

LEGAL REVIEW NOTE

Bill No.: HB 598

LC#: LC 1636, To Legal Review Copy, as
of January 3, 2025

Short Title: Require ballot issues signers
to be active registered voters

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Date: February 20, 2025

CONFORMITY WITH STATE AND FEDERAL CONSTITUTIONS

As required pursuant to section 5-11-112(1)(c), MCA, it is the Legislative Services Division's statutory responsibility to conduct "legal review of draft bills". The comments noted below regarding conformity with state and federal constitutions are provided to assist the Legislature in making its own determination as to the constitutionality of the bill. The comments are based on an analysis of jurisdictionally relevant state and federal constitutional law as applied to the bill. The comments are not written for the purpose of influencing whether the bill should become law but are written to provide information relevant to the Legislature's consideration of this bill. The comments are not a formal legal opinion and are not a substitute for the judgment of the judiciary, which has the authority to determine the constitutionality of a law in the context of a specific case.

This review is intended to inform the bill draft requestor of potential constitutional conformity issues that may be raised by the bill as drafted. This review IS NOT dispositive of the issue of constitutional conformity and the general rule as repeatedly stated by the Montana Supreme Court is that an enactment of the Legislature is presumed to be constitutional unless it is proven beyond a reasonable doubt that the enactment is unconstitutional. See Alexander v. Bozeman Motors, Inc., 356 Mont. 439, 234 P.3d 880 (2010); Eklund v. Wheatland County, 351 Mont. 370, 212 P.3d 297 (2009); St. v. Pyette, 337 Mont. 265, 159 P.3d 232 (2007); and Elliott v. Dept. of Revenue, 334 Mont. 195, 146 P.3d 741 (2006).

Legal Reviewer Comments:

HB 598, as drafted, may raise potential state constitutional issues. Currently, 13-27-102, MCA provides that a petition for a statewide ballot issue may only be signed by a qualified elector of Montana. HB 598 seeks to amend this section to only allow signatures by an active elector, meaning an elector whose name has not been placed on the inactive list due to failure to respond to confirmation notices pursuant to 13-2-220 or 13-19-313, MCA.

Article VI, Section 2, of the Montana Constitution defines a qualified elector and provides “[a]ny citizen of the United States 18 years of age or older who meets the registration and residence requirements provided by law is a qualified elector unless he is serving a sentence for a felony in a penal institution or is of unsound mind, as determined by a court.” Furthermore, Article III, Section 4, of the Montana Constitution provides that a certain number of signatures of qualified electors must be obtained for initiative petitions. (emphasis added).

Accordingly, the Montana Constitution explicitly defines qualified elector and provides that the signature requirements for statewide ballot issue petitions are for signatures of qualified electors. Therefore, as drafted, the amendments sought by HB 598 to require signatures of only active electors raises potential constitutional conformity issues.

Requester Comments: