Mail Ballot Elections - An Overview

- What is a Mail Ballot Election?
- Mail ballot election laws and rules
- Initiating a mail ballot election
- Submitting the plan, timetable and instructions
- Preparing ballots
- Mail ballot absentee voting
- Mailing and receiving ballots
- Replacement ballots
- Late registrants and inactive electors
- Mail ballot forms
- Frequently asked questions
What is a Mail Ballot Election?

• A mail ballot election is one that is conducted by mailing ballots out automatically to eligible active and provisionally registered electors

• Mail ballot elections do not involve the use of polling places
What **Laws** are Applicable to Mail Ballot Elections?

- **Title 13, Chapter 19** governs mail ballot elections

What **Rules** are Applicable to Mail Ballot Elections?

- The Administrative Rules in **Chapter 44.3, Subchapter 27** provide additional mail ballot procedures.

http://mtrules.org
What Statutory Role Does the SOS Have in Regard to Mail Ballot Elections?

• The SOS is required by state law to review and approve or reject mail ballot plans and timetables.

• The SOS issues advisories, directives and informational memos on mail ballot election issues in Title 13.
What Types of Elections May Not Be Conducted by Mail Ballot?

- Regularly scheduled federal, state, or county elections;
- A special federal or state election, unless authorized by the legislature;
- A regularly scheduled or special election when another election in the political subdivision is taking place at the polls on the same day.
What Does the Term “Political Subdivision” Mean?

- The term “political subdivision” refers to the specific jurisdiction, such as a fire district, water and sewer district, school district, etc.

- Even if one election in a county is being held at a polling place, other elections may be held by mail ballot in the same county on the same day.

- In cases in which the voters overlap between elections conducted on the same day, all the elections should ideally be held either by mail or at the polling place. ▫ This will help avoid voter confusion.

- Please consult with your county attorney for final decisions on interpretation of local election laws.
Are Mail Ballot Elections Ever Required?

• Mail ballot elections are never required.

• The governing body can request but not require that an election administrator conduct an election by mail ballot.

• Alternatively, the election administrator can initiate the decision to hold an election by mail ballot.
  ▫ The governing body can object by resolution at least 55 days or more before the election; if so, the election cannot be held by mail ballot.
Where in the MCA are Certain Jurisdiction-Specific Qualified Elector Laws?

- School Districts
  - 20-20-301

- Special Districts: *(See list at right.)*
  - 7-11-1002, 1003, 1011:
  - Includes voting by electors who are not registered in the jurisdiction

- Cemetery districts, museum districts, park districts, fair districts, solid waste districts, local improvement districts, mosquito control districts, multijurisdictional districts, road districts, rodent control districts, television districts, and districts created for any public or governmental purpose not specifically prohibited by law.
Where in the MCA are Certain Jurisdiction-Specific Qualified Elector Laws?

- Special Districts: (See list of exceptions at right.)
  - 7-11-1002(3)(c)
  - The term “special districts” does not include business improvement districts, cattle protective districts, conservancy districts, conservation districts, water and sewer districts, planning and zoning districts, drainage districts, grazing districts, hospital districts, irrigation districts, library districts, livestock protective committees, parking districts, resort area districts, rural improvement districts, special improvement districts, lighting districts, rural fire districts, street maintenance districts, tax increment financing districts, urban transportation districts, water conservation and flood control projects, and weed management districts.
Where in the MCA are Certain Jurisdiction-Specific Qualified Elector Laws?

• **Water & Sewer Districts**
  ▫ 7-13-2212, 7-13-2254-2255, 7-13-2325
  ▫ Includes voting by electors who are not registered in the jurisdiction

• **Fire Districts**
  ▫ 7-33-2106
  ▫ Includes voting by electors who are not registered in the jurisdiction

• **Hospital Districts**
  ▫ 7-34-2113

• **Mosquito Districts**
  ▫ 7-22-2432
Where in the MCA are Certain Jurisdiction-Specific Qualified Elector Laws?(cont.)?

