result of the vote.

8 (2) The secretary shall immediately complete and
9 deliver to each person elected a certificate of election,
10 signed by him and authenticated with the seal of the
11 district.

12 NEW SECTION. Section 9. Nominations. (1) Candidates
13 for the office of commissioner to be filled by election
14 under the provisions of this part may be nominated by
15 petition filed with the secretary of the board of
16 commissioners of the district at least 10 days prior to the
17 election and signed by not less than five electors of the
18 district. The petition shall specify the respective
19 divisions for which the nominees are candidates. The names
20 of all candidates for each division of the district must be
21 printed on the same ballot.

22 (2) If no nominations are made, the electors of the
23 district shall write on the ballots the names of the persons
24 for whom they desire to vote for commissioners. Nothing
25 prevents an elector from voting for any qualified person

1 although the name does not appear on the official ballots.

2 Section 10. Section 85-7-1710, MCA, is amended to
3 read:

4 "85-7-1710. Qualification of electors and nature of
5 voting rights. (1) At all elections held under the
6 provisions of this part, except as otherwise expressly
7 provided, the following holders of title or evidence of
8 title to lands within the district, herein designated
9 electors, are entitled to vote:

10 (a) all individuals having the qualifications of
11 electors under the constitution and general ~~and school~~
12 ~~election laws of the state, except that no registration of~~
13 ~~electors may be required;~~

14 (b) guardians, executors, administrators, and trustees
15 residing in the state;

16 (c) domestic corporations, by their duly authorized
17 agents.

18 (2) In all elections held under this part, each
19 elector is permitted to cast one vote for each 40 acres of
20 irrigable land or major fraction thereof owned by the
21 elector within the district, irrespective of the location of
22 the irrigable lands within the tracts designated by the
23 commissioners for assessment and taxation purposes or within
24 congressional subdivisions, platted lots or blocks (except
25 as hereinafter provided for), election precincts, or

1 district divisions, but any elector owning any less than 40
2 acres of irrigable land is entitled to one vote. Until the
3 irrigable area under the proposed plan of reclamation is
4 determined, all land included within the boundaries of the
5 district shall be considered irrigable land for election
6 purposes.

7 (3) Whenever land is owned by co-owners, the owners
8 may designate one of their number or an agent to cast the
9 vote for the owners, and one vote only for each 40 acres of
10 irrigable land or major fraction thereof may be cast by the
11 voting co-owner or agent. Whenever land is under contract of
12 sale to a purchaser residing within the state, the purchaser
13 may vote on behalf of the owner of the land. When voting,
14 the agent of a corporation or co-owners, the co-owner
15 designated for purpose of voting, or the purchaser of land
16 under contract of sale, as the case may be, shall file with
17 the secretary of the district or with the election officials
18 a written instrument of his authority, executed and
19 acknowledged by the proper officers of the corporation, by
20 the co-owners, or by the owner of land under contract of
21 sale, as the case may be, and thereupon the agent or
22 co-owner or purchaser, as the case may be, is an elector
23 within the meaning of this part. Whenever the total
24 irrigable acreage within any one district has been platted
25 or subdivided into lots or blocks to the extent of 5% or

1 more of the total acreage of the district, each elector is
2 permitted to cast one vote for each acre of irrigable land
3 or major fraction thereof owned by the elector within the
4 district, irrespective of the location of such irrigable
5 lands within the tracts designated by the commissioners for
6 assessment and taxation purposes or within the congressional
7 subdivisions, but any elector owning any less than 1 acre of
8 irrigable land within the district is entitled to one vote.
9 The balloting shall take place in the following manner: 10
11 votes or less, separate ballots will be used; more than 10
12 votes, the elector shall vote in blocks of 10 using one
13 ballot for each 10 votes and separate ballots for odd votes
14 over multiples of 10. The election shall otherwise conform
15 with the provisions of ~~File 13~~ [section 6]."

16 Section 11. Section 85-8-302, MCA, is amended to read:
17 "85-8-302. Election of commissioners -- regular term
18 of office. (1) The regular election of commissioners shall
19 be held annually ~~in accordance with 13-1-104~~ on the first
20 Tuesday in April. The term of office of commissioners shall
21 commence on the first Monday Tuesday in ~~January~~ May
22 following their election. At the first regular election
23 following the organization of a district and in districts
24 organized and in existence on March 1, 1921, and which, on
25 petition, have been divided into divisions, at the first
regular election following the date of the order making such

1 division, there shall be elected three commissioners, one
 2 commissioner being elected from each division of which he
 3 must be an actual landowner. One of the commissioners, to be
 4 determined by lot, shall hold office until the first Monday
 5 ~~Tuesday~~ in ~~January~~ ~~May~~ in the year following his election;
 6 another of the commissioners, to be determined by lot, shall
 7 hold office until the first Monday ~~Tuesday~~ in ~~January~~ ~~May~~ in
 8 the second year following his election; and the third of the
 9 commissioners shall hold office until the first Monday
 10 ~~Tuesday~~ in ~~January~~ ~~May~~ in the third year following his
 11 election. Thereafter one commissioner shall be elected each
 12 year, who shall hold office for a term of 3 years and until
 13 his successor is elected and qualified. The person elected
 14 as a commissioner in each year to succeed the commissioner
 15 whose term is then expiring must be elected as a
 16 commissioner from the same division as the commissioner whom
 17 he is to succeed.

18 (2) Each commissioner must be a resident of a county
 19 where a portion of the district lands is situated."

20 Section 12. Section 85-8-303, MCA, is amended to read:
 21 "85-8-303. Notice of election. ~~Forty~~ ~~Fifteen~~ days
 22 before any regular election, the secretary of the board of
 23 commissioners shall give notice by mail to all landowners
 24 within the district of the time and place of holding the
 25 election. ~~Prior to the mailing of such notices, the board~~

1 ~~shall designate a polling place and appoint three persons to~~
 2 ~~act as judges and clerks of election in each precinct. The~~
 3 ~~board shall prescribe the form and provide for the printing~~
 4 ~~of the ballots for all elections."~~

5 Section 13. Section 85-8-304, MCA, is amended to read:
 6 "85-8-304. ~~Results~~ ~~Conduct~~ of election. ~~(1) Any judge~~
 7 ~~of election may administer any oath required to be~~
 8 ~~administered during the progress of an election. Before the~~
 9 ~~opening of the polls the judges of election must take and~~
 10 ~~subscribe an oath to faithfully perform the duties imposed~~
 11 ~~upon them by law. The oath may be administered by any~~
 12 ~~elector.~~

13 ~~(2) Any election held under this part must be~~
 14 ~~conducted, except as otherwise provided, as nearly as~~
 15 ~~practicable in accordance with the provisions of the general~~
 16 ~~election laws of the state, except that no registration is~~
 17 ~~required.~~

18 ~~(3) As soon as the polls are closed the judges must~~
 19 ~~count and tabulate the votes cast and make out a~~
 20 ~~certificate, to be signed by them, showing the total number~~
 21 ~~of votes cast at the election and the total number cast for~~
 22 ~~each candidate for commissioner and shall deliver such~~
 23 ~~certificate, with a list of the electors voting at such~~
 24 ~~election, to the board of commissioners.~~

25 ~~(4) The board of commissioners shall meet on the first~~

1 Monday following the election and canvass the returns. The
2 board shall declare elected the person or persons receiving
3 the highest number of votes.

4 (5) The clerk secretary of the board of directors
5 commissioners shall enter the result of the election in the
6 minutes of the board and file with the clerk of the district
7 court creating the district a statement showing the names of
8 the persons elected as commissioners, the names of the
9 commissioners whose term will expire on the first Monday
10 Tuesday in January May following, and the names of all of
11 the persons who will compose the board of directors
12 commissioners for the year next following the first Monday
13 Tuesday in January May."

14 Section 14. Section 85-8-305, MCA, is amended to read:
15 "85-8-305. Qualifications of electors. (1) At all such
16 elections, except as herein otherwise expressly provided,
17 the following persons holding title or evidence of title to
18 lands within the district shall be entitled to vote:

19 (a) all of the persons having the qualifications of
20 electors under the constitution and general election laws of
21 the state, except that no registration of electors may be
22 required;

23 (b) guardians, administrators, executors, and trustees
24 residing in the state;

25 (c) domestic corporations by their duly authorized

1 agents.

2 (2) In all elections each elector shall be permitted
3 to cast one vote for each 40 acres of land or major fraction
4 thereof in the district owned by such elector, but any
5 elector owning 20 acres or less shall be entitled to one
6 vote."

7 Section 15. Codification instruction. Sections 3
8 through 9 are intended to be codified as an integral part of
9 Title 85, chapter 7, part 17, and the provisions of Title
10 85, chapter 7, part 17, apply to sections 3 through 9.

-End-

SB 77

Approved by Committee
on Agriculture Livestock
& Irrigation

1 SENATE BILL NO. 97

2 INTRODUCED BY ETCHART

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO REMOVE THE ANNUAL
5 ELECTIONS OF IRRIGATION DISTRICTS AND DRAINAGE DISTRICTS
6 FROM THE CONSOLIDATING PROVISIONS OF TITLE 13; TO PROVIDE
7 THAT SUCH ELECTIONS BE HELD ON THE FIRST TUESDAY IN APRIL OF
8 EACH YEAR; TO PROVIDE THAT SUCH ELECTIONS BE CONDUCTED IN
9 THE MANNER PRESCRIBED BY LAW BEFORE THE 1979 REVISION AND
10 CONSOLIDATION OF THE GENERAL ELECTION LAWS OF MONTANA;
11 AMENDING SECTIONS 13-1-104, 85-7-1702, 85-7-1710, AND
12 85-8-302 THROUGH 85-8-305, MCA."

