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BALLOT ISSUE GUIDELINES

2008



Published by
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Important Information Regarding Ballot Issues

- ◆ The 2007 Legislature made a number of amendments to the laws governing ballot issues. These laws are included at the end of this booklet. You may especially wish to note the provisions of the law below regarding signature gatherers.

13-27-102. Who may petition and gather signatures. (1) A petition for the initiative, the referendum, or to call a constitutional convention may be signed only by a qualified elector of the state of Montana.

(2) A person gathering signatures for the initiative, the referendum, or to call a constitutional convention:

(a) must be a resident, as provided in 1-1-215, of the state of Montana; and

(b) may not be paid anything of value based upon the number of signatures gathered.

- ◆ Additionally, the 2007 Legislature removed the option in 13-27-302, MCA, for signature gatherers to provide an affidavit stating in part that they assisted in gathering petition signatures. The affidavit form has been updated accordingly. Please review [Montanans for Justice v. State](#), 2006 MT 277, for additional information.
- ◆ Signature gatherers should be especially careful to review the notarized affidavits that they submit with each sheet of a petition or section up to 25 sheets.

Common signature gathering mistakes and omissions have included the signature gatherer using an outdated affidavit form and signing at the bottom of the affidavit (in the space marked for the notary or other authorized official to sign). Common notarization errors include notaries neglecting to print their name, not using their seal, and omitting the date of their notary expiration, including the full four-digit year.

If not corrected, these errors may lead to the petition signature certifications being delayed or signature sheets being rejected.

- ◆ As noted in a past issue of this booklet, following a U.S. District Court decision, the Attorney General has determined that signatures must again be gathered by legislative representative district instead of by county.

Gatherers are required to collect signatures in 34 of 100 legislative districts for statutory initiatives and 40 of 100 legislative districts for constitutional initiatives. Statutory initiatives will again require the signatures of 5% of the electors statewide as well as 5% in each of 34 districts, and constitutional initiatives will again require signatures of 10% of electors statewide as well as 10% in each of 40 districts.

KEY STEPS IN THE BALLOT ISSUE PROCESS

GETTING STARTED . . . (details start on page 8)

1. An individual or group submits a proposed ballot issue, including proposed ballot statements, to the Secretary of State's office, which provides a copy to the Legislative Services Division for its review. *See contact information on page 15.*
2. The Legislative Services reviews the proposal and makes recommendations to the issue's sponsor. The sponsor responds in writing to Legislative Services, accepting, modifying, or rejecting the suggested recommendations.
3. The sponsor submits the proposed ballot issue to the Secretary of State. *See contact information on page 15.*
4. The Secretary of State forwards a copy of the proposal to the Attorney General, which reviews it for legality.
5. The Attorney General reviews the proposal, and if the ballot statements provided do not comply with legal requirements, the Attorney General writes the explanatory statement and "for" and "against" statements; seeks a fiscal note, if necessary, from the Office of Budget and Program Planning; and forwards approval or rejection of the issue and the statements to the Secretary of State within 30 days of referral of the proposal to the Attorney General.
6. The Secretary of State reviews the Attorney General's material, works with the sponsor as needed on the petition format, and notifies the sponsor of either the approval or rejection of the petition.
7. If approval of the petition form is given, petition signatures may be gathered.

COLLECTING SIGNATURES . . . (details start on page 11)

8. Petitions with signatures are submitted to county election administrators in each county where signatures are gathered to be verified. The election administrators forward the numbers of verified signatures along with the original petitions to the Secretary of State.
9. The Secretary of State tallies the number of signatures gathered and if enough signatures are gathered in a sufficient number of legislative districts, the issue is qualified to go on the ballot.

MAKING THE ARGUMENTS . . . (details start on page 13)

10. Sponsors of qualified ballot issues form a committee to prepare arguments in support of the issue, and certain elected officials choose committee members to prepare arguments against the issue. Rebuttals of these arguments are also written by the opposing committees. These arguments and rebuttals, along with the text and ballot statements of the ballot issue, are printed in a voter information pamphlet that is sent to all Montana households with an active registered voter.

AFTER THE ELECTION . . . (details start on page 15)

11. If a ballot issue is adopted by the vote of the people, it becomes a part of the constitution or state law.

2008 Calendar for General Election Ballot Issues

This calendar outlines the **major** election events for the next election cycle of the ballot issue process. References in **bold** are to statutes.

- June 20, 2007 First day sample ballot issue petitions, other than initiative referenda, may be circulated for signatures. **13-27-202(1), MCA**
- Sept. 28, 2007 Deadline for submitting initiative referendum petitions for the 2008 GENERAL election to election administrators for certification of signatures; last day for withdrawal of referendum petition signatures (submission no later than 4 weeks before the final date for filing the referendum petitions in Secretary of State's office) **13-27-301**
- Oct. 18, 2007 First day signatures on approved petitions, other than initiative referenda, may be submitted to election administrators. **13-27-301, MCA**
- Oct. 26, 2007 Deadline for filing complete initiative referendum petitions for the 2008 GENERAL election in Secretary of State's office by county election administrator (filed no later than six months after adjournment of the legislature which passed the act) **Article III, Section 5, Montana Constitution**
- June 20, 2008 Signatures due to Election Administrators for constitutional and statutory initiatives for certification; last day for withdrawal of signatures. **13-27-301, MCA**
- July 15, 2008 Appointment of committee members by designated individuals. **13-27-403, MCA**
- July 18, 2008 Deadline for county election administrators to file complete constitutional and statutory initiative petitions in the Secretary of State's office. **13-27-104, MCA**
- July 22, 2008 5:00 p.m. -- Committee arguments due to Secretary of State. **13-27-406, MCA**
Appointments by committee members to fill vacancies. **13-27-403, MCA**
- July 22, 2008 Secretary of State to notify committee members of deadlines by this date (or within 5 days of appointment). **13-27-403, MCA**
- July 24, 2008 Deadline for supporters and opponents to file supporting documents for factual state-made in arguments (within 2 business days of the argument deadline). **13-27-403, MCA**
- August 1, 2008 5:00 p.m. -- Rebuttal arguments due to the Secretary of State. **13-27-407, MCA**
- August 5, 2008 Deadline for supporters and opponents to file supporting documents for factual state-made in rebuttals (within 2 business days of the argument deadline). **13-27-403, MCA**
- Oct. 6, 2008 Voter information pamphlets must be mailed to voters. **13-27-410, MCA**

As you begin work on drafting a petition, the following outline of requirements and procedures should make your job easier. Be sure to review all of Title 13, Chapter 27 (included in the *Appendix*), for complete statutory provisions. If you are proposing to amend the Montana Constitution, review the appropriate sections of the Constitution (also included in the *Appendix*).

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BEFORE YOU BEGIN ...

WHAT TYPES OF BALLOT ISSUES ARE THERE?

Initiative. An initiative is a proposal by petition to enact a new law by a vote of the people on any matter except the appropriation of money, or local or special laws. If the petitions are signed by the required number of electors, the proposed initiative must be submitted to the qualified electors.

Referendum. A referendum is a proposal by which the people, by their majority vote, can approve or reject a previously enacted statute, except an appropriation of money. A referendum may be originated by the Legislature itself or by the people.

By the Legislature. At the time a piece of legislation is considered, the Legislature may, in its discretion, decide to have its action ratified by a vote of the people.

By the people. After the Legislature enacts a statute, the people may petition to refer such statute to a vote of the people. This is referred to as an initiative referendum. If the petitions are signed by the required number of electors, the proposed referendum must be submitted to the qualified electors.

If petitioners desire to render an enacted statute inoperative pending a vote, a referendum petition containing a greater number of signatures is required. If so suspended, the act becomes operative only if, and after it is approved at an election.

Referendum petitions must be filed with the Secretary of State no later than six months after the adjournment of the legislature that passed the act.

Constitutional Amendment. A constitutional amendment is a proposal originated by either the Legislature or the people to change the constitution.

By the Legislature. Amendments may be proposed by any member of the Legislature. They must be adopted by an affirmative vote of two-thirds of all the members in order to be submitted to the qualified electors.

By the people. Amendments may be proposed by initiative. If the petitions are signed by the required number of electors, the proposed amendment must be submitted to the qualified electors.

Constitutional Convention. A question on whether to hold an unlimited constitutional convention to revise, alter or amend the constitution may be originated by either the Legislature or the people.

By the legislature. The Legislature, by an affirmative vote of two-thirds of all the members, may at any time submit to the qualified electors the question of whether there will be a constitutional convention.

By the people. The people may, by petition, direct the Secretary of State to submit to the qualified electors the question of whether there will be a constitutional convention. If the petitions are signed by the required number of electors, the proposed convention call must be submitted to the qualified electors.

WHEN IS THE ELECTION HELD?

Elections on all types of ballot measures proposed by petition are usually held with a statewide general election. The next such election will be held on November 4, 2008. Check the constitution and statutory references listed for specific provisions.

GETTING STARTED ...

SUBMISSION OF TEXT FOR REVIEW AND RECOMMENDATIONS

Before submission of the proposed petition to the Secretary of State, the text of the measure and ballot statements must be submitted to the Secretary of State, who will forward the text to the Legislative Services for review. The Legislative Services staff will review the text and statements as required by law.

Within 14 days after receiving the proposal, the Legislative Services staff must make recommendations for changes in the text or a statement that no changes are recommended. The person submitting the text must consider the recommendations and respond in writing to Legislative Services accepting, rejecting or modifying each recommended change. If no changes are recommended, no response is required.

The Legislative Services will furnish a copy of this correspondence to the Secretary of State, who will make a copy available to any person upon request.

SUBMISSION OF SAMPLE FORM FOR APPROVAL

Before signatures may be gathered on a petition, a sample sheet containing the text of the proposed measure and ballot statements must be submitted by the sponsor to the Secretary of State in the form in which they will be circulated. The sample petition may not be circulated more than 1 year prior to the final date for filing the signed petition with the county election administrator.

The text of the petition submitted to the Secretary of State should be substantially the same as the text submitted to the Legislative Services. If it is substantially different, the proposed ballot issue could be rejected for not having been reviewed by the Legislative Services.

The Secretary of State refers a copy of the petition to the Attorney General for review. The Attorney General's Office checks it for legality and the Secretary of State's Office will work with the sponsor on the petition format. If the Attorney General determines that a proposed issue is legally sufficient but that the ballot statements clearly do not comply with legal requirements, the Attorney General prepares statements that comply with applicable requirements and forwards them to the Secretary of State. The review by the Attorney General must be completed within 30 days of when the Attorney General receives the draft ballot issue.

If the petition form is approved, a printed sample copy of the petition to be circulated, containing the title and implication statements, along with any fiscal statement, as approved by the Attorney General, must be filed with the Secretary of State. If the petition has been rejected, reasons for rejection will be sent to the petition sponsor.

REQUIRED CONTENTS AND FORM OF PETITION

The Secretary of State will prepare the petition *form* for any sponsor. The Secretary of State will return the completed sample petition to the sponsor. If the sponsor wishes to compose his or her own petition form, the sponsor must follow the guidelines below.

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

Sample sheets are shown in the *Appendix*. However, the following elements must be contained in the petition. (See 13-27-204 through 13-27-207, MCA.)

At the top of the petition must appear the statement:

PETITION TO PLACE
(INITIATIVE/REFERENDUM/CONSTITUTIONAL AMENDMENT)
NO. _____ ON THE ELECTION BALLOT

A statement of the percentage of voters in the number of legislative representative districts required, and the total number of signatures required, must appear near the top of the petition sheet.

The following statement must appear on the face of the petition:

We, the undersigned Montana voters, propose that the Secretary of State place the following measure on the November 4, 2008, general election ballot:

A space for the title of the proposed issue or a statement that the petition is for the purpose of calling a convention, written pursuant to 13-27-312, Montana Code Annotated (MCA), must appear on the face of the petition.

If the signature lines are printed on both the front and back of the petition sheet, the title must appear on both sides.

A space for the statements of implication written by the sponsor or Attorney General pursuant to 13-27-312, MCA, must immediately follow the title space.

Following the space for the statements of implication, there must be a statement urging voters to read the complete text and a notification that a signature is only to place the measure on the ballot and does not necessarily mean the signer agrees with the measure.

The warning to signers regarding the signing of petitions must appear last, above the numbered signature lines.

The petition must contain numbered lines with indicated spaces for each registered voter's:

1. signature,
2. date,
3. printed last name and first and middle initials,
4. residence address, or post office address, or home telephone number,
5. legislative representative district number, and
6. a "reserved" column is optional but suggested.

The complete text of the measure proposed or referred must be attached to or be contained within each signature sheet, if the sheets are circulated separately. If the sheets are circulated in sections, the complete text of the measure must be attached to each section.

EXPLANATORY AND "FOR" AND "AGAINST" STATEMENTS

The ballot statements must include:

1. a statement, not to exceed 100 words, explaining the purpose of the measure, and
2. statements, not to exceed 25 words each, explaining the implications of a vote for and against the measure.

If the Attorney General determines in writing that a ballot statement submitted by a sponsor clearly does not comply with legal requirements, the Attorney General will prepare a statement that complies with the requirements, forward that statement to the Secretary of State as the approved statement, and provide a copy to the petitioner. The statement prepared is the petition title for the measure circulated by the petition and the ballot title if the measure is placed on the ballot. This statement is also commonly known as the "statement of purpose" or the "explanatory statement."

The statements of implication prepared are commonly known as the "for" and "against" statements to be used on the petition and the ballot if the measure is placed on the ballot. The statements do not necessarily have to be written using the words "for" and "against", but must be similar to that style.

PREPARATION OF FISCAL STATEMENT

The Attorney General will order a fiscal statement if the proposed ballot issue has an effect on the revenue, expenditures or the fiscal liability of the state. The budget director, in cooperation with the agency or agencies affected by the petition, is responsible for preparing the fiscal note.

If a fiscal note is prepared for the proposed ballot issue, the Attorney General will prepare a fiscal statement which is to be used on the petition and ballot if the measure is placed on the ballot.

COLLECTING SIGNATURES ...

NUMBER OF SIGNATURES REQUIRED

For an initiative or referendum, the number of qualified electors required in each legislative representative district and in the state is determined by the number of votes cast for the office of governor in 2004. (See chart in *Appendix* for numbers; see also Article III, Sections 4, 5, 6, and 7 and Article XIV, Sections 2, 8 and 9, in the Montana Constitution.)

Initiative: Total of 22,308 signatures needed statewide

The petition must be signed by at least five percent (5%) of the qualified electors in the state at large, including at least five percent (5%) in at least one-third (34) of the legislative representative districts.

Referendum: Total of 22,308 signatures needed statewide

The petition must be signed by at least five percent (5%) of the qualified electors in the state at large, including at least five percent (5%) in at least one-third (34) of the legislative representative districts.

To suspend an enacted statute when referred to a vote:

An act referred to the people is in effect until suspended by referendum petitions signed by at least fifteen percent (15%) of the qualified electors in at least a majority of the legislative representative districts (51).

