



**State Administration and Veterans' Affairs Interim Committee**  
**63rd Montana Legislature**

**SENATE MEMBERS**

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LARRY JENT  
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SUE MALEK

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BRYCE BENNETT--Vice Chair  
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DOUG KARY  
KATHY SWANSON

**COMMITTEE STAFF**

SHERI SCURR, Lead Staff  
GINGER ALDRICH, Staff Attorney  
KRISTINA LIMING, Secretary

## MINUTES LOG

March 20, 2014  
SJR 14 Subcommittee on Elections  
Rm 172, State Capitol  
Helena, Montana

THIS MEETING WAS CONDUCTED AS A PUBLIC CONFERENCE CALL

Please note: These minutes provide abbreviated information about committee discussion, public testimony, action taken, and other activities. To the left of each section in these minutes is a time designation indicating the approximate amount of time in hours, minutes, and seconds that has elapsed since the start of the meeting. This time designation may be used to locate the referenced discussion on the audio or video recording of this meeting.

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Hard copies of the exhibits for this meeting are available upon request. Legislative Council policy requires a charge of 15 cents a page for copies of the document.

### **COMMITTEE MEMBERS PRESENT**

REP. BRYCE BENNETT  
REP. JOANNE BLYTON  
REP. KATHY SWANSON

### **STAFF PRESENT**

SHERI SCURR, Lead Staff  
GINGER ALDRICH, Staff Attorney  
KRISTINA LIMING, Secretary

### **AGENDA & VISITORS' LIST**

Agenda, [Attachment #1](#).  
Visitors' list, [Attachment #2](#).

## **COMMITTEE ACTION**

- ! Instructed staff that the election law general revision bill should be drafted to restate in each applicable statutory section the actual deadline rather than to provide only an internal reference to a single statute that had the deadline. (Item 1. b., EXHIBIT1).  
Note: Following the meeting, the subcommittee was polled by email and, because of the drafting difficulties imposed by this approach, agreed to instruct staff to provide only the internal reference rather than restate the actual deadline.
- ! Voted to keep polling place hours as provided for in current statute.
- ! Agreed by consensus to continue to allow the two types of special purpose districts to elect board members at annual meetings.
- ! Voted to bring elections on alternative forms of government into uniformity and require them to be held on primary or general election days.
- ! Voted not to change the current law for the school district mailing absentee ballots, which is 20 days before the election.
- ! Voted to change the ballot certification deadline for school elections from 25 days before the election to 30 days before the election.
- ! Voted to make the ballot certification deadline for special purpose districts be 10 days after the candidate filing deadline, which is 85 days before the election.
- ! Voted to set the deadline for validating statewide ballot issue questions at 85 days before the election.
- ! Deferred a decision about voting rights for out-of-state property owners in special purpose district elections to April 9, when the full committee could discuss the matter and to allow for more information to be gathered.
- ! Voted to provide broad language in the Title 13 election notification statute (section 13-1-108, MCA) to require at least 3 notices between 40 and 10 days before an election, but to allow local flexibility on how to provide the notices and content of those notices.

## **CALL TO ORDER AND ROLL CALL**

00:00:00 Call to Order, REP. BENNETT, Subcommittee Presiding Officer  
Roll Call ([Attachment #3](#))

## **SJR 14 Committee Discussion on Next Steps**

00:01:49 **Ms. Sheri Scurr**, Legislative Research Analyst, provided an overview to the subcommittee regarding the meeting of stakeholders and who participated. She also noted the policy questions to be reviewed ([EXHIBIT 1](#)), and a general revision bill draft that had previously been presented to the subcommittee ([EXHIBIT 2](#)).

**Public Comment**

00:07:43

**Bob Vogel, Montana School Boards Association**

Apologized to the committee for having to leave early, and thanked Ms. Scurr for all the work she has done. He expressed concern that some stakeholders fell away because they thought the discussion would only involve special purpose districts. He said he hoped the word would get out that school district elections were also being discussed. He mentioned that a survey by school business officials suggested that about 80% of school elections were conducted by schools, while only 20% were conducted by county election administrators. Mr. Vogel also mentioned his thoughts on the internal references between Title 13 and Title 20 and his hope to minimize how much Title 13 would have to be referenced, preferring that Title 20 could stand more on its own.