13
14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

15 Section 1. Section 13-1-104, MCA, is amended to read:

16 "13-1-104. Times for holding general elections. (1) A
17 general election shall be held throughout the state in every
18 even-numbered year on the first Tuesday after the first
19 Monday of November to elect federal officers, state or
20 multicounty district officers, members of the legislature,
21 judges of the district court, and county officers when the
22 terms of such offices will expire before the next scheduled
23 election for the offices or when one of the offices must be
24 filled for an unexpired term as provided by law.

25 (2) A general election shall be held throughout the

1 state in every odd-numbered year on the first Tuesday after
2 the first Monday in November to elect municipal officers,
3 officers of political subdivisions wholly within one county,
4 except those political subdivisions otherwise provided for
5 in subsection (4), and any other officers specified by law
6 for election in odd-numbered years when the term for the
7 offices will expire before the next scheduled election for
8 the offices or when one of the offices must be filled for an
9 unexpired term as provided by law.

10 (3) The general election for any political subdivision
11 required to hold elections annually shall be held with the
12 general election provided for in subsections (1) and (2),
13 except those political subdivisions otherwise provided for
14 in subsection (4). If a primary election is necessary, it
15 shall be held at the same time as the primary provided for
16 the regular general election for that year.

17 (4) The general election for irrigation districts and
18 drainage districts shall be held annually on the first
19 Tuesday in April of each year."

20 Section 2. Section 85-7-1702, MCA, is amended to read:

21 "85-7-1702. Regular election -- term of office. The
22 regular election for commissioners in each district shall be
23 held annually in accordance with 13-1-104, and on the first
24 Tuesday in April, within within 40 days following their
25 election the commissioners shall meet and organize as a

1 board by electing a president from their number and a
 2 secretary, who may or may not be a commissioner, and who
 3 shall each hold office during the pleasure of the board. The
 4 term of office of each commissioner shall begin on the date
 5 of the organizational meeting after the regular election and
 6 shall continue for 3 years and until the election and
 7 qualification of his successor. Commissioners are elected by
 8 the electors of the entire district."

9 NEW SECTION. Section 3. Election precincts. (1) The
 10 board of commissioners, within 6 months after organization
 11 of the district, shall divide the district into one or more
 12 election precincts.

13 (2) The board of commissioners may change the
 14 boundaries of the election precincts of the district
 15 whenever the best interests of the district and the
 16 convenience of the electors would be served by such a
 17 change. No such change may be made less than 30 days before
 18 any election to be held in the district. To be effective,
 19 such a change must be approved by the district court. In
 20 making such changes, the several precincts of the district
 21 shall be kept as nearly equal in area and population as
 22 practicable.

23 NEW SECTION. Section 4. Election notice and election
 24 officers. Fifteen days before any election held under this
 25 part, the secretary of the board of commissioners shall post

1 notices of the time and places of holding the election in
 2 three public places in each election precinct and in the
 3 office of the board. Prior to the time for posting notices,
 4 the board, by a resolution or order entered on their
 5 records, shall designate the house or place within each
 6 precinct where the election will be held and shall appoint
 7 for each precinct, from the electors thereof, three judges,
 8 who will constitute a board of election for such precinct.
 9 The judges of each precinct shall appoint one of their
 10 number to act as clerk. If the board of commissioners fails
 11 to appoint a board of election or the members appointed do
 12 not attend at the opening of the polls on the morning of
 13 election, the electors of the precinct present at that hour
 14 may appoint the board of election or supply the place of any
 15 absent member. The board of commissioners shall prescribe
 16 the forms and provide for the printing and distribution of
 17 the ballots for all elections held under this part.

18 NEW SECTION. Section 5. Oaths of election officers.
 19 The judges may administer all oaths required in the progress
 20 of an election and appoint judges and clerks if, during the
 21 progress of election, any judge or clerk ceases to act. Any
 22 member of the board of election may administer and certify
 23 oaths required to be administered during the progress of an
 24 election. Before opening the polls, each member of the board
 25 of election must take and subscribe an oath faithfully to

1 perform the duties imposed upon him by law. Any elector of
2 the precinct may administer and certify any such oath.

3 NEW SECTION. Section 6. Conduct of election. (1) Any
4 election held under this part must be conducted, except as
5 otherwise provided, as nearly as practicable in accordance
6 with the provisions of the general election laws of this
7 state, except that no registration of electors is required.

8 (2) As soon as all the votes are counted, a
9 certificate must be attached to each of the papers
10 containing the poll list and tallies, stating the number of
11 votes cast for each candidate or for each proposition and
12 designating the office or proposition voted for. Each
13 certificate must be signed by the clerk and judges.

14 (3) The ballots, together with the certificates and
15 the attached poll list and tallies, must be sealed by the
16 judges and clerk, endorsed as the election returns of the
17 precinct, and delivered to the secretary of the board of
18 commissioners by the judges or some other safe and
19 responsible carrier. The ballots must be kept by the board
20 of commissioners in the same manner as ballots are kept in
21 other elections.

22 NEW SECTION. Section 7. Canvass. No poll list, tally
23 paper, or certificate returned from any election may be set
24 aside or rejected merely for want of form, if it can be
25 satisfactorily understood. The board of commissioners of the

1 district shall meet on the first Monday after the election
2 to canvass the returns. If, at the time of the meeting, the
3 returns have been received from each precinct in the
4 district in which the polls were opened, the board shall
5 proceed to canvass the returns. If all the returns have not
6 been received, the canvass must be postponed from day to day
7 until all the returns have been received. The canvass must
8 be made in public. The board shall declare elected the
9 person receiving the highest number of votes for each office
10 and also declare the result of the vote on any question
11 submitted.

12 NEW SECTION. Section 8. Statement of election
13 results. (1) The secretary of the board of commissioners, as
14 soon as the result of any election held under the provisions
15 of this part is declared, shall enter in the records of the
16 board and file with the county election administrator the
17 following statement of the results:

18 (a) a copy of the election notice and proof of posting
19 the same;

20 (b) the names of the judges and clerks of the
21 election;

22 (c) the whole number of votes cast in the district and
23 in each precinct of the district;

24 (d) the names of the persons voted for;

25 (e) the offices to be filled by the election;

1 (f) the number of votes given in each precinct for
2 each person;

3 (g) the number of votes given in the district for each
4 person;

5 (h) the names of the persons declared elected;

6 (i) the proposition of OR propositions submitted, the
7 vote for and against each, and the result of the vote.

8 (2) The secretary shall immediately complete and
9 deliver to each person elected a certificate of election,
10 signed by him and authenticated with the seal of the
11 district.

12 NEW SECTION. Section 9. Nominations. (1) Candidates
13 for the office of commissioner to be filled by election
14 under the provisions of this part may be nominated by
15 petition filed with the secretary of the board of
16 commissioners of the district at least 10 days prior to the
17 election and signed by not less than five electors of the
18 district. The petition shall specify the respective
19 divisions for which the nominees are candidates. The names
20 of all candidates for each division of the district must be
21 printed on the same ballot.

22 (2) If no nominations are made, the electors of the
23 district shall write on the ballots the names of the persons
24 for whom they desire to vote for commissioners. Nothing
25 prevents an elector from voting for any qualified person

1 although the name does not appear on the official ballots.

2 Section 10. Section 85-7-1710, MCA, is amended to
3 read:

4 *85-7-1710. Qualification of electors and nature of
5 voting rights. (1) At all elections held under the
6 provisions of this part, except as otherwise expressly
7 provided, the following holders of title or evidence of
8 title to lands within the district, herein designated
9 electors, are entitled to vote:

10 (a) all individuals having the qualifications of
11 electors under the constitution and general ~~and--school~~
12 election laws of the state, except that no registration of
13 electors may be required;

14 (b) guardians, executors, administrators, and trustees
15 residing in the state;

16 (c) domestic corporations, by their duly authorized
17 agents.

18 (2) In all elections held under this part, each
19 elector is permitted to cast one vote for each 40 acres of
20 irrigable land or major fraction thereof owned by the
21 elector within the district, irrespective of the location of
22 the irrigable lands within the tracts designated by the
23 commissioners for assessment and taxation purposes or within
24 congressional subdivisions, platted lots or blocks (except
25 as hereinafter provided for), election precincts, or

1 district divisions, but any elector owning any less than 40
 2 acres of irrigable land is entitled to one vote. Until the
 3 irrigable area under the proposed plan of reclamation is
 4 determined, all land included within the boundaries of the
 5 district shall be considered irrigable land for election
 6 purposes.

7 (3) Whenever land is owned by co-owners, the owners
 8 may designate one of their number or an agent to cast the
 9 vote for the owners, and one vote only for each 40 acres of
 10 irrigable land or major fraction thereof may be cast by the
 11 voting co-owner or agent. Whenever land is under contract of
 12 sale to a purchaser residing within the state, the purchaser
 13 may vote on behalf of the owner of the land. When voting,
 14 the agent of a corporation or co-owners, the co-owner
 15 designated for purpose of voting, or the purchaser of land
 16 under contract of sale, as the case may be, shall file with
 17 the secretary of the district or with the election officials
 18 a written instrument of his authority, executed and
 19 acknowledged by the proper officers of the corporation, by
 20 the co-owners, or by the owner of land under contract of
 21 sale, as the case may be, and thereupon the agent or
 22 co-owner or purchaser, as the case may be, is an elector
 23 within the meaning of this part. Whenever the total
 24 irrigable acreage within any one district has been platted
 25 or subdivided into lots or blocks to the extent of 5% or

1 more of the total acreage of the district, each elector is
 2 permitted to cast one vote for each acre of irrigable land
 3 or major fraction thereof owned by the elector within the
 4 district, irrespective of the location of such irrigable
 5 lands within the tracts designated by the commissioners for
 6 assessment and taxation purposes or within the congressional
 7 subdivisions, but any elector owning any less than 1 acre of
 8 irrigable land within the district is entitled to one vote.
 9 The balloting shall take place in the following manner: 10
 10 votes or less, separate ballots will be used; more than 10
 11 votes, the elector shall vote in blocks of 10 using one
 12 ballot for each 10 votes and separate ballots for odd votes
 13 over multiples of 10. The election shall otherwise conform
 14 with the provisions of ~~title 13~~ [section 6]."

