

Election Law Revisions - HB 84 (2015)

Clean-Up Considerations for the 2017 Session

As of April 5, 2016

No. / Topic	Problem After HB 84 Amendments	Possible Cleanup	Latest Committee Action
<p style="text-align: center;">1</p> <p>Election for local government study commission members</p>	<p>Identified by legislative staff during codification -</p> <p>Changes made to 7-3-174(2) seem to require that an election for study commission members must always be held, but it must only be held if the question of establishing a study commission is approved.</p> <p>7-3-174. Election dates and procedures. (1)</p> <p>(2) An election of study commission members under 7-3-176 must be held in conjunction with a general election held on the date established in 13-1-104.</p> <p>(3)</p>	<p>7-3-174. Election dates and procedures. (1) ...</p> <p>(2) <u>An If the question of establishing a study commission is approved, the election of study commission members under 7-3-176 must be held in conjunction with a general election held on the date established in 13-1-104.</u></p> <p>(3)</p>	<p>Voted Feb. 10 to include in the SAVA cleanup bill for further discussion</p>
<p style="text-align: center;">2</p> <p>Election on a local government ordinance requested by petition</p>	<p>Identified by legislative staff during codification -</p> <p>HB 84 repealed 7-5-136, which included language that required that an election on a local government ordinance triggered by a petition be conducted "at the next regular election". This removed a timeframe that was not replaced. Without a time limit, a local government could theoretically keep delaying the election.</p>	<p>7-5-132. Procedure for initiative or referendum election. (1) The electors of a local government may, by petition, request an election on whether to enact, repeal, or amend an ordinance. ...</p> <p>(5) An election held pursuant to this section must be conducted <u>in conjunction with the next local government election held in accordance with Title 13, chapter 1, part 4, except that if the petition asks for a special election, specifies an election date that complies with 13-1-405, and is signed by at least 25% of the qualified electors, a special election must be held on the date specified in the petition.</u></p>	<p>Voted Feb. 10 to include in the SAVA cleanup bill for further discussion</p>

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<p>3 Resort tax election</p>	<p>Identified by the lobbyist of resort districts (Mona Jamison) - Language concerning publication of a notice of the goods and services to be subject to the tax was inadvertently stricken by the drafter in the original bill draft.</p> <p>Section 82 7-6-1504. Resort tax -- election required -- procedure -- notice. (1)</p> <p>(6) (a) Before the resort tax question is submitted to the electorate of a resort community or area, the governing body of the resort community or the board of county commissioners in the county in which the resort area is located shall publish notice of the goods and services subject to the resort tax, in a newspaper that meets the qualifications of subsection (6)(b). The notice must be published twice, with at least 6 days separating publications. The first publication must be no more than 30 days prior to the election and the last no less than 3 days prior to the election. Notice of the election must be accomplished as provided in 13-1-108 and include the information listed in subsection (4) of this section.</p> <p>(7)</p>	<p>7-6-1504. Resort tax -- election required -- procedure -- notice. (1)</p> <p>(4) The petition or resolution referring the taxing question must state:</p> <p>(a) the rate of the resort tax; (b) the duration of the resort tax; (c) the date when the tax becomes effective, which date may not be earlier than 35 days after the election; <u>(d) the goods and services subject to the resort tax;</u> and (d)<u>(e)</u> the purposes that may be funded by the resort tax revenue.</p> <p>(5) On receipt of an adequate petition, the governing body shall hold an election in accordance with Title 13, chapter 1, part 5.</p> <p>(6) Notice of the election must be accomplished as provided in 13-1-108 and include the information listed in subsection (4) of this section.</p>	<p>Voted Feb. 10 to include in the SAVA cleanup bill for further discussion</p>
<p>4 Terms of office for special district officers</p>	<p>Raised by MACo: With special district elections moved from November to May to be held on school election day, terms of office now need to be extended passed when they normally would have expired in November.</p>	<p>Proposed by MACo in public comment by MACo on Feb. 10 without proposed language.</p>	<p>Voted Feb. 10 to include in the SAVA cleanup bill for further discussion</p>
<p>5 Allow cancellation of a local government study</p>	<p>Raised by MACo: It is difficult sometimes to find study commission members to serve, so consider a provision allowing the study to not be conducted if a local government can't fill the study commission positions.</p>	<p>Proposed by MACo in public comment by MACo on Feb. 10 without proposed language. <i>(Note: Subsequent to the meeting, SAVA's legal staff noted that canceling a study approved by the voters, and that is based on a constitutional provision, may not be constitutional.)</i></p>	<p>Voted Feb. 10 to include in the SAVA cleanup bill for further discussion</p>