Calling a Constitutional Convention: Total of 44,615 signatures needed statewide

For calling a constitutional convention, the petition must be signed by at least ten percent (10%) of the qualified electors in the state at large, including at least ten percent (10%) in each of at least two-fifths (40) of the legislative districts.

Constitutional Initiative: Total of 44,615 signatures needed statewide

For a constitutional initiative, the petition must be signed by at least ten percent (10%) of the qualified electors in the state at large, including at least ten percent (10%) in each of at least two-fifths (40) of the legislative districts.

COMMON MISTAKES

The most common reason that signatures on petitions are rejected is that the printed last name cannot be read. The printed last name *must* be legible. Petition signature gatherers may wish to check the names for legibility.

The signature does not have to be *identical* to the name under which a person has registered to vote. However, a signature is more likely to be accepted if it is signed as the person has registered to vote. If the individual is registered as "Sammy Brown" he should sign as such, *not* as "J. Samuel Brown".

Another error occurs when someone signs a petition, and then signs for another person, such as his or her spouse. Such signatures will be rejected. Each individual must sign a petition only of his or her own accord.

AFFIDAVIT OF SIGNATURE GATHERER REQUIRED

An Affidavit of Signature Gatherer must accompany each sheet or section of petitions when filed with the county election administrator. (See *Appendix* for sample.) The Affidavit must be signed and notarized for each petition sheet or section of sheets on which signatures are gathered, even if the petitions are filed in groups.

Additionally, the 2007 Legislature removed the option in 13-27-302, MCA, for signature gatherers to provide an affidavit stating in part that they assisted in gathering petition signatures. The affidavit form has been updated accordingly. Please review [Montanans for Justice v. State](#), 2006 MT 277, for additional information.

DEADLINES FOR SUBMISSION AND FILING OF PETITION SHEETS

(See calendar on page 4 of this booklet for proper dates and statute references.)

Submission to County Election Administrators

(see <http://sos.mt.gov/ELB/forms/elections/electionadministrators.pdf> for contact information.)

Constitutional Amendments and Statutory Initiatives. Signed sheets or sections of petitions must be submitted to county election administrators no sooner than 9 months and no later than 4 weeks before the final date for filing the petition with the Secretary of State.

Referendum Petitions. Signed sheets or sections of petitions must be submitted to county election administrators approximately no later than 5 months after adjournment of the legislature which passed the act, in order for the petition to be forwarded by county election administrators to the Secretary of State within 6 months of the date that the act passed in the legislature.

Filing by County Election Administrators with the Secretary of State

Constitutional Amendments and Statutory Initiatives. Certified sheets or sections of petitions must be forwarded by the county election administrator for filing with the Secretary of State before 5 p.m. of the third Friday of the fourth month prior to the election at which the measure is to be voted upon by the people.

Referendum Petitions. Certified sheets or sections of petitions must be forwarded by the county election administrator for filing with the Secretary of State no later than 6 months after adjournment of the legislature which passed the act.

WITHDRAWAL OF SIGNATURES

Signers of a petition may withdraw their own names up to the deadline for submission of petitions to county election administrators. A form for withdrawal has been prescribed by the Secretary of State, and is available from any county election administrator.

CERTIFICATION TO GOVERNOR WHEN PETITION IS QUALIFIED

When sheets or sections of a petition containing a sufficient number of signatures have been filed with the Secretary of State, he or she will immediately certify to the governor that the petition has qualified for the ballot.

MAKING THE ARGUMENTS . . .

APPOINTMENT OF PRO AND CON COMMITTEES

Once a petition has qualified to appear on the ballot, committees are formed to write arguments for and against the issue. These arguments appear in an information pamphlet that is distributed before each election to all households with active registered voters. The size of the committees and who appoints them depends on the type of petition. (See 13-27-402 and 13-27-403, MCA.)

Initiative petitions (constitutional initiatives and statutory initiatives). A three-member committee supporting the issue is appointed by the sponsor who submitted the petition. A five-member committee opposing the issue is appointed by the Governor, Attorney General, President of the Senate and Speaker of the House of Representatives. The four appointed persons appoint the fifth member.

Referenda from the Legislature. A three-member committee supporting the issue is composed of one senator known to favor the measure appointed by the President of the Senate, one representative known to favor the measure appointed by the Speaker of the House of Representatives and one individual (who need not be a legislator) appointed by the first two members. A three-member committee opposing the issue is appointed in the same manner as the committee supporting the issue (but, if possible, members should be known to have opposed the issue).

Referenda from the people. A three-member committee in favor of repealing the bill that was referred by the petition sponsor is appointed by the petition sponsor, and a three-member committee against repealing the bill that was referred by the petition sponsor is composed of one senator appointed by the President of the Senate, one representative appointed by the Speaker of the House of Representatives and one individual (who need not be a legislator) appointed by the first two members.

DRAFTING THE ARGUMENTS

The original arguments for or against an issue must be no longer than a single side of a single 7 1/2-inch by 10-inch page, in a black and white, camera-ready format. The argument must consist solely of written material prepared by the committee and may not consist of pictures, clippings, or other material. The written material must be prepared in the font and type style required by the Secretary of State and must be filed with the Secretary of State no later than 105 days before the election at which the issue will be voted upon by the people.

Copies of these arguments are provided to the opposing committee, which may prepare a rebuttal argument. The rebuttal must be no longer than one-half the size of the arguments (7 1/2 x 5), in a black and white, camera-ready format. The argument must consist solely of written material prepared by the committee and may not consist of pictures, clippings, or other material. The written material must be prepared in the font and type style required by the Secretary of State, and must be filed with the Secretary of State no later than 10 days after the deadline for filing the original arguments.

Due to changes made by the 2007 Legislature, supporters and opponents of ballot issues who make factual statements in their arguments and/or rebuttals must provide supporting documents within 2 days of the deadline for submitting the arguments or rebuttals, as applicable.

Arguments and rebuttals may be rejected if the Secretary of State, with the approval of the Attorney General, holds that the arguments contain obscene, vulgar, profane, scandalous, libelous or defamatory matter, or if the language incites, counsels, promotes or advocates hatred, abuse, violence or hostility toward or tends to cast shame or ridicule upon any group of persons by reason of race, color, religion or sex, or is otherwise prohibited by law to be sent through the mail.

THE VOTER INFORMATION PAMPHLET

The Secretary of State prepares a pamphlet to be sent by county election administrators to all households with active registered voters. The pamphlet is also available at all voting precincts.

The voter information pamphlet contains, for each ballot issue appearing on the ballot, the ballot title, fiscal statement, if applicable, complete text of the issue, form in which the issue will appear on the ballot, arguments for and against the issue and the rebuttal arguments. The names of the members of the committees who draft the arguments and rebuttals are also included. Other additional information for voters is also usually included in the pamphlet.

Ballot Measure	Pro Committee Members (for IR, in favor of repealing referred bill)	Con Committee Members
Statutory Initiative (I)	<ol style="list-style-type: none"> 1. Person appointed by sponsor 2. Person appointed by sponsor 3. Person appointed by sponsor 	<ol style="list-style-type: none"> 1. Person appointed by the Speaker 2. Person appointed by the Senate President 3. Person appointed by the Governor 4. Person appointed by the Attorney General 5. Person appointed by the other four appointees
Initiative Referendum (IR)	<ol style="list-style-type: none"> 1. Person appointed by sponsor 2. Person appointed by sponsor 3. Person appointed by sponsor 	<ol style="list-style-type: none"> 1. Representative appointed by the Speaker 2. Senator appointed by the Senate President 3. Person appointed by the other two appointees
Constitutional Initiative (CI)	<ol style="list-style-type: none"> 1. Person appointed by sponsor 2. Person appointed by sponsor 3. Person appointed by sponsor 	<ol style="list-style-type: none"> 1. Person appointed by the Speaker 2. Person appointed by the Senate President 3. Person appointed by the Governor 4. Person appointed by the Attorney General 5. Person appointed by the other four appointees
Legislative Referendum (LR)	<ol style="list-style-type: none"> 1. Representative appointed by the Speaker 2. Senator appointed by the Senate President 3. Person appointed by the other two appointees 	<ol style="list-style-type: none"> 1. Representative appointed by the Speaker 2. Senator appointed by the Senate President 3. Person appointed by the other two appointees
Constitutional Amendment (C) (by Legislature)	<ol style="list-style-type: none"> 1. Representative appointed by the Speaker 2. Senator appointed by the Senate President 3. Person appointed by the other two appointees 	<ol style="list-style-type: none"> 1. Representative appointed by the Speaker 2. Senator appointed by the Senate President 3. Person appointed by the other two appointees

AFTER THE ELECTION ...

CANVASS OF VOTES CAST

No later than three to seven (3-7) days after the election, each county board of canvassers must canvass the votes cast for each ballot issue. The results of the canvass must be certified to the board of state canvassers within 20 days after the election.

EFFECTIVE DATES

Initiative. Unless the petition states otherwise, a statutory initiative approved by the people is effective on October 1 following approval. If the measure delegates rulemaking authority, it cannot be effective sooner than October 1 following approval.

Constitutional Amendment. Unless the legislature or the amendment provides otherwise, a constitutional amendment proposed by the legislature or by initiative and approved by the people is effective on July 1 following approval.

Referendum. Unless the legislature specifically provides an effective date in an issue put before the people, or unless suspended by law, an act referred to the people is in effect as the law provides until it is approved or rejected at the election.

FOR MORE INFORMATION . . .

Anyone needing information concerning the initial submission of a draft of a ballot issue may contact the Legislative Services Bureau at Room 110, State Capitol, PO Box 201706, Helena, MT 59620-1706, or (406) 444-3064.

For any other questions about the ballot issue process, contact the Secretary of State, Elections Bureau, Room 260, State Capitol, PO Box 202801, Helena, MT 59620-2801, or call (406) 444-5346 or our TDD (Telephone Device for the Deaf) line at (406) 444-9068, fax us at (406) 444-2023, or email us at almiller@mt.gov.

Appendix

NUMBER OF SIGNATURES NEEDED FOR PETITIONS

The number of signatures required on ballot petitions is based on a percentage of the total number of votes cast for Governor in the last general election (2004). The signature gathering requirements for statutory and constitutional initiatives are as reflected below.

To qualify a **statutory initiative**, at least 5% of the votes cast for Governor is needed in each of at least 1/3 (34) of the legislative representative districts. To qualify a **constitutional initiative**, at least 10% of the votes cast for Governor is needed in each of at least 2/5 (40) of the legislative representative districts.

To qualify an **initiative referendum**, at least 5% of the votes cast for Governor is needed in each of at least 1/3 (34) of the legislative representative districts. If at least 15% is gathered in each of at least a majority (51) of the districts for a referendum, **the statute is suspended pending the result of the vote.**

To qualify a **call for a constitutional convention**, at least 10% of the votes cast for Governor is needed in each of at least 2/5 (40) of the legislative representative districts.

Number of Signatures Needed, by Legislative Representative District:

Legislative District	Total Votes for 2004 Gubernatorial Candidates	5% Per District	10% Per District
1	3724	187	373
2	4557	228	456
3	4200	210	420
4	4893	245	490
5	5255	263	526
6	5364	269	537
7	4250	213	425
8	4105	206	411
9	5590	280	559
10	5371	269	538
11	5013	251	502
12	4239	212	424
13	4606	231	461
14	4567	229	457
15	3297	165	330
16	3278	164	328
17	4480	224	448
18	5021	252	503
19	4344	218	435
20	3598	180	360
21	3855	193	386

Legislative District	Total Votes for 2004 Gubernatorial Candidates	5% Per District	10% Per District
22	3250	163	325
23	3199	160	320
24	2206	111	221
25	4490	225	449
26	3561	179	357
27	4225	212	423
28	4282	215	429
29	4734	237	474
30	5066	254	507
31	3256	163	326
32	3348	168	335
33	3569	179	357
34	3467	174	347
35	4688	235	469
36	4626	232	463
37	4224	212	423
38	4387	220	439
39	4936	247	494
40	3875	194	388
41	2525	127	253
42	3044	153	305
43	4579	229	458
44	4165	209	417
45	4490	225	449
46	5453	273	546
47	4929	247	493
48	3989	200	399
49	3673	184	368
50	4598	230	460
51	3384	170	339
52	4070	204	407
53	3962	199	397
54	3288	165	329
55	5113	256	512
56	5763	289	577
57	5864	294	587
58	4512	226	452
59	4826	242	483
60	4607	231	461
61	5288	265	529
62	4399	220	440

Appendix

63 Legislative District	6082 Total Votes for 2004 Gubernatorial Candidates	305 5% Per District	609 10% Per District
64	4983	250	499
65	3630	182	363
66	4717	236	472
67	5032	252	504
68	5283	265	529
69	5628	282	563
70	5770	289	577
71	5316	266	532
72	4184	210	419
73	3864	194	387
74	4887	245	489
75	4056	203	406
76	3163	159	317
77	5197	260	520
78	3954	198	396
79	4970	249	497
80	4645	233	465
81	4334	217	434
82	4778	239	478
83	4565	229	457
84	4807	241	481
85	3154	158	316
86	4631	232	464
87	5062	254	507
88	4437	222	444
89	5154	258	516
90	4940	247	494
91	4326	217	433
92	5592	280	560
93	5530	277	553
94	5323	267	533
95	5015	251	502
96	4383	220	439
97	5124	257	513
98	4694	235	470
99	5124	257	513
100	4295	215	430
Totals:	446,146	22,308*	44,615*

*Sum of percent totals may not equal the number of votes cast for Governor due to rounding of fractions.

AFFIDAVIT OF SIGNATURE GATHERER

I, _____, (name of person who is the signature gatherer), swear that I gathered the signatures on the petition to which this affidavit is attached on the stated dates, that I believe the signatures on the petition are genuine, are the signatures of the persons whose names they purport to be, and are the signatures of Montana electors who are registered at the address or have the telephone number following the person’s signature, and that the signers knew the contents of the petition before signing the petition.

Date on which the first signature was gathered

Signature of petition signature gatherer

Address of petition signature gatherer

City, state and zip code

STATE OF MONTANA)
County of _____)

Subscribed and sworn to before me this _____ day of _____, 20_____.

Signature of notary public or other person authorized to take oaths

Typed, stamped, or printed name of notary public or other person authorized to take oaths

Notary Public for the State of Montana

Residing at _____
(city or town of residence)

My Commission Expires _____, 20_____

SEAL

Appendix

PETITION TO PLACE INITIATIVE NO. ____ ON THE ELECTION BALLOT

If 5% of the voters in each of 34 legislative representative districts sign this petition and the total number of voters signing this petition is 22,308, this initiative will appear on the next general election ballot. If a majority of voters vote for this initiative at that election, it will become law.

We, the undersigned Montana voters, propose that the secretary of state place the following initiative on the November 4, 2008, general election ballot:

(Title [statement of purpose]
of initiative written pursuant to 13-27-312)

(Fiscal statement, if applicable, written pursuant to 13-27-312)

FOR (statement of implication of a vote for the initiative, written pursuant to 13-27-312)

AGAINST (statement of implication of a vote against the initiative, written pursuant to 13-27-312)

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

(TEXT OF THE MEASURE MAY APPEAR HERE,
ON THE REVERSE SIDE OR BE ATTACHED)

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 who signs when not a legally registered Montana voter is subject to a \$500 fine, 6 months in jail, or both.

