

1 **** BILL NO. ****
2 INTRODUCED BY ****
3 BY REQUEST OF THE ****
4
5 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LOCAL GOVERNMENT BALLOT
6 ISSUES; PROVIDING DEFINITIONS; PROVIDING REQUIREMENTS AND PROCEDURES FOR LOCAL
7 GOVERNMENT BALLOT ISSUES; PROVIDING PROCEDURES FOR SIGNATURE GATHERING AND
8 SIGNATURE VERIFICATION; AMENDING SECTIONS 7-5-131, 13-10-612, AND 13-27-611, MCA;
9 REPEALING SECTIONS 7-5-132, 7-5-133, 7-5-134, AND 7-5-135, MCA; PROVIDING AN IMMEDIATE
10 EFFECTIVE DATE; AND PROVIDING AN APPLICABILITY DATE."

11
12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
13

14 NEW SECTION. **Section 1. Purpose.** The right of the people to exercise the rights of initiative and
15 referendum in a local government unit is guaranteed by section 8, Article XI of the constitution and may be
16 exercised through adherence to the procedures established in [sections 1 through 13].
17

18 NEW SECTION. **Section 2. Definitions.** As used in this chapter, unless the context clearly indicates
19 otherwise, the following definitions apply:

- 20 (1) "Local government" means any city, town, county, or consolidated city-county.
- 21 (2) "Local government's next election held in accordance with Title 13, chapter 1, part 4" includes a
22 primary or general election that includes the regularly scheduled nomination or election of officers of that local
23 government unit.

24
25 NEW SECTION. **Section 3. Requirements for ballot issues referred by a local government or by**
26 **petition.** A petition as provided by [sections 4 through 10], or resolution as provided by [section 11] for an
27 election must:

- 28 (1) embrace only a single comprehensive subject;

1 (2) set out fully the ordinance sought, the ordinance to be amended and the proposed amendment,
2 or the ordinance to be repealed;

3 (3) be in the form provided by [sections 1 through 13]; and

4 (4) contain transition provisions if the measure changes terms of office or forms of government.

5
6 **NEW SECTION. Section 4. Procedure for election on a local government petition.** (1) Except as
7 provided by 7-5-131, the electors of a local government may, by petition, request an election on whether to
8 enact, repeal, or amend an ordinance.

9 (2) Except as provided in [section 9(3)], a petition under [sections 4 through 10] signed by at least
10 15% of the local government's qualified electors is sufficient to require an election. In order to determine the
11 number of signatures needed on a petition to meet the percentage requirements of this subsection, the number
12 of electors shall be the number of individuals registered to vote at the preceding general election for the local
13 government.

14 (3) Before a petition may be circulated for signatures, a sample petition must be submitted in the
15 form in which it will be circulated to the county election administrator. Upon receiving the sample petition form,
16 the county election administrator shall promptly refer a copy of the sample petition sheet to the attorney for the
17 relevant local government unit.

18 (4) (a) The local government attorney shall review the sample petition for form and compliance
19 with 7-5-131 and [sections 1 through 13].

20 (b) If the petition is rejected as to form, within 21 days after submission of the sample, the attorney
21 for the local government must send written notice and a statement of the reasons for rejection to the person
22 who submitted the sample petition and the county election administrator.

23 (c) If the petition is approved as to form, within 21 days after submission of the sample, the
24 attorney for the local government shall send written notice to the person who submitted the sample petition and
25 the county election administrator. This notice must include the statement of purpose and the statements of
26 implication prepared by the local government attorney pursuant to subsections (5) and (6) of this section.

27 (5) If the petition is approved as to form, the local government attorney shall prepare a concise
28 statement of purpose not exceeding 135 words. The statement of purpose must be an accurate and impartial

1 explanation of the purpose of the proposed ballot issue in plain, easily understood language. The statement
2 may not be an argument and may not be written so as to create prejudice for or against the issue. The
3 statement prepared pursuant to this subsection (5), unless altered by court order, must be used as the petition
4 title and the ballot statement if the issue is placed on the ballot. For the purposes of this subsection (5), the
5 word limit does not apply to additional statements required on the ballot by law, such as provided in 7-7-111
6 and 15-10-425(3).

7 (6) At the time the statement of purpose is prepared, the local government attorney shall prepare a
8 statement of the implication of a vote for and a statement of the implication of a vote against the ballot issue.
9 Unless otherwise provided by law, each statement of implication may be no more than 25 words and must be in
10 simple, impartial language that clearly explains the meaning of a vote for or a vote against the issue. Each
11 statement of implication prepared pursuant to this section, unless altered by a court order, is to be used on the
12 petition and the ballot if the issue is placed on the ballot. The statements of implication must be placed beside
13 the diagram provided for marking of the ballot in a manner similar to the following example:

- 14 FOR weekly commission meetings.
15 AGAINST weekly commission meetings.

16
17 **NEW SECTION. Section 5. Form of petition.** (1) A local government petition must be substantially in
18 the form provided by [sections 4 through 10]. Clerical or technical errors that do not interfere with the ability to
19 judge the sufficiency of signatures on the petition do not render a petition void.

20 (2) (a) Petition sheets may not exceed 8 1/2 x 14 inches in size. Separate sheets of a petition may
21 be fastened in sections of not more than 25 sheets.

22 (b) Near the top of each sheet containing signature lines must be printed the number of the
23 ordinance referred or the petition title. If signature lines are printed on both the front and back of a petition
24 sheet, the information required above must appear on both the front and back of the sheet.

25 (c) The complete text of the issue proposed or referred must be attached to or contained within
26 each signature sheet if sheets are circulated separately. The text of the issue must be in the format prescribed
27 by the governing body pursuant to 7-5-103(1) and, unless otherwise provided by the governing body of the local
28 government, using the style and language and form guide of the most recent edition of the bill drafting manual

1 furnished by the legislative services division. If sheets are circulated in sections, the complete text of the issue
2 must be attached to each section.

3 (3) An internet posting of petition language must include a statement that the petition language
4 and format may not be modified. An internet posting must include an affidavit in substantially the same form as
5 provided in [section 6].

6 (4) Unless otherwise provided by law, the following is substantially the form for a local government
7 petition calling for approval or rejection of an ordinance:

8 PETITION TO PLACE [ORDINANCE NO. ____ OR PROPOSED ORDINANCE NO. 20_-_] ON THE
9 ELECTION BALLOT

10 (a) If [insert appropriate percentage of voters or appropriate number of voters] of [insert
11 appropriate local government unit] voters sign this petition, this proposal will appear on the election ballot of
12 [insert appropriate local government entity] to be conducted on [insert date of election]. If a majority of voters
13 vote for this proposal at that election it will become law.

14 (b) We, the undersigned [insert appropriate local government entity] voters, propose that the
15 county election administrator place the following proposal on the election ballot:

16 (Petition title written in conformity with [section 4])

17 (Statements of implication written in conformity with [section 4])

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

21 (d) **WARNING**

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

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

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

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

6

7 **NEW SECTION. Section 6. Affidavit to accompany signatures.** An affidavit, in substantially the
8 form provided in 1-6-105 or in the following form, must be attached to each petition sheet or petition section
9 submitted to the county official:

10 I, (name of person who is the signature gatherer), swear that I gathered the signatures on the petition
11 to which this affidavit is attached on the stated dates, that I believe the signatures on the petition are genuine,
12 are the signatures of the person whose names they purport to be, and are the signatures of [insert appropriate
13 local government unit] electors who are registered at the address or have the telephone number following the
14 person's signature, and that the signers knew the contents of the petition before signing the petition.

