



Montana Legislative Services Division

Legal Services Office

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November 12, 2021

Matthew Monforton
Monforton Law Offices, PLLC
32 Kelly Court
Bozeman, MT 59718

Re: Ballot Issue No. 9 (fourth submission) – Real Property Tax Constitutional Limit

Dear Mr. Monforton, Esq.

Today the Legislative Services Division of the Montana Legislature received the text of your proposed initiative to provide for various property tax limits in the Montana Constitution. The submission was identical to your submission that we received on September 30, 2021, other than the inclusion of two additional words in subsection (3).

Section 13-27-202(2)(a) of the Montana Code Annotated (MCA) requires the Legislative Services Division to review the text of the proposed initiative and the draft ballot statements for clarity, consistency, and conformity with the most recent edition of the division's Bill Drafting Manual, the requirements of 13-27-312, MCA, and any other factors that the staff considers when drafting legislation. The text of the initiative and the ballot statements were reviewed pursuant to 13-27-202, MCA, and this letter constitutes the division's review of your proposed statutory initiative.

Section 13-27-201(2), MCA, requires the text of an initiative to be in the bill form provided in the most recent issue of the Bill Drafting Manual. Section 13-27-202(2)(a), MCA, requires both the text of the initiative and the ballot statements to conform to the Bill Drafting Manual. The 2020 edition of the Bill Drafting Manual is available electronically on the Legislative Branch website at: <https://leg.mt.gov/content/Publications/2020-bill-drafting-manual.pdf>.

I did not make any changes to your proposed text to conform with the style and other requirements of the Bill Drafting Manual since the changes suggested in our earlier review were incorporated in this submission. The text is attached for reference purposes.

1. Statement of Purpose and Implication

The text of the proposed ballot issue and the draft ballot issue statements must comply with 13-27-312, MCA. Ballot statements include: (1) the statement of purpose and implication, which may not exceed 135 words; and (2) the yes and no statements. Pursuant to 13-27-312(4), MCA, the statement of purpose "must express the true and impartial explanation of the proposed ballot

issue in plain, easily understood language." In addition, the statement of purpose may not be argumentative or written in a manner that creates prejudice for or against the issue. While it is not always feasible to include a complete explanation of each part of a ballot issue in the statement of purpose, the statement must at least explain both the purpose and implication of the ballot issue in easily understood, nonargumentative language. See *Mont. Consumer Fin. Ass'n v. State*, 2010 MT 185, ¶ 12.

Unless altered by a court pursuant to 13-27-316, MCA, the statement of purpose becomes the title for the ballot issue that is circulated to the electorate and the ballot title if the ballot issue is placed on the ballot. However, proponents of a ballot issue are not entitled "to the ballot statements of their choosing," and the Attorney General and, if necessary, the Supreme Court may alter proposed statements of purpose and implication to comply with the provisions of 13-27-312, MCA. See *Mont. Consumer Fin. Ass'n v. State*, 2010 MT 185, ¶ 11.

The statement of purpose and implication as submitted complies with the 135-word limit. I did not make any changes to the statement of purpose and implication since the changes suggested in our earlier review were incorporated in this submission. The text is attached for reference purposes.

2. Text of Initiative

I have reviewed the proposed initiative as submitted and it complies with the requirements of the Bill Drafting Manual.

As submitted, the proposal provides a potential limit to a revised assessed valuation based on a publication from the Bureau of Labor Statistics of the United States Department of Labor. As a matter of practice, bill drafters are instructed to not place language in the Montana Constitution that relies on a certain publication or a specific entity since there is no guarantee the publication or entity will be in existence in the future. A more general reference would be preferable, but given the substantive ramifications, a change was not made to the text to reflect this suggestion.

If you accept the suggested revisions, the text of your proposed initiative would read as it does on the attached pages. Please note that pursuant to 13-27-202(2)(c), MCA, you are required to respond in writing to this office accepting, rejecting, or modifying the recommended changes before submitting the final text of the proposed issue and ballot statements to the Secretary of

State. Your response will terminate the role of this office in this process. After responding to this office, further correspondence should be submitted to the Secretary of State.

Sincerely,

/s/ Jaret R. Coles

Jaret R. Coles
Staff Attorney

cc: Christi Jacobsen, Secretary of State

attachments: 2021 Ballot Issue No 9d – Ballot Text Summary
2021 Ballot Issue No 9d – Amended Initiative Text

1 **BALLOT ISSUE 9.D -- 4TH SUBMISSION DATED 11/12/2021**

2 **** BILL NO. ****

3 ****

4 ****

7 BE IT ENACTED BY THE PEOPLE OF THE STATE OF MONTANA:

9 **Section 1.** Article VIII, section 3, of The Constitution of the State of Montana is amended to read:

10 **"Section 3. Property tax administration -- limitation.** ~~(1) The~~ Subject to this section, the state
11 shall appraise, assess, and equalize the valuation of all property which is to be taxed in the manner provided by
12 law.

13 (2) Except as provided in this section, the assessed valuation of residential property shall be the
14 amount determined by the state in 2019.

