

HOUSE BILL NO. 308

1/22 Introduced
1/22 Referred to State Administration
1/29 Hearing
Died in Committee

HOUSE BILL NO. 308

INTRODUCED BY

Ramirez

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE LAWS RELATING TO THE ELECTION AND TERMS OF IRRIGATION DISTRICT COMMISSIONERS AND DRAINAGE DISTRICT COMMISSIONERS; AMENDING SECTIONS 85-7-203, 85-7-1501, 85-7-1702, 85-8-301, 85-8-302, AND 85-8-304, MCA."

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

Section 1. Section 85-7-203, MCA, is amended to read:

"85-7-203. Petition, hearing, and order. Whenever the owners of land and water rights, as described in 85-7-202, desire to organize for the purposes mentioned in this part, a petition to that effect, signed by not less than 60% of the individual landowners who represent not less than 51% of the irrigable acres to be affected by the proposed district and 51% of the cubic feet of water per second decreed or adjudicated in the stream from which the irrigation district is to operate, shall be filed with the clerk of the district court of the county or counties in which the district is to be created. For the purpose of determining whether the requirements of acreage and cubic feet of water per second have been met by the petition, water diverted from the adjudicated stream and distributed under irrigation

districts other than the one to be created under this part may not be considered; however, such water and acreage shall be required to pay all assessments the same as other water and acreage affected by irrigation districts created under this part. Upon filing of the petition, the court shall set a date for a hearing on the petition and a written notice shall be mailed, not less than 5 days prior to the hearing, to each landowner or water right owner affected by the proposed district. If the court finds from such hearing that an irrigation district, as prayed for in the petition, is feasible and practical, the court shall issue an order creating the irrigation district. The order shall constitute the authority for the district to function for the purposes and intent as outlined in this part. The court shall appoint five commissioners who are landowners or water right owners affected by such district to act until the first annual meeting their successors are elected, qualified, and begin their terms of office."

Section 2. Section 85-7-1501, MCA, is amended to read:

"85-7-1501. Qualifications of commissioners and term of office. (1) No person may be a commissioner unless he is an owner of land within the district and is a resident of the county in which the division of the district or some portion thereof, for which the commissioner is elected, is situated.

1 (2) The commissioners appointed shall hold their
 2 respective offices until ~~the--second-Saturday-in-December~~
 3 ~~following--their--appointment--and--until~~ their respective
 4 successors are elected, and qualified, and begin their terms
 5 of office. Each of the commissioners shall qualify in the
 6 same manner as justices of the peace. The bond for a
 7 commissioner shall be approved by the district court or
 8 judge thereof and filed in the office of the clerk of the
 9 court."

10 Section 3. Section 85-7-1702, MCA, is amended to read:

11 "85-7-1702. Regular election -- procedure -- results
 12 -- term of office. (1) Candidates for the office of
 13 commissioner may be nominated by petition filed with the
 14 election administrator or deputy election administrator at
 15 least 30 days before the election and signed by at least
 16 five electors of the district. If no nominations are made,
 17 the electors of the district shall write on the ballots the
 18 name or names of the persons for whom they desire to vote.

19 (2) The regular election for commissioners in each
 20 district shall be held annually ~~in-accordance-with--13-1-104~~
 21 ~~and-13-1-401~~ on the first Monday in May. The term of office
 22 of a commissioner is 3 years or until his successor is
 23 elected and qualified. The term begins on the first Monday
 24 of July following the election.

25 (3) The commissioners of the district shall adopt a

1 procedure governing all aspects of the election of
 2 commissioners not provided for by this chapter, including
 3 but not limited to notices, ballots, polling places, and
 4 voting lists. When adopting election procedures the
 5 commissioners shall, to the extent possible, follow standard
 6 procedures used in the election of directors of
 7 corporations. Except as otherwise specifically provided in
 8 this chapter, the provisions of Title 13 do not apply to the
 9 election of commissioners.

10 (4) The secretary of the board of commissioners shall
 11 enter the result of the election in the minutes of the board
 12 and file with the clerk of the district court creating the
 13 district and with the election administrator of the county
 14 in which the greatest portion of the land in the district is
 15 located a statement showing the names of the persons elected
 16 as commissioners, the names of the commissioners whose term
 17 will expire on the first Monday in July following the
 18 election, and the names of all persons who will compose the
 19 board of commissioners for the year next following the first
 20 Monday in July.

