

HOUSE BILL 510

Introduced by Nisbet

1/31	Introduced
1/31	Referred to Taxation
2/01	First Reading
2/12	Hearing
2/12	Tabled in Committee

1 HOUSE BILL NO. 510  
2 INTRODUCED BY Russett

3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING NONRESIDENT  
5 REAL ESTATE OWNERS TO VOTE IN BOND ISSUE ELECTIONS AFFECTING  
6 THE TAXATION OF THEIR PROPERTY; AND AMENDING SECTIONS  
7 7-1-4121, 13-1-111, 13-2-402, 13-2-403, AND 20-20-301, MCA."

8  
9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

10 NEW SECTION. Section 1. Definitions. As used in  
11 [sections 1 through 4], unless the context clearly indicates  
12 otherwise, the following definitions apply:

13 (1) "Assessment book" means an assessment book as  
14 defined in 15-8-701.

15 (2) "Bonds" means bonds as defined in 7-7-109.

16 (3) "Local governmental unit" means a county, city,  
17 town, or an existing or proposed local governmental unit as  
18 defined in 17-5-1604.

19 (4) "Real estate" means real estate as defined in  
20 15-1-101.

21 NEW SECTION. Section 2. Nonresident real estate  
22 property owner entitled to register as elector in bond  
23 election. Whenever a vote of registered or qualified  
24 electors of a local governmental unit is required to be  
25 taken at a special or general election for the issuance of

1 any general obligation, revenue, refunding, or other types  
2 of bonds, in addition to the resident registered or  
3 qualified electors, the registered or qualified electors for  
4 the election include those natural persons who are:

5 (1) not residents of the local governmental unit but  
6 who own real estate that will be subject to taxation by that  
7 local governmental unit through issuance of the bonds; and

8 (2) registered to vote in the election in accordance  
9 with [section 3].

10 NEW SECTION. Section 3. Clerk and recorder to prepare  
11 listing of real estate owners -- voter registration. Before  
12 the election referred to in [section 2], the county clerk  
13 and recorder of the county in which the local governmental  
14 unit is located shall prepare a listing, based upon the  
15 assessment book, of individuals owning real estate that may  
16 be subject to taxation pursuant to [section 2]. The election  
17 administrator shall register to vote any individual whose  
18 name appears upon the list prepared in accordance with this  
19 section, who meets all of the requirements of [section 2],  
20 and who registers to vote, at least 30 days before the  
21 election, by any method provided in Title 13, chapter 2. The  
22 name of the elector registered in accordance with [sections  
23 1 through 4] must be placed upon an official precinct  
24 register of the precinct in which the real estate is  
25 located. The precinct register must list those electors

1 qualified to vote by reason of [section 2] and registered in  
2 accordance with this section.

3 NEW SECTION. Section 4. Effect of registration --  
4 cancellation -- voting procedure. (1) An individual who is  
5 registered to vote in accordance with [sections 1 through 4]  
6 is considered to be a registered and qualified elector, for  
7 the purposes of an election referred to in [section 2], to  
8 the same extent as an elector who is a legal resident of the  
9 local governmental unit for which the election is held.

10 (2) An elector registered in accordance with [sections  
11 1 through 4] may vote in an election referred to in [section  
12 2] by any means authorized by Title 13, chapter 13, part 1  
13 or 2, if the elector otherwise satisfies the requirements of  
14 those laws.

15 **Section 5.** Section 7-1-4121, MCA, is amended to read:

16 "7-1-4121. General definitions. As used in 7-1-4121  
17 through 7-1-4149, unless otherwise provided, the following  
18 definitions apply:

19 (1) "Charter" means a written document defining the  
20 powers, structure, privileges, rights, and duties of the  
21 government and limitations thereon.

22 (2) "Chief executive" means the elected executive in a  
23 government adopting the commission-executive form, the  
24 manager in a government adopting the commission-manager  
25 form, the chairman in a government adopting the

1 commission-chairman form, the town chairman in a government  
2 adopting the town meeting form, the commission acting as a  
3 body in a government adopting the commission form, or the  
4 officer or officers so designated in the charter in a  
5 government adopting a charter.

