

HOUSE BILL NO. 780

INTRODUCED BY R. GREGG, G. OVERSTREET, C. SPRUNGER, S. FITZPATRICK, B. LER, B. MITCHELL

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING STATEWIDE BALLOT ISSUE LAWS; REQUIRING THE SECRETARY OF STATE TO HOLD A PUBLIC HEARING ON STATEWIDE BALLOT ISSUE PROPOSALS; AND AMENDING SECTIONS 13-27-216, 13-27-217, 13-27-218, AND 13-27-219, MCA."

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

NEW SECTION. Section 1. Public hearing on statewide ballot issue proposals. (1) After transmitting a proposed statutory initiative, statutory referendum, constitutional initiative, or constitutional convention initiative and the proposal's ballot statements to the legislative services division as provided in 13-27-216(1), 13-27-217(1), 13-27-218(1), or 13-27-219(1), the secretary of state shall conduct a public hearing at which public comments and testimony must be received.

(2) The public hearing must be held within the same period as the review of the proposed ballot issue and ballot statements by the legislative services division provided in 13-27-216(2), 13-27-217(2), 13-27-218(2), and 13-27-219(2).

Section 2. Section 13-27-216, MCA, is amended to read:

"13-27-216. Statutory initiative process and procedure. (1) (a) A proponent of a statutory initiative shall submit the text of the proposed statutory initiative to the secretary of state together with draft ballot statements and the filing fee required by 13-27-215. The secretary of state shall, without undue delay, forward a copy of the text of the proposed statutory initiative and ballot statements to the legislative services division for review in accordance with 13-27-225.

(b) A proposed statutory initiative may not be accepted by the secretary of state until 10 days after the adjournment sine die of the regular legislative session preceding the general election during which the proposal is intended to be voted on. The prohibitions on acceptance of a proposed statutory initiative provided in this subsection (1)(b) do not apply to a submission received on or after the date that falls 130 days after the

1 date that the legislature convened in regular session pursuant to 5-2-103, even if the legislature has not
2 adjourned sine die. If the secretary of state rejects a proposed statutory initiative pursuant to this subsection
3 (1)(b), the secretary of state shall promptly notify the person who submitted the proposal of the reason for the
4 rejection.

5 (2) (a) Within 14 days after receiving the proposed statutory initiative from the secretary of state,
6 the legislative services division shall respond in writing to the proponent in accordance with 13-27-225.

7 (b) During the 14-day review period by the legislative services division, the secretary of state shall
8 hold a public hearing in accordance with [section 1].

9 (3) After the proponent responds to the legislative services division as provided in 13-27-225, the
10 proponent shall submit the final text of the proposed statutory initiative and ballot statements to the secretary of
11 state. However, if a response to the legislative services division is not required by the proponent pursuant to 13-
12 27-225, the proponent shall instead submit the final text of the proposed statutory initiative and ballot
13 statements to the secretary of state after the proponent receives the legislative services division's response.

14 (4) On receipt of the final text of the proposed statutory initiative and the ballot statements, the
15 secretary of state shall reject the proposed statutory initiative if the text or a ballot statement contains material
16 not submitted to the legislative services division that is a substantive change not recommended by the
17 legislative services division. Otherwise, the secretary of state shall, without undue delay, refer a copy of the
18 proposed statutory initiative and ballot statements concurrently to the budget director and to the attorney
19 general for the attorney general's review in accordance with 13-27-226.

20 (5) The budget director shall determine whether a fiscal note is necessary. If the budget director
21 determines a fiscal note is necessary, the budget director shall prepare a fiscal note, notify the attorney general
22 of the necessity of the fiscal note, and provide a copy of the fiscal note pursuant to 13-27-227 within 10 days.
23 Receipt of the notice from the budget director begins the ~~time frame~~ timeframe in subsection (7).

24 (6) In addition to the requirements of 13-27-226, the attorney general shall:

25 (a) include in the attorney general's legal sufficiency review whether the proposed statutory
26 initiative constitutes an appropriation as set forth in 13-27-239; and

27 (b) review the proposed statutory initiative as to whether the proposal could cause a regulatory
28 taking under Montana law or otherwise will likely cause significant material harm to one or more business

1 interests in the state if approved by the voters. If the attorney general determines the proposed statutory
2 initiative will likely cause significant material harm to one or more business interests in the state, the attorney
3 general shall notify the secretary of state, which must include the finding set forth in 13-27-238(2) on the final
4 form of the petition.