15

16 (Date on which the first signature was gathered)

17

18 (Signature of petition signature gatherer)

19

20 (Address of petition signature gatherer)

21 Subscribed and sworn to me this ___ day of ____, 20__

22 Seal

23

24 (Person authorized to take oaths)

25

26 (Title or notarial information)

27

28 **NEW SECTION. Section 7. Petition signatures.** (1) A petition approved as to form may not be

1 circulated for the purpose of signature gathering more than 1 year prior to the final date for filling the signed
2 petition with the county election administrator.

3 (2) A local government petition may be signed only by a qualified elector of the local government.

4 (3) A person gathering signatures for a petition may not be paid anything of value based upon the
5 number of signatures gathered.

6 (4) Signatures may be withdrawn from a petition up to the time of final submission of petition
7 sheets.

8 (5) Signatures must be verified in the manner provided in 13-27-103.

9
10 **NEW SECTION. Section 8. Governing body review of petition.** (1) The governing body may, within
11 60 days of receiving the petition, take the action called for in the petition. If the action is taken, the question
12 need not be submitted to the electors. If the election administrator has already certified the ballot issue pursuant
13 to [section 9], the results of the election are void.

14 (2) If the governing body does not within 60 days take the proposed action and the ballot issue is
15 certified by the election administrator, then the question must be submitted to the electors at the election
16 specified in the petition.

17
18 **NEW SECTION. Section 9. Submission of signatures -- certification -- election.** (1) Signed
19 sheets or sections of petitions with original signatures must be collected and filed with the official responsible
20 for registration of electors in the county in which the signatures were obtained within 90 days of the date of the
21 notice that the petition was approved as to form pursuant to [section 4] and must be submitted no later than 4
22 weeks before the certification date specified in subsection (2) of this section.

23 (2) The election administrator shall certify a local government ballot issue for a local government
24 election no later than 85 days before the election.

25 (3) Subject to [section 7(1)] and subsections (1) and (2) of this section, an election on an approved
26 petition containing sufficient signatures held pursuant to [sections 1 through 13] must be conducted in
27 conjunction with the local government's next election held in accordance with Title 13, chapter 1, part 4.

28 However, if the petition requests a special election, is signed by at least 25% of the qualified electors, and

1 otherwise complies with the requirements of subsections (1) and (2) of this section, a special election must be
2 held on the date specified in the petition. In order to determine the number of signatures needed on a petition to
3 meet the percentage requirements of this subsection, the number of electors shall be calculated as provided in
4 [section 4(2)].

5
6 **NEW SECTION. Section 10. Delay of ordinance's effective date -- suspension of emergency**
7 **ordinance.** (1) If an approved petition containing sufficient signatures is filed prior to the ordinance's effective
8 date or within 60 days after the passage of the ordinance, whichever is later, a petition requesting an election
9 on whether to amend or repeal the ordinance delays the ordinance's effective date until the ordinance is ratified
10 by the electors.

11 (2) If an approved petition containing sufficient signatures is filed within 60 days after the effective
12 date of an emergency ordinance, the emergency ordinance is suspended until it is ratified by the electors.

13
14 **NEW SECTION. Section 11. Ballot issue referred by governing body of local government.** (1) A
15 governing body of a local government may refer an existing or proposed ordinance to a vote of the people by
16 resolution.

17 (2) Unless otherwise provided by law, an ordinance referred to a vote of the people by the
18 governing body of a local government must comply with the statement of purpose requirements of [section 4(5)]
19 and the statements of implication requirements provided by [section 4(6)].

20 (3) The governing body of the local government must transmit a local government ballot issue
21 referred to a vote of the people according to the requirements of Title 13, chapter 1, part 4.

22
23 **NEW SECTION. Section 12. Effective date of a local government ballot issue.** If a majority of
24 those voting on the question of a local government ballot issue conducted pursuant to [sections 1 through 13]
25 approve the proposal, it becomes effective when the election results are officially declared, unless otherwise
26 stated in the proposal.

