

1 HOUSE BILL NO. 651

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5
6 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING BALLOT INITIATIVES; ~~REQUIRING~~
7 ~~REVENUE IN AN INITIATIVE TO BE DIRECTED TO THE GENERAL FUND OF THE STATE UNLESS~~
8 ~~OTHERWISE STATED~~ DEFINING APPROPRIATION FOR THE PURPOSES OF A BALLOT INITIATIVE;
9 REQUIRING EMPLOYERS OF PAID SIGNATURE GATHERERS TO REGISTER WITH THE SECRETARY OF
10 STATE AND PAY A FEE; ALLOWING FOR A WAIVER; REQUIRING INTERIM COMMITTEES OR THE
11 LEGISLATIVE COUNCIL TO REVIEW PROPOSED BALLOT INITIATIVE LANGUAGE AND VOTE WHETHER
12 TO SUPPORT THE PLACEMENT OF A MEASURE ON THE BALLOT; REQUIRING LANGUAGE
13 REGARDING THE REVIEW BY AN INTERIM COMMITTEE OR THE LEGISLATIVE COUNCIL BE PLACED
14 ON THE PETITION PRIOR TO SIGNATURE GATHERING; REQUIRING THE ATTORNEY GENERAL TO
15 REVIEW BALLOT INITIATIVES FOR REGULATORY TAKINGS AND DETERMINATIONS TO BE PLACED ON
16 THE PETITION PRIOR TO SIGNATURE GATHERING; PROVIDING RULEMAKING AUTHORITY;
17 AMENDING SECTIONS 5-5-215, 5-11-105, ~~43-27-402~~, 13-27-202, 13-27-204, AND 13-27-312, MCA; AND
18 PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

19
20 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

21
22 NEW SECTION. Section 1. Petitions for initiative -- requirements and limitations. (1) In
23 accordance with Article III, section 4, of the Montana constitution, the text of an initiative may not provide for the
24 appropriation of revenue.

25 (2) ~~If a proposed initiative does not otherwise establish an account or specify a fund, then revenue~~
26 ~~generated by a proposal must be deposited in the general fund.~~ FOR THE PURPOSES OF THIS SECTION,
27 "APPROPRIATION" INCLUDES BUT IS NOT LIMITED TO, THE ACT OF DESIGNATING OR SETTING ASIDE BUDGETARY
28 AUTHORITY, OR DIRECTLY OR INDIRECTLY INCURRING A FINANCIAL OBLIGATION WITH THE EXPECTATION THAT A CERTAIN

1 AMOUNT OF MONEY WILL BE EXPENDED OR DIRECTED FOR A SPECIFIC USE OR PURPOSE. THE TERM ALSO INCLUDES
2 INCREASING OR EXPANDING ELIGIBILITY TO A GOVERNMENT PROGRAM.

3

4 **Section 2.** Section 5-5-215, MCA, is amended to read:

5 **"5-5-215. Duties of interim committees.** (1) Each interim committee shall:

6 (a) review administrative rules within its jurisdiction;

7 (b) subject to 5-5-217(3), conduct interim studies as assigned;

8 (c) monitor the operation of assigned executive branch agencies with specific attention to the
9 following:

10 (i) identification of issues likely to require future legislative attention;

11 (ii) opportunities to improve existing law through the analysis of problems experienced with the
12 application of the law by an agency; and

13 (iii) experiences of the state's citizens with the operation of an agency that may be amenable to
14 improvement through legislative action;

15 (d) review, if requested by any member of the interim committee, the statutorily established advisory
16 councils and required reports of assigned agencies to make recommendations to the next legislature on
17 retention or elimination of any advisory council or required reports pursuant to 5-11-210;

18 (e) review proposed legislation of assigned agencies or entities as provided in the joint legislative
19 rules; ~~and~~

20 (f) accumulate, compile, analyze, and furnish information bearing upon its assignment and relevant to
21 existing or prospective legislation as it determines, on its own initiative, to be pertinent to the adequate
22 completion of its work; and

23 (g) review proposed ballot initiatives within the interim committee's subject area and vote to either
24 support or not support the placement of the text of an initiative on the ballot in accordance with 13-27-202.

25 (2) Each interim committee shall prepare bills and resolutions that, in its opinion, the welfare of the
26 state may require for presentation to the next regular session of the legislature.