- **Park Maintenance Districts/Park Districts**
  - 7-12-4001
  - 7-16-2412

- **Irrigation Districts**
  - 85-7-1710
  - Includes voting by electors who are not registered in the jurisdiction and proportional voting

- **Drainage Districts**
  - 85-8-305
  - Includes voting by electors who are not registered in the jurisdiction and proportional voting
Where in the MCA are Certain Jurisdiction-Specific Qualified Elector Laws?(cont)?

- Conservation Districts
  - 76-15-207

- Local Port Authority
  - 7-14-1106

- Housing Authority
  - 7-15-4408

- Urban Transportation Districts
  - 7-14-210
What is Proportional Voting?

• Proportional voting allows each elector to cast votes based on the amount of land owned by the elector within the district.

• Only irrigation districts and drainage districts have proportional voting.

• The term does not refer to voting in bond elections.
What Are the Steps for Initiating a Mail Ballot Election?

• The governing body of the political subdivision passes a resolution and transmits it to the election administrator no later than 70 days before election day.

  ▫ Within 5 days, the election administrator responds in writing granting or denying the request and specifying the reason(s).

  ▫ If granted, the election administrator prepares the written plan and timetable.

  – OR –
An election administrator can initiate the election at any time before the deadline for submission of the plan and timetable, even if the governing body has not made a request.

- **Election administrator must then:**
  - Prepare the written plan
  - Forward it to the governing body
  - Include a statement giving the reasons
  - Inform the governing body of the right to object.

The governing body can object to conducting the election by mail ballot if it:
- passes a resolution; and
- files it with the election administrator no later than 55 days prior to election day.
What Are the Requirements for Submission of the Plan, Timetable and Instructions?

• The plan, timetable and instructions must be received by the Secretary of State at least 60 days before the election.

• The plan, timetable and instructions may be amended up until the 35th day before the election by notifying the SOS in writing of any changes.

• The plan, timetable and instructions may be faxed, emailed or mailed.

• If you fax or email them, you do not need to follow up with a mailed copy, although you may want to call or email to confirm receipt.
What Are Tips for Filling Out the Plan, Timetable and Instructions?

• The plan, timetable and instructions can be found online at http://sos.mt.gov/Elections/Officials/Forms.

• Make sure you fill in each applicable item on the plan and timetable.

• The 55th day (for the governing body to opt out of the mail ballot election) before a Tuesday election is always a Wednesday.

• On the timetable, be sure to put in actual dates rather than ranges of dates.

• Also on the timetable, be aware of holidays and weekends.
### Written Plan and Timetable

**Mail Ballot Written Plan, Timetable and Instructions**

**Written Plan**

<table>
<thead>
<tr>
<th>Written Plan</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Legal Name of Jurisdiction</td>
<td>Click here to enter text.</td>
</tr>
<tr>
<td>2 Name of County or Counties Involved</td>
<td>Enter a response.</td>
</tr>
<tr>
<td>3 Estimated # of Electors</td>
<td>Enter a response.</td>
</tr>
<tr>
<td>4 Type of Election (e.g., election, bond, trusteed/or governing body, levy, etc.)</td>
<td>Choose or enter all that apply.</td>
</tr>
<tr>
<td>5 Return postage paid by elector, or by election office (and if insufficient who pays)</td>
<td>Choose a response from list.</td>
</tr>
<tr>
<td>6 Describe procedures you will use to ensure security of ballots</td>
<td>Choose or enter a response.</td>
</tr>
<tr>
<td>7 Ballots will be printed based on: precinct, ward, or district</td>
<td>Choose or enter a response.</td>
</tr>
<tr>
<td>8 For school elections, list procedures for transportation for signature verification</td>
<td>Choose or enter a response.</td>
</tr>
</tbody>
</table>

