

HOUSE BILL NO. 773
INTRODUCED BY B. LAKE
BY REQUEST OF THE SENATE FINANCE STANDING COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING SPECIFIC PROCEDURES FOR THE SPECIAL ELECTION ON HOUSE BILL NO. 355; PROVIDING THAT THE PROVISIONS OF TITLE 13, CHAPTER 27, MCA, AND CERTAIN OTHER LAWS RELATING TO ELECTIONS DO NOT APPLY TO THE SPECIAL ELECTION; PROVIDING FOR THE PURCHASE OF PRINTING AND DISTRIBUTION SERVICES AND MATERIALS ASSOCIATED WITH THE PRINTING AND DISTRIBUTION OF A VOTER INFORMATION PAMPHLET AND BALLOTS FOR THE SPECIAL ELECTION; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

NEW SECTION. **Section 1. Suspension of election laws -- purpose -- notice.** (1) Because of the severity of Montana's fiscal problems and because of the need to deal with them as soon as possible, the legislature and the governor find that it is in the best interests of the citizens of the state of Montana to conduct a special election on the question of whether or not a cigarette tax increase, as represented by House Bill No. 355, should be adopted. The legislature and the governor also find that statutes covering ballot measures and the election on ballot measures, generally found in Title 13, chapter 27, are insufficient to accommodate the pressing need to dispose of the question of adoption of an increased cigarette tax. Consequently, procedures expediting the election, specified in [sections 1 through 19], are enacted to protect and further the interests of the electorate and Montana's citizens.

(2) For purposes of the special election to be held on House Bill No. 355:

(a) the provisions of 13-1-108, 13-2-301(1)(b), 13-12-201, 13-13-205, and Title 13, chapter 27, do not apply;

(b) notice of the special election must be published at least once a week for the 2 successive weeks before the election on radio or television, as provided in 2-3-105 through 2-3-107, or in a newspaper of general circulation in the jurisdiction where the election will be held; and

(c) the secretary of state shall publish a notice specifying the day registration will close in a newspaper of general circulation in each county at least 1 week before the close of registration.

NEW SECTION. Section 2. Procedures for special election. (1) For the special election required on House Bill No. 355, the procedures set forth in [sections 1 through 19] apply.

(2) In [sections 1 through 19], wherever the word "ballot issue", "issue", "ballot measure", "ballot form", or "ballot" appears, the word applies to House Bill No. 355.

NEW SECTION. Section 3. Transmittal of ballot issue to attorney general. (1) The secretary of state shall transmit a copy of the ballot issue and a copy of the form in which the issue will appear on the ballot to the attorney general no later than 40 days before the election at which the issue will be voted on by the people.

(2) If the ballot form is not approved by the attorney general pursuant to [section 5], the secretary of state shall immediately submit a new ballot form to the attorney general.

NEW SECTION. Section 4. Review by attorney general -- preparation of statements -- fiscal note. (1) Upon receipt of the ballot issue from the office of the secretary of state pursuant to [section 3], the attorney general shall examine the issue as to form and, if it has an effect on the revenue, expenditures, or fiscal liability of the state, shall order a fiscal note incorporating an estimate of the effect, the substance of which must substantially comply with the provisions of 5-4-205. The budget director, in cooperation with the agency or agencies affected or knowledgeable, is responsible for preparing the fiscal note and shall return it within 2 days. If a fiscal note was prepared for the issue for consideration by the 58th Montana legislature, the secretary of state shall provide to the attorney general the fiscal note prepared for the legislature at the same time that the ballot issue is transmitted and the budget director need not prepare a new fiscal note.

(2) The attorney general shall endeavor to seek out parties on both sides of the issue and obtain their advice. The attorney general, within 3 days of receipt of the ballot issue, shall prepare:

- (a) a statement, not to exceed 100 words, explaining the purpose of the measure; and
- (b) statements, not to exceed 25 words each, explaining the implications of a vote for and a vote against the measure.

