

HOUSE BILL NO. 521

INTRODUCED BY M. MORE

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR PARTISAN ELECTION OF SUPREME COURT JUSTICES AND JUDGES OF THE DISTRICT COURTS; PROVIDING THAT THE PROPOSED ACT BE SUBMITTED TO THE QUALIFIED ELECTORS OF MONTANA; AMENDING SECTIONS 3-2-101, 3-5-201, 3-10-201, 13-14-111, 13-14-118, 13-14-211, 13-14-212, AND 13-35-231, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE."

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

Section 1. Section 3-2-101, MCA, is amended to read:

"3-2-101. Number, partisan election, and term of office -- form of ballot on retention. (1) The supreme court consists of a chief justice and six associate justices who are elected by the qualified electors of the state at large at the general state elections next preceding the expiration of the terms of office of their predecessors, respectively, and hold their offices for the term of 8 years from and after the first Monday of January next succeeding their election.

(2) Supreme court justices, including the chief justice, must be nominated and elected on the partisan ballot in the same manner as are other partisan candidates. Each vacancy for justice of the supreme court, including the chief justice, is a separate and independent office for election purposes. The chief justice of the supreme court shall assign an individual number to each office and certify these numbers to the office of the secretary of state.

(3) If the only candidate for the office of supreme court justice or chief justice is the incumbent, the election administrator or secretary of state shall use the form prescribed in 13-14-212 to place the name of an unopposed incumbent for the office on the general election ballot, except that the form must also include the incumbent's political party designation."

Section 2. Section 3-5-201, MCA, is amended to read:

"3-5-201. Election Partisan election and oath of office. (1) The judges of the district court, except judges pro tempore, must be elected by the qualified voters of the district.

1 (2) (a) Judges of the district court must be nominated and elected on the partisan ballot in the same
2 manner as are other partisan candidates. Each vacancy for judge of the district court is a separate and
3 independent office for election purposes.

4 (b) The clerk of the district court in a multijudge district shall certify the department numbers assigned
5 pursuant to 3-5-403 to the office of the secretary of state for election purposes.

6 (3) If the only candidate for the office of judge of the district court is the incumbent, the election
7 administrator shall use the form prescribed in 13-14-212 to place the name of an unopposed incumbent for the
8 office on the general election ballot, except that the form must also include the incumbent's political party
9 designation.

10 ~~(2)~~(4) Except as provided in subsection (1), each judge of a district court shall, as soon as the judge has
11 taken and subscribed the official oath, file the official oath in the office of the secretary of state."
12

13 **Section 3.** Section 3-10-201, MCA, is amended to read:

14 **"3-10-201. Election.** (1) Each justice of the peace must be elected by the qualified electors of the county
15 at the general state election immediately preceding the expiration of the term of office of the justice of the peace's
16 predecessor.

17 (2) A justice of the peace must be nominated and elected on the nonpartisan judicial ballot ~~in the same~~
18 ~~manner as judges of the district court~~ as provided in Title 13, chapter 14, part 2.

19 (3) Each judicial office must be a separate and independent office for election purposes, each office must
20 be numbered by the county commissioners, and each candidate for justice of the peace shall specify the number
21 of the office for which the candidate seeks to be elected. A candidate may not file for more than one office.

22 (4) Section 13-35-231, prohibiting political party endorsement for judicial officers, applies to justices of
23 the peace."
24

25 **Section 4.** Section 13-14-111, MCA, is amended to read:

26 **"13-14-111. Application of general laws.** Except as otherwise provided in this chapter, candidates for
27 nonpartisan offices, including judicial offices other than an office of the supreme court or judge of a district court,
28 must be nominated and elected according to the provisions of this title."
29

30 **Section 5.** Section 13-14-118, MCA, is amended to read:

1 **"13-14-118. Vacancies among nominees after nomination and before general election.** (1) If after
2 the primary election a candidate is not able to run for the office for any reason, the vacancy must be filled by the
3 candidate next in rank in number of votes received in the primary election.

4 (2) If a vacancy for a nonpartisan nomination cannot be filled as provided in subsection (1) and the
5 vacancy occurs no later than 75 days before the general election, a 10-day period for accepting declarations for
6 nomination or statements of candidacy and nominating petitions for the office must be declared by:

7 (a) the governor for national, state, ~~judicial district~~, legislative, or any multicounty district office;

8 (b) the governing body of the appropriate political subdivision for all other offices.

9 (3) The names of the candidates who filed as provided in subsection (2) must be certified and must
10 appear on the general election ballot in the same manner as candidates nominated in the primary.

11 (4) If the vacancy occurs later than 75 days before the general election and a qualified individual is not
12 elected to the office at the general election, the office is vacant and must be filled as provided by law."

13
14 **Section 6.** Section 13-14-211, MCA, is amended to read:

15 **"13-14-211. Judicial County judicial offices separate and independent offices for election**
16 **purposes.** ~~(1) Each vacancy for justice of the supreme court is a separate and independent office for election~~
17 ~~purposes. The chief justice of the supreme court shall assign an individual number to the justices and certify these~~
18 ~~numbers to the office of the secretary of state.~~

19 ~~———(2) Each vacancy for judicial office in a district that has more than one district judge is a separate and~~
20 ~~independent office for election purposes.~~

21 ~~———(3) Each vacancy for office in a county that has more than one justice of the peace is a separate and~~
22 ~~independent office for election purposes."~~

23
24 **Section 7.** Section 13-14-212, MCA, is amended to read:

25 **"13-14-212. Form of ballot on retention of certain incumbent judicial officers justice.** (1) If the
26 incumbent is the only candidate for the office of ~~chief justice, supreme court justice, district court judge, or justice~~
27 of the peace, the name of the incumbent must be placed on the official ballot for the general election as follows:

28 Shall (insert title of officer) (insert name of the incumbent officer) of the (insert title of the court) of the
29 state of Montana be retained in office for another term?

30 (2) Following the question, provision must be made, subject to rules adopted pursuant to 13-12-202, for

1 a voter to indicate a "yes" or "no" vote."

2
3 **Section 8.** Section 13-35-231, MCA, is amended to read:

4 **"13-35-231. Unlawful for political party to endorse judicial candidate.** A political party may not
5 endorse, contribute to, or make an expenditure to support or oppose a judicial candidate, except for a candidate
6 for an office of the supreme court or judge of a district court."

7
8 NEW SECTION. **Section 9. Saving clause.** [This act] does not affect rights and duties that matured,
9 penalties that were incurred, or proceedings that were begun before [the effective date of this act].

10
11 NEW SECTION. **Section 10. Effective date.** If approved by the electorate, [this act] is effective January
12 1, 2013.

13
14 NEW SECTION. **Section 11. Applicability.** [This act] applies to elections for an office of the supreme
15 court and for a judge of the district court occurring on or after [the effective date of this act].

16
17 NEW SECTION. **Section 12. Submission to electorate.** [This act] shall be submitted to the qualified
18 electors of Montana at the general election to be held in November 2012 by printing on the ballot the full title of
19 [this act] and the following:

20 ☐ FOR partisan election of supreme court justices and judges of the district courts.

21 ☐ AGAINST partisan election of supreme court justices and judges of the district courts.

22 - END -