27 (3) The legislative services division shall keep accurate records of the activities and proceedings of
28 each interim committee."

1

2 **Section 3.** Section 5-11-105, MCA, is amended to read:

3 **"5-11-105. Powers and duties of council.** (1) The legislative council shall:

4 (a) employ and, in accordance with the rules for classification and pay established as provided in this
5 section, set the salary of an executive director of the legislative services division, who serves at the pleasure of
6 and is responsible to the legislative council;

7 (b) with the concurrence of the legislative audit committee and the legislative finance committee,
8 adopt rules for classification and pay of legislative branch employees, other than those of the office of
9 consumer counsel;

10 (c) with the concurrence of the legislative audit committee and the legislative finance committee,
11 adopt rules governing personnel management of branch employees, other than those of the office of consumer
12 counsel;

13 (d) adopt procedures to administer legislator claims for reimbursements authorized by law for interim
14 activity;

15 (e) establish time schedules and deadlines for the interim committees of the legislature, including
16 dates for requesting bills and completing interim work;

17 (f) review proposed legislation for agencies or entities that are not assigned to an interim committee,
18 as provided in 5-5-223 through 5-5-228, or to the environmental quality council, as provided in 75-1-324; and

19 (g) review proposed ballot initiatives and vote to either support or not support the placement of the
20 text of an initiative on the ballot in accordance with 13-27-202; and

21 ~~(g)~~(h) perform other duties assigned by law.

22 (2) If a question of statewide importance arises when the legislature is not in session and a legislative
23 interim committee has not been assigned to consider the question, the legislative council shall assign the
24 question to an appropriate interim committee, as provided in 5-5-202, or to the appropriate statutorily created
25 committee."
26

27 **Section 4.** Section 13-27-102, MCA, is amended to read:

28 ~~"13-27-102. Who may petition and gather signatures.~~ (1) A petition for the initiative, the

1 referendum, or to call a constitutional convention may be signed only by a qualified elector of the state of
2 Montana.

3 ~~(2) A person gathering signatures for the initiative, the referendum, or to call a constitutional~~
4 ~~convention:~~

5 ~~(a) must be a resident, as provided in 1-1-215, of the state of Montana; and~~

6 ~~(b) may not be paid anything of value based upon the number of signatures gathered; and~~

7 ~~(c) if the person is a paid signature gatherers, shall register with the secretary of state in accordance~~
8 ~~with 13-27-202(1)(b)."~~

9

10 **Section 4.** Section 13-27-202, MCA, is amended to read:

11 **"13-27-202. Recommendations -- registration by paid signature gatherers -- approval of form**

12 **required.** (1) (a) A proponent of a ballot issue shall submit the text of the proposed ballot issue to the secretary
13 of state together with draft ballot issue statements intended to comply with 13-27-312. Petitions may not be
14 circulated for the purpose of signature gathering more than 1 year prior to the final date for filing the signed
15 petition with the county election administrator. The secretary of state shall forward a copy of the text of the
16 proposed issue and statements to the legislative services division for review.

17 (b) A person who employs a paid signature gatherer shall register with the secretary of state prior to
18 collecting signatures. Except as provided in subsection (1)(c), the registration in this subsection (1) must be
19 accompanied by a \$100 filing fee OF NOT MORE THAN \$100 OR AN AMOUNT SET BY THE SECRETARY OF STATE. The
20 fee must be deposited in an account to the credit of the secretary of state in accordance with 2-15-405(4).

21 (c) A person who employs a paid signature gatherer may seek a waiver from the fee required in
22 subsection (1)(b) by demonstrating a financial inability to pay without substantial hardship.

23 (d) The secretary of state may adopt rules to provide for the administration of this subsection (1),
24 including rules to implement A STANDARD REGISTRATION FORM AND the waiver provisions in subsection (1)(c).

25 (2) (a) The legislative services division staff shall review the text and statements for clarity,
26 consistency, and conformity with the most recent edition of the bill drafting manual furnished by the legislative
27 services division, the requirements of 13-27-312, and any other factors that the staff considers when drafting
28 proposed legislation.

1 (b) Within 14 days after submission of the text and statements, the legislative services division staff
2 shall recommend in writing to the proponent revisions to the text and revisions to the statements to make them
3 consistent with any recommendations for change to the text and the requirements of 13-27-312 or state that no
4 revisions are recommended.

5 (c) The proponent shall consider the recommendations and respond in writing to the legislative
6 services division, accepting, rejecting, or modifying each of the recommended revisions. If revisions are not
7 recommended, a response is not required.

8 (3) The legislative services division shall furnish a copy of the correspondence provided for in
9 subsection (2) to the secretary of state, who shall make a copy of the correspondence available to any person
10 upon request.

11 (4) Before a petition may be circulated for signatures, the final text of the proposed issue and ballot
12 statements must be submitted to the secretary of state. The secretary of state shall reject the proposed issue if
13 the text or a ballot statement contains material not submitted to the legislative services division that is a
14 substantive change not recommended by the legislative services division. If accepted, the secretary of state
15 shall refer a copy of the proposed issue and statements to the attorney general for a determination as to the
16 legal sufficiency of the issue and for approval of the petitioner's ballot statements and for a determination
17 pursuant to 13-27-312 as to whether a fiscal note is necessary.

18 (5) (a) The secretary of state shall review the legal sufficiency opinion and ballot statements of the
19 petitioner, as approved by the attorney general and received pursuant to 13-27-312.

20 (b) If the attorney general approves the proposed issue, the secretary of state shall provide the
21 executive director of the legislative services division a copy of the final text of the proposed issue and ballot
22 statements. The executive director shall provide the information to the appropriate interim committee for review
23 in accordance with 5-5-215. If questions arise regarding which interim committee has jurisdiction over the
24 matter, the executive director shall direct the review to the legislative council in accordance with 5-11-105.

25 (c) The appropriate interim committee or legislative council shall meet AND HOLD A PUBLIC HEARING
26 after receiving the information and vote to either support or not support the placement of the proposed initiative
27 text on the ballot. The outcome of the vote must be submitted to the secretary of state no later than 14 days
28 after receipt of the final text of the proposed issue and ballot statements. Nothing in this section prevents the

1 interim committee from meeting remotely or via conference call. Proxies must be allowed for legislators unable
 2 to participate if a quorum of the committee or council meets to fulfill the requirements of this section.

3 (d) The executive director shall provide written correspondence to the secretary of state providing the
 4 name of the interim committee or the administrative committee that voted on the proposal, the date of the vote,
 5 and the outcome of the vote conducted by the appropriate interim committee or the legislative council in
 6 accordance with subsection (5)(c).

7 ~~(b)(e)~~ If the attorney general approves the proposed issue and after AFTER the executive director
 8 provides the information to the secretary of state in accordance with subsection (5)(d), the secretary of state
 9 shall immediately send to the person submitting the proposed issue a sample petition form, including the text of
 10 the proposed issue, the statement of purpose and implication, and the yes and no statements, as prepared by
 11 the petitioner, reviewed by the legislative services division, and approved by the attorney general and in the
 12 form provided by this part. A signature gatherer may circulate the petition only in the form of the sample
 13 prepared by the secretary of state. The secretary of state shall immediately provide a copy of the sample
 14 petition form to any interested parties who have made a request to be informed of an approved petition.

15 ~~(e)(F)~~ If the attorney general rejects the proposed issue, the secretary of state shall send written
 16 notice to the person who submitted the proposed issue of the rejection, including the attorney general's legal
 17 sufficiency opinion.

18 ~~(d)(G)~~ If an action is filed challenging the validity of the petition, the secretary of state shall
 19 immediately notify the person who submitted the proposed issue."

20

21 **Section 5.** Section 13-27-204, MCA, is amended to read:

22 **"13-27-204. Petition for initiative.** (1) The following, INCLUDING THE LANGUAGE PROVIDED FOR IN
 23 SUBSECTION (2)(B), is substantially the form for a petition calling for a vote to enact a law by initiative:

24 PETITION TO PLACE INITIATIVE NO. _____ ON THE ELECTION BALLOT

25 (a) If 5% of the voters in each of one-half of the counties sign this petition and the total number of
 26 voters signing this petition is _____, this initiative will appear on the next general election ballot. If a majority of
 27 voters vote for this initiative at that election, it will become law.