(3) Within 3 days of receipt of a fiscal note, if one is necessary, the attorney general shall prepare a fiscal statement of no more than 50 words, using the fiscal note prepared for the ballot issue if one was prepared. The statement must be used on the ballot.

(4) The statement of purpose and the statements of implication must express a true and impartial explanation of the ballot issue in plain, easily understood language and may not be arguments or written so as to create prejudice for or against the measure. The statement of purpose, statements of implication, and fiscal

statement must be transmitted to the secretary of state no later than 1 day following completion of the statements.

(5) The statement of purpose, unless altered by a court under [section 6], must appear on the ballot in addition to the language included in House Bill No. 355.

(6) The statements of implication must be placed beside the diagram provided for marking of the ballot in a manner similar to but not limited to the following example:

- FOR extending the right to vote to persons 18 years of age.
- AGAINST extending the right to vote to persons 18 years of age.

NEW SECTION. Section 5. Review of ballot form by attorney general. The attorney general shall examine the ballot form submitted pursuant to [section 3] and within 2 days of receipt of the ballot form shall notify the secretary of state of approval or rejection of the ballot form. If the ballot form is rejected, the attorney general shall approve or reject a new ballot form submitted by the secretary of state pursuant to [section 3] within 1 day of receiving the new form.

NEW SECTION. Section 6. Court review of attorney general statements. (1) If an elector believes that the statement of purpose, a statement of implication of a vote, or the fiscal statement formulated by the attorney general pursuant to [section 4] does not satisfy the requirements of [section 4], the elector may file an action in the district court in and for the county of Lewis and Clark challenging the adequacy of the statement and requesting the court to alter the statement.

(2) On the same day on which an action is filed under subsection (1), the person filing the action shall serve notice of the action upon the secretary of state and upon the attorney general.

(3) An action filed under subsection (1) takes precedence over all other cases and matters in the district court. The court shall examine the proposed measure and the challenged statement and shall as soon as possible render a decision and certify to the secretary of state a statement that the court determines will meet the requirements of [section 4].

(4) A statement certified by the court must be placed on the official ballot.

(5) A copy of the statement certified by the court, in final form, must be filed in the office of the secretary of state by the person filing the action.

(6) A party may appeal the order of the district court to the Montana supreme court by filing a notice of appeal within 2 days of the date of the order of the district court.

(7) An action filed under subsection (6) takes precedence over all other cases and matters in the

Montana supreme court. The court shall examine the proposed measure and the challenged statement and shall as soon as possible render a decision and certify to the secretary of state a statement that the court determines will meet the requirements of [section 4]. A decision by the supreme court is final.

(8) A statement certified by the supreme court must be placed on the official ballot.

(9) A copy of the statement certified by the supreme court, in final form, must be filed in the office of the secretary of state by the person filing the action.

NEW SECTION. Section 7. Voter information pamphlets. (1) The secretary of state shall prepare for printing a voter information pamphlet containing the following information for the ballot issue to be voted on at the June 10, 2003, special election, as applicable:

- (a) the ballot title, fiscal statement, if applicable, and complete text of the issue;
- (b) the form in which the issue will appear on the ballot;
- (c) arguments advocating approval and rejection of the issue; and
- (d) rebuttal arguments.

(2) The pamphlet must also contain a notice advising the recipient as to where additional copies of the pamphlet may be obtained.

(3) The secretary of state may publish a single pamphlet for all of the ballot issues to be voted on at the June 10, 2003, special election. The secretary of state may arrange the information in the order that seems most appropriate, but the information for all issues in the pamphlet must be presented in the same order.

NEW SECTION. Section 8. Committees to prepare arguments for and against ballot issue. (1) The arguments advocating approval or rejection of a ballot issue and rebuttal arguments must be submitted to the secretary of state by committees appointed as provided in this section.

(2) (a) Within 3 days following adoption by the legislature of House Bill No. 355, a committee advocating the approval of the ballot issue must be appointed. The committee must be composed of one senator known to favor the issue, who must be appointed by the president of the senate and serve as the presiding officer; one representative known to favor the issue, who must be appointed by the speaker of the house of representatives; and one individual, who need not be a member of the legislature but who must be appointed by the first two members.

