

HOUSE BILL NO. 486

INTRODUCED BY S. LAVIN

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A BILL FOR AN ACT ENTITLED: "AN ACT REVISING ELIGIBILITY TO VOTE IN MUNICIPAL ELECTIONS AND TO FILE FOR CANDIDACY FOR MUNICIPAL ELECTED OFFICE; ALLOWING A QUALIFIED NONRESIDENT PROPERTY OWNER OR DESIGNEE OF AN ENTITY TO VOTE IN MUNICIPAL ELECTIONS AND TO FILE FOR CANDIDACY FOR MUNICIPAL ELECTED OFFICE; AND AMENDING SECTIONS 7-1-4121, 7-4-4104, 7-4-4301, AND 7-4-4401, MCA."

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

NEW SECTION. Section 1. Provision for vote by nonresident property owner. (1) Except as

provided in subsections (2) and (3), an individual who owns real property in a municipality holding an election on a referendum of the municipal governing body, a mill levy conducted pursuant to 15-10-425, or a bond issue conducted pursuant to Title 7, chapter 7, parts 41 through 44, or an election for municipal officers may vote in the election if the individual is registered to vote as required by law in any county of the state and files with the election administrator at least 40 days prior to the election:

- (a) proof of registration; and
- (b) proof of the property ownership based on the last completed assessment roll.

(2) An individual convicted of a felony does not have the right to vote while the individual is serving a sentence in a penal institution.

(3) An individual adjudicated to be of unsound mind does not have the right to vote unless the person has been restored to capacity as provided by law.

(4) If the election is not held using mail ballot procedures, an individual voting under the provisions of this section must be allowed to vote by absentee ballot.

(5) An individual who qualifies to vote under this section is not entitled to vote in school elections held under the provisions of Title 20 other than those elections for which the individual would be qualified to vote based on the individual's residency.

NEW SECTION. Section 2. Provision for vote by corporate property owner. (1) Subject to



1 subsection (2), if a firm, partnership, company, or corporation owns real property within the municipality, the
2 president, vice president, secretary, or other designee of the entity is eligible to vote in a municipal election as
3 provided in [section 1].

4 (2) The individual who is designated to vote by the entity is subject to the provisions of [section 1] and
5 shall also provide to the election administrator documentation of the entity's registration with the secretary of state
6 under 35-1-217 and proof of the individual's designation to vote on behalf of the entity.

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8 **Section 3.** Section 7-1-4121, MCA, is amended to read:

9 **"7-1-4121. General definitions.** As used in 7-1-4121 through 7-1-4127 and 7-1-4129 through 7-1-4149,
10 unless otherwise provided, the following definitions apply:

11 (1) "Charter" means a written document defining the powers, structure, privileges, rights, and duties of
12 the government and limitations on the government.

13 (2) "Chief executive" means the elected executive in a government adopting the commission-executive
14 form, the manager in a government adopting the commission-manager form, the presiding officer in a government
15 adopting the commission-presiding officer form, the town presiding officer in a government adopting the town
16 meeting form, the commission acting as a body in a government adopting the commission form, or the officer or
17 officers designated in the charter in a government adopting a charter.

18 (3) "Elector" means:

19 (a) a resident of the municipality qualified and registered to vote under state law; and

20 (b) for the purposes of the elections referred to in [section 1], an individual who owns real property in a
21 municipality and who meets the requirements of [section 1] or who is designated to vote by an entity as provided
22 in [section 2].

23 (4) "Employee" means a person other than an officer who is employed by a municipality.

24 (5) "Executive branch" means that part of the municipality, including departments, offices, and boards,
25 charged with implementing actions approved and administering policies adopted by the governing body of the
26 local government or performing the duties required by law.

27 (6) "Governing body" means the commission or town meeting legislative body established in the
28 alternative form of local government.

29 (7) "Guideline" means a suggested or recommended standard or procedure to serve as an index of
30 comparison and is not enforceable as a regulation.

