

HOUSE BILL NO. 789

INTRODUCED BY L. HELLEGAARD, B. MITCHELL, J. READ, B. PHALEN

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATED TO ALTERING COUNTY BOUNDARIES; ALLOWING THE ALTERATION OF COUNTY BOUNDARIES FOR VIABLE REASONS; REVISING THE PETITION THRESHOLD FOR THE ALTERATION OF COUNTY BOUNDARIES; PROVIDING THE TRANSFER OF ASSETS INCLUDING EMPLOYEES TO AN ADJOINING COUNTY; REQUIRING THE ALTERATION OF COUNTY BOUNDARIES TO OCCUR WITHIN 6 MONTHS OF A SUCCESSFUL REFERENDUM; PROVIDING A DEFINITION; AND AMENDING SECTIONS 7-2-2801, 7-2-2802, 7-2-2806, AND 7-2-2807, MCA."

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

Section 1. Section 7-2-2801, MCA, is amended to read:

"7-2-2801. Alteration of county boundaries for public safety purposes or other viable reasons -- authorization -- petition -- definitions. (1) County boundaries may be altered for reasons ~~of~~ including improving public safety as provided in this part.

(2) (a) Before a petition to alter county boundaries as provided in this part may be circulated for signatures, a sample petition must be submitted to the county election administrator of the county in which the property is located for approval as to form. The person submitting the sample petition shall consult with a professional land surveyor, as defined in 37-67-101, to prepare a legal description of the proposed new county boundary.

(b) The county election administrator shall refer a copy of the sample petition to the county attorney, who shall review the sample petition to ensure compliance with the requirements of this part.

(c) The county attorney shall cooperate with and provide necessary services to the person who submitted the petition to ensure that an adequate and valid legal description is written for the proposed new county boundary.

(d) If the petition is rejected as to form, the county election administrator shall within 10 days after

1 submission of the sample send written notice of the rejection to the person who submitted the petition. If the
 2 petition is approved as to form, the election administrator shall within 10 days after submission of the sample
 3 send written notice of the approval to the person who submitted the petition. After that notice, the petition may
 4 not be challenged except with regard to the number and validity of signatures appended to it.

5 (3) Upon approval as to form, a petition to alter county boundaries for public safety ~~purposes~~ or
 6 other viable reasons may be circulated for signatures.

7 (4) To be considered at an election, the petition must be signed by at least ~~25 or a majority~~ 15% of
 8 the qualified petitioners, ~~whichever is less~~, and must be submitted within 120 days of the petition's approval as
 9 to form to the county clerks of the adjoining counties for which boundary changes are proposed requesting that
 10 the proposed boundary changes be submitted to the qualified electors of the adjoining counties.

11 (5) The petition must include:

12 (a) the names of the qualified petitioners and the legal description of the property owned by the
 13 qualified petitioner that is proposed to be transferred to an adjoining county;

14 (b) a general description of the property proposed to be moved from one county to another;

15 (c) a general description and legal description of the proposed boundary change;

16 (d) a map showing the proposed boundary change; and

17 (e) the reason, based on proximity to public safety services or other viable reasons, for the
 18 proposed boundary change.

19 (6) For the purposes of this part, the following definitions apply:

20 (a) "Public safety services" means law enforcement, firefighting, or emergency medical services.

21 (b) "Qualified petitioner" means an owner of real property in an area of a county that is proposed to
 22 become part of an adjoining county whose property may be reached more quickly by public safety services
 23 headquartered in the county seat of an adjoining county than by public safety services headquartered in the
 24 county seat of the county in which the owner's property is located.

25 (c) "Viable reason" means a reason to change county boundaries that may include but is not
 26 limited to:

27 (i) the separation of a legislative district by natural geographical or artificial boundaries that
 28 prevent transportation by vehicle on a maintained road;

- 1 (ii) the degradation of a community of interest to maintain a political subdivision;
- 2 (iii) the perception that taxes have been levied on the petitioner without sufficient representation;
- 3 (iv) the perception that taxes paid to the county where a petitioner resides do not equal the
- 4 services rendered; or
- 5 (v) a proposed urban annexation."

