



Joint Subcommittee On Postsecondary Education Policy and Budget

PROCEDURES FOR COMMUNITY COLLEGE DISTRICT APPROVAL

Procedures	MCA	Requirements/Comments	Completed
Pre-Election: Propose Community College (CC) organization	20-15-201	(1) District falls w/in pre-existing, contiguous elementary school district boundaries; (2) Taxable value at least \$10 M; and (3) 700 pupils regularly enrolled in public & private HS w/in district	Bitterroot Valley Community College (BVCC) Exploratory Committee formed Feb. 2006
Commissioner of Higher Education (CHE) seeks Attorney General (AG) Opinion on 20-15-209, MCA	20-15-209, in part, provides: ".... Approval for the organization of a new community college shall be granted at the discretion of the legislature acting upon the recommendation of the regents".	Questions: (1) Does 20-15-209 require Leg. approval before or after organizational election required under 20-15-203? (2) Does Leg. consider new CC only if BOR gives affirmative recommendation?	* 52 AG Op 1 - Issued Feb. 15, 2007: - Leg. Approval of CC occurs <u>after</u> local election but <u>before</u> BOR organizational order - No. BOR recommendation not binding on Legislature - Legislature has final authority to approve new CC creation (Title of 1971 Amendments); * AG Op. has force of law unless Leg. amends statute or Ct overrules opinion.
Petition Board of Regents (BOR) Seeking Organization Election	20-15-202 & 203	Petition must meet 20-15-201 above & include signatures of at least 20% of proposed district's registered voters	5,175 of 25,283 voters signed petition (20.5%)
BOR Orders Local Elections: (1) Organization approval; and (2) Trustees election	20-15-203 - 207	BOR oversees elections	March 1, 2007
Local Elections Held Votes Canvassed	20-15-203 & 20-20-105 20-20-415	"at regular school election" - 1st Mon. in May	May 8, 2007 For: 3037 (52%) Against: 2840 (48%)
Post-Election: CC Coordinator Certifies Elections Results	20-15-209(1)	Did proposal receive majority of affirm. votes? Corvallis #1 DNP- Lone Rock #13 Darby #1 DNP-Hamilton #9 Stevensville #2 Victor #7 7 Trustees Elected	CC Cord. Issued Cert. June 19, 2007 BOR Acknowledged Cert. July 11, 2007
BOR recommendation	20-15-209(1) + AG Op.	No specific date provided in statute A.G.: BOR Recommendation Not Binding on Leg.	NOT COMPLETED
Final Legislative Approval	20-15-209(1) + AG Op.	If Final Leg. Approval = Passage or Defeat of * Joint Resolution approving CC district in 2009 session (or special session). [* JR are not signed by Governor]	NOT COMPLETED
BOR Organizational Order and Seating of Trustees	20-15-209(2)	AG Op: Triggered by Leg. Approval	NOT COMPLETED

Questions to Staff:

(1) **Why can't funding the alternative or deciding not to introduce any legislation be interpreted as the Legislature "not approving" the new CC district?** Funding an alternative can co-exist with approval of a new CC. The fact that the Leg. chooses to fund another alternative, such as a new College of Technology (COT), by bill or in HB 2 doesn't eliminate the requirement for a decision on approving a new CC district. Section 20-15-309, MCA, as interpreted by the A.G. Opinion implies a final decision or "vote" by the Legislature specifically on the BVCC petition request.

(2) **Why can't PEPB or ELG minutes or the final ELG report stating non-support for CC be evidence that Leg. did not approve BVCC?** Section 20-15-309, MCA states "approval" by whole Legislature and not action by a Committee of the Legislature.

(3) **What are PEPB Options Regarding BVCC petition for new CC district?**

Option A: Recommend to ELG that it **request and sponsor** legislation approving the BVCC district (Committee bill/JR -"By Request of the ELG");

Option B: Recommend to ELG that it **request, but not sponsor**, legislation approving the BVCC district (Bill/JR will be drafted, but BVCC must find Sponsor); or

Option C: No Recommendation to ELG (BVCC supporters must find a "qualified" Legislator to request and sponsor Bill/JR).

Submitted by:

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