6 (3) "Elector" means:

7 (a) in addition to those who qualify under subsection  
8 (3)(b), a resident of the municipality qualified and  
9 registered to vote under state law; or

10 (b) for the purposes of an election referred to in  
11 [section 2], a property owner as provided in [section 2] who  
12 is registered in accordance with [section 3].

13 (4) "Employee" means a person other than an officer who  
14 is employed by a municipality.

15 (5) "Executive branch" means that part of the  
16 municipality, including departments, offices, and boards,  
17 charged with implementing actions approved and administering  
18 policies adopted by the governing body of the local  
19 government or performing the duties required by law.

20 (6) "Governing body" means the commission or town  
21 meeting legislative body established in the alternative form  
22 of local government.

23 (7) "Guideline" means a suggested or recommended  
24 standard or procedure to serve as an index of comparison and  
25 is not enforceable as a regulation.

1 (8) "Law" means a statute enacted by the legislature of  
2 Montana and approved and signed by the governor or a statute  
3 adopted by the people of Montana through statutory  
4 initiative procedures.

5 (9) "Municipality" means an entity which incorporates  
6 as a city or town.

7 (10) "Office of the municipality" means the permanent  
8 location of the seat of government from which the records  
9 administrator, or the office of the clerk of the governing  
10 body where one is appointed, carries out his duties.

11 (11) "Officer" means a person holding a position with a  
12 municipality which is ordinarily filled by election or, in  
13 those municipalities with a manager, the manager.

14 (12) "Ordinance" means an act adopted and approved by a  
15 municipality, having effect only within the jurisdiction of  
16 the local government.

17 (13) "Person" means any individual, firm, partnership,  
18 company, corporation, trust, trustee, assignee or other  
19 representative, association, or other organized group.

20 (14) "Plan of government" means a certificate submitted  
21 by a governing body that documents the basic form of  
22 government selected, including all applicable suboptions.  
23 The plan must establish the terms of all officers and the  
24 number of commissioners, if any, to be elected.

25 (15) "Political subdivision" refers to a local

1 government, authority, school district, or multicounty  
2 agency.

3 (16) "Population" means the number of inhabitants as  
4 determined by an official federal, state, or local census or  
5 official population estimate approved by the department of  
6 commerce.

7 (17) "Printed" means the act of reproducing a design on  
8 a surface by any process as defined by 1-1-203(3).

9 (18) "Public agency" means a political subdivision,  
10 Indian tribal council, state or federal department or  
11 office, or the Dominion of Canada or any provincial  
12 department or office or political subdivision thereof.

13 (19) "Public property" means any and all property owned  
14 by a municipality or held in the name of a municipality by  
15 any of the departments, boards, or authorities of the local  
16 government.

17 (20) "Real property" means lands, structures, buildings,  
18 and interests in land, including lands under water and  
19 riparian rights, and all things and rights usually included  
20 within the term "real property", including not only fee  
21 simple absolute but also all lesser interests such as  
22 easements, rights-of-way, uses, leases, licenses, and all  
23 other incorporeal hereditaments and every estate, interest,  
24 or right, legal or equitable, pertaining to real property.

25 (21) "Reproduced" means the act of reproducing a design

1 on any surface by any process.

2 (22) "Resolution" means a statement of policy by the  
3 governing body or an order by the governing body that a  
4 specific action be taken.

5 (23) "Service" means an authorized function or activity  
6 performed by local government.

7 (24) "Structure" means the entire governmental  
8 organization through which a local government carries out  
9 its duties, functions, and responsibilities."

10 **Section 6.** Section 13-1-111, MCA, is amended to read:

11 "13-1-111. Qualifications of voter. (1) No person may  
12 be entitled to vote at elections unless he has the following  
13 qualifications:

- 14 (a) He must be registered as required by law.  
15 (b) He must be 18 years of age or older.  
16 (c) He must be a resident of the state of Montana and,  
17 except as provided in [section 2], of the county in which he  
18 offers to vote for at least 30 days.  
19 (d) He must be a citizen of the United States.  
20 (2) No person convicted of a felony has the right to  
21 vote while he is serving a sentence in a penal institution.  
22 (3) No person adjudicated to be of unsound mind has the  
23 right to vote, unless he has been restored to capacity as  
24 provided by law."

25 **Section 7.** Section 13-2-402, MCA, is amended to read:

1 "13-2-402. Other reasons for cancellation. The election  
2 administrator shall cancel the registration of any elector:

- 3 (1) at the written request of the registered elector;  
4 (2) if a certificate of the death of any elector is  
5 filed or if an elector is reported as deceased by the  
6 department of health and environmental sciences in the  
7 department's reports submitted to the county under  
8 72-16-217;  
9 (3) if the elector is of unsound mind as established by  
10 a court;

11 (4) if the incarceration of an elector in a penal  
12 institution for a felony conviction is legally established;

13 (5) if a certified copy of a court order directing the  
14 cancellation is filed with the election administrator;

15 (6) who, for the purposes of an election referred to in  
16 [section 2], does not own real estate within the local  
17 governmental unit holding the election as required by  
18 [section 2] and who is not registered in accordance with  
19 [section 3];

20 ~~(7)~~ if an elector is successfully challenged and not  
21 allowed to vote at an election upon determination of an  
22 election judge; or

23 ~~(7)~~(B) if a notice is received from another county or  
24 state that the elector has registered in that county or  
25 state."

1 **Section 8.** Section 13-2-403, MCA, is amended to read:

2 \*13-2-403. Challenge of registration. (1) Forty-five or  
3 more days before the close of registration for an election,  
4 three registered electors of a precinct may challenge the  
5 registration of an elector by filing affidavits giving the  
6 name of the elector whose registration is challenged, the  
7 address at which he is registered, and a statement that the  
8 affiant has personal knowledge that the elector does not  
9 reside at the address where registered or, for the purposes  
10 of an election referred to in [section 2], that the elector  
11 does not own real estate as required by [section 2].

12 (2) No later than 3 days after the filing of affidavits  
13 as provided in subsection (1), the election administrator  
14 must send written notice to the elector whose registration  
15 is challenged, at the address shown on the registration  
16 form. The notice must state that registration will be  
17 canceled within 15 days of the filing of the affidavits  
18 unless the elector refutes the affidavits by submitting  
19 proof or a sworn statement that he resides at the address  
20 given on his registration form or, for the purposes of an  
21 election referred to in [section 2], that he owns real  
22 estate as required by [section 2].

23 (3) The election administrator must cancel the  
24 registration of an elector whose registration is challenged  
25 under this section 15 days after the filing of the

1 affidavits required in subsection (1) unless proof or a  
2 sworn statement as required in subsection (2) is received.

3 (4) If an elector proves or swears he resides at the  
4 address given on his registration form or, for the purposes  
5 of an election referred to in [section 2], that he owns real  
6 estate as required by [section 2] after his registration has  
7 been canceled as provided in this section, he may reregister  
8 by completing a new registration form. Such registration  
9 shall be effective for the next election even though the  
10 registration for that election is closed."

11 **Section 9.** Section 20-20-301, MCA, is amended to read:

12 \*20-20-301. Qualifications of elector. An individual is  
13 entitled to vote at school elections if he has the  
14 qualifications set forth in 13-1-111 and;

15 (1) is a resident of the school district;

16 (2) for the purposes of an election referred to in  
17 [section 2], owns real estate in the district or proposed  
18 district and is registered to vote in accordance with  
19 [section 3]; or;

20 (3) in a school district that has been apportioned into  
21 single-member trustee districts according to 20-3-337, is a  
22 resident of the trustee district."

23 **NEW SECTION. Section 10.** Codification instruction.

24 [Sections 1 through 4] are intended to be codified as an  
25 integral part of Title 13, chapter 2, and the provisions of

LC 0475/01

1 Title 13, chapter 2, apply to [sections 1 through 4].

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