27
28 **NEW SECTION. Section 13. Suit to determine validity and constitutionality of petition and**

1 **proposed action.** (1) The governing body may direct that a suit be brought in district court by the local
2 government to determine whether the proposed action would be valid and constitutional. The suit must be
3 initiated within 14 days of the date a petition has been approved as to form under [section 4].

4 (2) An action brought under this section takes precedence over other cases and matters in the
5 district court. The court shall as soon as possible render a decision as to whether the proposed action would be
6 valid and constitutional.

7 (3) If the defendant prevails, the defendant is entitled to be reimbursed by the local government for
8 costs and reasonable attorney's fees incurred.

9 (4) The 90-day period during which petition signatures must be collected under [section 10] begins
10 on the date of the court order resolving the suit.

11

12 **Section 14.** Section 7-5-131, MCA, is amended to read:

13 **"7-5-131. Right of initiative and referendum.** (1) Except as provided in subsection (2), the powers of
14 initiative and referendum are reserved to the electors of each local government. Resolutions and ordinances
15 within the legislative jurisdiction and power of the governing body of the local government may be proposed or
16 amended and prior resolutions and ordinances may be repealed in the manner provided in ~~7-5-132 through 7-5-~~
17 ~~135~~ sections 1 through 13 and 7-5-137.

18 (2) The powers of initiative do not extend to the following:

19 (a) the annual budget;

20 (b) bond proceedings, except for ordinances authorizing bonds;

21 (c) the establishment and collection of charges pledged for the payment of principal and interest
22 on bonds;

23 (d) the levy of special assessments pledged for the payment of principal and interest on bonds;

24 (e) the prioritization of the enforcement of any state law by a unit of local government; or

25 (f) the regulation of auxiliary containers, defined in 7-1-121(4), as prohibited by 7-1-121(2)."

26

27 **Section 15.** Section 13-10-612, MCA, is amended to read:

28 **"13-10-612. Violations -- penalties.** A person who knowingly makes a false entry on a petition or

1 affidavit ~~under this part~~ required by Title 13, chapter 27 or [sections 1 through 13] or who knowingly signs a
2 petition to qualify the same political party for the same primary election more than once is guilty of unsworn
3 falsification or tampering with public records or information, as appropriate, and is punishable as provided in 45-
4 7-203 or 45-7-208, as applicable."
5

6 Section 13-27-611, MCA, is amended to read:

7 **"13-27-611. Physical prevention of obtaining signatures or physical intimidation of signature**
8 **gatherers prohibited.** A person may not knowingly or purposefully physically prevent an individual from
9 obtaining signatures or attempting to obtain signatures on a petition for a statewide or local government ballot
10 issue or physically intimidate another individual when that individual is obtaining or attempting to obtain
11 signatures on a petition for a statewide or local government ballot issue. A person who violates this section is
12 guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than \$500, by
13 imprisonment for not more than 90 days, or by both a fine and imprisonment."
14

15 NEW SECTION. Section 16. Repealer. The following sections of the Montana Code Annotated are
16 repealed:

17 7-5-132. Procedure for initiative or referendum election.
18 7-5-133. Processing of petition.
19 7-5-134. Signatures -- submission for approval -- statement of purpose and implication.
20 7-5-135. Suit to determine validity and constitutionality of petition and proposed action.
21

22 NEW SECTION. Section 17. Saving clause. [This act] does not affect rights and duties that
23 matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].
24

25 NEW SECTION. Section 18. Effective date. [This act] is effective on passage and approval.
26

27 NEW SECTION. Section 19. Codification instruction. [Sections 1 through 13] are intended to be
28 codified as an integral part of Title 13 and the provisions of Title 13 apply to [sections 1 through 13].

1

2 NEW SECTION. Section 20. Directions to code commissioner. [Section 13-10-612 and 13-27-
3 611], are intended to be renumbered and codified as an integral part of Title 13, chapter 35, part 2.

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5 NEW SECTION. Section 21. Applicability. [This act] applies to any local government ballot issue
6 submitted to a local government for placement on the ballot on or after the [effective date of this act].

7

- END -

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