**Timetable**

| Date applicable documents sent to the governing body* | Click on or enter a date. |
| 2 Actual date of submission of plan, timetable, and instructions to Secretary of State (must be received by Secretary of State at least 60 days before election) | Click on or enter a date. |
| 3 Last day for governing body to opt out of mail ballot (within 55 days of election) | Click on or enter a date. |
| 4 Approval by Secretary of State | Within 5 days of SOS receipt of plan. |
| 5 Publish notice specifying close of voter registration (published at least 5 times in the 2 weeks preceding the close of registration, once per week, publication is consent with the instructions; publication is required for school elections) | If applicable, click on or enter a date. |
| 6 Publish notice of election, if applicable (not required for municipal elections, required for special elections) | If applicable, click on or enter a date. |
| 7 Close of voter registration (30 days before election, move to 20 days before election when 30th day falls on a Sunday) | If applicable, click on or enter a date. |
| 8 Specific date on which ballots will be mailed (no sooner than 28 days or later than 18 days before election) | Click on or enter a date. |
| 9 Election Day | Click on or enter a date. |

**Additional Information**

If applicable, for the following types of special district elections, list here the special requirements from the applicable laws: Water and Sewer (7-19-2212, 7-19-2214, 7-19-2255, 7-19-2255, 7-19-2256), Fire (7-33-2106), Museum (7-11-1009), Cemetery (7-11-1009), Drainage (85-8-305) and Irrigation (65-7-1710).

**Affirmation**

By entering my name on the line below, I affirm that I will conduct the election according to the written plan and timetable for conducting the election. I understand that any undeliverable ballots must be filed securely, retained and available for electors to vote and that I must attempt to contact electors whose ballots are undeliverable. If such electors cannot be contacted otherwise, electors will be mailed a notice and the guidelines in 22-12-922, MCA and ATM 64-3-2736 will be followed.

**Type Name(s) Here**

Name(s) of Election Administrator(s) Conducting Election

*No data set by law, but should be no later than 69 days before election. Documents include: 1) written plan, 2) statement informing governing body of decision to conduct election by mail, 3) list of reasons for decision, and 4) statement regarding right of governing body to object under 7-11-1009.

Updated June 26, 2013

Instructions

INSTRUCTIONS FOR VOTING A MAIL BALLOT – PLEASE READ CAREFULLY

ITEMS ENCLOSED FOR ELECTION:
- Ballot(s)
- Secretory Envelope for Voted Ballot(s)
- Signature Envelope with Affirmation to be completed & signed
- Sector ID Form (if included – see separate instructions)

1. To Vote – mark the designated voting area as instructed on the ballot using a black or blue pen. Do not use a marker or felt tip pen or red ink pen. Vote both sides of ballot(s) if applicable.

2. Review your ballot. Before you place your ballot into the secrecy envelope, double check your votes.
   - Do not cross out, erase or use correction fluid.
   - If your ballot is destroyed, spoiled, lost or not received or if you make a mistake or change your mind before your ballot is turned in, you may request a replacement ballot at the election office.
   - Some races allow votes for more than one person or ballot issue choice; the number appears just below the name of the office. Make sure you do not mark more votes than that number. You may choose to vote for fewer, or you can skip any race.
   - If a ballot contains too many votes in one race, votes for that race will not be counted. Other races will still be counted.
   - To write in a candidate’s name, mark the designated voting area to the left of the line provided and write in the name in the blank space.

3. Place voted ballot in the SECRECY ENVELOPE and seal it.

4. SIGN the voter affirmation on the back of the Signature Envelope. Failure to sign may invalidate your ballot!
   - If the signature on the affirmation does not match the signature on file, the ballot may be rejected.

5. Place the secrecy envelope into the Signature Envelope.

6. Return your ballot by mailing it or dropping it off to the location(s) below. The place(s) of deposit and the days and times when ballots may be returned to the places of deposit before election day and on election day are:
   - Enter here the address locations of the place(s) of deposit, the Monday through Friday hours before election day for each such place of deposit, and the election day hours for each such place of deposit.

This election is by mail ballot only -- regular polling places will not be open. In order to be counted, ballots must be received at the election office by 8:00 p.m. on Election Day.

Do not forget postage:

postage amount cents postage required if mailing ballot.

If you are an active-duty absent military voter or overseas U.S. citizen, registration and voting activities can be done electronically. See sos.mt.gov/Elections.