5 (7) Within 30 days of receipt of the proposed statutory initiative from the secretary of state, the
6 attorney general shall complete the requirements set forth in 13-27-226 and subsection (6) of this section.

7 (8) The secretary of state shall review the legal sufficiency opinion received pursuant to 13-27-226.

8 (a) If the attorney general finds that the proposed statutory initiative is not legally sufficient, the
9 secretary of state shall, without undue delay, send written notice to the person who submitted the proposal that
10 the proposed statutory initiative has been rejected. The notice must include a copy of the attorney general's
11 legal sufficiency opinion.

12 (b) If the attorney general finds that the proposed statutory initiative is legally sufficient, the
13 secretary of state shall, without undue delay, provide the executive director of the legislative services division a
14 copy of the final text of the proposed statutory initiative and ballot statements in accordance with 13-27-228.
15 After the executive director of the legislative services division provides the secretary of state the outcome of the
16 vote as required by 13-27-228, the secretary of state shall immediately send a sample petition form as provided
17 in 13-27-233 to the person submitting the proposed statutory initiative."

18
19 **Section 3.** Section 13-27-217, MCA, is amended to read:

20 **"13-27-217. Statutory referendum process and procedure.** (1) (a) A proponent of a statutory
21 referendum shall submit the text of the proposed statutory referendum to the secretary of state together with
22 draft ballot statements and the filing fee required by 13-27-215. The secretary of state shall forward a copy of
23 the text of the proposed statutory referendum and ballot statements to the legislative services division for
24 review in accordance with 13-27-225.

25 (b) A proposed statutory referendum may not be accepted by the secretary of state until 10 days
26 after the adjournment sine die of the regular legislative session preceding the general election during which the
27 proposal is intended to be voted on. The prohibitions on acceptance of a proposed statutory referendum
28 provided in this subsection (1)(b) do not apply to a submission received on or after the date that falls 130 days

1 after the date that the legislature convened in regular session pursuant to 5-2-103, even if the legislature has
2 not adjourned sine die. If the secretary of state rejects a proposed statutory referendum pursuant to this
3 subsection (1)(b), the secretary of state shall promptly notify the person who submitted the proposal of the
4 reason for the rejection.

5 (2) (a) Within 7 days after receiving the proposed statutory referendum from the secretary of state,
6 the legislative services division shall respond in writing to the proponent in accordance with 13-27-225.

7 (b) During the 7-day review period by the legislative services division, the secretary of state shall
8 hold a public hearing in accordance with [section 1].

9 (3) After the proponent responds to the legislative services division as provided in 13-27-225, the
10 proponent shall submit the final text of the proposed statutory referendum and ballot statements to the
11 secretary of state. However, if a response to the legislative services division is not required by the proponent
12 pursuant to 13-27-225, the proponent shall instead submit the final text of the proposed statutory referendum
13 and ballot statements to the secretary of state after the proponent receives the legislative services division's
14 response.

15 (4) On receipt of the final text of the proposed statutory referendum and the ballot statements, the
16 secretary of state shall reject the proposed statutory referendum if the text or a ballot statement contains
17 material not submitted to the legislative services division that is a substantive change not recommended by the
18 legislative services division. Otherwise, the secretary of state shall refer a copy of the proposed statutory
19 referendum and ballot statements concurrently to the budget director and the attorney general.

20 (5) (a) The budget director shall determine whether a fiscal note is necessary, prepare the fiscal
21 note, notify the attorney general of the necessity of its determination, and provide a copy of the fiscal note, if
22 required, pursuant to 13-27-227 within the timeframe required in subsection (5)(b). Receipt of the notice from
23 the budget director begins the ~~time frame~~ timeframe in subsection (6) for the attorney general's review in
24 accordance with 13-27-226.