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 card or the signature will not be counted.

In place of a residence address, the signer may provide the signer's post-office address or the signer's home telephone number.

Complete Signature	Date	Residence Address or Post-Office Address or Home Telephone Number	Printed Last Name and First and Middle Initials	Legislative Rep. District Number	Reserved
1.					
2.					
3.					
4.					
5.					

(numbered lines continued to fill up page)

COUNTY: _____

(OPTIONAL: Instructions to petition signature gatherers, e.g. where to mail completed petition sheets and affidavit(s), and deadline for submission to county)

PETITION TO PLACE REFERENDUM NO. ____ ON THE ELECTION BALLOT

If 5% of the voters in each of 34 legislative representative districts sign this petition and the total number of voters signing the petition is 22,308, Senate (House) Bill Number ____ will appear on the next general election ballot. If a majority of voters vote for this referendum at that election it will become law.

We, the undersigned Montana voters, propose that the secretary of state place the following Senate (House) Bill Number ____, passed by the legislature on _____ on the next general election ballot:

(Title [statement of purpose]
of referendum written pursuant to 13-27-312)

(Fiscal statement, if applicable, written pursuant to 13-27-312)

FOR (statement of implication of a vote for the referendum, written pursuant to 13-27-312)

AGAINST (statement of implication of a vote against the referendum, written pursuant to 13-27-312)

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

(TEXT OF THE REFERENDUM MAY APPEAR HERE,
ON THE REVERSE SIDE OR BE ATTACHED)

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.

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 card or the signature will not be counted.

In place of a residence address, the signer may provide the signer's post-office address or the signer's home telephone number.

Complete Signature	Date	Residence Address or Post-Office Address or Home Telephone Number	Printed Last Name and First and Middle Initials	Legislative Rep. District Number	Reserved
1.					
2.					
3.					
4.					
5.					

(numbered lines continued to fill up page)

COUNTY: _____

(OPTIONAL: Instructions to petition signature gatherers, e.g. where to mail completed petition sheets and affidavit(s), and deadline for submission to county)

Appendix

PETITION TO PLACE INITIATIVE NO.____, CALLING FOR A CONSTITUTIONAL CONVENTION, ON THE ELECTION BALLOT

If 10% of the voters in each of 40 legislative districts sign this petition and the total number of voters signing this petition is 44,615, the question of whether to have a constitutional convention will appear on the next general election ballot. If a majority of voters vote for the constitutional convention, the legislature shall call for a constitutional convention at its next session.

We, the undersigned Montana voters, propose that the secretary of state place the question of whether to hold a constitutional convention on the November 4, 2008, general election ballot:

(Title [statement of purpose]
of the initiative written pursuant to 13-27-312)

(Fiscal statement, if applicable, written pursuant to 13-27-312)

FOR (statement of implication of a vote for the initiative, written pursuant to 13-27-312)

AGAINST (statement of implication of a vote against the initiative, written pursuant to 13-27-312)

A signature on this petition is only to put the call for a constitutional convention on the ballot and does not necessarily mean the signer is in favor of calling a constitutional convention.

(TEXT OF THE INITIATIVE MAY APPEAR
HERE,

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 who signs when not a legally registered Montana voter is subject to a \$500 fine or 6 months in jail, or both.

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 card or the signature will not be counted.

In place of a residence address, the signer may provide the signer's post-office address or the signer's home telephone number.

Complete Signature	Date	Residence Address or Post-Office Address or Home Telephone Number	Printed Last Name and First and Middle Initials	Legislative Rep. District Number	Reserved
1.					
2.					
3.					
4.					
5.					

(numbered lines continued to fill up page)

COUNTY: _____

(OPTIONAL: Instructions to petition signature gatherers, e.g. where to mail completed petition sheets and affidavit(s), and deadline for submission to county)

PETITION TO PLACE CONSTITUTIONAL
AMENDMENT NO. ____ ON THE ELECTION BALLOT

If 10% of the voters in each of 40 legislative districts sign this petition and the total number of voters signing the petition is 44,615, this constitutional amendment will appear on the next general election ballot. If a majority of voters vote for this amendment at that election, it will become part of the constitution.

We, the undersigned Montana voters, propose that the secretary of state place the following constitutional amendment on the November 4, 2008, general election ballot:

(Title [statement of purpose]
of the proposed constitutional amendment
written pursuant to 13-27-312)

(Fiscal statement, if applicable, written pursuant to 13-27-312)

FOR (statement of implication of a vote for the proposed constitutional amendment, written pursuant to 13-27-312)

AGAINST (statement of implication of a vote against the proposed constitutional amendment, written pursuant to 13-27-312)

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

(TEXT OF THE INITIATIVE MAY APPEAR
HERE,

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 who signs when not a legally registered Montana voter is subject to a \$500 fine, 6 months in jail, or both.

Each person is required to sign the person's name and address in substantially the same manner as on the person's voter registration card or the signature will not be counted.

In place of a residence address, the signer may provide the signer's post-office address or the signer's home telephone number.

Complete Signature	Date	Residence Address or Post-Office Address or Home Telephone Number	Printed Last Name and First and Middle Initials	Legislative Rep. District Number	Reserved
1.					
2.					
3.					
4.					
5.					

(numbered lines continued to fill up page)

COUNTY: _____

(OPTIONAL: Instructions to petition signature gatherers, e.g. where to mail completed petition sheets and affidavit(s), and deadline for submission to county)

Appendix

(reverse of petition sheet; use appropriate heading below)

PETITION TO PLACE INITIATIVE NO. ____ ON THE ELECTION BALLOT

PETITION TO PLACE REFERENDUM NO. ____ ON THE ELECTION BALLOT

PETITION TO PLACE INITIATIVE NO. ____, CALLING
FOR A CONSTITUTIONAL CONVENTION, ON THE ELECTION BALLOT

PETITION TO PLACE CONSTITUTIONAL
AMENDMENT NO. ____ ON THE ELECTION BALLOT

(Title [statement of purpose]
of initiative, proposed constitutional amendment
or referendum written by Attorney General)

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 who signs when not a legally registered Montana voter is subject to a \$500 fine, 6 months in jail, or both.

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 card or the signature will not be counted.

Complete Signature	Date	Residence Address or Post- Office Address or Home Telephone Number	Printed Last Name and First and Middle Initials	Legislative Rep. District Number	Reserved
1.					
2.					
3.					
4.					
5.					

(numbered lines continued to fill up page)

COUNTY: _____

(OPTIONAL: Instructions to petition signature gatherers, e.g. where to mail completed petition sheets and affidavit(s), and deadline for submission to county)

Relevant Sections of the Montana Constitution and Montana Code Annotated ¹

Montana Constitution

ARTICLE III

GENERAL GOVERNMENT

Section

1. Separation of powers.
2. Continuity of government.
3. Oath of office.
4. Initiative.
5. Referendum.
6. Elections.
7. Number of electors.
8. Prohibition.
9. Gambling.

[Sections 1 - 3 omitted.]

Section 4. Initiative. (1) The people may enact laws by initiative on all matters except appropriations of money and local or special laws.

(Underlined language restored by Attorney General Opinion, April 2005:) (2) Initiative petitions must contain the full text of the proposed measure, shall be signed by at least five percent of the qualified electors in each of at least one-third of the legislative representative districts and the total number of signers must be at least five percent of the total qualified electors of the state. Petitions shall be filed with the secretary of state at least three months prior to the election at which the measure will be voted upon.

(Interlined language declared invalid by U.S. District Court, March 2005:) ~~(2) Initiative petitions must contain the full text of the proposed measure, shall be signed by at least five percent of the qualified electors in each of at least one-half of the counties and the total number of signers must be at least five percent of the total qualified electors of the state. Petitions shall be filed with the secretary of state at least three months prior to the election at which the measure will be voted upon.~~

(3) The sufficiency of the initiative petition shall not be questioned after the election is held.

Section 5. Referendum. (1) The people may approve or reject by referendum any act of the legislature except an appropriation of money. A referendum shall be held either upon order by the legislature or upon petition signed by at least five percent of the qualified electors in each of at least one-third of the legislative representative districts. The total number of signers must be at least five percent of the qualified electors of the state. A referendum petition shall be filed with the secretary of state no later than six months after adjournment of the legislature which passed the act.

¹ These are not the official versions of these constitutional and statutory sections, which were not available at the time of printing.

Appendix

(2) An act referred to the people is in effect until suspended by petitions signed by at least 15 percent of the qualified electors in a majority of the legislative representative districts. If so suspended the act shall become operative only after it is approved at an election, the result of which has been determined and declared as provided by law.

Section 6. Elections. The people shall vote on initiative and referendum measures at the general election unless the legislature orders a special election.

Section 7. Number of electors. (1) The number of qualified electors required in each legislative representative district and in the state shall be determined by the number of votes cast for the office of governor in the preceding general election.

(Interlined language declared invalid by U.S. District Court, March 2005:) ~~(2) For the purposes of a constitutional amendment, the number of qualified electors in each county and in the state shall be determined by the number of votes cast for the office of governor in the preceding general election.~~

~~(3) For the purposes of a statutory initiative, the number of qualified electors required in each county and in the state shall be determined by the number of votes cast for the office of governor in the preceding general election.~~

[Sections 8 and 9 omitted.]

ARTICLE IV

SUFFRAGE AND ELECTIONS

Section

1. Ballot.
2. Qualified elector.
3. Elections.
4. Eligibility for public office.
5. Result of elections.
6. Privilege from arrest.
7. Ballot issues -- challenges -- elections.

[Sections 1 - 6 omitted.]

Section 7. Ballot issues -- challenges -- elections. (1) An initiative or referendum that qualifies for the ballot under Article III or Article XIV shall be submitted to the qualified electors as provided in the Article under which the initiative or referendum qualified unless a new election is held pursuant to this section.

(2) A preelection challenge to the procedure by which an initiative or referendum qualified for the ballot or a postelection challenge to the manner in which the election was conducted shall be given priority by the courts.

(3) If the election on an initiative or referendum properly qualifying for the ballot is declared invalid because the election was improperly conducted, the secretary of state shall submit the issue to the qualified electors at the next regularly scheduled statewide election unless the legislature orders a special election.

[Section 8 omitted.]

ARTICLE XIV

CONSTITUTIONAL REVISION

Section

1. Constitutional convention.
2. Initiative for constitutional convention.
3. Periodic submission.
4. Call of convention.
5. Convention expenses.
6. Oath, vacancies.
7. Convention duties.
8. Amendment by legislative referendum.
9. Amendment by initiative.
10. Petition signers.
11. Submission.

Section 1. Constitutional convention. The legislature, by an affirmative vote of two-thirds of all the members, whether one or more bodies, may at any time submit to the qualified electors the question of whether there shall be an unlimited convention to revise, alter, or amend this constitution.

Section 2. Initiative for constitutional convention. (1) The people may by initiative petition direct the secretary of state to submit to the qualified electors the question of whether there shall be an unlimited convention to revise, alter, or amend this constitution. The petition shall be signed by at least ten percent of the qualified electors of the state. That number shall include at least ten percent of the qualified electors in each of two-fifths of the legislative districts.

(2) The secretary of state shall certify the filing of the petition in his office and cause the question to be submitted at the next general election.

Section 3. Periodic submission. If the question of holding a convention is not otherwise submitted during any period of 20 years, it shall be submitted as provided by law at the general election in the twentieth year following the last submission.

Section 4. Call of convention. If a majority of those voting on the question answer in the affirmative, the legislature shall provide for the calling thereof at its next session. The number of delegates to the convention shall be the same as that of the larger body of the legislature. The qualifications of delegates shall be the same as the highest qualifications required for election to the legislature. The legislature shall determine whether the delegates may be nominated on a partisan or a non-partisan basis. They shall be elected at the same places and in the same districts as are the members of the legislative body determining the number of delegates.

[Sections 5 and 6 omitted.]

Section 7. Convention duties. The convention shall meet after the election of the delegates and prepare such revisions, alterations, or amendments to the constitution as may be deemed necessary. They shall be submitted to the qualified electors for ratification or rejection as a whole or in separate articles or amendments as determined by the convention at an election appointed by the convention for that purpose not less than two months after adjournment. Unless so submitted and approved by a majority of the electors voting thereon, no such revision, alteration, or amendment shall take effect.

Section 8. Amendment by legislative referendum. Amendments to this constitution may be proposed by any member of the legislature. If adopted by an affirmative roll call vote of two-thirds of all the members thereof, whether one or more bodies, the proposed amendment shall be submitted to the qualified electors at the next general election. If approved by a majority of the electors

Appendix

voting thereon, the amendment shall become a part of this constitution on the first day of July after certification of the election returns unless the amendment provides otherwise.

Section 9. Amendment by initiative. (*Underlined language restored by Attorney General Opinion, April 2005:*) (1) The people may also propose constitutional amendments by initiative. Petitions including the full text of the proposed amendment shall be signed by at least ten percent of the qualified electors of the state. That number shall include at least ten percent of the qualified electors in each of two-fifths of the legislative districts.

(Interlined language declared invalid by U.S. District Court, March 2005:) ~~(1) The people may also propose constitutional amendments by initiative. Petitions including the full text of the proposed amendment shall be signed by at least ten percent of the qualified electors of the state. That number shall include at least ten percent of the qualified electors in each of at least one-half of the counties.~~

(2) The petitions shall be filed with the secretary of state. If the petitions are found to have been signed by the required number of electors, the secretary of state shall cause the amendment to be published as provided by law twice each month for two months previous to the next regular state-wide election.

(3) At that election, the proposed amendment shall be submitted to the qualified electors for approval or rejection. If approved by a majority voting thereon, it shall become a part of the constitution effective the first day of July following its approval, unless the amendment provides otherwise.

Section 10. Petition signers. The number of qualified electors required for the filing of any petition provided for in this Article shall be determined by the number of votes cast for the office of governor in the preceding general election.

Section 11. Submission. If more than one amendment is submitted at the same election, each shall be so prepared and distinguished that it can be voted upon separately.

[Signatures omitted.]

Montana Code Annotated

Title 1

Chapter 1

Part 2 -- General Definitions of Terms Used in Code

1-1-215. Residence -- rules for determining. Every person has, in law, a residence. In determining the place of residence, the following rules are to be observed:

(1) It is the place where a person remains when not called elsewhere for labor or other special or temporary purpose and to which the person returns in seasons of repose.

(2) There may be only one residence. If a person claims a residence within Montana for any purpose, then that location is the person's residence for all purposes unless there is a specific statutory exception.

(3) A residence cannot be lost until another is gained.

(4) The residence of an unmarried minor is:

(a) the residence of the minor's parents;

(b) if one of the parents is deceased or the parents do not share the same residence, the residence of the parent having legal custody;

(c) if neither parent has legal custody, the residence of the parent with whom the minor customarily resides; or

(d) if the conditions in [20-5-502](#) are met, the last-known residence of the parent with whom the minor normally resided immediately prior to residing with the caretaker relative.

(5) In the case of a controversy, the district court may declare which parental residence is the residence of an unmarried minor.

(6) Except as provided in Title 20, chapter 5, part 5, the residence of an unmarried minor who has a parent living cannot be changed by either the minor's own act or that of the minor's guardian.

(7) The residence can be changed only by the union of act and intent.

History: En. Sec. 72, Pol. C. 1895; re-en. Sec. 32, Rev. C. 1907; re-en. Sec. 33, R.C.M. 1921; Cal. Pol. C. Sec. 52; re-en. Sec. 33, R.C.M. 1935; amd. Sec. 4, Ch. 164, L. 1975; R.C.M. 1947, 83-303; amd. Sec. 1, Ch. 367, L. 1997; amd. Sec. 4, Ch. 442, L. 2007.

Appendix

TITLE 13

CHAPTER 27

BALLOT ISSUES

Part 1 -- General Provisions

- 13-27-101. Establishment of initiative and referendum procedures.
- 13-27-102. Who may petition and gather signatures.
- 13-27-103. Sufficiency of signature.
- 13-27-104. Time for filing.
- 13-27-105. Effective date of initiative and referendum issues.
- 13-27-106. Violations -- penalties.
- 13-27-107 through 13-27-110 reserved.
- 13-27-111. Definitions.
- 13-27-112. Required reports -- time and manner of reporting -- exceptions -- penalty.
- 13-27-113. Powers and duties of commissioner.

Part 2 -- Form of Petitions

- 13-27-201. Form of petition generally.
- 13-27-202. Recommendations -- approval of form required.
- 13-27-203. Numbering of petitions.
- 13-27-204. Petition for initiative.
- 13-27-205. Petition for referendum.
- 13-27-206. Petition for initiative for constitutional convention.
- 13-27-207. Petition for initiative for constitutional amendment.
- 13-27-208. Petitions to be made available in each county election administrator's office.
- 13-27-209. Issues referred by legislature.
- 13-27-210. Physical prevention of obtaining signatures or physical intimidation of signature gatherers prohibited.

Part 3 -- Submission and Processing of Petitions

- 13-27-301. Submission of petition sheets -- withdrawal of signatures.
- 13-27-302. Certification of signatures.
- 13-27-303. Verification of signatures by county official -- allocating voters following reapportionment -- duplicate signatures.
- 13-27-304. County official to forward verified sheets.
- 13-27-305. Retention of copies by county official.
- 13-27-306. Challenge to signatures by elector of county.
- 13-27-307. Consideration and tabulation of signatures by secretary of state.
- 13-27-308. Certification of petition to governor.
- 13-27-309. Repealed.
- 13-27-310. Repealed.
- 13-27-311. Publication of proposed constitutional amendments.

- 13-27-312. Review of proposed ballot issue and statements by attorney general -- preparation of fiscal note.
- 13-27-313. Repealed.
- 13-27-314. Repealed.
- 13-27-315. Statements by attorney general on issues referred by legislature.
- 13-27-316. Court review of attorney general opinion or approved petitioner statements.
- 13-27-317. Contest of ballot issue petitions.

Part 4 -- Voter Information Pamphlets

- 13-27-401. Voter information pamphlet.
- 13-27-402. Committees to prepare arguments for and against ballot issues.
- 13-27-403. Appointment to committee.
- 13-27-404. Committee chairman.
- 13-27-405. Committee expenses.
- 13-27-406. Limitation on length of argument -- time of filing.
- 13-27-407. Rebuttal arguments.
- 13-27-408. Rejection of improper arguments.
- 13-27-409. Fact statement to be supported -- liability for contents of argument.
- 13-27-410. Printing and distribution of voter information pamphlet.

Part 5 -- Election Procedure

- 13-27-501. Secretary of state to certify ballot form.
- 13-27-502. Preparation of ballots with ballot issues.
- 13-27-503. Determination of result of election.
- 13-27-504. Copy of approved issues to be sent to legislative services division.

Chapter Cross-References

- Initiative, Art. III, sec. 4, Mont. Const.
- Referendum, Art. III, sec. 5, Mont. Const.
- Initiative for Constitutional Convention, Art. XIV, sec. 2, Mont. Const.
- Constitutional amendment by legislative referendum, Art. XIV, sec. 8, Mont. Const.
- Constitutional amendment by initiative, Art. XIV, sec. 9, Mont. Const.
- Form for local government initiative and referendum, 7-5-132.
- Form of petition calling for election on question of issuing county bonds, 7-7-2224.
- Form of petition for creation of urban transportation district, 7-14-204.
- Definitions applicable to this chapter, 13-1-101.
- Initiative or referendum required to approve nuclear facility, 75-20-201.
- Form of ballot to summarize improvements to drainage district assessments, 85-8-624.

Appendix

Part 1

General Provisions

13-27-101. Establishment of initiative and referendum procedures. The right of the people to petition to enact laws by initiative, to petition to approve or reject by referendum any act of the legislature except an appropriation of money, to call for a vote on whether there shall be a constitutional convention, and to propose constitutional amendments by initiative as guaranteed by The Constitution of the State of Montana may be exercised through adherence to the procedures established in this chapter.

History: En. 37-115 by Sec. 1, Ch. 342, L. 1977; R.C.M. 1947, 37-115.

Cross-References

Initiative, Art. III, sec. 4, Mont. Const.

Referendum, Art. III, sec. 5, Mont. Const.

Initiative for Constitutional Convention, Art. XIV, sec. 2, Mont. Const.

Constitutional amendment by initiative, Art. XIV, sec. 9, Mont. Const.

Verification of signatures by county officials -- allocating voters following reapportionment, 13-27-303.

13-27-102. Who may petition and gather signatures. (1) A petition for the initiative, the referendum, or to call a constitutional convention may be signed only by a qualified elector of the state of Montana.

(2) A person gathering signatures for the initiative, the referendum, or to call a constitutional convention:

(a) must be a resident, as provided in 1-1-215, of the state of Montana; and

(b) may not be paid anything of value based upon the number of signatures gathered.

History: En. 37-116 by Sec. 2, Ch. 342, L. 1977; R.C.M. 1947, 37-116(part); amd. Sec. 5, Ch. 481, L. 2007.

Compiler's Comments

2007 Amendment: Chapter 481 inserted (2) establishing qualifications for a person who gathers signatures; and made minor changes in style. Amendment effective May 11, 2007.

Cross-References

Qualified elector, Art. IV, sec. 2, Mont. Const.

13-27-103. Sufficiency of signature. A signature may not be counted unless the elector has signed in substantially the same manner as on the voter registry card. If the elector is registered with a first and middle name, the use of an initial instead of either the first or middle name, but not both names, need not disqualify the signature. The signature may be counted so long as the signature, taken as a whole, bears sufficient similarity to the signature on the registry card as to provide reasonable certainty of its authenticity.

History: En. 37-116 by Sec. 2, Ch. 342, L. 1977; R.C.M. 1947, 37-116(part); amd. Sec. 1, Ch. 494, L. 1979.

Cross-References

Register of electors, 13-2-112.

13-27-104. Time for filing. Unless a specific time for filing is provided in the constitution, all petitions filed with the secretary of state, certified as provided by law, must be received before 5 p.m. of the third Friday of the fourth month prior to the election at which they are to be voted upon by the people.

History: En. 37-125 by Sec. 11, Ch. 342, L. 1977; R.C.M. 1947, 37-125; amd. Sec. 4, Ch. 359, L. 1991.

Cross-References

Time for filing of petition for initiative, Art. III, sec. 4, Mont. Const.

Time for filing of petition for referendum, Art. III, sec. 5, Mont. Const.

13-27-105. Effective date of initiative and referendum issues. (1) Unless the petition placing an initiative issue on the ballot states otherwise, an initiative issue, other than a constitutional amendment, approved by the people is effective on October 1 following approval. If the issue delegates rulemaking authority, it is effective no sooner than October 1 following approval.

(2) A constitutional amendment proposed by initiative or by the legislature and approved by the people is effective on July 1 following approval unless the amendment provides otherwise.

(3) Unless specifically provided by the legislature in an act referred by it to the people or until suspended by a petition signed by at least 15% of the qualified electors in a majority of the legislative representative districts, an act referred to the people is in effect as provided by law until it is approved or rejected at the election. An act that is rejected is repealed effective the date the result of the canvass is filed by the secretary of state under 13-27-503. An act referred to the people that was in effect at the time of the election and is approved by the people remains in effect. An act that was suspended by a petition and is approved by the people is effective the date the result of the canvass is filed by the secretary of state under 13-27-503. An act referred by the legislature that contains an effective date following the election becomes effective on that date if approved by the people. An act that provides no effective date and whose substantive provisions were delayed by the legislature pending approval at an election and that is approved is effective October 1 following the election.

History: En. 37-137 by Sec. 23, Ch. 342, L. 1977; R.C.M. 1947, 37-137; amd. Sec. 1, Ch. 73, L. 1981; amd. Sec. 8, Ch. 79, L. 1983; amd. Sec. 16, Ch. 298, L. 1987.

Cross-References

Suspension by petition, Art. III, sec. 5, Mont. Const.

Constitutional amendment by initiative, Art. XIV, sec. 9, Mont. Const.

13-27-106. Violations -- penalties. A person who knowingly makes a false entry upon a petition or affidavit required by this chapter or who knowingly signs a petition to place the same issue on the ballot at the same election more than once is guilty of unsworn falsification or tampering with public records or information, as appropriate, and is punishable as provided in 45-7-203 or 45-7-208, as applicable.

History: En. 37-138 by Sec. 24, Ch. 342, L. 1977; R.C.M. 1947, 37-138.

13-27-107 through 13-27-110 reserved.

13-27-111. Definitions. As used in 13-27-112, 13-27-113, and this section, unless otherwise indicated by the context, the following definitions apply:

(1) "Commissioner" means the commissioner of political practices provided for in 13-37-102.

(2) "Paid signature gatherer" means a signature gatherer who is compensated in money for the collection of signatures.

(3) "Person" has the meaning provided in 13-1-101, but does not include a candidate and includes a political committee.

(4) "Signature gatherer" means an individual who collects signatures on a petition for the purpose of an initiative, a referendum, or the calling of a constitutional convention.

History: En. Sec. 1, Ch. 117, L. 1999; amd. Sec. 1, Ch. 323, L. 2003; amd. Sec. 3, Ch. 479, L. 2005.

13-27-112. Required reports -- time and manner of reporting -- exceptions -- penalty. (1) Except as provided in this section, a person who employs a paid signature gatherer shall file with the commissioner reports containing those matters required by Title 13, chapter 37, part 2, for a political committee organized to support or oppose a ballot issue or for an independent committee that receives contributions and makes expenditures in connection with a ballot issue, as applicable. If a person who employs a paid signature gatherer is required by Title 13, chapter 37, part 2, to file a report pursuant to those provisions, the person need not file a duplicate report pursuant to this section, but shall report the matter required by subsection (2) as part of that report. As used in this section, "a person who employs a

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paid signature gatherer" means a political party, political committee, or other person seeking to place a ballot issue before the electors and does not mean an individual who is part of the same signature gathering company, partnership, or other business organization that directly hires, supervises, and pays an individual who is a signature gatherer.

(2) The reports required by subsection (1) must include the amount paid to a paid signature gatherer.

(3) Reports filed pursuant to this section must be filed at the same time, in the same manner, including the certification required by 13-37-231, and upon the same forms as required for reports filed pursuant to Title 13, chapter 37, part 2, except as the rules of the commissioner may otherwise provide.

(4) A person who violates subsection (1) is guilty of a misdemeanor and upon conviction shall be punished as provided by law.

History: En. Sec. 2, Ch. 117, L. 1999.

Cross-References

Misdemeanor penalty when none specified, 46-18-212.

13-27-113. Powers and duties of commissioner. (1) The commissioner has the same powers and duties regarding the regulation of signature gatherers, as provided in 13-27-112 and this section, as the commissioner has regarding the control of campaign practices as provided in Title 13, chapter 37, including the investigation of alleged violations of 13-27-112 and the issuance of orders of noncompliance for and prosecution of violations of 13-27-112.

(2) The commissioner may adopt rules to implement 13-27-112.

History: En. Sec. 3, Ch. 117, L. 1999.

Cross-References

Adoption and publication of rules, Title 2, ch. 4, part 3.

Part 2

Form of Petitions

13-27-201. Form of petition generally. (1) A petition for the initiative, for the referendum, or to call a constitutional convention must be substantially in the form provided by this chapter. Clerical or technical errors that do not interfere with the ability to judge the sufficiency of signatures on the petition do not render a petition void.

(2) Petition sheets may not exceed 8 1/2 x 14 inches in size. Separate sheets of a petition may be fastened in sections of not more than 25 sheets. Near the top of each sheet containing signature lines must be printed the title of the statute or constitutional amendment proposed or the issue to be referred or a statement that the petition is for the purpose of calling a constitutional convention. If signature lines are printed on both the front and back of a petition sheet, the information required above must appear on both the front and back of the sheet. The complete text of the issue proposed or referred must be attached to or contained within each signature sheet if sheets are circulated separately. The text of the issue must be in the bill form provided in the most recent edition of the bill drafting manual furnished by the legislative services division. If sheets are circulated in sections, the complete text of the issue must be attached to each section.

(3) An internet posting of petition language must include a statement that the petition language and format may not be modified. An internet posting must include an affidavit in substantially the same form as prescribed by the secretary of state pursuant to 13-27-302.

History: En. 37-117 by Sec. 3, Ch. 342, L. 1977; R.C.M. 1947, 37-117(1), (2); amd. Sec. 1, Ch. 400, L. 1979; amd. Sec. 53, Ch. 545, L. 1995; amd. Sec. 2, Ch. 323, L. 2003; amd. Sec. 6, Ch. 481, L. 2007.

Compiler's Comments

2007 Amendment: Chapter 481 in (2) in four places substituted "issue" for "measure" and in sixth sentence after "recent" substituted "edition" for "issue". Amendment effective May 11, 2007.

13-27-202. Recommendations -- approval of form required. (1) A proponent of a ballot issue shall submit the text of the proposed issue to the secretary of state together with draft ballot statements intended to comply with 13-27-312. Petitions may not be circulated for the purpose of signature gathering more than 1 year prior to the final date for filing the signed petition with the county election administrator. The secretary of state shall forward a copy of the text of the proposed issue and statements to the legislative services division for review.

(2) (a) The legislative services division staff shall review the text and statements for clarity, consistency, and conformity with the most recent edition of the bill drafting manual furnished by the legislative services division, the requirements of 13-27-312, and any other factors that the staff considers when drafting proposed legislation.

(b) Within 14 days after submission of the text and statements, the legislative services division staff shall recommend in writing to the proponent revisions to the text and revisions to the statements to make them consistent with any recommendations for change to the text and the requirements of 13-27-312 or state that no revisions are recommended.