**SJR 14 Subcommittee Discussion on Policy Questions**

The subcommittee began to discuss and work through the policy questions listed in EXHIBIT 1.

00:10:49

1. How should internal references to Title 13 sections be handled?

Ms. Scurr explained the drafting issue involved.

REP. BLYTON asked for clarification. Ms. Scurr explained. REP. BLYTON said she would support internal references as well as spelling out the actual deadline in each statute.

REP. SWANSON agreed.

REP. BENNETT agreed and said he thought it would make it easier for the public.

The subcommittee agreed by consensus to Option b, EXHIBIT1, to provide the internal reference in appropriate statutes, but to also restate the actual deadline in each statute. Note: Following the meeting, the subcommittee was polled by email and, because of the drafting difficulties imposed by this approach, agreed to instruct staff to provide only the internal reference rather than restate the actual deadline, except as may be feasible in the school district statutes.

00:16:23

2. Should the subcommittee's decision to standardize polling place hours be reconsidered?

Ms. Scurr explained stakeholders concerns with longer polling place hours for smaller precincts.

REP. SWANSON said she shared concerns about the smaller polling places having to keep a polling place open all day. She said she supported current hours, but would listen to discussion.

REP. BLYTON said the subcommittee should reconsider the action and perhaps keep current law polling place hours.

REP. BENNETT said he still supported uniformity for the voters.

**Public Comment**

00:20:54

**Nicole Thuotte, Office of Public Instruction**

Expressed concerns for smaller districts and longer hours. She said she believes the districts should be able to decide their hours as provided for in current law.

00:21:46

**Bob Vogel, Montana School Boards Association**

Shared Ms. Thuotte's opinion about smaller districts reserving the right to decide their hours.

REP. SWANSON asked about current law. Ms. Scurr read current statutes.

00:24:06

**Janelle Mickelson, Office of Public Instruction**

Clarified current law, that polls must open in school district elections not later than noon, or earlier than 7 a.m., but must remain open until 8:00 p.m.

REP. BENNETT, explained why he supported having polls open earlier than noon.

REP. SWANSON moved to retain current law and make no changes. **Roll call vote.** Motion passed 2-1, with REP. BENNETT voting no.

00:26:21

3. Should some special purpose districts be allowed to elect board members at annual meetings?

Ms. Scurr explained current law and asked if the subcommittee wanted to allow the two special purpose districts to have their elections at annual meetings rather than at an election conducted on the same day as a school election.

REP. BLYTON said she thought the subcommittee had already decided to allow this flexibility.

Ms. Scurr said she would abide by the previous decision to allow special purpose districts to elect board members at annual meetings, provided there would be a county election administrator or designee to run the election at the meeting.

Public comment was called for, but no public comment was offered.

00:29:22

4. When should elections on alternative forms of government be held?

Ms. Scurr explained the statutes concerning alternative forms of government and the asked how the subcommittee would like to proceed in terms of when to allow these election to be held, (i.e., at the primary or general election, or to allow a special election.)

REP. BLYTON said she could see both sides of this.

REP. SWANSON agreed, cost savings would be good, but local control was also important.

REP. BENNETT said he understood, but felt that uniformity would be better to help not only with cost savings, but with predictability for voters.

**Public comment**

00:32:28

**Shantil Siaperas, Montana Association of Counties**

Read comment provided from Harold Blattie supporting standard election language and look at individual sections later as necessary if there are special concerns.

REP. BENNETT moved to bring elections on alternative forms of government into uniformity and require them to be held on primary or general election days. Motion passed unanimously by voice vote.

00:35:50

5. Should the deadline for mailing absentee ballots be standardized to conform with the federal requirement that ballots in federal elections must be mailed 45 days before the election?

Ms. Scurr explained the ripple effects of deadlines related to when ballots must be available for absentee voting. She explained the stakeholder group discussion related to school district elections and county election administrators wanting to have more time between ballot certification and the time they need to print the ballot for absentee voters.

**Public Comment**

00:39:17

**Nicole Thuotte, Office of Public Instruction**

Commented about the stakeholder group agreement with the county election administrators to have an extra 5 days for ballot certification. So, there was agreement to change the school district ballot certification deadline from 25 days to 30 days before the election. Absentee ballots would still be available 20 days before the election, but the mail ballot election statutes would be brought into conformity with that 20-day deadline, so that in a mail ballot election, ballots would be mailed by 20 days before the election. She also stated that it would be impossible for school districts to certify ballots 75 days before an election.