25 (b) If the legislative act that is the subject of the proposed statutory referendum had a fiscal note
26 prepared pursuant to 5-4-202 during the legislative session in which the bill was proposed, the budget director
27 shall return the fiscal note to the attorney general within 3 days. If the legislative act that is the subject of the
28 proposed statutory referendum did not have a fiscal note prepared pursuant to 5-4-202 during the legislative

1 session in which the bill was proposed, the budget director shall return the fiscal note to the attorney general
2 within 6 days.

3 (6) If the budget director is allowed 3 days to return the fiscal note pursuant to subsection (5), the
4 attorney general shall complete the requirements set forth in 13-27-226 within 14 days of the receipt of the
5 proposed statutory referendum from the secretary of state. However, if the budget director is allowed 6 days to
6 return the fiscal note pursuant to subsection (5), the attorney general shall complete the requirements set forth
7 in 13-27-226 within 17 days of the receipt of the proposed statutory referendum from the secretary of state.

8 (7) The secretary of state shall review the legal sufficiency opinion received pursuant to 13-27-226.
9 If the attorney general:

10 (a) finds that the proposed statutory referendum is not legally sufficient, the secretary of state shall,
11 without undue delay, send written notice to the person who submitted the proposal that the proposed statutory
12 referendum has been rejected. The notice must include a copy of the attorney general's legal sufficiency
13 opinion.

14 (b) finds that the proposed statutory referendum is legally sufficient, the secretary of state shall
15 immediately send a sample petition form as provided in 13-27-233 to the person submitting the proposed
16 statutory referendum."
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18 **Section 4.** Section 13-27-218, MCA, is amended to read:

19 **"13-27-218. Constitutional initiative process and procedure.** (1) A proponent of a constitutional
20 initiative shall submit the text of the proposed constitutional initiative to the secretary of state together with draft
21 ballot statements and the filing fee required by 13-27-215. The secretary of state shall, without undue delay,
22 forward a copy of the text of the proposed constitutional initiative and ballot statements to the legislative
23 services division for review in accordance with 13-27-225.

24 (2) (a) Within 14 days after receiving the proposed constitutional initiative from the secretary of
25 state, the legislative services division shall respond in writing to the proponent in accordance with 13-27-225.

26 (b) During the 14-day review period by the legislative services division, the secretary of state shall
27 hold a public hearing in accordance with [section 1].

28 (3) After the proponent responds to the legislative services division as provided in 13-27-225, the

1 proponent shall submit the final text of the proposed constitutional initiative and ballot statements to the
2 secretary of state. However, if a response to the legislative services division is not required by the proponent
3 pursuant to 13-27-225, the proponent shall instead submit the final text of the proposed constitutional initiative
4 and ballot statements to the secretary of state after the proponent receives the legislative services division's
5 response.

6 (4) On receipt of the final text of the proposed constitutional initiative and the ballot statements, the
7 secretary of state shall reject the proposed constitutional initiative if the text or a ballot statement contains
8 material not submitted to the legislative services division that is a substantive change not recommended by the
9 legislative services division. Otherwise, the secretary of state shall, without undue delay, refer a copy of the
10 proposed constitutional initiative and ballot statements concurrently to the budget director and to the attorney
11 general.

12 (5) The budget director shall determine whether a fiscal note is necessary, prepare the fiscal note,
13 notify the attorney general of the necessity of the fiscal note, and provide a copy of the fiscal note pursuant to
14 13-27-227 within 10 days. Receipt of the notice from the budget director begins the timeframe in subsection (7)
15 for the attorney general's review in accordance with 13-27-226.

16 (6) In addition to the requirements in 13-27-226, the attorney general shall review the proposed
17 constitutional initiative as to whether the proposal could cause a regulatory taking under Montana law or
18 otherwise will likely cause significant material harm to one or more business interests in the state if approved by
19 the voters. If the attorney general determines the proposed constitutional initiative will likely cause significant
20 material harm to one or more business interests in the state, the attorney general shall notify the secretary of
21 state, which must include the finding set forth in 13-27-241 on the final form of the petition.

22 (7) Within 30 days of receipt of the fiscal note determination from the budget director, the attorney
23 general shall complete the requirements set forth in 13-27-226 and subsection (6) of this section.