6

7 **Section 2.** Section 7-2-2802, MCA, is amended to read:

8 **"7-2-2802. Affidavits to be attached to petition -- verification of signatures.** (1) There must be
 9 attached and filed with each sheet or section for a petition to alter county boundaries an affidavit of the person
 10 who circulated the petition, stating that it is the person's belief that:

- 11 (a) the petition is signed by at least ~~25 or a majority~~ 15% of the qualified petitioners, ~~whichever is~~
 12 ~~less;~~
- 13 (b) the signatures are genuine; and
- 14 (c) each person signing was, at the date of signing, a qualified petitioner.

15 (2) Upon receipt of the petition, the clerk of the county in which the qualified petitioners' property is
 16 located shall verify, using property records filed with the county and any other information that may be
 17 necessary, that the signatories are qualified petitioners.

18 (3) Within 30 days of receipt of the petition, the clerk shall:

- 19 (a) certify that the petition is sufficient under the provisions of subsection (2) and present the
 20 petition to the governing body at its next meeting; or
- 21 (b) reject the petition if it is insufficient under the provisions of subsection (2).

22 (4) The clerk shall notify the adjoining county where the proposed boundary change will occur of
 23 the clerk's action under subsection (3).

24 (5) A defect in the contents of the petition or in its title, form of notice, or signatures may not
 25 invalidate the petition and subsequent proceedings as long as the petition has a sufficient number of qualified
 26 signatures attached."

27

28 **Section 3.** Section 7-2-2806, MCA, is amended to read:

1 **"7-2-2806. Effect of election -- resolution by boards of county commissioners.** (1) If, upon the
 2 canvass of votes cast at the election, more than 50% of the votes cast in each adjoining county approve the
 3 proposed boundary change, then the boards of county commissioners in the adjoining counties shall, by
 4 resolution, declare the boundary to be changed ~~as of January 1 of the year that begins at least 13 months~~
 5 within 6 months after the date the election is held and shall direct the transfer of all certified copies of property
 6 records and other records to the appropriate county to be completed by the date the boundary change
 7 becomes effective. The resolution must include the legal description of the new boundaries of each county.

8 (2) The resolution provided in subsection (1) may also include the transfer of all employees who
 9 request to transfer to the adjoining county."

10

11 **Section 4.** Section 7-2-2807, MCA, is amended to read:

12 **"7-2-2807. Transfer of certified copies and assets -- costs to be reimbursed -- tax levy**
 13 **authorized.** (1) Upon a resolution adopted as provided in 7-2-2806, the county clerk in the county from which
 14 property will be transferred shall prepare certified copies of the indexes to recorded documents maintained by
 15 the county clerk pursuant to 7-4-2619.

16 (2) (a) The clerk shall contract with a land title company that maintains a geographical tract index
 17 of the recorded documents in the county to prepare an abstract of the property to be transferred. The abstract
 18 must include deeds, mortgages, assignments of mortgages, leases, mining claims, and any other documents
 19 recorded from the date that the county was created to the date of the boundary change implementation as
 20 provided in 7-2-2806.

21 (b) The land title company with which the clerk contracts must be a member in good standing of
 22 the Montana land title association.

23 (3) The clerk shall certify each copy of the recorded documents included in the abstract and shall
 24 transfer all copies of indexes and recorded documents certified pursuant to this section to the county clerk of
 25 the county to which the property will be transferred. The clerk of the county to which the property will be
 26 transferred shall record the documents pursuant to 7-4-2617 and shall maintain an index of the documents
 27 pursuant to 7-4-2619.

28 (4) Actual or customary costs incurred by a county in complying with subsections (1) through (3)

1 must be reimbursed to the county from which certified copies are transferred. Subject to 15-10-420, the county
2 to which records are transferred may levy a property tax against the property that has been transferred in the
3 amount necessary to reimburse the county that incurred the costs. The property tax levied as provided in this
4 subsection may be collected over a period of up to 5 years.

5 (5) All county property and assets of the geographic area being transferred to the adjoining county
6 must be transferred to the receiving county, including all relevant monies, planning reviews, and other
7 materials."

8 - END -