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<p>6</p> <p>School district election administration challenges - verifying voter registration, cancellation of an election</p>	<p>Identified by OPI -</p> <p>HB 84 required voter registration deadlines for school election conform to the late voter registration law in Title 13 (otherwise known as same-day voter registration). School districts do not have access to the MT Votes system to verify late voter registration. Thus, voters who later register will have to be issued provisional ballots.</p> <p>Also, school elections may be cancelled because there are not enough candidates, which is also an administrative challenge for school election officials.</p>	<p>OPI suggests that it can better assist school election administrators to navigate the administrative complexities of school elections if OPI is kept informed.</p> <p>Changes proposed are:</p> <p>20-20-201. Calling of school election. (1)</p> <p>(2) To enable the county election administrator to manage voter registration and prepare the lists of registered electors:</p> <p>(a) the resolution calling for a school election must be transmitted to the county election administrator <u>and the superintendent of public instruction</u> no later than 3 days after the resolution is passed; and</p> <p>(b) ...</p> <p>20-3-313. Election by acclamation -- notice. (1) If the number of candidates filing for vacant positions or filing a declaration of intent to be a write-in candidate under 20-3-305(2)(b) is equal to or less than the number of positions to be elected, the trustees may give notice that a trustee election will not be held. Notice must be given no later than 30 days before the election.</p> <p>.... (4) <u>A copy of the notice should be send to the superintendent of public instruction within 3 days of declaring the election by acclamation.</u></p>	<p>To be presented by OPI at SAVA's April 19 meeting</p>

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<p>7</p> <p>Conservation District Elections</p>	<p>Identified by Sec. of State's Office -</p> <p>HB 84 recognized that conservation district elections are unique and must still be held either with primary or general elections rather than with school elections. This exception was drafted into HB 84 (into the section codified now as 13-1-504, which specifies the date of the elections. However, sections concerning deadlines for write-in candidates and election cancellation may still be interpreted to apply to the conservation district elections that are held with the federal primary or federal general elections.</p>	<p>Amendments proposed by the Sec. of State's Office -</p> <p>13-1-502. Deadlines for candidate filing, write-in candidacy, and withdrawal -- election cancellation -- election by acclamation. (1)</p> <p>(4) <u>Except for an election held with a federal primary or federal general election</u>, If by the write-in candidate deadline in subsection (3) the number of candidates is equal to or less than the number of positions to be filled at the election, the election administrator shall cancel the election and, pursuant to 13-1-304, immediately notify the governing body in writing of the cancellation. However, the governing body may by resolution require that the election be held.</p> <p>....</p>	<p>To be presented by Sec. of State's Office at SAVA's April 19 meeting</p>
<p>8</p> <p>Cancellation of school and special district elections</p>	<p>Identified by county election administrators -</p> <p>School and special district elections cannot be cancelled until after the deadline for write-in candidates, which is 5 p.m. on the 10th day before the date on which absentee ballots must be available. This is too tight of a timeframe for election administrators, who need to be able to cancel the election sooner.</p>	<p>No language for amendments to current law have yet be proposed.</p>	<p>To be presented by county election administrators at SAVA's April 19 meeting</p>

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<p>9</p> <p>Ballot availability deadline</p>	<p>Identified by Sec. of State's Office -</p> <p>HB 84 changed the deadline for when ballots were to be made available for an election (not including a special purpose or school district election) from 30 days to 25 days before the election to allow more time for printing and mailing the ballots. HB 84 also inserted language that the deadline was for an election not conducted by mail.</p> <p>Concern has arisen about this deadline with respect to when the ballot must be mailed to absentee voters during a polling place election versus when the ballot must be available for a person who wants to vote an absentee ballot in person or must be given a ballot when the person is registering to vote after regular registration has closed (30 days before the election).</p>	<p>Governor amendments to HB 84 were contemplated during the 2015 session to address this, but were not pursued. The amendments would have been made to several sections - but the result would have been to provide that the HB 84 change from 30 days to 25 days as the deadline for ballot "availability" would be specified as the deadline to "send" ballots. The deadline for providing a ballot for in-person voting and for when the ballot is provided to a person who is registering to vote after the close of regular registration would be changed back to 30 days before the election.</p>	<p>To be presented by the Sec. of State's Office at SAVA's April 19 meeting</p>

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<p>10</p> <p>Notice of close of regular registration for school district elections</p>	<p>Identified by OPI -</p> <p>HB 84 required school district to allow late voter registration. A notice of the close of regular registration is required. OPI says this is causing confusion.</p>	<p>OPI is proposing amendments that would require the county election administrator to provide these notices.</p> <p>13-2-301. Close of regular registration -- notice -- changes. (1) The <u>county</u> election administrator shall:</p> <p>(a) close regular registrations for 30 days before any election; and</p> <p>(b) except as provided in subsection (5), publish a notice specifying the day regular registrations will close and the availability of the late registration option provided for in 13-2-304 in a newspaper of general circulation in the county at least three times in the 4 weeks preceding the close of registration or broadcast a notice on radio or television as provided in 2-3-105 through 2-3-107, using the method the election administrator believes is best suited to reach the largest number of potential electors. The provisions of this subsection (1)(b) are fulfilled upon the third publication or broadcast of the notice.</p> <p>(2) Information to be included in the notice must be prescribed by the secretary of state.</p> <p>(3) An application for voter registration properly executed and postmarked on or before the day regular registration is closed must be accepted as a regular registration for 3 days after regular registration is closed under subsection (1)(a).</p> <p>(4) An elector who misses the deadlines provided for in this section may register to vote or change the elector's voter information and vote in the election, except as otherwise provided in 13-2-304.</p> <p>(5) The method of a notice about the close of regular registration for a school election must be as specified in 20-20-204.</p>	<p>To be presented by OPI at SAVA's April 19 meeting</p>