24 (8) The secretary of state shall review the legal sufficiency opinion received pursuant to 13-27-226.
25 If the attorney general:

26 (a) finds that the proposed constitutional initiative is not legally sufficient, the secretary of state
27 shall, without undue delay, send written notice to the person who submitted the proposal that the proposed
28 constitutional initiative has been rejected. The notice must include a copy of the attorney general's legal

1 sufficiency opinion.

2 (b) finds that the proposed constitutional initiative is legally sufficient, the secretary of state shall,
3 without undue delay, provide the executive director of the legislative services division a copy of the final text of
4 the proposed constitutional initiative and ballot statements in accordance with 13-27-228. After the executive
5 director of the legislative services division provides the secretary of state the outcome of the vote as required by
6 13-27-228, the secretary of state shall immediately send a sample petition form as provided in 13-27-233 to the
7 person submitting the proposed constitutional initiative."

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9 **Section 5.** Section 13-27-219, MCA, is amended to read:

10 **"13-27-219. Constitutional convention initiative process and procedure.** (1) A proponent of a
11 constitutional convention initiative shall submit the text of the proposed constitutional convention initiative to the
12 secretary of state together with draft ballot statements and the filing fee required by 13-27-215. The secretary of
13 state shall, without undue delay, forward a copy of the text of the proposed constitutional convention initiative
14 and ballot statements to the legislative services division for review in accordance with 13-27-225.

15 (2) (a) Within 14 days after receiving the proposed constitutional convention initiative from the
16 secretary of state, the legislative services division shall respond in writing to the proponent in accordance with
17 13-27-225.

18 (b) During the 14-day review period by the legislative services division, the secretary of state shall
19 hold a public hearing in accordance with [section 1].

20 (3) After the proponent responds to the legislative services division as provided in 13-27-225, the
21 proponent shall submit the final text of the proposed constitutional convention initiative and ballot statements to
22 the secretary of state. However, if a response to the legislative services division is not required by the
23 proponent pursuant to 13-27-225, the proponent shall instead submit the final text of the proposed
24 constitutional convention initiative and ballot statements to the secretary of state after the proponent receives
25 the legislative services division's response.

26 (4) On receipt of the final text of the proposed constitutional convention initiative and the ballot
27 statements, the secretary of state shall reject the proposed constitutional convention initiative if the text or a
28 ballot statement contains material not submitted to the legislative services division that is a substantive change

1 not recommended by the legislative services division. Otherwise, the secretary of state shall, without undue
2 delay, refer a copy of the proposed constitutional convention initiative and ballot statements concurrently to the
3 budget director and to the attorney general.

4 (5) The budget director shall determine whether a fiscal note is necessary, prepare the fiscal note,
5 notify the attorney general of the necessity of the fiscal note, and provide a copy of the fiscal note pursuant to
6 13-27-227 within 10 days. Receipt of the notice from the budget director begins the ~~time frame~~ timeframe in
7 subsection (6) and the attorney general's review in accordance with 13-27-226.

8 (6) Within 30 days of receipt of the fiscal note determination from the budget director, the attorney
9 general shall complete the requirements set forth in 13-27-226.

10 (7) The secretary of state shall review the legal sufficiency opinion received pursuant to 13-27-226.
11 If the attorney general:

12 (a) finds that the proposed constitutional convention initiative is not legally sufficient, the secretary
13 of state shall, without undue delay, send written notice to the person who submitted the proposal that the
14 proposed constitutional convention initiative has been rejected. The notice must include a copy of the attorney
15 general's legal sufficiency opinion.

16 (b) finds that the proposed constitutional convention initiative is legally sufficient, the secretary of
17 state shall, without undue delay, provide the executive director of the legislative services division a copy of the
18 final text of the proposed constitutional convention initiative and ballot statements in accordance with 13-27-
19 228. After the executive director of the legislative services division provides the secretary of state the outcome
20 of the vote as required by 13-27-228, the secretary of state shall immediately send a sample petition form as
21 provided in 13-27-233 to the person submitting the proposed constitutional convention initiative."
22

23 NEW SECTION. **Section 6. Codification instruction.** [Section 1] is intended to be codified as an
24 integral part of Title 13, chapter 27, part 2, and the provisions of Title 13, chapter 27, part 2, apply to [section 1].

25 - END -