1 (8) "Law" means a statute enacted by the legislature of Montana and approved and signed by the
2 governor or a statute adopted by the people of Montana through statutory initiative procedures.

3 (9) "Municipality" means an entity that incorporates as a city or town.

4 (10) "Office of the municipality" means the permanent location of the seat of government from which the
5 records administrator, or the office of the clerk of the governing body where one is appointed, carries out the
6 duties of the records administrator.

7 (11) "Officer" means a person holding a position with a municipality that is ordinarily filled by election or,
8 in those municipalities with a manager, the manager.

9 (12) "Ordinance" means an act adopted and approved by a municipality, having effect only within the
10 jurisdiction of the local government.

11 (13) "Person" means any individual, firm, partnership, company, corporation, trust, trustee, assignee or
12 other representative, association, or other organized group.

13 (14) "Plan of government" means a certificate submitted by a governing body that documents the basic
14 form of government selected, including all applicable suboptions. The plan must establish the terms of all officers
15 and the number of commissioners, if any, to be elected.

16 (15) "Political subdivision" refers to a local government, authority, school district, or multicounty agency.

17 (16) "Population" means the number of inhabitants as determined by an official federal, state, or local
18 census or official population estimate approved by the department of commerce.

19 (17) "Printed" means the act of reproducing a design on a surface by any process as defined by
20 1-1-203(3).

21 (18) "Public agency" means a political subdivision, Indian tribal council, state or federal department or
22 office, or the Dominion of Canada or any provincial department or office or political subdivision.

23 (19) "Public property" means any property owned by a municipality or held in the name of a municipality
24 by any of the departments, boards, or authorities of the local government.

25 (20) "Real property" means lands, structures, buildings, and interests in land, including lands under water
26 and riparian rights, and all things and rights usually included within the term "real property", including not only fee
27 simple absolute but also all lesser interests, such as easements, rights-of-way, uses, leases, licenses, and all
28 other incorporeal hereditaments and every estate, interest, or right, legal or equitable, pertaining to real property.

29 (21) "Reproduced" means the act of reproducing a design on any surface by any process.

30 (22) "Resolution" means a statement of policy by the governing body or an order by the governing body

1 that a specific action be taken.

2 (23) "Service" means an authorized function or activity performed by local government.

3 (24) "Structure" means the entire governmental organization through which a local government carries
4 out its duties, functions, and responsibilities."

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6 **Section 4.** Section 7-4-4104, MCA, is amended to read:

7 **"7-4-4104. General qualifications for municipal office.** ~~No (1)~~ A person is eligible to any for a
8 municipal office, elective or appointive, if the person:

9 ~~(1)(a) who is not~~ a citizen of the United States; and

10 ~~(2)(b) who has not~~ met the qualifications prescribed by law or by ordinance adopted by the governing
11 body of a city or town.

12 (2) A person who qualifies to vote in municipal elections as provided in [section 1 or 2] and who meets
13 the requirements of subsections (1)(a) and (1)(b) of this section is eligible for a municipal office."

14

15 **Section 5.** Section 7-4-4301, MCA, is amended to read:

16 **"7-4-4301. Qualifications for mayor.** (1) A person is not eligible for the office of mayor unless the
17 person:

18 (a) is at least 21 years old;

19 (b) has been a resident of the state for at least 3 years; and

20 (c) has been a resident for at least 2 years preceding the election to office of the city or town or an area
21 that has been annexed by the city or town or has qualified to vote in municipal elections as provided in [section
22 1 or 2] for at least 2 years.

23 (2) The office of mayor of a city or town is considered vacant if the individual elected as mayor ceases
24 to be a resident of the city or town or ceases to be qualified under [section 1 or 2]."

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26 **Section 6.** Section 7-4-4401, MCA, is amended to read:

27 **"7-4-4401. Qualifications for city council member.** A person is not eligible for the office of city council
28 member unless, for at least 60 days preceding the election to office, the person is:

29 (1) a resident for at least 60 days preceding the election to office of the ward electing the person or of
30 an area that has been annexed by the city or town and placed in the ward;

