

1 HOUSE BILL NO. 258

2 INTRODUCED BY B. SMITH, B. BENNETT, BOLAND, LIESER, MCCLAFFERTY, MCNALLY, PIERSON,
3 POMNICHOWSKI, PRICE, STEENBERG, WILSON, WOODS

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING CIRCUMSTANCES UNDER WHICH A LOCAL
6 GOVERNMENT IS CONSIDERED TO HAVE COMPLIED WITH CERTAIN REQUIREMENTS FOR
7 PUBLICATION OF NOTICE; ~~AND~~ AMENDING SECTIONS 7-1-2121 AND 7-1-4127, MCA; AND PROVIDING AN
8 IMMEDIATE EFFECTIVE DATE."

9
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11
12 **Section 1.** Section 7-1-2121, MCA, is amended to read:

13 **"7-1-2121. Publication and content of notice -- proof of publication.** Unless otherwise specifically
14 provided, whenever a local government unit other than a municipality is required to give notice by publication, the
15 following applies:

16 (1) Publication must be in a newspaper meeting the qualifications of subsections (2) and (3), except that
17 in a county where a newspaper does not meet these qualifications, publication must be made in a qualified
18 newspaper in an adjacent county. If there is no qualified newspaper in an adjacent county, publication must be
19 made by posting the notice in three public places in the county, designated by resolution of the governing body.

20 (2) (a) The newspaper must:

21 (i) be of general circulation;

22 (ii) be published at least once a week;

23 (iii) be published in the county where the hearing or other action will take place; and

24 (iv) have, prior to July 1 of each year, submitted to the clerk and recorder a sworn statement that includes:

25 (A) circulation for the prior 12 months;

26 (B) a statement of net distribution;

27 (C) itemization of the circulation that is paid and that is free; and

28 (D) the method of distribution.

29 (b) A newspaper of general circulation does not include a newsletter or other document produced or
30 published by the local government unit.

1 (3) In the case of a contract award, the newspaper must have been published continuously in the county
2 for the 12 months preceding the awarding of the contract.

3 (4) If a person is required by law or ordinance to pay for publication, the payment must be received
4 before the publication may be made.

5 (5) The notice must be published twice, with at least 6 days separating each publication.

6 (6) The published notice must contain:

7 (a) the date, time, and place of the hearing or other action;

8 (b) a brief statement of the action to be taken;

9 (c) the address and telephone number of the person who may be contacted for further information on
10 the action to be taken; and

11 (d) any other information required by the specific section requiring notice by publication.

12 (7) A published notice required by law may be supplemented by a radio or television broadcast of the
13 notice in the manner prescribed in 2-3-105 through 2-3-107.

14 (8) Proof of the publication or posting of any notice may be made by affidavit of the owner, publisher,
15 printer, or clerk of the newspaper or of the person posting the notice.

16 (9) If the newspaper fails to publish a second notice, the local government unit must be considered to
17 have met the requirements of this section as long as the local government unit submitted the required information
18 prior to the submission deadline and the notice was posted in three public places in the county that were
19 designated by resolution OR AND, IF THE COUNTY HAS AN ACTIVE WEBSITE, WAS POSTED ON THE COUNTY'S WEBSITE
20 AT LEAST 2 6 DAYS PRIOR TO THE HEARING OR OTHER ACTION FOR WHICH NOTICE WAS REQUIRED."

21
22 **Section 2.** Section 7-1-4127, MCA, is amended to read:
23 **"7-1-4127. Publication of notice -- content -- proof.** (1) When a municipality is required to publish
24 notice, publication must be in a newspaper, except that in a municipality with a population of 500 or less or in
25 which a newspaper is not published, publication may be made by posting in three public places in the municipality
26 that have been designated by ordinance.

27 (2) The newspaper must:

28 (a) be of general circulation;

29 (b) be published at least once a week;

30 (c) be published in the county where the municipality is located; and

- 1 (d) have, prior to July 1 of each year, submitted to the city clerk a sworn statement that includes:
2 (i) circulation for the prior 12 months;
3 (ii) a statement of net distribution;
4 (iii) itemization of paid circulation and circulation that is free; and
5 (iv) the method of distribution.
- 6 (3) A newspaper of general circulation does not include a newsletter or other document produced or
7 published by the municipality.
- 8 (4) In the case of a contract award, the newspaper must have been published continuously in the county
9 for the 12 months preceding the awarding of the contract.
- 10 (5) In a county where a newspaper does not meet the qualifications in subsection (2), publication must
11 be made in a qualified newspaper in an adjacent county.
- 12 (6) If a person is required by law or ordinance to pay for publication, the payment must be received
13 before the publication may be made.
- 14 (7) The notice must be published twice, with at least 6 days separating each publication.
- 15 (8) The published notice must contain:
16 (a) the date, time, and place of the hearing or other action;
17 (b) a brief statement of the action to be taken;
18 (c) the address and telephone number of the person who may be contacted for further information on
19 the action to be taken; and
20 (d) any other information required by the specific section requiring notice by publication.
- 21 (9) A published notice required by law may be supplemented by a radio or television broadcast of the
22 notice in the manner prescribed in 2-3-105 through 2-3-107.
- 23 (10) Proof of the publication or posting of any notice may be made by affidavit of the owner, publisher,
24 printer, or clerk of the newspaper or of the person posting the notice.
- 25 (11) If the newspaper fails to publish a second notice, the municipality must be considered to have met
26 the requirements of this section as long as the municipality submitted the required information prior to the
27 submission deadline and the notice was posted in three public places in the municipality that were designated
28 by ordinance OR AND, IF THE MUNICIPALITY HAS AN ACTIVE WEBSITE, WAS POSTED ON THE MUNICIPALITY'S WEBSITE AT
29 LEAST 2 6 DAYS PRIOR TO THE HEARING OR OTHER ACTION FOR WHICH NOTICE WAS REQUIRED."
- 30

1 NEW SECTION. SECTION 3. EFFECTIVE DATE. [THIS ACT] IS EFFECTIVE ON PASSAGE AND APPROVAL.

2 - END -