(c) The proponent shall consider the recommendations and respond in writing to the legislative services division, accepting, rejecting, or modifying each of the recommended revisions. If revisions are not recommended, a response is not required.

(3) The legislative services division shall furnish a copy of the correspondence provided for in subsection (2) to the secretary of state, who shall make a copy of the correspondence available to any person upon request.

(4) Before a petition may be circulated for signatures, the final text of the proposed issue and ballot statements must be submitted to the secretary of state. The secretary of state shall reject the proposed issue if the text or a ballot statement contains material not submitted to the legislative services division that is a substantive change not recommended by the legislative services division. If accepted, the secretary of state shall refer a copy of the proposed issue and statements to the attorney general for a determination as to the legal sufficiency of the issue and for approval of the petitioner's ballot statements and for a determination pursuant to 13-27-312 as to whether a fiscal note is necessary.

(5) (a) The secretary of state shall review the legal sufficiency opinion and ballot statements of the petitioner, as approved by the attorney general and received pursuant to 13-27-312.

(b) If the attorney general approves the proposed issue, the secretary of state shall immediately send to the person submitting the

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proposed issue a sample petition form, including the text of the proposed issue, the statement of purpose, and the statements of implication, as prepared by the petitioner, reviewed by the legislative services division, and approved by the attorney general and in the form provided by this part. A signature gatherer may circulate the petition only in the form of the sample prepared by the secretary of state. The secretary of state shall immediately provide a copy of the sample petition form to any interested parties who have made a request to be informed of an approved petition.

(c) If the attorney general rejects the proposed issue, the secretary of state shall send written notice to the person who submitted the proposed issue of the rejection, including the attorney general's legal sufficiency opinion.

(d) If an action is filed challenging the validity of the petition, the secretary of state shall immediately notify the person who submitted the proposed issue.

History: En. 37-117 by Sec. 3, Ch. 342, L. 1977; R.C.M. 1947, 37-117(3); amd. Sec. 2, Ch. 400, L. 1979; amd. Sec. 1, Ch. 488, L. 1981; amd. Sec. 1, Ch. 4, L. 1983; amd. Sec. 5, Ch. 359, L. 1991; amd. Sec. 54, Ch. 545, L. 1995; amd. Sec. 51, Ch. 42, L. 1997; amd. Sec. 1, Ch. 191, L. 1999; amd. Sec. 6, Ch. 537, L. 2001; amd. Sec. 3, Ch. 323, L. 2003; amd. Sec. 7, Ch. 481, L. 2007.

Compiler's Comments

2007 Amendment: Chapter 481 in (1) substituted "A proponent of a ballot issue shall submit the text of the proposed issue to the secretary of state together with draft ballot statements intended to comply with 13-27-312. Petitions may not be circulated for the purpose of signature gathering more than 1 year prior to the final date for filing the signed petition with the county election administrator. The secretary of state shall forward a copy of the text of the proposed issue and statements to the legislative services division for review" for "Before submission of a sample sheet to the secretary of state pursuant to subsection (3), the following requirements must be fulfilled:

(a) The text of the proposed measure must be submitted to the legislative services division for review"; in (2)(a) near beginning after "text" inserted "and statements" and after "consistency" inserted "and conformity with the most recent edition of the bill drafting manual furnished by the legislative services division, the requirements of 13-27-312"; in (2)(b) near beginning after "text" inserted "and statements" and after "shall" substituted "recommend in writing to the proponent revisions to the text and revisions to the statements to make them consistent with any recommendations for change to the text and the requirements of 13-27-312" for "make to the person submitting the text written recommendations for changes in the text"; in (2)(c) at beginning of first sentence after "The" substituted "proponent" for "person submitting the text"; in (4) near beginning of first sentence after "signatures" substituted "the final text of the proposed issue and ballot statements" for "a sample sheet containing the text of the proposed measure" and at end after "state" deleted "in the form in which it will be circulated", deleted former second sentence that read: "The sample petition may not be submitted to the secretary of state more than 1 year prior to the final date for filing the signed petition with the county election administrator", inserted second sentence regarding rejection of the proposed issue, at beginning of third sentence inserted "If accepted", after "copy of the" substituted "proposed issue and statements" for "petition sheet", and at end after "general for" substituted "a determination as to the legal sufficiency of the issue and for approval of the petitioner's ballot statements and for a determination pursuant to 13-27-312 as to whether a fiscal note is necessary" for "approval", and deleted former fourth through tenth sentences that read: "The secretary of state and attorney general shall each review the petition for sufficiency as to form and approve or reject the form of the petition, stating the reasons for rejection, if any. The attorney general shall also review the petition as to its legal sufficiency. If the attorney general determines that the petition is legally deficient, the attorney general shall notify the secretary of state of that fact and provide a copy of the determination to the secretary of state and to the petitioner within the time provided in 13-27-312(8). The petition may not be given final approval by the secretary of state unless the attorney general's determination is overruled pursuant to 13-27-316. As used in this section, "legal sufficiency" means that the petition complies with the statutory prerequisites to submission of the proposed measure to the electors and that the text of the proposed measure complies with constitutional requirements governing submission of ballot measures to the electorate. Review of a petition for legal sufficiency does not include consideration of the merits or application of the measure if adopted by the voters. The secretary of state or the attorney general may not reject the petition solely because the text contains material not submitted to the legislative services division unless the material not submitted to the legislative services division is a substantive change not suggested by the legislative services division"; in (5)(a) after "review the" substituted "legal sufficiency opinion and ballot statements of the petitioner, as approved by the attorney general" for "comments and statements of the attorney general" and at end after "13-27-312" deleted "and make a final decision as to the approval or rejection of the petition"; inserted (5)(b) outlining the secretary of state's actions upon approval of a proposed issue; in (5)(c) at beginning inserted "If the attorney general rejects the proposed issue" and after "submitted the" substituted "proposed issue of the rejection, including the attorney general's legal sufficiency opinion" for "petition sheet of the approval or rejection of the form of the

petition within 28 days after submission of the petition sheet"; in (5)(d) at end substituted "proposed issue" for "petition sheet"; deleted former (5) and (6) that read: "(5) A petition with technical defects in form may be approved with the condition that those defects will be corrected before the petition is circulated for signatures.

(6) The secretary of state shall upon request provide the person submitting the petition with a sample petition form, including the text of the proposed measure, the statement of purpose, and the statements of implication, all as approved by the secretary of state and the attorney general. The petition may be circulated by a signature gatherer in the form of the sample prepared by the secretary of state. The petition may be circulated by a signature gatherer upon approval of the form of the petition by the secretary of state and the attorney general pending a final determination of its legal sufficiency"; and made minor changes in style. Amendment effective May 11, 2007.

13-27-203. Numbering of petitions. The secretary of state shall serially number all submitted petitions that are approved as to form continuously from year to year. The numbering system shall distinguish the different types of petitions received and include provisions for numbering measures referred to the people by the legislature.

History: En. 37-117 by Sec. 3, Ch. 342, L. 1977; R.C.M. 1947, 37-117(4).

13-27-204. Petition for initiative. (1) The following is substantially the form for a petition calling for a vote to enact a law by initiative:

PETITION TO PLACE INITIATIVE NO. _____

ON THE ELECTION BALLOT

(a) If 5% of the voters in each of (*Underlined language restored by Attorney General Opinion, April 2005:*) 34 legislative representative districts (*Interlined language declared invalid by U.S. District Court, March 2005:*) ~~one half of the counties~~ sign this petition and the total number of voters signing this petition is _____, this initiative will appear on the next general election ballot. If a majority of voters vote for this initiative at that election, it will become law.

(b) We, the undersigned Montana voters, propose that the secretary of state place the following initiative on the _____, 20__ , general election ballot:

(Title of initiative written pursuant to 13-27-312)

(Statement of implication written pursuant to 13-27-312)

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

(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 who 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 card or the signature will not be counted.

(2) Numbered lines must follow the heading. Each numbered line must contain spaces for the signature, date, residence address, (*Underlined language restored by Attorney General Opinion, April 2005:*) legislative representative district number (*Interlined language declared invalid by U.S. District Court, March 2005:*) ~~county of residence~~, 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 card may not be used as the only means to disqualify the signature of that petition signer.

History: En. 37-118 by Sec. 4, Ch. 342, L. 1977; R.C.M. 1947, 37-118; amd. Sec. 2, Ch. 488, L. 1981; amd. Sec. 18, Ch. 51, L. 1999; amd. Sec. 7, Ch. 537, L. 2001; amd. Sec. 4, Ch. 323, L. 2003; amd. Sec. 8, Ch. 481, L. 2007.

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Compiler's Comments

2007 Amendment: Chapter 481 throughout petition form in seven places substituted "initiative" for "measure"; in (2) in second sentence after "signature" inserted "date"; and made minor changes in style. Amendment effective May 11, 2007.

Cross-References

Initiative, Art. III, sec. 4, Mont. Const.

Verification of signatures by county officials -- allocating voters following reapportionment, 13-27-303.

13-27-205. Petition for referendum. (1) The following is substantially the form for a petition calling for approval or rejection of an act of the legislature by the referendum:

PETITION TO PLACE REFERENDUM NO. ____
ON THE ELECTION BALLOT

(a) If 5% of the voters in each of 34 legislative representative districts sign this petition and the total number of voters signing the petition is ____, Senate (House) Bill Number ____ will appear on the next general election ballot. If a majority of voters vote for this referendum at that election it will become law.

(b) We, the undersigned Montana voters, propose that the secretary of state place the following Senate (House) Bill Number ____, passed by the legislature on _____ on the next general election ballot:

(Title of referendum written pursuant to 13-27-312)

(Statement of implication written pursuant to 13-27-312)

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

(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 card or the signature will not be counted.

(2) Numbered lines must follow the heading. Each numbered line must contain spaces for the signature, date, residence address, legislative representative district number, 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 card may not be used as the only means to disqualify the signature of that petition signer.

History: En. 37-119 by Sec. 5, Ch. 342, L. 1977; R.C.M. 1947, 37-119; amd. Sec. 7, Ch. 198, L. 1981; amd. Sec. 3, Ch. 488, L. 1981; amd. Sec. 8, Ch. 537, L. 2001; amd. Sec. 5, Ch. 323, L. 2003; amd. Sec. 9, Ch. 481, L. 2007.

Compiler's Comments

2007 Amendment: Chapter 481 throughout petition form in four places substituted "referendum" for "measure"; in (1)(e) near middle after "voter" substituted "registration" for "registry"; in (2) in second sentence after "signature" inserted "date"; and made minor changes in style. Amendment effective May 11, 2007.

Cross-References

Referendum, Art. III, sec. 5, Mont. Const.

Verification of signatures by county officials -- allocating voters following reapportionment, 13-27-303.

13-27-206. Petition for initiative for constitutional convention. (1) The following is substantially the form for a petition to direct the secretary of state to submit to the qualified voters the question of whether there will be a constitutional convention:

PETITION TO PLACE
INITIATIVE NO.____, CALLING FOR
A CONSTITUTIONAL CONVENTION, ON
THE ELECTION BALLOT

(a) If 10% of the voters in each of 40 legislative districts sign this petition and the total number of voters signing this petition is _____, the question of whether to have a constitutional convention will appear on the next general election ballot. If a majority of voters vote for the constitutional convention, the legislature shall call for a constitutional convention at its next session.

(b) We, the undersigned Montana voters, propose that the secretary of state place the question of whether to hold a constitutional convention on the _____, 20__, general election ballot:

(Title of the initiative written pursuant to 13-27-312)
(Statement of implication written pursuant to 13-27-312)

(c) A signature on this petition is only to put the call for a constitutional convention on the ballot and does not necessarily mean the signer is in favor of calling a constitutional convention.

(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 who signs when not a legally registered Montana voter is subject to a \$500 fine or 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 card or the signature will not be counted.

(2) Numbered lines must follow the heading. Each numbered line must also contain spaces for the signature, residence address, legislative representative district number, 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 card may not be used as the only means to disqualify the signature of that petition signer.

History: En. 37-120 by Sec. 6, Ch. 342, L. 1977; R.C.M. 1947, 37-120; amd. Sec. 7, Ch. 198, L. 1981; amd. Sec. 4, Ch. 488, L. 1981; amd. Sec. 19, Ch. 51, L. 1999; amd. Sec. 9, Ch. 537, L. 2001; amd. Sec. 6, Ch. 323, L. 2003.

Cross-References

Initiative for Constitutional Convention, Art. XIV, sec. 2, Mont. Const.

Verification of signatures by county officials -- allocating voters following reapportionment, 13-27-303.

13-27-207. Petition for initiative for constitutional amendment. (1) The following is substantially the form for a petition for an initiative to amend the constitution:

PETITION TO PLACE CONSTITUTIONAL
AMENDMENT NO.____ ON
THE ELECTION BALLOT

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(a) If 10% of the voters in each of (*Underlined language restored by Attorney General Opinion, April 2005:*) 40 legislative districts (*Interlined language declared invalid by U.S. District Court, March 2005*) ~~one-half of the counties~~ sign this petition and the total number of voters signing the petition is _____, this constitutional amendment will appear on the next general election ballot. If a majority of voters vote for this amendment at that election, it will become part of the constitution.

(b) We, the undersigned Montana voters, propose that the secretary of state place the following constitutional amendment on the _____, 20____, general election ballot:

(Title of the proposed constitutional amendment written pursuant to 13-27-312)

(Statement of implication written pursuant to 13-27-312)

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

(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 who 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 card or the signature will not be counted.

(2) Numbered lines must follow the heading. Each numbered line must contain spaces for the signature, date, residence address, (*Underlined language restored by Attorney General Opinion, April 2005:*) legislative representative district number (*Interlined language declared invalid by U.S. District Court, March 2005:*) ~~county of residence~~, 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 card may not be used as the only means to disqualify the signature of that petition signer.

History: En. 37-121 by Sec. 7, Ch. 342, L. 1977; R.C.M. 1947, 37-121; amd. Sec. 5, Ch. 488, L. 1981; amd. Sec. 20, Ch. 51, L. 1999; amd. Sec. 10, Ch. 537, L. 2001; amd. Sec. 7, Ch. 323, L. 2003; amd. Sec. 10, Ch. 481, L. 2007.

Compiler's Comments

2007 Amendment: Chapter 481 in (1)(c) in first sentence after "text of the" substituted "constitutional amendment" for "measure"; in (2) in second sentence after "signature" inserted "date"; and made minor changes in style. Amendment effective May 11, 2007.

Cross-References

Amendment by initiative, Art. XIV, sec. 9, Mont. Const.

Verification of signatures by county officials -- allocating voters following reapportionment, 13-27-303.

13-27-208. Petitions to be made available in each county election administrator's office. Upon final approval of a petition as required under 13-27-202(4), the secretary of state shall forward a copy of the petition, along with signature sheets, to the election administrator of each county. The election administrator shall make a copy of each approved petition available for reading and signing in the administrator's office during business hours in an election year until the petitions are submitted under 13-27-301. The secretary of state may charge the person who submitted the petition a fee, which must be set and deposited in accordance with 2-15-405.