(b) If any member of the committee is not appointed within the time provided in subsection (2)(a), the chief justice of the Montana supreme court shall make the appointment within 2 days following expiration of the

time allowed in subsection (2)(a).

(3) (a) Within 3 days following adoption by the legislature of House Bill No. 355, a committee advocating rejection of the ballot issue must be appointed. The committee must be composed of one senator, who must be appointed by the president of the senate and serve as the presiding officer; one representative, who must be appointed by the speaker of the house of representatives; and one individual, who need not be a member of the legislature but who must be appointed by the first two members. Whenever possible, the members must be known to oppose the issue.

(b) If any member of the committee is not appointed within the time provided in subsection (3)(a), the chief justice of the Montana supreme court shall make the appointment within 2 days following expiration of the time allowed in subsection (3)(a).

(4) (a) A person may not be required to serve on a committee under this section, and the person making an appointment must receive written acceptance of appointment from the appointee.

(b) The speaker of the house of representatives and the president of the senate shall notify the secretary of state of each person appointed to the committees under subsections (2) and (3) immediately upon receipt of written acceptance of appointment by the appointee.

NEW SECTION. Section 9. Notice of deadlines for submission of committee's arguments. All appointees to a committee pursuant to [section 8] must be notified by the secretary of state by certified mail, return receipt requested, no later than 1 day after the deadline set for appointment of committee members, of the deadlines for submission of the committee's arguments.

NEW SECTION. Section 10. Committee expenses. Each committee appointed under [section 8] is entitled to receive funds for the preparation of arguments and expenses of members not to exceed \$100. Itemized claims for actual expenses incurred, approved by a majority of the committee, must be submitted to the secretary of state for payment from funds appropriated for that purpose.

NEW SECTION. Section 11. Limitation on length of argument -- time of filing. An argument advocating approval or rejection of a ballot measure is limited to 500 words or less and must be filed, in typewritten form, with the secretary of state no later than 30 days before the election at which the issue will be voted on by the people. A majority of the committee responsible for preparation shall approve and sign each argument filed. Separate signed letters of approval of an argument may be filed with the secretary of state by

members of a committee if necessary to meet the filing deadline.

NEW SECTION. Section 12. Rebuttal arguments. The secretary of state shall provide copies of the arguments advocating approval or rejection of a ballot issue to the members of the adversary committee no later than 1 day following the filing of both the approval and rejection arguments for the issue in the office of the secretary of state. The committees may prepare rebuttal arguments, limited to 250 words or less, that must be filed, in typewritten form, with the secretary of state no later than 3 days after the deadline for filing the original arguments. Discussion in the rebuttal argument must be confined to the subject matter raised in the argument being rebutted. The rebuttal argument must be approved and signed by a majority of the committee responsible for its preparation. Separate signed letters of approval may be submitted in the same manner as for the original arguments.

NEW SECTION. Section 13. Rejection of improper arguments. The secretary of state shall reject, with the approval of the attorney general, an argument or other matter held to contain obscene, vulgar, profane, scandalous, libelous, or defamatory matter; any language that in any way incites, counsels, promotes, or advocates hatred, abuse, violence, or hostility toward or that tends to cast ridicule or shame upon a group of persons by reason of race, color, religion, or sex; or any matter not allowed to be sent through the mail. Rejected arguments may not be filed or printed in the voter information pamphlet.

NEW SECTION. Section 14. Responsibility for content of argument. [Sections 1 through 19] do not relieve an author of any argument from civil or criminal responsibility for statements contained in an argument printed in the voter information pamphlet.

NEW SECTION. Section 15. Printing and distribution of voter information pamphlet -- public exigencies. (1) As soon as possible, the secretary of state shall arrange with the department of administration by requisition for the printing and delivery of a voter information pamphlet for the ballot measure. The requisition must include a delivery list providing for shipment of the required number of pamphlets to each county and to the secretary of state.