FOR QUESTIONS CONTACT THE ELECTIONS OFFICE AT:

Phone: 406- Phone: 406- Fax: 406- Email:  

How Are Mail Ballots Prepared?

• Mail ballots are not required to have stubs.

• The names of candidates are rotated, except in school elections.

• Ensure that each mail ballot packet contains only one each of the following:
  • An individually stamped official ballot or set of ballots;
  • a secrecy envelope;
  • a signature envelope; and
  • complete written instructions.
How Are Mail Ballots Prepared (cont.)?

– Ensure that each packet is:

  • addressed to a single individual elector at the most current address available from the official registration records; and
  
  • deposited in the United States mail with sufficient postage for it to be delivered to the elector's address.

– Mark the packet pursuant to postal regulations to ensure that, if undeliverable as addressed, it is not forwarded.
How Is Mail Ballot Absentee Voting Handled?

• A qualified elector who will be absent from the county during the election may:
  – vote in person in the election office as soon as ballots are available and until noon the day before the ballots are scheduled to be mailed; or
  – make a written request that the ballot be mailed to an address other than the one on their registration card.

• Written requests for absentee ballots must be accepted until noon the day before the ballots are scheduled to be mailed.

• Absentee ballots that are mailed are sent the same day that all other ballots are mailed.
Who is Eligible for Mail Ballots?

- All qualified individuals in the political subdivision.

- To be qualified, any registered electors must be active electors:
  - Inactive electors are not automatically provided with ballots; they must first reactivate.
  - Provisional registrants should be sent ballots, accompanied by the provisionally registered elector instructions and elector ID form.

- In certain elections, individuals can vote if they own property in the political subdivision, even if they are not registered electors of the political subdivision.
  - See slides 10-14 for applicable local election statutes that have election-specific requirements.
When Are Ballots Mailed?

• All mail ballots must be sent on a single day between 25 to 15 days before the election, except:
  – Ballots mailed to absent military and overseas electors (sent as soon as ballots are available).
  – Ballots mailed to electors who reactivate after the date on which ballots are mailed.

• Ballots may be given to the following, before or after the date the ballots are mailed:
  – Late Registrants
  – Reactivating Electors
  – Individuals Requesting Replacement Ballots

• If not all qualified electors are sent ballots, consult your county attorney.
How Are Submitted Ballots Handled?

• All mail ballots are considered to be voted as soon as they are received in the election office.

• A voted ballot is valid if:
  – it is sealed in the secrecy envelope and returned in the signature envelope (see below if it is not placed in a secrecy envelope);
  – the elector’s signature on the affidavit on the signature envelope is verified;
  – it is received before 8 p.m. on election day (except for UOCAVA Federal Write-In Absentee Ballots FWABs, which can be received by the 6th day after election day).

• If a voted ballot has not been placed in a secrecy envelope, the election official places the ballot in a secrecy envelope without examining the ballot.
How Are “Undeliverable - Return to Sender Ballots” Handled?

• If a mail ballot is returned undeliverable, the election administrator shall:
  
  – Attempt to contact the elector; and
  
  – If the elector cannot be contacted otherwise, mail a confirmation notice:
    
    • By forwardable, first-class mail with a postage-paid, return-addressed notice.
    
    • If it is returned undeliverable, the elector must be placed on the inactive list until that elector becomes a qualified elector.
Under What Circumstances Are Mail Ballots Invalid?

• A ballot is invalid if:
  
  – any identifying marks are placed on the ballot by the elector; or

  – The signature is missing or does not match, and the issue is not resolved by the elector
Under What Circumstances Are Mail Ballots Invalid?

• A ballot is invalid if:
  – more than one ballot is enclosed in a single signature or secrecy envelope, unless:
    • multiple elections are held at the same time and the envelope has one ballot for each election; or
    • the signature envelope contains ballots from the same household and:
      – each ballot is in its own secrecy envelope; and
      – the signature envelope contains a valid signature for each elector who has returned a ballot.
How Are Places of Deposit Selected?

- The EA selects the election office and may designate one or more places in the political subdivision in which the election is being conducted as places of deposit where ballots may be returned in person by the elector or the elector's agent or designee.

