

SENATE BILL NO. 11

INTRODUCED BY F. MANDEVILLE

BY REQUEST OF THE STATE ADMINISTRATION AND VETERANS' AFFAIRS INTERIM COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LOCAL GOVERNMENT BALLOT ISSUES; PROVIDING DEFINITIONS; PROVIDING REQUIREMENTS AND PROCEDURES FOR LOCAL GOVERNMENT BALLOT ISSUES; PROVIDING PROCEDURES FOR SIGNATURE GATHERING AND SIGNATURE VERIFICATION; AMENDING SECTIONS 3-10-101, 3-11-101, 7-1-4130, 7-3-1204, 7-5-131, 7-6-1504, 13-1-201, 13-10-612, 13-27-611, 16-1-205, 16-12-301, AND 16-12-311, MCA; REPEALING SECTIONS 7-5-132, 7-5-133, 7-5-134, AND 7-5-135, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

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

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

NEW SECTION. Section 2. Definitions. As used in [sections 1 through 13], unless the context clearly indicates otherwise, the following definitions apply:

(1) "Local government" means any city, town, county, or consolidated city-county.

(2) "Local government's next election held in accordance with Title 13, chapter 1, part 4" means a primary or general election that includes the regularly scheduled nomination or election of officers of that local government unit.

NEW SECTION. Section 3. Requirements for ballot issues referred by local government or by petition. A petition provided for in [sections 4 through 10] or a resolution provided for in [section 11] for an

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1 election must:

2 (1) embrace only a single comprehensive subject;

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4 or the ordinance to be repealed;

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

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

7

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

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

16 (3) (a) Before a petition may be circulated for signatures, a sample petition must be submitted in  
17 the form in which it will be circulated to the county election administrator. On receiving the sample petition, the  
18 county election administrator shall designate a ballot issue and its number pursuant to subsection (3)(b) and  
19 then promptly refer a copy of the sample petition to the attorney for the relevant local government unit.

20 (b) The election administrator shall serially number all submitted petitions that are approved as to  
21 form continuously from year to year. The numbering system must distinguish the different types of petitions  
22 received and include provisions for numbering measures referred to the people by a governing body. The  
23 election administrator may distinguish the numbering system for each local government unit.

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

26 (b) If the sample petition is rejected as to form, within 21 days after submission of the sample  
27 petition, the local government attorney shall send written notice and a statement of the reasons for rejection to

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1 the person who submitted the sample petition and the county election administrator.

2 (c) If the sample petition is approved as to form, within 21 days after submission of the sample  
3 petition, the local government attorney shall send written notice to the person who submitted the sample  
4 petition and the county election administrator. This notice must include the statement of purpose and  
5 implication and the ~~statements of implication yes and no statement~~ prepared by the local government attorney  
6 pursuant to subsections (5) and (6) of this section.

7 (5) If the sample petition is approved as to form, the local government attorney shall prepare a  
8 concise statement of purpose and implication not exceeding 135 words. The statement of purpose and  
9 implication must be an accurate and impartial explanation of the purpose of the proposed ballot issue in plain,  
10 easily understood language. The statement may not be an argument and may not be written so as to create  
11 prejudice for or against the issue. The statement prepared pursuant to this subsection, unless altered by court  
12 order, must be used as the petition title and the ballot statement if the issue is placed on the ballot. For the  
13 purposes of this subsection (5), the word limit does not apply to additional statements required on the ballot by  
14 law, including those provided in 7-7-111 and 15-10-425(3).