15 (3) The value of residential property may be reassessed annually on January 1 of each year. If
16 residential property is not newly constructed or significantly improved or did not have a change of ownership
17 since January 1, 2019, the change in revised assessed valuation for a year may not exceed the lower of the
18 following:

19 (a) two percent of the valuation for the prior year; or

20 (b) the percent change in the consumer price index, U.S. city average, all urban consumers, using the
21 1982-84 base of 100, as published by the bureau of labor statistics of the United States department of labor.

22 (4) After January 1, 2019, whenever residential property is newly constructed or significantly improved
23 or has a change of ownership, it must be assessed by the state at its fair market value with subsequent
24 changes to that assessment made in accordance with the limits in subsections (3)(a), (3)(b), and this
25 subsection (4).

26 (5) The legislature shall limit the total amount of ad valorem taxes assessed against residential
27 property not to exceed one percent of the valuation established by this section.

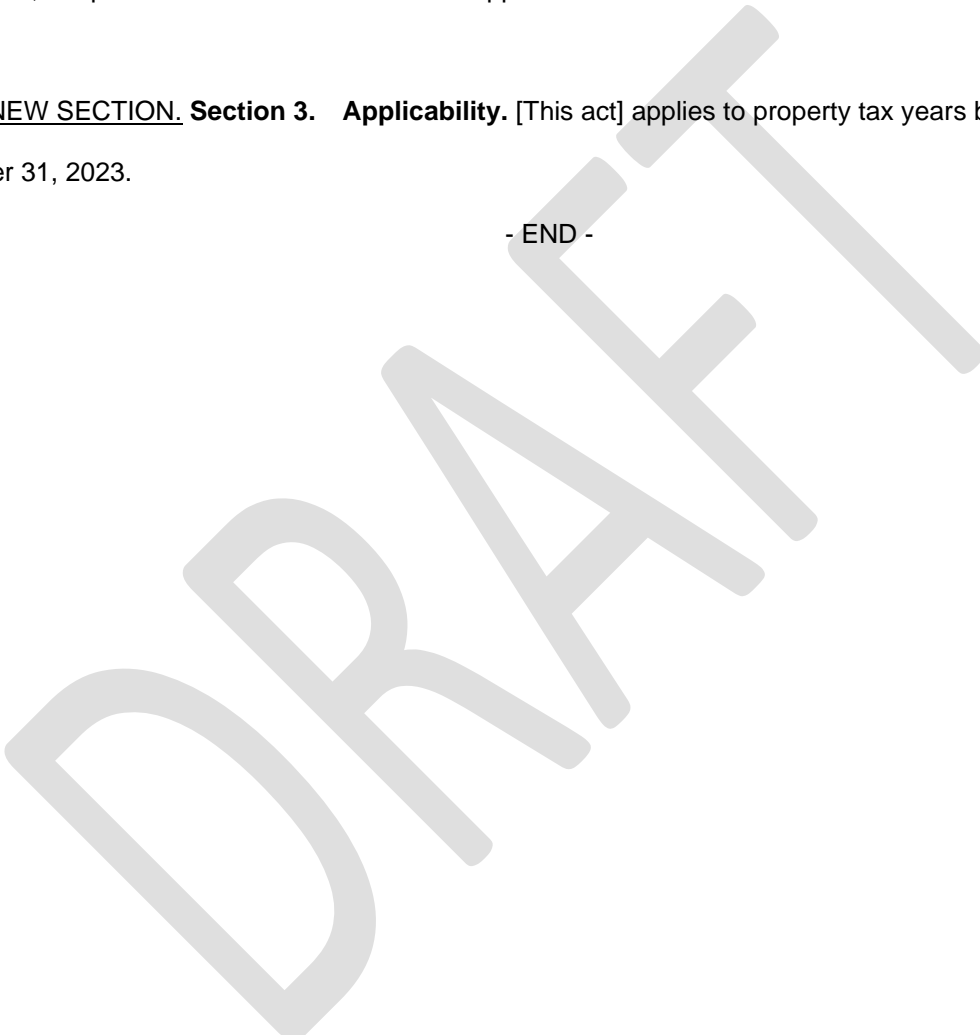
28 (6) The legislature shall define "residential property" and provide for the application and

1 implementation of subsections (2) through (5), and it may provide for acquisition valuation of other real
2 property."

3
4 **NEW SECTION. Section 2. {standard} Severability.** If a part of [this act] is invalid, all valid parts that
5 are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its
6 applications, the part remains in effect in all valid applications that are severable from the invalid applications.

7
8 **NEW SECTION. Section 3. Applicability.** [This act] applies to property tax years beginning after
9 December 31, 2023.

10 - END -



Statement of Purpose and Implication:

CI [***] limits annual increases in valuations of residential property to either 2% or the inflation rate (whichever is lower) when assessing property taxes. It establishes 2019 state valuations as the base year for the valuations. It provides for reassessment by the state if a residential property has been newly constructed or significantly improved or has a change of ownership. It requires the Legislature to limit total ad valorem property taxes on residential property to 1% or less of the assessed valuation. It requires the Legislature to define "residential property" and provide for the application and implementation of the provisions of the initiative and permits the Legislature to assess other real property based on acquisition value.

YES on Constitutional Initiative CI-[***]

NO on Constitutional Initiative CI-[***]