

SENATE BILL NO. 130

INTRODUCED BY T. MURPHY

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A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT CERTAIN OWNERS OF REAL PROPERTY IN A MUNICIPALITY MAY VOTE IN ELECTIONS PERTAINING TO MILL LEVIES OR BOND ISSUES; AND AMENDING SECTIONS 7-1-4121, 7-7-4103, AND 15-10-425, MCA."

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

**NEW SECTION. Section 1. Provision for vote by nonresident property owner -- exception. (1)**

Except as provided in subsections (2) and (3), an individual who owns real property in a municipality holding an election, including a mill levy election conducted pursuant to 15-10-425 or bond issue conducted pursuant to Title 7, chapter 7, parts 41 through 44, may vote on the mill levy or bond issue if the individual is:

- (a) registered to vote as required by law;
- (b) 18 years of age or older; and
- (c) a citizen of the United States.

(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) Nothing in this section may be construed to give real property owners the right to vote for candidates for municipal office.

**Section 2.** Section 7-1-4121, MCA, is amended to read:

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

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

1 (2) "Chief executive" means the elected executive in a government adopting the commission-executive  
2 form, the manager in a government adopting the commission-manager form, the presiding officer in a government  
3 adopting the commission-presiding officer form, the town presiding officer in a government adopting the town  
4 meeting form, the commission acting as a body in a government adopting the commission form, or the officer or  
5 officers designated in the charter in a government adopting a charter.

6 (3) "Elector" means:

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

8 (b) for the purposes of an election to vote on a municipal mill levy conducted pursuant to 15-10-425 or  
9 bond issue conducted pursuant to Title 7, chapter 7, parts 41 through 44, an individual who owns real property  
10 in a municipality and who meets the requirements of [section 1].

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

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

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

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

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

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

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

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

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

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

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

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

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

7 (17) "Printed" means the act of reproducing a design on a surface by any process as defined by  
8 1-1-203(3).

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

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

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

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

18 (22) "Resolution" means a statement of policy by the governing body or an order by the governing body  
19 that a specific action be taken.

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

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

23

24 **Section 3.** Section 7-7-4103, MCA, is amended to read:

25 **"7-7-4103. General qualifications to vote on questions of municipal indebtedness.** (1) Registered  
26 electors of the city, town, or other municipal corporation may vote upon any proposal to create or increase any  
27 indebtedness of the city, town, or other municipal corporation required by law to be submitted to a vote of the  
28 electors.

29 (2) An elector, otherwise qualified, may not be denied the right to vote because the polling place for a  
30 general election for the precinct in which the elector resides and is entitled to vote lies within another city, town,

1 or other municipal corporation.

2 (3) For the purposes of this section, "elector" has the meaning provided in 7-1-4121."

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4 **Section 4.** Section 15-10-425, MCA, is amended to read:

5 **"15-10-425. Mill levy election.** (1) A county, consolidated government, incorporated city, incorporated  
6 town, school district, or other taxing entity may impose a new mill levy, increase a mill levy that is required to be  
7 submitted to the electors, or exceed the mill levy limit provided for in 15-10-420 by conducting an election as  
8 provided in this section.

9 (2) An election conducted pursuant to this section may be held in conjunction with a regular or primary  
10 election or may be a special election. The governing body shall pass a resolution, shall amend its self-governing  
11 charter, or must receive a petition indicating an intent to impose a new levy, increase a mill levy, or exceed the  
12 current statutory mill levy provided for in 15-10-420 on the approval of a majority of the qualified electors voting  
13 in the election. The resolution, charter amendment, or petition must include:

14 (a) the specific purpose for which the additional money will be used;

15 (b) either:

16 (i) the specific amount of money to be raised and the approximate number of mills to be imposed; or

17 (ii) the specific number of mills to be imposed and the approximate amount of money to be raised; and

18 (c) whether the levy is permanent or the durational limit on the levy.

19 (3) Notice of the election must be prepared by the governing body and given as provided by law. The  
20 form of the ballot must reflect the content of the resolution or charter amendment and must include a statement  
21 of the impact of the election on a home valued at \$100,000 and a home valued at \$200,000 in the district in terms  
22 of actual dollars in additional property taxes that would be imposed on residences with those values if the mill levy  
23 were to pass. The ballot may also include a statement of the impact of the election on homes of any other value  
24 in the district, if appropriate.

25 (4) If the majority voting on the question are in favor of the additional levy, the governing body is  
26 authorized to impose the levy in either the amount or the number of mills specified in the resolution or charter  
27 amendment.

28 (5) A governing body, as defined in 7-6-4002, may reduce an approved levy in any fiscal year without  
29 losing the authority to impose in a subsequent fiscal year up to the maximum amount or number of mills approved  
30 in the election. However, nothing in this subsection authorizes a governing body to impose more than the

1 approved levy in any fiscal year or to extend the duration of the approved levy.

2 (6) A mill levy conducted pursuant to this section by a municipality is subject to [section 1]."

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4 NEW SECTION. Section 5. Codification instruction. [Section 1] is intended to be codified as an  
5 integral part of Title 7, chapter 5, part 44, and the provisions of Title 7, chapter 5, part 44, apply to [section 1].

6 - END -