History: En. Sec. 1, Ch. 158, L. 1991; amd. Sec. 2, Ch. 191, L. 1999; amd. Sec. 10, Ch. 396, L. 2001; amd. Sec. 11, Ch. 537, L. 2001.

13-27-209. Issues referred by legislature. The secretary of state shall transmit a copy of an act referred to the people or a

constitutional amendment proposed by the legislature to the attorney general no later than 6 months before the election at which the issue will be voted on by the people.

History: En. Sec. 12, Ch. 481, L. 2007.

Compiler's Comments

Effective Date: Section 30, Ch. 481, L. 2007, provided: "[This act] is effective on passage and approval." Approved May 11, 2007.

13-27-210. Physical prevention of obtaining signatures or physical intimidation of signature gatherers prohibited. A person may not knowingly or purposefully physically prevent an individual from obtaining signatures or attempting to obtain signatures on a petition for a ballot issue or physically intimidate another individual when that individual is obtaining or attempting to obtain signatures on a petition for a ballot issue. A person who violates this section is guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than \$500, by imprisonment for not more than 90 days, or by both a fine and imprisonment.

History: En. Sec. 13, Ch. 481, L. 2007.

Compiler's Comments

Effective Date: Section 30, Ch. 481, L. 2007, provided: "[This act] is effective on passage and approval." Approved May 11, 2007.

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Part 3

Submission and Processing of Petitions

13-27-301. Submission of petition sheets -- withdrawal of signatures. (1) Signed sheets or sections of petitions with original signatures must be submitted to the official responsible for registration of electors in the county in which the signatures were obtained no sooner than 9 months and no later than 4 weeks before the final date for filing the petition with the secretary of state.

(2) If it is impractical to submit signed sheets or sections of petitions with original signatures by the deadline provided in subsection (1), a copy or facsimile may be submitted to the proper county official by the deadline. Signed sheets or sections of petitions with original signatures must be submitted within 7 calendar days after the deadline. Failure to submit signed sheets or sections of petitions with original signatures within 7 calendar days will invalidate the signed sheets or sections submitted by copy or facsimile.

(3) Signatures may be withdrawn from a petition for constitutional amendment, constitutional convention, initiative, or referendum up to the time of final submission of petition sheets as provided in subsection (1). The secretary of state shall prescribe the form to be used by an elector desiring to have the elector's signature withdrawn from a petition.

History: En. 37-122 by Sec. 8, Ch. 342, L. 1977; R.C.M. 1947, 37-122(1); amd. Sec. 3, Ch. 400, L. 1979; (2)En. Sec. 15, Ch. 298, L. 1987; amd. Sec. 6, Ch. 359, L. 1991; amd. Sec. 8, Ch. 323, L. 2003.

Cross-References

Election Administrator as registration official, 13-1-301.
Date of filing of petitions, 13-27-104.

13-27-302. Certification of signatures. An affidavit, in substantially the following form, must be attached to each sheet or section submitted to the county official:

I, (name of person who is the signature gatherer), swear that I gathered the signatures on the petition to which this affidavit is attached on the stated dates, that I believe the signatures on the petition are genuine, are the signatures of the persons whose names they purport to be, and are the signatures of Montana electors who are registered at the address or have the telephone number following the person's signature, and that the signers knew the contents of the petition before signing the petition.

(Date on which the first signature was gathered)

(Signature of petition signature gatherer)

(Address of petition signature gatherer)

Subscribed and sworn to before me this ____ day of _____, 20__

Seal _____
(Person authorized to take oaths)

(Title or notarial information)

History: En. 37-122 by Sec. 8, Ch. 342, L. 1977; R.C.M. 1947, 37-122(2); amd. Sec. 6, Ch. 488, L. 1981; amd. Sec. 21, Ch. 51, L. 1999; amd. Sec. 12, Ch. 537, L. 2001; amd. Sec. 9, Ch. 323, L. 2003; amd. Sec. 14, Ch. 481, L. 2007.

Compiler's Comments

2007 Amendment: Chapter 481 in first paragraph of affidavit form near beginning after "gathered" deleted "or assisted in gathering". Amendment effective May 11, 2007.

Cross-References

Officers who may administer oaths, 1-6-101.

13-27-303. Verification of signatures by county official -- allocating voters following reapportionment -- duplicate signatures. (1) Except as required by 13-27-104, within 4 weeks after receiving the sheets or sections of a petition, the county official shall check the names of all signers to verify they are registered electors of the county. In addition, the official shall randomly select signatures on each sheet or section and compare them with the signatures of the electors as they appear in the registration records of the office. If all the randomly selected signatures appear to be genuine, the number of signatures of registered electors on the sheet or section may be certified to the secretary of state without further comparison of signatures. If any of the randomly selected signatures do not appear to be genuine, all signatures on that sheet or section must be compared with the signatures in the registration records of the office.

(2) For the purpose of allocating the signatures of voters among the several legislative representative districts of the state as required to certify a petition for a referendum or a call of a constitutional convention under the provisions of this chapter following the filing of a districting and apportionment plan under 5-1-111 and before the first gubernatorial election following the filing of the plan, the new districts must be used with the number of signatures needed for each legislative representative district being the total votes cast for governor in the last gubernatorial election divided by the number of legislative representative districts.

(3) Upon discovery of fraudulent signatures or duplicate signatures of an elector on any one issue, the election administrator may submit the name of the elector or the petition circulator, or both, to the county attorney to be investigated under the provisions of 13-27-106 and 13-35-207.

History: En. 37-123 by Sec. 9, Ch. 342, L. 1977; R.C.M. 1947, 37-123(3), (4); amd. Sec. 4, Ch. 400, L. 1979; (2)En. Sec. 1, Ch. 512, L. 1983; amd. Sec. 17, Ch. 298, L. 1987; amd. Sec. 1, Ch. 374, L. 1995; amd. Sec. 10, Ch. 323, L. 2003.

Cross-References

Register of electors, 13-2-112.

13-27-304. County official to forward verified sheets. The county official verifying the number of registered electors signing the petition shall forward it to the secretary of state by certified mail with a certificate in substantially the following form attached:

To the Honorable _____, Secretary of State of the state of Montana:

I, _____, _____ (title) of the County of _____, certify that I have examined the attached (section containing ____ sheets) or (____ sheets) of the petition for (referendum, initiative, constitutional convention, or constitutional amendment) No. ____ in the manner prescribed by law; and I believe that ____ (number) signatures in (Legislative Representative District No. ____ or the County of ____) (repeat for each district or county included in sheet or section) are valid; and I further certify that the affidavit of the circulator of the (sheet) (section) of the petition is attached and the post-office address, residence address, or telephone number is completed for each valid signature.

Signed: _____ (Date) _____ (Signature)

Seal _____ (Title)

History: En. 37-123 by Sec. 9, Ch. 342, L. 1977; R.C.M. 1947, 37-123(1); amd. Sec. 13, Ch. 537, L. 2001; amd. Sec. 11, Ch. 323, L. 2003.

Cross-References

Role of Secretary of State, Title 13, ch. 1, part 2.

13-27-305. Retention of copies by county official. The county official certifying the sheets or sections of a petition shall keep a copy of the sheets or sections certified in the official files of his office. The copies may be destroyed 3 months after the date of the election specified in the petition unless a court action is pending on the sufficiency of the petition.

History: En. 37-123 by Sec. 9, Ch. 342, L. 1977; R.C.M. 1947, 37-123(2).

13-27-306. Challenge to signatures by elector of county. A registered elector of a county having reason to believe that

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signatures on a petition that were not among those actually compared with signatures in the registration records of the county are not genuine may file a sworn statement or affirmation of his belief and request for comparison of those signatures he believes are not genuine with the county official certifying the sheet or section of the petition. If any of the challenged signatures are not genuine, the county official must compare all signatures on that sheet or section and issue an amended certificate to the secretary of state, giving the correct number of valid signatures, on or before the deadline, as provided for in 13-27-104, for filing in the office of the secretary of state.

History: En. 37-123 by Sec. 9, Ch. 342, L. 1977; R.C.M. 1947, 37-123(5); amd. Sec. 5, Ch. 400, L. 1979.

13-27-307. Consideration and tabulation of signatures by secretary of state. (1) The secretary of state shall consider and tabulate only the signatures on petitions that are certified by the proper county official. The secretary of state may reject any petition that does not meet statutory requirements. The secretary of state shall return a rejected petition to the proper county official. The county official shall correct the error, when applicable, or send or deliver the rejected petition to the signature gatherer. The secretary of state may consider and tabulate any signature not certified by the county official that is certified by a notary public of the county in which the signer resides to be the genuine signature of an elector legally qualified to sign the petition.

(2) The official certificate of the notary public for any signature not certified as valid by the county official must be in substantially the following form:

State of Montana)

)ss.

County of _____)

I, _____ (name), a qualified and acting notary public in and for the above-named county and state, certify that I am personally acquainted with all of the following-named electors whose signatures are affixed to the attached (petition) (copy of a petition) and I know that they are registered electors of the state of Montana and of the county or legislative district written after their names in the petition and that their post-office addresses are correctly stated in the petition.

_____ (Names of electors)

In testimony whereof, I have set my hand and official seal this ____ day of _____, 20__

_____ (Signature)

Seal _____ (Notarial information)

History: En. 37-124 by Sec. 10, Ch. 342, L. 1977; R.C.M. 1947, 37-124; amd. Sec. 212, Ch. 571, L. 1979; amd. Sec. 22, Ch. 51, L. 1999; amd. Sec. 12, Ch. 323, L. 2003.

Cross-References

Verification of signatures by county officials -- allocating voters following reapportionment, 13-27-303.

13-27-308. Certification of petition to governor. When sheets or sections of a petition for referendum, initiative, constitutional convention, or constitutional amendment containing a sufficient number of signatures have been filed with the secretary of state within the time required by the constitution or by law, he shall immediately certify to the governor that the completed petition has been officially filed.

History: En. 37-126 by Sec. 12, Ch. 342, L. 1977; R.C.M. 1947, 37-126(part).

13-27-309. Repealed. Sec. 195, Ch. 575, L. 1981.

History: En. 37-126 by Sec. 12, Ch. 342, L. 1977; R.C.M. 1947, 37-126(part).

13-27-310. Repealed. Sec. 27, Ch. 481, L. 2007.

History: En. 37-127 by Sec. 13, Ch. 342, L. 1977; R.C.M. 1947, 37-127(1), (2); amd. Sec. 6, Ch. 400, L. 1979.

13-27-311. Publication of proposed constitutional amendments. (1) If a proposed constitutional amendment or amendments are submitted to the people, the secretary of state shall have the proposed amendment or amendments published in full twice each month for 2 months previous to the election at which they are to be voted upon by the people, in not less than one newspaper of general circulation in

each county.

(2) The secretary of state may arrange for newspaper, radio, or television publication of proposed constitutional amendments in each county. A summary of the amendment as provided by the attorney general, as described in 13-27-312 or 13-27-315, would suffice for the publication required by this section and should be made at least twice each month for 2 months previous to the election.

History: En. Sec. 12, Ch. 368, L. 1969; amd. Sec. 1, Ch. 38, L. 1973; amd. Sec. 26, Ch. 342, L. 1977; amd. Sec. 6, Ch. 365, L. 1977; R.C.M. 1947, 23-2802; amd. Sec. 213, Ch. 571, L. 1979.

Cross-References

Amendment by referendum, Art. XIV, sec. 8, Mont. Const.

Amendment by initiative, Art. XIV, sec. 9, Mont. Const.

13-27-312. Review of proposed ballot issue and statements by attorney general -- preparation of fiscal note. (1) Upon receipt of a proposed ballot issue and statements from the office of the secretary of state pursuant to 13-27-202, the attorney general shall examine the proposed issue for legal sufficiency as provided in this section and shall determine whether the ballot statements comply with the requirements of this section.

(2) The attorney general shall, in reviewing the ballot statements, endeavor to seek out parties on both sides of the issue and obtain their advice. The attorney general shall review the ballot statements to determine if they contain the following matters:

(a) a statement, not to exceed 100 words, explaining the purpose of the issue; and

(b) statements, not to exceed 25 words each, explaining the implications of a vote for and a vote against the issue.

(3) If the proposed ballot issue has an effect on the revenue, expenditures, or fiscal liability of the state, the attorney general shall order a fiscal note incorporating an estimate of the effect, the substance of which must substantially comply with the provisions of 5-4-205. The budget director, in cooperation with the agency or agencies affected by the ballot issue, is responsible for preparing the fiscal note and shall return it to the attorney general within 10 days. If the fiscal note indicates a fiscal impact, the attorney general shall prepare a fiscal statement of no more than 50 words, and the statement must be used on the petition and ballot if the issue is placed on the ballot.

(4) The ballot statements must express the true and impartial explanation of the proposed ballot issue in plain, easily understood language and may not be arguments or written so as to create prejudice for or against the issue.

(5) Unless altered by the court under 13-27-316, the statement of purpose is the petition title for the issue circulated by the petition and the ballot title if the issue is placed on the ballot.

(6) The statements of implication must be written so that a positive vote indicates support for the issue and a negative vote indicates opposition to the issue and must be placed beside the diagram provided for marking of the ballot in a manner similar to but not limited to the following example:

FOR extending the right to vote to persons 18 years of age

AGAINST extending the right to vote to persons 18 years of age

(7) The attorney general shall review the proposed ballot issue for legal sufficiency. As used in this part, "legal sufficiency" means that the petition complies with statutory and constitutional requirements governing submission of the proposed issue to the electors. Review of the petition for legal sufficiency does not include consideration of the substantive legality of the issue if approved by the voters. The attorney general shall also determine if the proposed issue conflicts with one or more issues that may appear on the ballot at the same election.

(8) (a) Within 30 days after receipt of the proposed issue from the secretary of state, the attorney general shall forward to the secretary of state an opinion as to the issue's legal sufficiency.

(b) If the attorney general determines that the proposed ballot issue is legally sufficient, the attorney general shall also forward to the secretary of state the petitioner's ballot statements that comply with the requirements of this section. If the attorney general determines in writing that a ballot statement clearly does not comply with the requirements of this section, the attorney general shall prepare a statement that complies with the requirements of this section, forward that statement to the secretary of state as the approved statement, and provide a copy to the petitioner. The attorney general shall give the secretary of state notice of whether the proposed issue conflicts with one or more issues that may appear on the ballot at the same election.

(c) If the attorney general determines that the proposed ballot issue is not legally sufficient, the secretary of state may not deliver a sample petition form unless the attorney general's opinion is overruled pursuant to 13-27-316 and the attorney general has approved or prepared ballot statements under this section.

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History: En. 37-127 by Sec. 13, Ch. 342, L. 1977; R.C.M. 1947, 37-127(3); amd. Sec. 7, Ch. 400, L. 1979; amd. Sec. 1, Ch. 336, L. 1981; amd. Sec. 7, Ch. 488, L. 1981; amd. Sec. 10, Ch. 3, L. 1985; amd. Sec. 7, Ch. 359, L. 1991; amd. Sec. 3, Ch. 191, L. 1999; amd. Sec. 1, Ch. 132, L. 2003; amd. Sec. 15, Ch. 481, L. 2007.