15 (6) (a) At the time the statement of purpose and implication is prepared, the local government  
16 attorney shall prepare a yes and no statement. A yes and no statement specifies that a positive vote indicates  
17 support for the issue and a negative vote indicates opposition to the issue. ~~of the implication of a vote for and a~~  
18 ~~statement of the implication of a vote against the ballot issue. Unless otherwise provided by law, each~~  
19 ~~statement of implication may not be more than 25 words and must be in simple, impartial language that clearly~~  
20 ~~explains the meaning of a vote for or a vote against the issue. Each statement of implication prepared pursuant~~  
21 ~~to this section, unless altered by a court order, is to be used on the petition and the ballot if the issue is placed~~  
22 ~~on the ballot. The statements of implication must be placed beside the diagram provided for marking of the~~  
23 ~~ballot in a manner similar to the following example:~~

24 ~~☐ FOR weekly commission meetings.~~

25 ~~☐ AGAINST weekly commission meetings.~~

26 (b) The yes and no statement must be placed beside the diagram provided for marking of the  
27 ballot in a manner similar to the following:

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- 1 ☐ YES on (insert the type of ballot issue and its number)
- 2 ☐ NO on (insert the type of ballot issue and its number)
- 3 (c) The type of ballot issue and its number required by subsection (6)(b) must be designated by
- 4 the election administrator at the time the petition is sent to the local government attorney for review as provided
- 5 in subsection (3).
- 6 (d) The yes and no statement may not include additional material beyond the requirements of
- 7 subsection (6)(b).
- 8
- 9 **NEW SECTION. Section 5. Form of petition.** (1) A local government petition must be substantially in
- 10 the form provided by [sections 4 through 10]. Clerical or technical errors that do not interfere with the ability to
- 11 judge the sufficiency of signatures on the petition do not render a petition void.
- 12 (2) (a) Petition sheets may not exceed 8 1/2 x 14 inches in size. Separate sheets of a petition may
- 13 be fastened in sections of not more than 25 sheets.
- 14 (b) Near the top of each sheet containing signature lines must be printed the number of the
- 15 ordinance referred or the petition title. If signature lines are printed on both the front and back of a petition
- 16 sheet, the information required above must appear on both the front and back of the sheet.
- 17 (c) The complete text of the issue proposed or referred must be attached to or contained within
- 18 each signature sheet if sheets are circulated separately. The text of the issue must be in the format prescribed
- 19 by the governing body pursuant to 7-5-103(1) and, unless otherwise provided by the governing body of the local
- 20 government, use the style and language and form guide of the most recent edition of the bill drafting manual
- 21 furnished by the legislative services division. If sheets are circulated in sections, the complete text of the issue
- 22 must be attached to each section.
- 23 (3) An internet posting of petition language must include a statement that the petition language
- 24 and format may not be modified. An internet posting must include an affidavit in substantially the same form as
- 25 provided in [section 6].
- 26 (4) Unless otherwise provided by law, the following is substantially the form for a local government
- 27 petition calling for approval or rejection of an ordinance:

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PETITION TO PLACE [ORDINANCE NO. \_\_\_\_ OR PROPOSED ORDINANCE NO. ~~20\_\_~~ \_\_\_\_ ]  
ON THE ELECTION BALLOT

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

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

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

~~(Statements of implication)~~ Yes and no statement written in conformity with [section 4])

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

(d)

**WARNING**

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

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

(5) Numbered lines must follow the heading. Each numbered line must contain spaces for the signature, date, residence address, and printed last name and first and middle initials of the signer. In place of a residence address, the signer may provide the signer's post-office address or the signer's home telephone number. An address provided on a petition by the signer that differs from the signer's address as shown on the signer's voter registration form may not be used as the only means to disqualify the signature of that petition signer.

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1 number of signatures gathered.

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

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

5

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

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

13

14 NEW SECTION. Section 9. Submission of signatures -- certification -- election. (1) Signed  
15 sheets or sections of petitions with original signatures must be:

16 (a) collected and filed with the official responsible for the registration of electors in the county in  
17 which the signatures were obtained within 90 days of the date of the notice that the petition was approved as to  
18 form pursuant to [section 4]; and

19 (b) submitted no later than 4 weeks before the certification date specified in subsection (2) of this  
20 section.