21 ~~(3)~~(5) Within-40-days As soon as possible after the
 22 first Monday in July following their the election, the
 23 commissioners shall meet and organize as a board by electing
 24 a president from their number and a secretary, who may or
 25 may not be a commissioner, and who shall each hold office

1 during the pleasure of the board. ~~The term of office of each~~
 2 ~~commissioner shall begin on the date of the organizational~~
 3 ~~meeting after the regular election and shall continue for 3~~
 4 ~~years and until the election and qualification of his~~
 5 ~~successor.~~

6 (4)(6) Commissioners are elected by the electors of
 7 the entire district."

8 Section 4. Section 85-8-301, MCA, is amended to read:

9 "85-8-301. Term of commissioners at creation of
 10 district. On the creation of a district the commissioners
 11 appointed by the judge or court shall hold office until ~~the~~
 12 ~~first Tuesday in May following their appointment and until~~
 13 ~~their successors are elected, qualified, and begin their~~
 14 ~~terms of office.~~ When a district is in existence on March 1,
 15 1921, and thereafter an order is made dividing such district
 16 into divisions, the terms of office of such commissioners
 17 shall cease with on the first Monday immediately preceding
 18 of July the first Tuesday in May next following after the
 19 next election following the division order."

20 Section 5. Section 85-8-302, MCA, is amended to read:

21 "85-8-302. Election of commissioners -- procedure --
 22 regular term of office. (1) The regular election of
 23 commissioners shall be held annually in accordance with
 24 ~~13-1-104 and 13-1-401~~ on the first Monday in May. The term
 25 of office of commissioners shall commence on the first

1 Tuesday in May Monday in July following their election. At
 2 the first regular election following the organization of a
 3 district and in districts organized and in existence on
 4 March 1, 1921, and which, on petition, have been divided
 5 into divisions, at the first regular election following the
 6 date of the order making such division, there shall be
 7 elected three commissioners, one commissioner being elected
 8 from each division of which he must be an actual landowner.
 9 One of the commissioners, to be determined by lot, shall
 10 hold office until the first Tuesday in May Monday in July in
 11 the year following his election; another of the
 12 commissioners, to be determined by lot, shall hold office
 13 until the first Tuesday in May Monday in July in the second
 14 year following his election; and the third of the
 15 commissioners shall hold office until the first Tuesday in
 16 May Monday in July in the third year following his election.
 17 Thereafter one commissioner shall be elected each year, who
 18 shall hold office for a term of 3 years and until his
 19 successor is elected and qualified. The person elected as a
 20 commissioner in each year to succeed the commissioner whose
 21 term is then expiring must be elected as a commissioner from
 22 the same division as the commissioner whom he is to succeed.

23 (2) Each commissioner must be a resident of a county
 24 where a portion of the district lands is situated.

25 (3) The commissioners of the district shall adopt a

1 procedure governing all aspects of the election of
 2 commissioners not provided for by this chapter, including
 3 but not limited to notices, ballots, polling places, and
 4 voting lists. When adopting election procedures the
 5 commissioners shall, to the extent possible, follow standard
 6 procedures used in the election of directors of
 7 corporations. Except as otherwise specifically provided in
 8 this chapter, the provisions of Title 13 do not apply to the
 9 election of commissioners."

10 Section 6. Section 85-8-304, MCA, is amended to read:

11 "85-8-304. Results of election. The secretary of the
 12 board of commissioners shall enter the result of the
 13 election in the minutes of the board and file with the clerk
 14 of the district court creating the district and with the
 15 election administrator of the county in which the greatest
 16 portion of land in the district is located a statement
 17 showing the names name of the persons person elected as
 18 commissioners commissioner, the names name of the
 19 commissioners commissioner whose term will expire on the
 20 first ~~Tuesday-in-May~~ Monday in July following the election,
 21 and the names of all of the persons who will compose the
 22 board of commissioners for the year next following the first
 23 ~~Tuesday-in-May~~ Monday in July."

24 NEW SECTION. Section 7. Staggered terms for
 25 commissioners. At the first election of commissioners

1 following the organization of a district and in districts
 2 organized and in existence on October 1, 1985, at the first
 3 election of commissioners following that date, there shall
 4 be elected five commissioners. Two of the commissioners, to
 5 be determined by lot, shall hold office until the first
 6 Monday in July in the year following their election; two of
 7 the commissioners, to be determined by lot, shall hold
 8 office until the first Monday in July in the second year
 9 following their election; and one of the commissioners shall
 10 hold office until the first Monday in July in the third year
 11 following his election.

12 NEW SECTION. Section 8. Codification instruction.
 13 Section 7 is intended to be codified as an integral part of
 14 Title 85, chapter 7, and the provisions of Title 85, chapter
 15 7, apply to section 7.

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