- If the election office is not accessible, the EA must designate at least one accessible place of deposit.

- EAs may designate certain locations as election day places of deposit, and any such designated location must function as a place of deposit only on election day.
When and How Are Places of Deposit Staffed?

• **Before** election day, ballots may be returned to any designated place of deposit:
  – During the days and times set by the election administrator; and
  – Within the regular business hours of the location.

• **On** election day, each location designated as a place of deposit must be open during the same hours that polling places would be open, and ballots may be returned during those hours.

• Each place of deposit must be staffed by at least two election officials who (except for school election judges) are selected in the same manner as election judges.
How Are Replacement Ballots Handled?

• An elector may obtain a replacement ballot if the original ballot is destroyed, spoiled, lost, or not received by the elector.

• A request for a replacement ballot must be made no later than 8 p.m. on election day using a form prescribed by the secretary of state and submitted by the elector to the election administrator:
  • in person;
  • by regular or electronic mail; or
  • by facsimile
How Are Replacement Ballots Handled? (cont.)

- Upon receiving the sworn statement, issue a replacement ballot to the elector.

- Designate the election office, or a central location in the political subdivision in which the election is conducted, as the single location for obtaining a replacement ballot.

- Keep a record of each replacement ballot issued and designate the original ballot as “Void” in MT VOTES.

- If a voter apparently attempts to vote more than once, notify the county attorney and the Secretary of State.
How Are Late Registrants Handled?

• Late registrants who register before the day that ballots are mailed are sent ballots on the day designated for mailing ballots.

• Late registrants who register after the ballots are mailed should fill out the Replacement/Late Registrant Ballot Form and are then provided with a regular ballot.
How Are **Inactive** Voters Handled?

- As noted earlier, inactive voters do not automatically receive mail ballots, unlike active and provisionally registered voters.

- Inactive electors must reactivate by appearing in order to vote, voting absentee, or notifying the EA in writing of their current address in the county.
How are Reactivated Electors Provided with Ballots?

• At any time before noon on the day before election day, a ballot may be mailed or, upon request, provided in person at the EA's office to an elector on the inactive list after the elector reactivates the elector's registration.

• After noon on the day before election day, an inactive elector who reactivates may return to the EA’s office the next day (election day) in order to receive and return a ballot.

• Reactivating electors do not need to fill out the Replacement/Late Registration ballot form.
What **Forms** Are Used in Mail Ballot Elections?

- Written Plan and Timetable
- Instructions for Voting a Mail Ballot
- Transmittal Envelope
- Signature Envelope
- Secrecy Envelope
- Replacement/Late Registration Ballot Request
- Signature Verification Card
What Forms Are Used in Mail Ballot Elections (cont.)?

- Record of Ballots Voted in Person
- Record of Replacement Ballots
- Place of Deposit Signature Log
- Daily Tally of Ballots Received
- Place of Deposit Transport Box Seal Register
- Confirmation Notice Sent to Elector Regarding Potential Placement of Elector on the Inactive Registration List After Undeliverable Return of Elector's Mail Ballot
Frequently Asked Questions

• In certain elections, is voting permitted by individuals who are not registered in the district?
  – Yes – see 13-19-304, MCA for specific requirements for these individuals.

• How are absentee list voters handled in mail ballot elections?
  – They are sent ballots through the normal mail ballot process.

• What happens if the mail ballot plan and timetable are received by the SOS less than 60 days before the election?
  – The SOS can only accept mail ballot plans and timetables if they are received at least 60 days before the election.
Quick Guide for 2015 Mail Ballot Elections

• Deadlines for Secretary of State to receive mail ballot plans, timetables, and instructions:
  • School and Special District Elections Deadline: March 6, 2015. (School/Special District Election Day: May 5, 2015)

• Location of Mail Ballot Forms:
  • http://sos.mt.gov/Elections/Officials/Forms/#MailBallot

• Location of Mail Ballot Laws and Rules:
  • http://www.mtrules.org/gateway/Subchapterhome.asp?scn=44%2E3.27