Compiler's Comments

2007 Amendment: Chapter 481 in (1) near beginning after "receipt of a" substituted "proposed ballot issue and statements" for "petition", near middle after "examine the" substituted "proposed issue for" for "petition as to form", and after "provided in" substituted "this section and shall determine whether the ballot statements comply with the requirements of this section" for "13-27-202, and, if the proposed ballot issue has an effect on the revenue, expenditures, or the fiscal liability of the state, shall order a fiscal note incorporating an estimate of the effect, the substance of which must substantially comply with the provisions of 5-4-205. The budget director, in cooperation with the agency or agencies affected by the petition, is responsible for preparing the fiscal note and shall return it within 6 days unless the attorney general, for good cause shown, extends the time for completing the fiscal note"; in (2) in introductory clause at beginning of first sentence deleted "If the petition form is approved" and after "shall" inserted "in reviewing the ballot statements" and inserted second sentence requiring attorney general review; in (2)(a) after "purpose of the" and in (2)(b) at end substituted "issue" for "measure"; in (3) inserted first two sentences regarding preparation of a fiscal note and at beginning of third sentence inserted "If the fiscal note indicates a fiscal impact", near middle after "50 words" deleted "if a fiscal note was prepared for the proposed ballot issue", and near end after "if the" substituted "issue" for "measure"; in (4) at beginning after "The" substituted "ballot statements" for "statement of purpose and the statements of implication" and at end substituted "issue" for "measure" and deleted former second sentence that read: "Statements of implication must be written so that a positive vote indicates support for the measure and a negative vote indicates opposition to the measure"; in (5) in two places substituted "issue" for "measure"; in (6) near beginning after "must be" inserted "written so that a positive vote indicates support for the issue and a negative vote indicates opposition to the issue and must be"; deleted former (7) that read: "(7) If the petition is rejected as to form, the attorney general shall forward the comments to the secretary of state within 21 days after receipt of the petition by the attorney general. If the petition is approved as to form, the attorney general shall forward the statement of purpose, the statements of implication, and the fiscal statement, if applicable, to the secretary of state within 21 days after receipt of the petition by the attorney general"; inserted (7) regarding review of the proposed ballot issue for legal sufficiency; in (8)(a) at beginning deleted "If the petition is approved as to form", after "30 days" substituted "after receipt of the proposed issue from the secretary of state" for "of the approval", and at end after "state" substituted "an opinion as to the issue's legal sufficiency" for "the determination regarding legal sufficiency, as provided in 13-27-202"; inserted (8)(b) concerning actions following a determination that a proposed ballot issue is legally sufficient; inserted (8)(c) concerning actions following a determination that a proposed ballot issue is not legally sufficient; and made minor changes in style. Amendment effective May 11, 2007.

Cross-References

Secretary of State to certify ballot form, 13-27-501.

13-27-313. Repealed. Sec. 27, Ch. 481, L. 2007.

History: En. 37-127 by Sec. 13, Ch. 342, L. 1977; R.C.M. 1947, 37-127(4); amd. Sec. 8, Ch. 400, L. 1979.

13-27-314. Repealed. Sec. 19, Ch. 400, L. 1979.

History: En. 37-127 by Sec. 13, Ch. 342, L. 1977; R.C.M. 1947, 37-127(5).

13-27-315. Statements by attorney general on issues referred by legislature. Upon receipt of an issue referred by the legislature from the secretary of state pursuant to 13-27-209, the attorney general shall prepare and forward to the secretary of state, within 30 days, ballot statements as provided in 13-27-312, except that the attorney general may not prepare statements of implication of a vote for or against a ballot issue if the statements have been provided by the legislature.

History: En. 37-127 by Sec. 13, Ch. 342, L. 1977; R.C.M. 1947, 37-127(6); amd. Sec. 9, Ch. 400, L. 1979; amd. Sec. 2, Ch. 336, L. 1981; amd. Sec. 16, Ch. 481, L. 2007.

Compiler's Comments

2007 Amendment: Chapter 481 near beginning after "receipt of" substituted "an issue referred by the legislature from the secretary of state pursuant to 13-27-209" for "a copy of a ballot form under 13-27-310(2) for an issue proposed by the legislature" and after "shall" substituted "prepare and forward to the secretary of state, within 30 days, ballot statements as provided in 13-27-312, except that the attorney general may not prepare statements of implication of a vote for or against a ballot issue if the statements have been provided by the legislature" for "order a fiscal note as provided in 13-27-312(1) if the issue has an effect on the revenues, expenditures, or the fiscal liability of the state" and deleted former second sentence that read: "At the same time the explanatory statement is prepared under subsection (2), the attorney general shall prepare a fiscal statement of no more than 50 words to be forwarded to the secretary of state at the same time as the explanatory statement"; deleted former (2) that read: "(2) At the same time the attorney general, pursuant to 13-27-313, informs the secretary of state of the approval or rejection of a ballot form for an issue proposed by the legislature, the attorney general shall forward to the secretary of state a statement, not exceeding 100 words, expressing a true and impartial explanation of the purpose of the measure in plain, easily understood language. The statement may not be an argument and may not be written to create a prejudice for or against the issue. The statement prepared under this section is known as the attorney general's explanatory statement"; deleted former (3) that read: "(3) If statements of the implication of a vote for or against a ballot issue have not been provided by the legislature, the attorney general shall prepare the statements. Requirements for statements of implication for ballot issues referred by the legislature are the same as those provided in 13-27-312 for other ballot issues. Statements of implication prepared by the attorney general must be returned to the secretary of state no later than the time specified for approval of the ballot form"; and made minor changes in style. Amendment effective May 11, 2007.

13-27-316. Court review of attorney general opinion or approved petitioner statements. (1) If the proponents of a ballot measure believe that the ballot statements approved by the attorney general do not satisfy the requirements of 13-27-312 or believe that the attorney general was incorrect in determining that the petition was legally deficient, they may, within 10 days of the attorney general's determination regarding legal sufficiency provided for in 13-27-202, file an original proceeding in the supreme court challenging the adequacy of the statement or the attorney general's determination and requesting the court to alter the statement or modify the attorney general's determination.

(2) If the opponents of a ballot measure believe that the petitioner ballot statements approved by the attorney general do not satisfy the requirements of 13-27-312 or believe that the attorney general was incorrect in determining that the petition was legally sufficient, they may, within 10 days of the date of certification to the governor that the completed petition has been officially filed, file an original proceeding in the supreme court challenging the adequacy of the statement or the attorney general's determination and requesting the court to alter the statement or overrule the attorney general's determination concerning the legal sufficiency of the petition. The attorney general shall respond to a complaint within 5 days.

(3) (a) Notice must be served upon the secretary of state and upon the attorney general.

(b) If the proceeding requests modification of ballot statements, an action brought under this section must state how the petitioner's ballot statements approved by the attorney general do not satisfy the requirements of 13-27-312 and must propose alternate ballot statements that satisfy the requirements of 13-27-312.

(c) (i) Pursuant to Article IV, section 7(2), of the Montana constitution, an action brought pursuant to this section takes precedence over other cases and matters in the supreme court. The court shall examine the proposed issue and the challenged statement or determination of the attorney general and shall as soon as possible render a decision as to the adequacy of the ballot statements or the correctness of the attorney general's determination.

(ii) If the court decides that the ballot statements do not meet the requirements of 13-27-312, it may order the attorney general to revise the statements within 5 days or certify to the secretary of state a statement that the court determines will meet the requirements of 13-27-312. A statement revised by the attorney general pursuant to the court's order or certified by the court must be placed on the petition for circulation and on the official ballot.

(iii) If the court decides that the attorney general's legal sufficiency determination is incorrect and that a proposed issue does not comply with statutory and constitutional requirements governing submission of the issue to the electors, any petitions supporting the issue are void and the issue may not appear on the ballot. A proponent of the ballot issue may resubmit a revised issue, pursuant to 13-27-202, subject to the deadlines provided in this chapter.

(iv) If the court decides that the attorney general's legal deficiency determination is incorrect and that a proposed issue complies with statutory and constitutional requirements governing submission of the issue to the electors, the attorney general shall prepare ballot statements pursuant to 13-27-312 and forward the statements to the secretary of state within 5 days of the court's decision.

(4) A petition for a proposed ballot issue may be circulated by a signature gatherer upon transmission of the sample petition form by the secretary of state pending review under this section. If, upon review, the attorney general or the supreme court revises the petition form or ballot statements, any petitions signed prior to the revision are void.

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(5) An original proceeding in the supreme court under this section is the exclusive remedy for a challenge to the petitioner's ballot statements, as approved by the attorney general, or the attorney general's legal sufficiency determination. A ballot issue may not be invalidated under this section after the secretary of state has certified the ballot under 13-12-201.

(6) This section does not limit the right to challenge a constitutional defect in the substance of an issue approved by a vote of the people.

History: En. Sec. 10, Ch. 400, L. 1979; amd. Sec. 3, Ch. 336, L. 1981; amd. Sec. 4, Ch. 191, L. 1999; amd. Sec. 14, Ch. 537, L. 2001; amd. Sec. 17, Ch. 481, L. 2007.

Compiler's Comments

2007 Amendment: Chapter 481 (1) near beginning after "believe that the" substituted "ballot statements approved" for "statement of purpose, the statements of implication of a vote, or the fiscal statement formulated", after "general" deleted "pursuant to 13-27-312", near middle after "10 days of the" deleted "secretary of state's or", and after "file an" substituted "original proceeding in the supreme court" for "action in the district court in and for the county of Lewis and Clark"; in (2) in first sentence near beginning after "believe that the" substituted "petitioner ballot statements approved" for "statement of purpose, the statements of implication of a vote, or the fiscal statement formulated", after "general" deleted "pursuant to 13-27-312", and near middle after "file an" substituted "original proceeding in the supreme court" for "action in the district court in and for the county of Lewis and Clark" and inserted second sentence requiring the attorney general to respond to the complaint within 5 days; inserted (3)(b) providing that if the proceeding requests modification of ballot statements, the action must state how the petitioner's ballot statements approved by the attorney general do not satisfy statutory requirements and must propose alternate ballot statements; in (3)(c)(i) at beginning of first sentence inserted "Pursuant to Article IV, section 7(2), of the Montana constitution", after "action" inserted "brought pursuant to this section", and at end before "court" substituted "supreme" for "district" and in second sentence after "proposed" substituted "issue" for "measure", after "decision" deleted "and certify to the secretary of state a statement which the court determines will meet the requirements of 13-27-312 or an opinion", and after "as to" inserted "the adequacy of the ballot statements or"; inserted (3)(c)(ii) concerning a court order for the attorney general to revise the statements if they do not meet statutory requirements; inserted (3)(c)(iii) regarding procedure if the court decides that the attorney general's legal sufficiency determination is incorrect and that a proposed issue does not comply with statutory and constitutional requirements; inserted (3)(c)(iv) regarding procedure if the court decides that the attorney general's legal sufficiency determination is incorrect and that a proposed issue complies with statutory and constitutional requirements; deleted former (3)(b) that read: "(b) A statement certified by the court must be placed on the petition for circulation and on the official ballot"; deleted former (4) that read: "(4) A copy of the petition in final form must be filed in the office of the secretary of state by the proponents"; deleted former (5) that read: "(5) Any party may appeal the order of the district court to the Montana supreme court by filing a notice of appeal within 5 days of the date of the order of the district court"; inserted (4) allowing a petition for a proposed ballot issue to be circulated by a signature gatherer upon transmission of the sample petition form by the secretary of state pending review; inserted (5) providing that an original proceeding in the supreme court under this section is the exclusive remedy for a challenge to the petitioner's ballot statements, as approved by the attorney general, or the attorney general's legal sufficiency determination; inserted (6) providing that section does not limit the right to challenge a constitutional defect in the substance of an issue approved by a vote of the people; and made minor changes in style. Amendment effective May 11, 2007.

13-27-317. Contest of ballot issue petitions. (1) Any qualified elector may, within 30 days after the date on which the issue was certified to the governor, file an action in the district court in the county of residence of the qualified elector contesting the certification of a ballot issue for illegal petition signatures or an erroneous or fraudulent count or canvass of petition signatures.

(2) If a court finds that illegal petition signatures or an erroneous or fraudulent count or canvass of petition signatures affected the outcome of the petition process and certification, the secretary of state shall decertify the contested ballot issue.

History: En. Sec. 18, Ch. 481, L. 2007.

Compiler's Comments

Effective Date: Section 30, Ch. 481, L. 2007, provided: "[This act] is effective on passage and approval." Approved May 11, 2007.

Part 4

Voter Information Pamphlets

13-27-401. Voter information pamphlet. (1) The secretary of state shall prepare for printing a voter information pamphlet containing information relevant to the election, including but not limited to the following information for each ballot issue to be voted on at an election, as applicable:

- (a) ballot title, fiscal statement if applicable, and complete text of the issue;
- (b) the form in which the issue will appear on the ballot;
- (c) arguments advocating approval and rejection of the issue; and
- (d) rebuttal arguments.

(2) The pamphlet must also contain a notice advising the recipient as to where additional copies of the pamphlet may be obtained.

(3) Whenever more than one ballot issue is to be voted on at a single election, the secretary of state may publish a single pamphlet for all of the ballot issues. The secretary of state may arrange the information in the order that seems most appropriate, but the information for all issues in the pamphlet must be presented in the same order.

(4) The secretary of state may prescribe by rule the format and manner of submission of the arguments concerning the ballot issue.

History: Ap. p. Sec. 14, Ch. 342, L. 1977; Sec. 37-128, R.C.M. 1947; Ap. p. Sec. 74, Ch. 365, L. 1977; Sec. 37-111, R.C.M. 1947; R.C.M. 1947, 37-111(1), (2), 37-128(1); amd. Sec. 11, Ch. 400, L. 1979; amd. Sec. 4, Ch. 336, L. 1981; amd. Sec. 10, Ch. 390, L. 1993; amd. Sec. 31, Ch. 273, L. 2007.

Compiler's Comments

2007 Amendment: Chapter 273 in (1) near middle of lead-in inserted "information relevant to the election, including but not limited to"; and made minor changes in style. Amendment effective October 1, 2007.

13-27-402. Committees to prepare arguments for and against ballot issues. (1) The arguments advocating approval or rejection of the ballot issue and rebuttal arguments must be submitted to the secretary of state by committees appointed as provided in this section.

(2) The committee advocating approval of a legislative act referred to the people either by the legislature or by referendum petition or advocating approval of a constitutional amendment referred by the legislature must be composed of:

- (a) one senator known to favor the referred ballot issue, appointed by the president of the senate;
- (b) one representative known to favor the referred ballot issue, appointed by the speaker of the house of representatives; and
- (c) one individual who need not be a member of the legislature, appointed by the first two members.

(3) (a) The committee advocating rejection of an act referred to the people or of a constitutional amendment proposed by the legislature must be composed of:

- (i) one senator appointed by the president of the senate;
- (ii) one representative appointed by the speaker of the house of representatives; and
- (iii) one individual who need not be a member of the legislature, appointed by the first two members.

(b) Whenever possible, the members must be known to have opposed the issue.

(4) The following must be three-member committees and must be appointed by the person submitting the ballot issue to the secretary of state under the provisions of 13-27-202:

- (a) the committee advocating approval of a ballot issue proposed by any type of initiative petition; and
- (b) the committee advocating rejection of any legislative act referred to the people by referendum petition.

(5) A committee advocating rejection of a ballot issue proposed by any type of initiative petition must be composed of five members. The governor, attorney general, president of the senate, and speaker of the house of representatives shall each appoint one member, and the fifth member must be appointed by the first four members. If possible, members must be known to favor rejection of the issue.

(6) A person may not be required to serve on any committee under this section, and except for legislative appointments made by

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the president of the senate or by the speaker of the house of representatives, the person making an appointment must have written acceptance of appointment from the appointee. If an appointment is not made by the required time, the committee members that have been appointed may fill the vacancy by unanimous written consent up until the deadline for filing the arguments.

History: En. 37-128 by Sec. 14, Ch. 342, L. 1977; R.C.M. 1947, 37-128(2); amd. Sec. 214, Ch. 571, L. 1979; amd. Sec. 1, Ch. 549, L. 1983; amd. Sec. 18, Ch. 298, L. 1987; amd. Sec. 1, Ch. 47, L. 1997; amd. Sec. 1, Ch. 374, L. 1999; amd. Sec. 19, Ch. 481, L. 2007.

Compiler's Comments

2007 Amendment: Chapter 481 in (2)(a) and (2)(b) after "referred" substituted "ballot issue" for "measure"; and in (4) near middle after "submitting the" substituted "ballot issue" for "petition". Amendment effective May 11, 2007.

13-27-403. Appointment to committee. (1) Except as provided in subsection (2), appointments to committees advocating approval or rejection of an act referred to the people, a constitutional amendment proposed by the legislature, or a ballot issue referred to the people by referendum petition or proposed by any type of initiative petition must be made no later than 1 week prior to the deadline for filing arguments on the ballot issue under 13-27-406.

(2) Appointments to committees advocating approval or rejection of a ballot issue referred to the people by referendum petition or proposed by any type of initiative petition must be made no later than 1 week before the deadline for filing arguments on the ballot issue under 13-27-406. All persons responsible for appointing members to the committee shall submit to the secretary of state the names and addresses of the appointees no later than the date set by this subsection. The submission must include the written acceptance of appointment from each appointee required by section 13-27-402(6). If an appointment is not made by the required time, the committee members that have been appointed may fill the vacancy by unanimous written consent up until the deadline for filing the arguments.

(3) Within 5 days after receiving notice under subsection (2) but not later than 5 days after the deadline set for appointment of committee members, the secretary of state shall notify the appointees to a committee appointed pursuant to subsection (1) or (2) by certified mail, with return receipt requested, of the deadlines for submission of the committee's arguments.

History: En. 37-129 by Sec. 15, Ch. 342, L. 1977; R.C.M. 1947, 37-129(1), (2); amd. Sec. 2, Ch. 549, L. 1983; amd. Sec. 19, Ch. 298, L. 1987; amd. Sec. 8, Ch. 359, L. 1991; amd. Sec. 2, Ch. 47, L. 1997; amd. Sec. 20, Ch. 481, L. 2007.

Compiler's Comments

2007 Amendment: Chapter 481 in (1) near middle and in (2) near beginning of first sentence after "ballot" substituted "issue" for "measure"; and made minor changes in style. Amendment effective May 11, 2007.

13-27-404. Committee chairman. The appointee of the president of the senate is the chairman of any committee to which that officer makes an appointment. The appointing authority for other committees shall name a chairman at the time the appointments are made.

History: En. 37-129 by Sec. 15, Ch. 342, L. 1977; R.C.M. 1947, 37-129(3).

13-27-405. Committee expenses. Each committee is entitled to receive funds for the preparation of arguments and expenses of members not to exceed \$100 for a three-member committee and \$200 for a five-member committee. Itemized claims for actual expenses incurred, approved by a majority of the committee, shall be submitted to the secretary of state for payment from funds appropriated for that purpose.

History: En. 37-130 by Sec. 16, Ch. 342, L. 1977; R.C.M. 1947, 37-130; amd. Sec. 12, Ch. 400, L. 1979.

13-27-406. Limitation on length of argument -- time of filing. An argument advocating approval or rejection of a ballot issue is limited to a single side of a single 7 1/2-inch by 10-inch page and must be filed, in a black-and-white, camera-ready format, with the secretary of state no later than 105 days before the election at which the issue will be voted on by the people. The argument must consist

solely of written material prepared by the committee and may not consist of pictures, clippings, or other material. The written material must be prepared in the font and type style required by the secretary of state. With the goal of achieving readability and uniformity, the secretary of state shall prescribe a commonly used font and type style. A majority of the committee responsible for preparation shall approve and sign each argument filed. Separate signed letters of approval of an argument may be filed with the secretary of state by members of a committee if necessary to meet the filing deadline.

History: En. 37-131 by Sec. 17, Ch. 342, L. 1977; R.C.M. 1947, 37-131; amd. Sec. 13, Ch. 400, L. 1979; amd. Sec. 2, Ch. 119, L. 1995; amd. Sec. 3, Ch. 47, L. 1997; amd. Sec. 2, Ch. 374, L. 1999.

13-27-407. Rebuttal arguments. The secretary of state shall provide copies of the arguments advocating approval or rejection of a ballot issue to the members of the adversary committee no later than 1 day following the filing of both the approval and rejection arguments for the issue. The committees may prepare rebuttal arguments no longer than one-half the size of the arguments under 13-27-406 that must be filed, in a black-and-white, camera-ready format, with the secretary of state no later than 10 days after the deadline for filing the original arguments. The argument must consist solely of written material prepared by the committee and may not consist of pictures, clippings, or other material. The written material must be prepared in the font and type style required by the secretary of state. With the goal of achieving readability and uniformity, the secretary of state shall prescribe a commonly used font and type style. Discussion in the rebuttal argument must be confined to the subject matter raised in the argument being rebutted. The rebuttal argument must be approved and signed by a majority of the committee responsible for its preparation. Separate signed letters of approval may be submitted in the same manner as for the original arguments.

History: En. 37-132 by Sec. 18, Ch. 342, L. 1977; R.C.M. 1947, 37-132; amd. Sec. 4, Ch. 47, L. 1997; amd. Sec. 3, Ch. 374, L. 1999.

13-27-408. Rejection of improper arguments. The secretary of state shall reject, with the approval of the attorney general, an argument or other matter held to contain obscene, vulgar, profane, scandalous, libelous, or defamatory matter; any language that in any way incites, counsels, promotes, or advocates hatred, abuse, violence, or hostility toward, or that tends to cast ridicule or shame upon, a group of persons by reason of race, color, religion, or sex; or any matter not allowed to be sent through the mail. Such arguments may not be filed or printed in the voter information pamphlet.

History: En. 37-133 by Sec. 19, Ch. 342, L. 1977; R.C.M. 1947, 37-133(1).

13-27-409. Fact statement to be supported -- liability for contents of argument. (1) A factual statement made in an argument advocating approval or rejection of a ballot issue or in a rebuttal argument to either of those arguments must be supported by documents filed by the proponents or opponents with the secretary of state within 2 business days of the date on which the statements are required to be filed with the secretary of state.

(2) Nothing in this chapter relieves an author of any argument from civil or criminal responsibility for statements contained in an argument printed in the voter information pamphlet.

History: En. 37-133 by Sec. 19, Ch. 342, L. 1977; R.C.M. 1947, 37-133(2); amd. Sec. 21, Ch. 481, L. 2007.

Compiler's Comments

2007 Amendment: Chapter 481 inserted (1) requiring filing of supporting documents for factual statements with the secretary of state; and made minor changes in style. Amendment effective May 11, 2007.

Cross-References

Civil liability for libel, Title 27, ch. 1, part 8.
Criminal defamation, 45-8-212.

13-27-410. Printing and distribution of voter information pamphlet. (1) At least 110 days before the election, the secretary of

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state shall arrange with the department of administration by requisition for the printing and delivery of a voter information pamphlet for all ballot issues. The requisition must include a delivery list providing for shipment of the required number of pamphlets to each county and to the secretary of state.

(2) The secretary of state shall estimate the number of copies necessary to furnish one copy to each voter in each county, except that two or more voters with the same mailing address and the same last name may be counted as one voter. The secretary of state shall provide for an extra supply of the pamphlets in determining the number of voter pamphlets to be ordered in the requisition.

(3) The department of administration shall call for bids and contract with the lowest bidder for the printing and delivery of the voter information pamphlet. The contract must require completion of printing and shipment, as specified on the delivery list, of the voter information pamphlets by not later than 45 days before the election at which the ballot issues will be voted on by the people.

(4) The county official responsible for voter registration in each county shall mail one copy of the voter information pamphlet to each registered voter in the county who is on the active voter list, except that two or more voters with the same mailing address and the same last name may be counted as one voter. The mailing label may include an address line that addresses the voter or the current resident. The mailing must take place no later than 30 days before the election.

(5) Ten copies of the voter information pamphlet must be available at each precinct for use by any voter wishing to read the explanatory information and complete text before voting on the ballot issues.

History: En. 37-134 by Sec. 20, Ch. 342, L. 1977; R.C.M. 1947, 37-134; amd. Sec. 14, Ch. 400, L. 1979; amd. Sec. 11, Ch. 390, L. 1993; amd. Sec. 3, Ch. 119, L. 1995; amd. Sec. 4, Ch. 208, L. 1999; amd. Sec. 42, Ch. 475, L. 2003; amd. Sec. 22, Ch. 586, L. 2005.

Cross-References

Election Administrator as registration official, 13-1-301.

Part 5

Election Procedure

13-27-501. Secretary of state to certify ballot form. (1) The secretary of state shall furnish to the official of each county responsible for preparation of the ballots, at the same time as the election administrator certifies the names of the persons who are candidates for offices to be filled at the election, a certified copy of the form in which each ballot issue to be voted on by the people at that election is to appear on the ballot.

(2) The secretary of state shall list for each issue:

(a) the number;

(b) the method of placement on the ballot;

(c) the title;

(d) the attorney general's explanatory statement, if applicable;

(e) the fiscal statement, if applicable;

(f) the statements of the implication of a vote for or against the issue that are to be placed beside the diagram for marking the ballot; and

(g) a statement that the issue conflicts with one or more issues, referenced by number, that also appear on the ballot, if applicable.

(3) When required to do so, the secretary of state shall use for each ballot issue the title of the legislative act or legislative constitutional proposal or the title provided by the attorney general or district court. Following the number of the ballot issue, the secretary of state, when required to do so, shall include one of the following statements to identify why the issue has been placed on the ballot:

(a) an act referred by the legislature;

(b) an amendment to the constitution proposed by the legislature;

(c) an act of the legislature referred by referendum petition; or

(d) a law or constitutional amendment proposed by initiative petition.

History: En. 37-135 by Sec. 21, Ch. 342, L. 1977; R.C.M. 1947, 37-135(1); amd. Sec. 15, Ch. 400, L. 1979; amd. Sec. 5, Ch. 336, L. 1981; amd. Sec. 1, Ch. 669, L. 1983; (4)En. Sec. 2, Ch. 669, L. 1983; amd. Sec. 81, Ch. 414, L. 2003; amd. Sec. 22, Ch. 481, L. 2007.

Compiler's Comments

2007 Amendment: Chapter 481 in (2) at beginning of introductory clause deleted "Except as provided in subsection (4)"; inserted (2)(g) requiring the secretary of state to list a statement that the issue conflicts with one or more issues, referenced by number, that also appear on the ballot, if applicable; deleted former (4) that read: "(4) The county election administrator may, at least 14 days prior to the deadline for ballot certification by the secretary of state, request in writing that the county election administrator be furnished an abbreviated form of the certified ballot. The secretary of state shall furnish to all counties from which the secretary of state has received such a request a certified ballot containing only the information in subsections (2)(a), (2)(e), and (2)(f). If the county election administrator requests that the abbreviated ballot be prepared, copies of the information contained in subsections (2)(a) through (2)(f) must be distributed to each elector by an election judge as the elector enters the polling place"; and made minor changes in style. Amendment effective May 11, 2007.

Cross-References

Limitation on title of referred legislation, 5-4-102.

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Role of Secretary of State, Title 13, ch. 1, part 2.
Title of ballot issue, 13-27-312, 13-27-316.

13-27-502. Preparation of ballots with ballot issues. (1) Each of the county officials responsible for the preparation of the ballots shall provide for the ballot issues to appear on the official ballot in the form and order in which the issues have been certified by the secretary of state.

(2) All ballot issues must be placed on the same official ballot as the candidates unless the secretary of state provides the election administrator with specific written approval for separate ballots. The secretary of state may issue an approval only when the number of issues to be voted on at an election makes it impractical to print the entire ballot, including the ballot issues, on the same official ballot as the candidates.

History: En. 37-135 by Sec. 21, Ch. 342, L. 1977; R.C.M. 1947, 37-135(2); amd. Sec. 16, Ch. 400, L. 1979; amd. Sec. 54, Ch. 575, L. 1981; amd. Sec. 82, Ch. 414, L. 2003.

13-27-503. Determination of result of election. The votes on ballot issues shall be counted, canvassed, and returned by the regular boards of judges, clerks, and officers as votes for candidates are counted, canvassed, and returned. The abstract of votes on ballot issues shall be prepared and returned to the secretary of state in the manner provided by 13-15-501 for abstract of votes for state officers. The board of state canvassers shall proceed within 20 days after the election at which such ballot issues are voted upon and, at the same time as the votes for state officers are canvassed, canvass the votes given for each ballot issue. The secretary of state, as secretary of the board of state canvassers, shall prepare and file in his office a statement of the canvass, giving the number and title of each issue, the whole number of votes cast in the state for and against each ballot issue, and the effective date of each ballot issue approved by a majority of those voting on the issue. The secretary of state shall transmit a certified copy of the statement of the canvass to the governor.

History: En. 37-136 by Sec. 22, Ch. 342, L. 1977; R.C.M. 1947, 37-136(1); amd. Sec. 55, Ch. 575, L. 1981.

Cross-References

Result of elections, Art. IV, sec. 5, Mont. Const.
Procedure for vote counting, Title 13, ch. 15.
Effective date of ballot issues, 13-27-105.

13-27-504. Copy of approved issues to be sent to legislative services division. The secretary of state shall send a certified copy of all ballot issues that have been approved by a majority of those voting on the issue and a copy of the statement of the canvass to the legislative services division at the same time that a certified copy of the statement of the canvass is transmitted to the governor.

History: En. 37-136 by Sec. 22, Ch. 342, L. 1977; R.C.M. 1947, 37-136(2); amd. Sec. 55, Ch. 545, L. 1995.

Cross-References

Publication and updating of code -- Code Commissioner, Title 1, ch. 11.
Dissemination of laws and proceedings, Title 5, ch. 11, part 2.