28 (b) We, the undersigned Montana voters, propose that the secretary of state place the following

1 initiative on the _____, 20__, general election ballot:

2 (Title of initiative written pursuant to 13-27-312)

3 (Statement of purpose and implication written pursuant to 13-27-312)

4 (Yes and no statements written pursuant to 13-27-312)

5 (c) Voters are urged to read the complete text of the initiative, which appears (on the reverse side of,
6 attached to, etc., as applicable) this sheet. A signature on this petition is only to put the initiative on the ballot
7 and does not necessarily mean the signer agrees with the initiative.

8 (d) Voters are advised that either an interim committee or an administrative committee of the
9 legislature in accordance with 5-5-215 or 5-11-105 reviewed the content of this initiative and [did] or [did not]
10 support the placement of the proposed text of this initiative on the ballot. The outcome of the vote was [x] in
11 favor of placing the measure on the ballot and [x] against placing the measure on the ballot.

12 ~~(d)~~(e)

13 **WARNING**

14 A person who purposefully signs a name other than the person's own to this petition, who signs more
15 than once for the same issue at one election, or who signs when not a legally registered Montana voter is
16 subject to a \$500 fine, 6 months in jail, or both.

17 ~~(e)~~(f) Each person is required to sign the person's name and list the person's address or telephone
18 number in substantially the same manner as on the person's voter registration form or the signature will not be
19 counted.

20 (2) (A) IF THE ATTORNEY GENERAL DETERMINES THE PROPOSED BALLOT ISSUE WILL LIKELY CAUSE
21 SIGNIFICANT MATERIAL HARM TO ONE OR MORE BUSINESS INTERESTS IN MONTANA PURSUANT TO 13-27-312(9), THE
22 STATEMENT IN SUBSECTION (2)(B) MUST APPEAR ON THE FRONT PAGE OF THE PETITION FORM BEFORE THE
23 INFORMATION SET FORTH IN SUBSECTION (1).

24 (B)

25 **WARNING**

26 THE ATTORNEY GENERAL OF MONTANA HAS DETERMINED THE PROPOSED BALLOT ISSUE WILL LIKELY CAUSE
27 SIGNIFICANT MATERIAL HARM TO ONE OR MORE BUSINESS INTERESTS IN MONTANA.

28 ~~(2)~~(3) Numbered lines must follow the heading. Each numbered line must contain spaces for the

1 signature, date, residence address, county of residence, and printed last name and first and middle initials of
2 the signer. In place of a residence address, the signer may provide the signer's post-office address or the
3 signer's home telephone number. An address provided on a petition by the signer that differs from the signer's
4 address as shown on the signer's voter registration form may not be used as the only means to disqualify the
5 signature of that petition signer."

6

7 **Section 6.** Section 13-27-312, MCA, is amended to read:

8 **"13-27-312. Review of proposed ballot issue and statements by attorney general -- preparation**

9 **of fiscal note.** (1) Upon receipt of a proposed ballot issue and statements from the office of the secretary of
10 state pursuant to 13-27-202, the attorney general shall examine the proposed ballot issue for legal sufficiency
11 as provided in this section and shall determine whether the ballot statements comply with the requirements of
12 this section.

13 (2) The attorney general shall, in reviewing the ballot statements, endeavor to seek out parties on
14 both sides of the issue and obtain their advice. The attorney general shall review the ballot statements to
15 determine if they contain the following matters:

16 (a) a statement of purpose and implication, not to exceed 135 words, explaining the purpose and
17 implication of the issue; and

18 (b) yes and no statements in the form prescribed in subsection (6).

19 (3) If the proposed ballot issue has an effect on the revenue, expenditures, or fiscal liability of the
20 state, the attorney general shall order a fiscal note incorporating an estimate of the effect, the substance of
21 which must substantially comply with the provisions of 5-4-205. The budget director, in cooperation with the
22 agency or agencies affected by the ballot issue, is responsible for preparing the fiscal note and shall return it to
23 the attorney general within 10 days. If the fiscal note indicates a fiscal impact, the attorney general shall
24 prepare a fiscal statement of no more than 50 words, and the statement must be used on the petition and ballot
25 if the issue is placed on the ballot.

26 (4) The ballot statements must express the true and impartial explanation of the proposed ballot issue
27 in plain, easily understood language and may not be arguments or written so as to create prejudice for or
28 against the issue.

1 (5) Unless altered by the court under 13-27-316, the statement of purpose and implication is the
2 petition title for the issue circulated by the petition and the ballot title if the issue is placed on the ballot.

3 (6) The yes and no statements must be written so that a positive vote indicates support for the issue
4 and a negative vote indicates opposition to the issue and must be placed beside the diagram provided for
5 marking of the ballot in a manner similar to the following:

6 YES (insert the type of ballot issue and its number)

7 NO (insert the type of ballot issue and its number)

8 (7) The outcome of the vote by an interim committee or an administrative committee required in 13-
9 27-202(5)(c) does not need to be reflected in the statement of purpose and implication, the petition title, or the
10 ballot title if the issue is placed on the ballot.

11 ~~(7)(8)~~ (8) The attorney general shall review the proposed ballot issue for legal sufficiency. As used in this
12 part, "legal sufficiency" means that the petition complies with statutory and constitutional requirements
13 governing submission of the proposed issue to the electors, THE SUBSTANTIVE LEGALITY OF THE PROPOSED ISSUE
14 IF APPROVED BY THE VOTERS, AND WHETHER THE PROPOSED ISSUE CONSTITUTES AN APPROPRIATION AS SET FORTH IN
15 [SECTION 1]. Review of the petition for legal sufficiency does not include consideration of the substantive legality
16 of the issue if approved by the voters. The attorney general shall also determine if the proposed issue conflicts
17 with one or more issues that may appear on the ballot at the same election.

18 (9) (A) THE ATTORNEY GENERAL SHALL REVIEW THE PROPOSED BALLOT ISSUE AS TO WHETHER THE
19 PROPOSED ISSUE COULD CAUSE A REGULATORY TAKING UNDER MONTANA LAW OR OTHERWISE WILL LIKELY CAUSE
20 SIGNIFICANT MATERIAL HARM TO ONE OR MORE BUSINESS INTERESTS IN MONTANA IF APPROVED BY THE VOTERS.

21 (B) IF THE ATTORNEY GENERAL DETERMINES THE PROPOSED BALLOT ISSUE WILL LIKELY CAUSE SIGNIFICANT
22 MATERIAL HARM TO ONE OR MORE BUSINESS INTERESTS IN MONTANA, THE ATTORNEY GENERAL SHALL NOTIFY THE
23 SECRETARY OF STATE, WHICH MUST INCLUDE THE FINDING SET FORTH IN 13-27-204(2) ON THE FINAL FORM OF THE
24 PETITION.

25 ~~(8)(9)(10)~~ (a) Within 30 days after receipt of the proposed issue from the secretary of state, the
26 attorney general shall forward to the secretary of state an opinion as to the issue's legal sufficiency.

27 (b) If the attorney general determines that the proposed ballot issue is legally sufficient, the attorney
28 general shall also forward to the secretary of state the petitioner's ballot statements that comply with the

1 requirements of this section. If the attorney general determines in writing that a ballot statement clearly does not
2 comply with the requirements of this section, the attorney general shall prepare a statement that complies with
3 the requirements of this section, forward that statement to the secretary of state as the approved statement,
4 and provide a copy to the petitioner. The attorney general shall give the secretary of state notice of whether the
5 proposed issue conflicts with one or more issues that may appear on the ballot at the same election.

6 (c) If the attorney general determines that the proposed ballot issue is not legally sufficient, the
7 secretary of state may not deliver a sample petition form unless the attorney general's opinion is overruled
8 pursuant to 13-27-316 and the attorney general has approved or prepared ballot statements under this section."
9

10 NEW SECTION. Section 7. Codification instruction. [Section 1] is intended to be codified as an
11 integral part of Title 13, chapter 27, part 2, and the provisions of Title 13, chapter 27, part 2, apply to [section 1].
12

13 NEW SECTION. Section 8. Severability. If a part of [this act] is invalid, all valid parts that are
14 severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications,
15 the part remains in effect in all valid applications that are severable from the invalid applications.
16

17 NEW SECTION. Section 9. Effective date. [This act] is effective on passage and approval.
18

19 NEW SECTION. Section 10. Applicability. [This act] applies to ballot initiatives submitted to the
20 secretary of state in accordance with 13-27-202(1) on or after [the effective date of this act].
21

- END -