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

23 (3) Subject to [section 7(1)] and subsections (1) and (2) of this section, an election on an approved  
24 petition containing sufficient signatures held pursuant to [sections 1 through 13] must be conducted in  
25 conjunction with the local government's next election held in accordance with Title 13, chapter 1, part 4.  
26 However, if the petition requests a special election, is signed by at least 25% of the qualified electors, and  
27 otherwise complies with the requirements of subsections (1) and (2) of this section, a special election must be

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

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

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

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

(2) Unless otherwise provided by law, an ordinance referred to a vote of the people by the governing body of a local government must comply with the statement of purpose and implication requirements of [section 4(5)] and the ~~statements of implication~~ yes and no statement requirements provided by [section 4(6)].

(3) The governing body of the local government shall transmit a local government ballot issue referred to a vote of the people according to the requirements of Title 13, chapter 1, part 4. The election administrator shall designate a ballot issue and its number as provided in [section 4] when the election administrator receives the transmission of a ballot issue by the governing body pursuant to this section.

**NEW SECTION. Section 12. Effective date of local government ballot issue.** If a majority of people voting on the question of a local government ballot issue conducted pursuant to [sections 1 through 13] approve the proposal, the local government ballot issue becomes effective when the election results are



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1 officially declared, unless otherwise stated in the proposal.

2

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

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

7 (2) An action brought under this section takes precedence over other cases and matters in the  
8 district court. The court shall render a decision as soon as possible as to whether the proposed action is valid  
9 and constitutional.

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

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

14

15 **Section 14.** Section 3-10-101, MCA, is amended to read:

16 **"3-10-101. Number and location of justices' courts -- authorization to combine with city court --**  
17 **justice's court of record.** (1) There must be at least one justice's court in each county of the state, which must  
18 be located at the county seat. The board of county commissioners shall designate the number of justices in  
19 each justice's court.

20 (2) The board of county commissioners of each county of the state may establish:

21 (a) one additional justice's court located anywhere in the county; and

22 (b) one additional justice's court located in each city having a population of over 5,000, as provided  
23 in subsection (3).

24 (3) A city having a population of over 5,000 may, by resolution, request the board of county  
25 commissioners to constitute a justice's court in the city. A justice's court must be established in the city if the  
26 board of county commissioners approves the request by resolution.

27 (4) A justice of the peace of a court established pursuant to subsection (3) may act as the city



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1 infrastructure.

2 (5) On receipt of an adequate petition, the governing body shall hold an election in accordance  
3 with Title 13, chapter 1, part 5.

4 (6) (a) Before the resort tax question is submitted to the electorate of a resort community or resort  
5 area, the governing body of the resort community or the board of county commissioners in the county in which  
6 the resort area is located shall provide notice of the goods and services subject to the resort tax by a method  
7 described in 13-1-108.

8 (b) The notice must be given two times, with at least 6 days separating the notices. The first notice  
9 must be no more than 45 days prior to the election, and the last notice must be no less than 30 days prior to the  
10 election.

11 (7) Notice of the election must be given as provided in 13-1-108 and include the information listed  
12 in subsection (4) of this section.

13 (8) The question of the imposition of a resort tax may not be placed before the qualified electors  
14 more than once in any fiscal year.

15 (9) The governing body, as defined in 7-6-1505, of a resort area, resort area district, or resort  
16 community that already imposes a resort tax may submit to the qualified electors of the resort area, resort area  
17 district, or resort community the question of whether to levy the additional resort tax provided for in 7-6-  
18 1503(1)(b)(i). The election must be noticed as provided in this section and conducted as provided in 13-1-501  
19 through 13-1-505."

20

21 **Section 20.** Section 13-1-201, MCA, is amended to read:

22 **"13-1-201. Chief election officer.** The secretary of state is the chief election officer of this state, and  
23 it is the secretary of state's responsibility to obtain and maintain uniformity in the application, operation, and  
24 interpretation of the election laws other than those in Title 13, chapter 35, 36, or 37, or [sections 1 through 13]."

25

26 **Section 21.** Section 13-10-612, MCA, is amended to read:

27 **"13-10-612. Violations -- penalties.** A person who knowingly makes a false entry on a petition or

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13 - END -