15 Section 11. Section 85-8-302, MCA, is amended to read:
 16 "85-8-302. Election of commissioners -- regular term
 17 of office. (1) The regular election of commissioners shall
 18 be held annually ~~in accordance with 13-1-104~~ on the first
 19 Tuesday in April. The term of office of commissioners shall
 20 commence on the first Monday Tuesday in January May
 21 following their election. At the first regular election
 22 following the organization of a district and in districts
 23 organized and in existence on March 1, 1921, and which, on
 24 petition, have been divided into divisions, at the first
 25 regular election following the date of the order making such

1 division, there shall be elected three commissioners, one
 2 commissioner being elected from each division of which he
 3 must be an actual landowner. One of the commissioners, to be
 4 determined by lot, shall hold office until the first Monday
 5 Tuesday in January May in the year following his election;
 6 another of the commissioners, to be determined by lot, shall
 7 hold office until the first Monday Tuesday in January May in
 8 the second year following his election; and the third of the
 9 commissioners shall hold office until the first Monday
 10 Tuesday in January May in the third year following his
 11 election. Thereafter one commissioner shall be elected each
 12 year, who shall hold office for a term of 3 years and until
 13 his successor is elected and qualified. The person elected
 14 as a commissioner in each year to succeed the commissioner
 15 whose term is then expiring must be elected as a
 16 commissioner from the same division as the commissioner whom
 17 he is to succeed.

18 (2) Each commissioner must be a resident of a county
 19 where a portion of the district lands is situated."

20 Section 12. Section 85-8-303, MCA, is amended to read:
 21 "85-8-303. Notice of election. Forty Fifteen days
 22 before any regular election, the secretary of the board of
 23 commissioners shall give notice by mail to all landowners
 24 within the district of the time and place of holding the
 25 election. Prior to the mailing of such notices, the board

1 shall designate a polling place and appoint three persons to
 2 act as judges and clerks of election in each precinct. The
 3 board shall prescribe the form and provide for the printing
 4 of the ballots for all elections."

5 Section 13. Section 85-8-304, MCA, is amended to read:
 6 "85-8-304. Results Conduct of election. (1) Any judge
 7 of election may administer any oath required to be
 8 administered during the progress of an election, before the
 9 opening of the polls the judges of election must take and
 10 subscribe an oath to faithfully perform the duties imposed
 11 upon them by law. The oath may be administered by any
 12 elector.

13 (2) Any election held under this part must be
 14 conducted, except as otherwise provided, as nearly as
 15 practicable in accordance with the provisions of the general
 16 election laws of the state, except that no registration is
 17 required.

18 (3) As soon as the polls are closed the judges must
 19 count and tabulate the votes cast and make out a
 20 certificate, to be signed by them, showing the total number
 21 of votes cast at the election and the total number cast for
 22 each candidate for commissioner and shall deliver such
 23 certificate, with a list of the electors voting at such
 24 election, to the board of commissioners.

25 (4) The board of commissioners shall meet on the first

1 Monday following the election and canvass the returns. The
2 board shall declare elected the person or persons receiving
3 the highest number of votes.

4 [5] The clerk secretary of the board of directors
5 commissioners shall enter the result of the election in the
6 minutes of the board and file with the clerk of the district
7 court creating the district a statement showing the names of
8 the persons elected as commissioners, the names of the
9 commissioners whose term will expire on the first Monday
10 Tuesday in January May following, and the names of all of
11 the persons who will compose the board of directors
12 commissioners for the year next following the first Monday
13 Tuesday in January May."

14 Section 14. Section 85-8-305, MCA, is amended to read:

15 "85-8-305. Qualifications of electors. (1) At all such
16 elections, except as herein otherwise expressly provided,
17 the following persons holding title or evidence of title to
18 lands within the district shall be entitled to vote:

19 (a) all of the persons having the qualifications of
20 electors under the constitution and general election laws of
21 the state, except that no registration of electors may be
22 required;

23 (b) guardians, administrators, executors, and trustees
24 residing in the state;

25 (c) domestic corporations by their duly authorized

1 agents.

2 (2) In all elections each elector shall be permitted
3 to cast one vote for each 40 acres of land or major fraction
4 thereof in the district owned by such elector, but any
5 elector owning 20 acres or less shall be entitled to one
6 vote."

7 Section 15. Codification instruction. Sections 3
8 through 9 are intended to be codified as an integral part of
9 Title 85, chapter 7, part 17, and the provisions of Title
10 85, chapter 7, part 17, apply to sections 3 through 9.

