



MONTANA SECRETARY OF STATE

LINDA McCULLOCH

ELECTION ADVISORY - #A01-12

Issued: August 28, 2012

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TOPIC: Satellite Election Offices

AUTHORITY:

This election advisory is issued under the Secretary of State's authority to issue advisory opinions on the effect of election laws pursuant to Mont. Code Ann. §§ 13-1-201 and 13-1-202(1)(c).

PURPOSE:

The purpose of this advisory is to provide election administrators with guidance as to the application of Montana statutes and administrative rules that pertain to a county's ability to establish a satellite election office, particularly as it relates to in-person absentee voting and late registration. As you may know, a recent settlement agreement was reached between the County Defendants and the Plaintiffs in the *Wandering Medicine, et al. v. McCulloch, et al.* lawsuit, in which Big Horn, Blaine, and Rosebud counties agreed to establish satellite offices on reservations two days a week during the absentee voting period. These offices will provide in-person absentee voting as well as voter registration. The following advice offers the local election administrator the flexibility to establish satellite offices while ensuring the integrity of the election process.

ADVICE:

In light of this federal litigation and its outcome, the Secretary of State advises that each county with a reservation within its borders analyze and evaluate the current level of access Tribal members have to the absentee voting and registration process and make an appropriate accommodation by offering satellite election services. These services include in-person absentee voting and registration. How these services are provided on the reservation should be determined by county election administrators and county commissioners, working in conjunction with Tribal governments, based on what works best given local resources and demography of the county and staying mindful of the protections offered American Indians under the Voting Rights Act and the settlement agreement that was recently struck in the *Wandering Medicine* lawsuit.

This process—which should include legal consultation with your county attorney—should include outreach to Tribes to assess whether a Tribe desires a satellite office on their reservation and what resources are available. If it is determined that opening a satellite absentee voting office will create better access to the voting process, the information provided in this advisory can be used as a guide for opening such offices.

The Montana Attorney General issued a letter of advice on August 17, 2012, that concluded:

1. A county government, operating through its county commissioners, may open a satellite office outside the county seat to provide services to residents.
2. A county government, at the discretion of the election administrator with approval from the county commissioners, may offer voting by absentee ballot at a satellite location.
3. An election administrator providing services at a satellite location must ensure that, starting at least 30 days prior to the election, absentee ballots are available at the satellite location during the hours which the satellite location is open for business as approved by the commissioners of the county.

Following is the Secretary of State's guidance and advice on establishing and managing a satellite absentee office for the 2014 general election, specifically as it relates to in-person absentee voting.

Location

The determination of an appropriate location for a satellite election office is left to the discretion and knowledge of the local election administrator.

Satellite election offices should be equipped with adequate security features, telephone coverage, a secure wired internet connection that is consistent with the MT Votes Security and Access Plan, and be able to accommodate people with disabilities per ARM 44.3.104.

Staffing

Ideally, ballots should always be handled by two people. However, there are circumstances when this is not possible, including but not limited to those counties that have a one- or two-person office. In order to maintain the security of the ballots, officials must use the tamper-resistant seals provided by the Secretary of State, must keep a security seal log, and must reconcile their ballots each day using the prescribed form. Additionally, the person staffing the satellite office and transporting ballots must have on file a sworn oath, consistent with election official oaths and/or election judge oaths.

If the county is able to provide multiple staff, the staff should be from different political parties if possible. See also Election Directive #01-08 Testing and Security Procedures.

Security

Satellite election offices must follow all ballot security procedures. These include: all ballots and materials should be returned to the main election office at the end of each day, and delivered to the satellite election office at the beginning of the next day; **or** they must be locked in a secure room or cabinet at the satellite election office each night. Tamper resistant/evident seals and double-locked cabinets or rooms should be used. See Election Directive #01-08, Testing and Security Procedures.

Providing Appropriate Ballots

Satellite election offices must be equipped to provide absentee ballots for all precincts in a county. Election officials staffing a satellite election office must be trained and highly cognizant of the many different ballot styles in order to provide each voter with the appropriate ballot.

The statewide voter registration system will allow issuance of ballots from several different locations. However, the election administrator must develop a process that allows the sequential tracking of each ballot for each absentee voter, and must reconcile absentee ballots daily following the absentee ballot reconciliation process. Reconciliation of ballots is a necessary and critical part of election administration and the security and transparency of the election. Mont. Code Ann. §§ 13-13-232, 13-13-233, 13-13-241.

It is not the intent of the Secretary of State to direct one method over any other method. The method used must be decided at a local level where knowledge of voters' needs and county resources can be determined by the county officials responsible for providing services to its citizens. Some possible methods to track ballots issued from multiple locations follow.

Use of Ballot-on-Demand:

A ballot-on-demand system, as described below, is the preferred method of issuing ballots at a satellite office because use of the system will provide the least disruption of regular election activity at the election office. Importantly, these machines allow ballots to be issued from two locations while conforming to the legal requirement that ballots be issued consecutively.

A ballot-on-demand system is a dedicated application that can be integrated with the voter registration system and that prints out a ballot of the correct ballot style based on each voter's registration information. It allows election officials to print only the number of ballots needed.

Ballot-on-demand systems have recently been acquired by a couple of Montana counties, and are used in other states. The same testing and security measures in place for voting equipment are applicable to a ballot-on-demand system.

Counties may choose to establish use of a ballot-on-demand system at a satellite election office, eliminating the need for a known quantity of pre-numbered ballots for each precinct and split to be available at the satellite office.

The benefits of using a ballot-on-demand system include not having to transport to and store at the satellite office a quantity of unvoted ballots, and, if a ballot on demand system is located at both the election office and at the satellite office, being able to issue absentee ballots from both locations. Importantly, ballots are still issued consecutively through the MT Votes system when using a ballot-on-demand system and the paper ballots issued must be reconciled daily.

Alternate option of manually changing stub numbers on ballots issued at a satellite office:

The satellite election office:

- a. Sequentially numbers the ballot stub based on the next sequential ballot number issued by the statewide voter registration system by crossing out the ballot number pre-printed on the paper stub and writing a number which indicates the

satellite election office it was issued from and the sequential number assigned by the statewide voter registration system (e.g., EH #004 – East Helena ballot #4).

The main election office must then be contacted and must VOID the paper ballot at that location with the corresponding number.

This option requires constant communication between the satellite office and the election office, and careful attention to detail.

Additional Options:

A county may propose to the Secretary of State an alternate method that includes accuracy and security protections.

Cost

If a county is considering establishing a satellite election office, the county may wish to evaluate its resources to determine if it is able to provide the additional personnel and fund the additional costs involved in establishing and maintaining a satellite election office. Additional costs might include the following: personnel, transportation, equipment, facility rent, facility security, telephone/internet lines and support, advertising, supplies, and training.

Time Period

An election administrator providing services at a satellite election office must ensure that starting at least 30 days prior to the election absentee ballots are available at the satellite election office during the hours the satellite election office is open for business as approved by the county commissioners. Mont. Code Ann. § 13-13-205.

The time period for applying for an absentee ballot ends at noon on the day before election day. Mont. Code Ann. § 13-13-211. Absentee ballots must be returned to the election office **or** a polling place by 8 p.m. on election day. Mont. Code Ann. § 13-13-201.