

HOUSE BILL NO. 640
INTRODUCED BY D. HAINES

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LOCAL GOVERNMENT BUILDING CODE AUTHORITY; ELIMINATING THE ABILITY OF A COUNTY TO DESIGNATE A PORTION OF A COUNTY OUTSIDE OF A MUNICIPALITY AS THE COUNTY JURISDICTIONAL AREA; ELIMINATING ELECTION REQUIREMENTS RELATED TO BUILDING CODES; AMENDING SECTIONS 13-19-106, 50-60-101, 50-60-310, AND 50-60-311, MCA; REPEALING SECTIONS 50-60-312, 50-60-313, AND 50-60-314, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

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

Section 1. Section 13-19-106, MCA, is amended to read:

"13-19-106. General requirements for mail ballot election --exception for county building code jurisdiction election. A mail ballot election must be conducted substantially as follows:

(1) Official ballots must be prepared and all other initial procedures followed as otherwise provided by law, except that mail ballots are not required to have stubs.

(2) ~~(a) Except as provided in subsection (2)(b), an~~ An official ballot must be mailed to every qualified elector of the political subdivision conducting the election.

~~(b) In an election to determine whether to adopt a building code enforcement program within a county jurisdictional area, as defined in 50-60-101 and designated by a board of county commissioners pursuant to 50-60-310, an official ballot must be mailed to every record owner of real property in the county jurisdictional area.~~

(3) Each return/verification envelope must contain a form prescribed by the secretary of state for the elector to verify the accuracy of the elector's address or notify the election administrator of the elector's correct mailing address and to return the corrected address with the voted ballot in the manner provided by 13-19-306.

(4) The elector shall mark the ballot at home and place it in a secrecy envelope.

(5) The elector shall then place the secrecy envelope containing the elector's ballot in a return/verification envelope and shall return it by mailing it or delivering it in person to a place of deposit designated by the election administrator so that it is received before a specified time on election day.

(6) Once returned, election officials shall first qualify the submitted ballot by examining the return/verification envelope to determine whether it is submitted by a qualified elector who has not previously

voted.

(7) If the ballot qualifies and is otherwise valid, officials shall then open the return/verification envelope and remove the secrecy envelope, which is then voted by depositing it unopened in an official ballot box.

(8) After the close of polls on election day, voted ballots must be counted and canvassed as otherwise provided by law."

Section 2. Section 50-60-101, MCA, is amended to read:

"50-60-101. Definitions. As used in parts 1 through 4 and 7 of this chapter, unless the context requires otherwise, the following definitions apply:

(1) "Alteration" means any change, addition, or modification in construction or occupancy.

(2) "Building" means a combination of any materials, whether mobile, portable, or fixed, to form a structure and the related facilities for the use or occupancy by persons or property. The term must be construed as though followed by the words "or part or parts of a building".

(3) (a) "Building regulations" means any law, rule, resolution, regulation, ordinance, or code, general or special, or compilation of laws, rules, resolutions, regulations, ordinances, or codes enacted or adopted by the state or any municipality, including departments, boards, bureaus, commissions, or other agencies of the state or a municipality relating to the design, construction, reconstruction, alteration, conversion, repair, inspection, or use of buildings and installation of equipment in buildings.

(b) The term does not include zoning ordinances.

(4) "Code enforcement program" means the plan for enforcement of the building regulations adopted by a municipality or county and includes the local building department and the staff associated with executing any aspect of the program's purposes or functions.

(5) "Construction" means the original construction and equipment of buildings and requirements or standards relating to or affecting materials used, including provisions for safety and sanitary conditions.

(6) "County jurisdictional area" means the entire county, ~~or an area or areas within the county, designated by the board of county commissioners as subject to the county building code,~~ excluding any area that is within the limits of an incorporated municipality that has adopted a building code.

(7) "Department" means the department of labor and industry provided for in Title 2, chapter 15, part 17.

(8) "Equipment" means plumbing, heating, electrical, ventilating, air conditioning, and refrigerating equipment, elevators, dumbwaiters, escalators, and other mechanical additions or installations.

(9) (a) "Factory-built building" means a factory-assembled structure or structures equipped with the

necessary service connections but not made so as to be readily movable as a unit or units and designed to be used with a permanent foundation.

(b) The term does not include manufactured housing constructed after June 15, 1976, under the National Mobile Home Construction and Safety Standards Act of 1974, 42 U.S.C. 5401, et seq.