-End-

1 SENATE BILL NO. 97

2 INTRODUCED BY ETCHART

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO REMOVE THE ANNUAL
5 ELECTIONS OF IRRIGATION DISTRICTS AND DRAINAGE DISTRICTS
6 FROM THE CONSOLIDATING PROVISIONS OF TITLE 13; TO PROVIDE
7 THAT SUCH ELECTIONS BE HELD ON THE FIRST TUESDAY IN APRIL OF
8 EACH YEAR; TO PROVIDE THAT SUCH ELECTIONS BE CONDUCTED IN
9 THE MANNER PRESCRIBED BY LAW BEFORE THE 1979 REVISION AND
10 CONSOLIDATION OF THE GENERAL ELECTION LAWS OF MONTANA;
11 AMENDING SECTIONS 13-1-104, 85-7-1702, 85-7-1710, AND
12 85-8-302 THROUGH 85-8-305, MCA."

13
14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

15 Section 1. Section 13-1-104, MCA, is amended to read:

16 "13-1-104. Times for holding general elections. (1) A
17 general election shall be held throughout the state in every
18 even-numbered year on the first Tuesday after the first
19 Monday of November to elect federal officers, state or
20 multicounty district officers, members of the legislature,
21 judges of the district court, and county officers when the
22 terms of such offices will expire before the next scheduled
23 election for the offices or when one of the offices must be
24 filled for an unexpired term as provided by law.

25 (2) A general election shall be held throughout the

1 state in every odd-numbered year on the first Tuesday after
2 the first Monday in November to elect municipal officers,
3 officers of political subdivisions wholly within one county,
4 except those political subdivisions otherwise provided for
5 in subsection (4), and any other officers specified by law
6 for election in odd-numbered years when the term for the
7 offices will expire before the next scheduled election for
8 the offices or when one of the offices must be filled for an
9 unexpired term as provided by law.

10 (3) The general election for any political subdivision
11 required to hold elections annually shall be held with the
12 general election provided for in subsections (1) and (2),
13 except those political subdivisions otherwise provided for
14 in subsection (4). If a primary election is necessary, it
15 shall be held at the same time as the primary provided for
16 the regular general election for that year.

17 (4) The general election for irrigation districts and
18 drainage districts shall be held annually on the first
19 Tuesday in April of each year."

20 Section 2. Section 85-7-1702, MCA, is amended to read:

21 "85-7-1702. Regular election -- term of office. The
22 regular election for commissioners in each district shall be
23 held annually in accordance with ~~13-1-104~~ and on the first
24 Tuesday in April, within within 40 days following their
25 election the commissioners shall meet and organize as a

1 board by electing a president from their number and a
 2 secretary, who may or may not be a commissioner, and who
 3 shall each hold office during the pleasure of the board. The
 4 term of office of each commissioner shall begin on the date
 5 of the organizational meeting after the regular election and
 6 shall continue for 3 years and until the election and
 7 qualification of his successor. Commissioners are elected by
 8 the electors of the entire district."

9 NEW SECTION. Section 3. Election precincts. (1) The
 10 board of commissioners, within 6 months after organization
 11 of the district, shall divide the district into one or more
 12 election precincts.

13 (2) The board of commissioners may change the
 14 boundaries of the election precincts of the district
 15 whenever the best interests of the district and the
 16 convenience of the electors would be served by such a
 17 change. No such change may be made less than 30 days before
 18 any election to be held in the district. To be effective,
 19 such a change must be approved by the district court. In
 20 making such changes, the several precincts of the district
 21 shall be kept as nearly equal in area and population as
 22 practicable.

23 NEW SECTION. Section 4. Election notice and election
 24 officers. Fifteen days before any election held under this
 25 part, the secretary of the board of commissioners shall post

1 notices of the time and places of holding the election in
 2 three public places in each election precinct and in the
 3 office of the board. Prior to the time for posting notices,
 4 the board, by a resolution or order entered on their
 5 records, shall designate the house or place within each
 6 precinct where the election will be held and shall appoint
 7 for each precinct, from the electors thereof, three judges,
 8 who will constitute a board of election for such precinct.
 9 The judges of each precinct shall appoint one of their
 10 number to act as clerk. If the board of commissioners fails
 11 to appoint a board of election or the members appointed do
 12 not attend at the opening of the polls on the morning of
 13 election, the electors of the precinct present at that hour
 14 may appoint the board of election or supply the place of any
 15 absent member. The board of commissioners shall prescribe
 16 the forms and provide for the printing and distribution of
 17 the ballots for all elections held under this part.

18 NEW SECTION. Section 5. Oaths of election officers.
 19 The judges may administer all oaths required in the progress
 20 of an election and appoint judges and clerks if, during the
 21 progress of election, any judge or clerk ceases to act. Any
 22 member of the board of election may administer and certify
 23 oaths required to be administered during the progress of an
 24 election. Before opening the polls, each member of the board
 25 of election must take and subscribe an oath faithfully to

1 perform the duties imposed upon him by law. Any elector of
2 the precinct may administer and certify any such oath.

3 NEW SECTION. Section 6. Conduct of election. (1) Any
4 election held under this part must be conducted, except as
5 otherwise provided, as nearly as practicable in accordance
6 with the provisions of the general election laws of this
7 state, except that no registration of electors is required.

8 (2) As soon as all the votes are counted, a
9 certificate must be attached to each of the papers
10 containing the poll list and tallies, stating the number of
11 votes cast for each candidate or for each proposition and
12 designating the office or proposition voted for. Each
13 certificate must be signed by the clerk and judges.