The subcommittee discussed the matter and clarifications were offered.

**Nicole Thuotte, Office of Public Instruction**, explained schools are not required to send absentee ballots to overseas electors. Federal law requires that in federal elections, absentee ballots must be mailed 45 days before the election.

REP. BENNETT said this is indicative of why combining these elections is so incredibly difficult and that he understood it was an impossibility for schools to mail absentee ballots 45 days before an election.

REP. BENNETT moved to keep the current law for the school district absentee ballots, which is to mail them 20 days prior to the election. Motion passed unanimously by voice vote.

00:48:35 Ms. Scurr asked the subcommittee if the ballot certification for school election should be changed from 25 days before the election to 30 days before the election, as was agreed to by the stakeholders at the staff working group meeting.

Public comment was called for, but no public comment was offered.

REP. BENNETT moved to change the ballot certification deadline for absentee ballots in school elections from 25 days to 30 days before the election. Motion passed unanimously by voice vote.

00:50:30 Ms. Scurr asked the subcommittee about what the ballot certification deadline should be for special purpose district elections. She explained that the deadline for candidate filing was 85 days before the election and that ballot certification could be set at 10 days following that deadline.

Public comment was called for, but no public comment was offered.

REP. BLYTON moved to set the ballot certification deadline at 10 days after the candidate filing deadline of 85 days for state elections and 10 days after that for local elections. Motion passed unanimously by voice vote.

01:01:30 Ms. Scurr asked the subcommittee about what the deadline should be for validating statewide ballot issue questions and whether this deadline could conform with the candidate filing deadline.

The committee agreed by consensus to make the deadline for validating statewide ballot issue questions the same as the candidate filing deadline for a statewide election, which is 85 days before the election.

01:02:53 REP. BENNETT noted that the policy questions document (EXHIBIT 1) mentioned the option of moving to all mail ballot elections. He said he thought it would be a great discussion for the full committee, but not something for the subcommittee to tackle right now.

01:04:00 6. Should out-of-state owners of taxable property within a special district be allowed to vote or prohibited from voting?

Ms. Scurr explained the discrepancies in current law concerning water and sewer districts that allows out-of-state property owners to vote in the election, while other statutes do not allow out-of-state property owners to vote in the election.

Ms. Aldrich explained that she is currently researching whether there are constitutional issues related to treating these out-of-state voters differently. She

said other states have been able to limit the voting rights of out-of-state property owners. She also explained that there are differences, too, related to who can petition for an election and that she continues to research this.

REP. BLYTON said she would prefer to have property owners vote, but not out-of-state owners. She said she thinks this should be discussed by the full committee when the legal research has been complete.

REP. SWANSON and REP. BENNETT agreed.

Public comment was called for, but no public comment was offered.

The subcommittee decided by consensus to defer the discussion and decision about how to handle the voting rights of out-of-state property owners until the full committee meeting on April 9.

01:09:50 7. Standardization of notification requirements?

Ms. Scurr explained the question of how to handle election notification requirements was not on the policy questions paper (EXHIBIT 1), but asked the subcommittee for direction on whether to standardize these requirements.

The subcommittee discussed the current law for school districts in section 20-20-204, MCA, and the requirements for other elections under section 13-1-108, MCA.

**Nicole Thuotte, Office of Public Instruction**, explained current law for school districts. She also discussed the difficulties for school districts when there is only a weekly newspaper and when ballot certification is at 30 days before the election and the Title 13 notification requirement is 3 times within 40 days, with one notification having to be done before the ballot has been certified.

REP. BENNETT moved to require for all elections 3 notices between 40-10 days, without specifying whether the notices must be published or broadcast and without requiring the notice include information that won't be available until after the ballot is certified. Motion passed unanimously by voice vote.

01:27:58 Ms Scurr explained the future bill drafting process.

### **Staff Instructions**

01:29:12 REP. BENNETT

### **Adjournment**

01:31:22 REP. BENNETT adjourned the March 20, 2014 SJR Subcommittee meeting.