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Opinion No. 100

**CONSTITUTION — Amendment, Legislation Referendum, Two-thirds vote; CONSTITUTIONAL LAW — Amendment of Constitutions, Legislative Referendum, Two-thirds vote; LEGISLATURE — Powers, Amend, Initiative, and Referendum Measures Article XIV, section 8, Constitution of Montana (1972).
section 8, Constitution of Montana (1972).**

HELD: If a proposed constitutional amendment is to be submitted to the electorate pursuant to Article XIV, sec. 8, Constitution of Montana (1972), a two-thirds majority vote of the combined membership of both houses of the legislature would be sufficient.

December 27, 1974

Senator Antoinette F. Rosell
4200 Rimrock Road
Billings, Montana 59102

Dear Senator Rosell:

You have requested my opinion on the following question:

If a proposed constitutional amendment is to be submitted to the electorate pursuant to Article XIV, section 8, Constitution of Montana (1972), is a roll call vote of two-thirds of each house of the legislature required for its submission to the electorate or is a two-thirds vote of the combined membership of both houses sufficient.

Article XIV, section 8, Constitution of Montana (1972) provides, in part: 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. ... (Emphasis supplied)

The Constitutional Convention notes which are appended to Article XIV, sec. 8, for explanatory purposes, provide:

(The) Legislature may propose constitutional amendments by a **vote of two-thirds of the total membership** rather than two-thirds of each house. (Emphases supplied)

Beginning on page 1401, Transcript of Proceedings, Montana Constitutional Convention, Delegate Etchart explained the intent and purpose of section 8:

... (W)e are providing that two-thirds of all the members of the legislature may be able to do this. So, this isn't just two-thirds of each body, but it's two-thirds of the total number of legislators, house and senate combined.

And the idea there was two-fold; one was to cover the eventuality of a unicameral legislature; and the other was to make it harder for one body to kill the other body's constitutional amendment.

Thus, it appears obvious that the intent of the Constitutional Convention was that Article XIV, sec. 8, was to require a two-thirds majority vote of the combined membership of both bodies of the legislature and not to require a two-thirds majority vote of each body separately.

THEREFORE, IT IS MY OPINION:

If a proposed constitutional amendment is to be submitted to the electorate pursuant to Article XIV, sec. 8, Constitution of Montana (1972), that a two-thirds majority vote of the combined membership of both houses of the legislature would be sufficient.

Very truly yours,

ROBERT L. WOODAHL
Attorney General