14 (3) The ballots, together with the certificates and
15 the attached poll list and tallies, must be sealed by the
16 judges and clerk, endorsed as the election returns of the
17 precinct, and delivered to the secretary of the board of
18 commissioners by the judges or some other safe and
19 responsible carrier. The ballots must be kept by the board
20 of commissioners in the same manner as ballots are kept in
21 other elections.

22 NEW SECTION. Section 7. Canvass. No poll list, tally
23 paper, or certificate returned from any election may be set
24 aside or rejected merely for want of form, if it can be
25 satisfactorily understood. The board of commissioners of the

1 district shall meet on the first Monday after the election
2 to canvass the returns. If, at the time of the meeting, the
3 returns have been received from each precinct in the
4 district in which the polls were opened, the board shall
5 proceed to canvass the returns. If all the returns have not
6 been received, the canvass must be postponed from day to day
7 until all the returns have been received. The canvass must
8 be made in public. The board shall declare elected the
9 person receiving the highest number of votes for each office
10 and also declare the result of the vote on any question
11 submitted.

12 NEW SECTION. Section 8. Statement of election
13 results. (1) The secretary of the board of commissioners, as
14 soon as the result of any election held under the provisions
15 of this part is declared, shall enter in the records of the
16 board and file with the county election administrator the
17 following statement of the results:

18 (a) a copy of the election notice and proof of posting
19 the same;

20 (b) the names of the judges and clerks of the
21 election;

22 (c) the whole number of votes cast in the district and
23 in each precinct of the district;

24 (d) the names of the persons voted for;

25 (e) the offices to be filled by the election;

1 (f) the number of votes given in each precinct for
2 each person;

3 (g) the number of votes given in the district for each
4 person;

5 (h) the names of the persons declared elected;

6 (i) the proposition of OR propositions submitted, the
7 vote for and against each, and the result of the vote.

8 (2) The secretary shall immediately complete and
9 deliver to each person elected a certificate of election,
10 signed by him and authenticated with the seal of the
11 district.

12 NEW SECTION. Section 9. Nominations. (1) Candidates
13 for the office of commissioner to be filled by election
14 under the provisions of this part may be nominated by
15 petition filed with the secretary of the board of
16 commissioners of the district at least 10 days prior to the
17 election and signed by not less than five electors of the
18 district. The petition shall specify the respective
19 divisions for which the nominees are candidates. The names
20 of all candidates for each division of the district must be
21 printed on the same ballot.

22 (2) If no nominations are made, the electors of the
23 district shall write on the ballots the names of the persons
24 for whom they desire to vote for commissioners. Nothing
25 prevents an elector from voting for any qualified person

1 although the name does not appear on the official ballots.

2 Section 10. Section 85-7-1710, MCA, is amended to
3 read:

4 *85-7-1710. Qualification of electors and nature of
5 voting rights. (1) At all elections held under the
6 provisions of this part, except as otherwise expressly
7 provided, the following holders of title or evidence of
8 title to lands within the district, herein designated
9 electors, are entitled to vote:

10 (a) all individuals having the qualifications of
11 electors under the constitution and general and--school
12 election laws of the state, except that no registration of
13 electors may be required;

14 (b) guardians, executors, administrators, and trustees
15 residing in the state;

16 (c) domestic corporations, by their duly authorized
17 agents.

18 (2) In all elections held under this part, each
19 elector is permitted to cast one vote for each 40 acres of
20 irrigable land or major fraction thereof owned by the
21 elector within the district, irrespective of the location of
22 the irrigable lands within the tracts designated by the
23 commissioners for assessment and taxation purposes or within
24 congressional subdivisions, platted lots or blocks (except
25 as hereinafter provided for), election precincts, or

1 district divisions, but any elector owning any less than 40
 2 acres of irrigable land is entitled to one vote. Until the
 3 irrigable area under the proposed plan of reclamation is
 4 determined, all land included within the boundaries of the
 5 district shall be considered irrigable land for election
 6 purposes.

7 (3) Whenever land is owned by co-owners, the owners
 8 may designate one of their number or an agent to cast the
 9 vote for the owners, and one vote only for each 40 acres of
 10 irrigable land or major fraction thereof may be cast by the
 11 voting co-owner or agent. Whenever land is under contract of
 12 sale to a purchaser residing within the state, the purchaser
 13 may vote on behalf of the owner of the land. When voting,
 14 the agent of a corporation or co-owners, the co-owner
 15 designated for purpose of voting, or the purchaser of land
 16 under contract of sale, as the case may be, shall file with
 17 the secretary of the district or with the election officials
 18 a written instrument of his authority, executed and
 19 acknowledged by the proper officers of the corporation, by
 20 the co-owners, or by the owner of land under contract of
 21 sale, as the case may be, and thereupon the agent or
 22 co-owner or purchaser, as the case may be, is an elector
 23 within the meaning of this part. Whenever the total
 24 irrigable acreage within any one district has been platted
 25 or subdivided into lots or blocks to the extent of 5% or