(10) "Local building department" means the agency or agencies of a municipality charged with the administration, supervision, or enforcement of building regulations, the approval of plans, the inspection of buildings, or the issuance of permits, licenses, certificates, and similar documents prescribed or required by state or local building regulations.

(11) "Local legislative body" means the council or commission charged with governing the municipality.

(12) "Municipal jurisdictional area" means the area within the limits of an incorporated municipality.

(13) "Municipality" means any incorporated city or town.

(14) "Owner" means the owner or owners of the premises or lesser estate, a mortgagee or vendee in possession, assignee of rents, receiver, executor, trustee, lessee, or other person, firm, or corporation in control of a building.

(15) (a) "Primary function area" means an area of a building or facility in which a major activity for which the building or facility is designed is carried out. Primary function areas include but are not limited to a customer service lobby of a savings institution, a cafeteria dining area, and meeting rooms of a conference center.

(b) Areas that are not primary function areas include but are not limited to boiler rooms, storage rooms, employee lounges, janitorial closets, entrances, corridors, and restrooms.

(16) "Public building" means a building or facility owned or operated by a governmental entity or a private sector building or facility that is open to members of the public.

(17) "Public sidewalk" means a sidewalk located in a public right-of-way.

(18) "Recreational vehicle" means a vehicular type unit primarily designed as temporary living quarters for recreational, camping, or travel use that either has its own mode of power or is mounted on or towed by another vehicle, including but not limited to a:

- (a) travel trailer;
- (b) camping trailer;
- (c) truck camper; or
- (d) motor home.

(19) "Site" means a parcel of land bounded by property lines or a designated portion of a public right-of-way.

(20) "State agency" means any state officer, department, board, bureau, commission, or other agency of this state.

(21) "State building code" means the state building code provided for in 50-60-203 or any portion of the code of limited application and any of its modifications or amendments."

Section 3. Section 50-60-310, MCA, is amended to read:

"50-60-310. Designation of county jurisdictional area for county building code. ~~(1)~~ To designate a county jurisdictional area for a county building code, the board of county commissioners:

~~(a)~~(1) shall pass a resolution of intent to adopt the county jurisdictional area;

~~(b)~~(2) shall give notice to the public as provided in 7-1-2121. The notice must state:

~~(i)~~(a) the time and place of the public hearing;

~~(ii)~~(b) the boundaries of the proposed county jurisdictional area;

~~(iii)~~(c) the procedures and deadlines for filing a written protest; and

~~(iv)~~(d) that a map and description of the boundaries of the proposed county jurisdictional area and the names and addresses of the owners of real property in the proposed county jurisdictional area are on file for public inspection at the office of the county clerk and recorder.

~~(e)~~(3) shall hold a public hearing no earlier than 30 days or later than 90 days after passage of the resolution of intent;

~~(f)~~(4) at the public hearing:

~~(i)~~(a) shall accept written protests from owners of real property in the proposed county jurisdictional area;

and

~~(ii)~~(b) must receive general protests and comments relating to the designation of the boundaries of the proposed county jurisdictional area; and

~~(e)~~(5) ~~subject to subsection (2), shall~~ may adopt the county jurisdictional area, effective 60 days after passage of the resolution of the code enforcement program as approved by the department.

~~(2) If a written protest is submitted by owners of real property in the proposed county jurisdictional area representing more than 10% of the owners of real property in the proposed area, the board of county commissioners may not adopt the county jurisdictional area for a county building code without submitting to an election, as provided in 50-60-312, the question of adoption of the code enforcement program as approved by the department of labor and industry."~~

Section 4. Section 50-60-311, MCA, is amended to read:

"50-60-311. Approval by department of labor and industry of code enforcement program. After completion of the public hearing required by 50-60-310 and receipt of any written protests within the time period provided by the notice required in that section, the board of county commissioners may submit a proposed code enforcement program for that jurisdictional area to the department of labor and industry for approval. The department shall approve the program if it satisfies the criteria provided in 50-60-302. Upon approval by the department of the proposed code enforcement program, the board of county commissioners shall file with the county clerk and recorder a copy of the approved program and a ~~map showing~~ description of the county jurisdictional area ~~as designated by the county commission.~~"

NEW SECTION. **Section 5. Repealer.** Sections 50-60-312, 50-60-313, and 50-60-314, MCA, are repealed.

NEW SECTION. **Section 6. Effective date.** [This act] is effective on passage and approval.

NEW SECTION. **Section 7. Retroactive applicability.** [Section 5] applies retroactively, within the meaning of 1-2-109, to May 1, 2001.

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