(2) The secretary of state shall estimate the number of copies necessary to furnish one copy to every voter in each county, except that two or more voters with the same mailing address and the same last name may be counted as one voter. The secretary of state shall provide for an extra supply of the pamphlets in determining

the number of voter pamphlets to be ordered in the requisition.

(3) (a) The provisions of 18-4-133(1) apply to the purchase of or a contract for services or materials associated with the printing, delivery, or distribution of the voter information pamphlet and the ballots for the special election on House Bill No. 355.

(b) The department of administration may call for bids and shall contract for the printing and delivery of the voter information pamphlets. The contract must require completion of printing and shipment, as specified on the delivery list, of the voter information pamphlets by no later than 21 days before the election at which the ballot issue will be voted on by the people.

(4) The county official responsible for voter registration in each county shall mail one copy of the voter information pamphlet to each registered voter in the county, except that two or more voters with the same mailing address and the same last name may be counted as one voter. The mailing must take place as soon as is possible after the pamphlets are received from the printer.

(5) Ten copies of the voter information pamphlet must be available at each precinct for use by any voter wishing to read the explanatory information and complete text before voting on House Bill No. 355.

NEW SECTION. Section 16. Secretary of state to certify ballot form. (1) Within 5 days after receiving approval of the ballot form from the attorney general under [section 5], the secretary of state shall furnish to the official of each county responsible for preparing and printing the ballots a certified copy of the form in which the ballot issue is to appear on the ballot.

(2) The secretary of state shall list for the issue:

(a) the number;

(b) the method of placement on the ballot;

(c) the title;

(d) the attorney general's explanatory statement, if applicable;

(e) the fiscal statement, if applicable; and

(f) the statements of the implication of a vote for or against the issue that are to be placed beside the diagram for marking the ballot.

(3) The secretary of state shall use, for the ballot issue, the title of the legislative act and language as may be specifically required in House Bill No. 355. Following the number of the ballot issue, the secretary of state shall state that the issue has been placed on the ballot as an act referred by the legislature.

NEW SECTION. Section 17. Preparation of ballots by county officials -- absentee ballots. (1) Each of the county officials responsible for the preparation and printing of the ballots shall print or have printed the ballot issue on the official ballot in the form and order certified by the secretary of state pursuant to [section 16].

(2) The county election administrator shall ensure that sufficient ballots are printed and available for absentee voting at least 14 days prior to the election.

NEW SECTION. Section 18. Determination of outcome of election. The votes on the ballot issue must be counted, canvassed, and returned by the regular boards of judges, clerks, and officers in the manner that votes for candidates are counted, canvassed, and returned. The abstract of the votes on the ballot issue must be prepared and returned to the secretary of state in the manner provided by 13-15-501 for abstracts of votes for state officers, except that the county election administrator shall provide the required information and shall send the abstract of votes to the secretary of state by certified mail in an envelope marked "special election returns", which envelope must be received by the secretary of state no later than 5 p.m. on the sixth day following the election. The board of state canvassers shall proceed within 7 days after the special election at which the ballot issue is voted upon to canvass the votes given for the ballot issue. The secretary of state, as secretary of the board of state canvassers, shall prepare and file in the office of the secretary of state a statement of the canvass, giving the number and title of the ballot issue, the whole number of votes cast in the state for and against the ballot issue, and the effective date of the ballot issue if approved by a majority of those voting on the issue. The secretary of state shall transmit a certified copy of the statement of the canvass to the governor within 10 days following the special election.

NEW SECTION. Section 19. Copy of approved issue to be sent to legislative services division. The secretary of state shall send a certified copy of the ballot issue approved by a majority of those voting on the issue and a copy of the statement of the canvass to the executive director of the legislative services division at the same time that the certified copy of the statement of the canvass is transmitted to the governor under [section 18].

NEW SECTION. Section 20. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

NEW SECTION. **Section 21. Effective date.** [This act] is effective on passage and approval.

- END -