1 more of the total acreage of the district, each elector is
 2 permitted to cast one vote for each acre of irrigable land
 3 or major fraction thereof owned by the elector within the
 4 district, irrespective of the location of such irrigable
 5 lands within the tracts designated by the commissioners for
 6 assessment and taxation purposes or within the congressional
 7 subdivisions, but any elector owning any less than 1 acre of
 8 irrigable land within the district is entitled to one vote.
 9 The balloting shall take place in the following manner: 10
 10 votes or less, separate ballots will be used; more than 10
 11 votes, the elector shall vote in blocks of 10 using one
 12 ballot for each 10 votes and separate ballots for odd votes
 13 over multiples of 10. The election shall otherwise conform
 14 with the provisions of Title 13 [section 6]."

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 16 "85-8-302. Election of commissioners -- regular term
 17 of office. (1) The regular election of commissioners shall
 18 be held annually in accordance with 13-1-104 on the first
 19 Tuesday in April. The term of office of commissioners shall
 20 commence on the first Monday Tuesday in January May
 21 following their election. At the first regular election
 22 following the organization of a district and in districts
 23 organized and in existence on March 1, 1921, and which, on
 24 petition, have been divided into divisions, at the first
 25 regular election following the date of the order making such

1 division, there shall be elected three commissioners, one
 2 commissioner being elected from each division of which he
 3 must be an actual landowner. One of the commissioners, to be
 4 determined by lot, shall hold office until the first Monday
 5 Tuesday in January May in the year following his election;
 6 another of the commissioners, to be determined by lot, shall
 7 hold office until the first Monday Tuesday in January May in
 8 the second year following his election; and the third of the
 9 commissioners shall hold office until the first Monday
 10 Tuesday in January May in the third year following his
 11 election. Thereafter one commissioner shall be elected each
 12 year, who shall hold office for a term of 3 years and until
 13 his successor is elected and qualified. The person elected
 14 as a commissioner in each year to succeed the commissioner
 15 whose term is then expiring must be elected as a
 16 commissioner from the same division as the commissioner whom
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18 (2) Each commissioner must be a resident of a county
 19 where a portion of the district lands is situated."

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 22 before any regular election, the secretary of the board of
 23 commissioners shall give notice by mail to all landowners
 24 within the district of the time and place of holding the
 25 election. Prior to the mailing of such notices, the board

1 shall designate a polling place and appoint three persons to
 2 act as judges and clerks of election in each precinct. The
 3 board shall prescribe the form and provide for the printing
 4 of the ballots for all elections."

5 Section 13. Section 85-8-304, MCA, is amended to read:

6 "85-8-304. ~~Results~~ Conduct of election. (1) Any judge
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 8 administered during the progress of an election. Before the
 9 opening of the polls the judges of election must take and
 10 subscribe an oath to faithfully perform the duties imposed
 11 upon them by law. The oath may be administered by any
 12 elector.

13 (2) Any election held under this part must be
 14 conducted, except as otherwise provided, as nearly as
 15 practicable in accordance with the provisions of the general
 16 election laws of the state, except that no registration is
 17 required.

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 19 count and tabulate the votes cast and make out a
 20 certificate, to be signed by them, showing the total number
 21 of votes cast at the election and the total number cast for
 22 each candidate for commissioner and shall deliver such
 23 certificate, with a list of the electors voting at such
 24 election, to the board of commissioners.

25 (4) The board of commissioners shall meet on the first

1 Monday following the election and canvass the returns. The
 2 board shall declare elected the person or persons receiving
 3 the highest number of votes.

4 [5] The clerk secretary of the board of directors
 5 commissioners shall enter the result of the election in the
 6 minutes of the board and file with the clerk of the district
 7 court creating the district a statement showing the names of
 8 the persons elected as commissioners, the names of the
 9 commissioners whose term will expire on the first Monday
 10 Tuesday in January May following, and the names of all of
 11 the persons who will compose the board of directors
 12 commissioners for the year next following the first Monday
 13 Tuesday in January May."

14 Section 14. Section 85-8-305, MCA, is amended to read:

15 "85-8-305. Qualifications of electors. (1) At all such
 16 elections, except as herein otherwise expressly provided,
 17 the following persons holding title or evidence of title to
 18 lands within the district shall be entitled to vote:

19 (a) all of the persons having the qualifications of
 20 electors under the constitution and general election laws of
 21 the state, except that no registration of electors may be
 22 required;

23 (b) guardians, administrators, executors, and trustees
 24 residing in the state;

25 (c) domestic corporations by their duly authorized

1 agents.

2 (2) In all elections each elector shall be permitted
 3 to cast one vote for each 40 acres of land or major fraction
 4 thereof in the district owned by such elector, but any
 5 elector owning 20 acres or less shall be entitled to one
 6 vote."

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 8 through 9 are intended to be codified as an integral part of
 9 Title 85, chapter 7, part 17, and the provisions of Title
 10 85, chapter 7, part 17, apply to sections 3 through 9.

-End-