

# **SB 423 Monitoring: Montana Marijuana Act**

## ***Initiative Referendum to Overturn Law***

Prepared for the Children, Families, Health, and Human Services Interim Committee  
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### *Background*

Within days after the 2011 legislative session ended, opponents of a bill that repeals Montana's Medical Marijuana Act and replaces it with new provisions announced that they would try to place the new law before the voters in November 2012.

The effort centers on a little-used practice in which Montanans may try to gather enough signatures from registered voters to place a law enacted by the Legislature on the ballot. If they succeed, voters then decide whether to retain or reject the law.

At issue in this case is Senate Bill 423, which replaces the existing Medical Marijuana Act with more stringent provisions for individuals who use marijuana for debilitating medical conditions, the physicians who provide written certifications involving such use, and the individuals who grow or manufacture marijuana and related products.

The Montana Cannabis Industry Association (Association) is sponsoring the proposal. The group hopes to gather enough signatures to not only place the law on the ballot, but also to suspend its implementation until the November 2012 election.

### *How the Process Works*

The Montana Constitution allows for both an initiative process and a referendum process. Most voters tend to think of an initiative as an idea generated by a private group, which then gathers signatures to place the proposed law on the ballot. For example, three initiatives qualified for the November 2010 ballot — one to reduce interest rates charged by so-called "pay-day lenders", another to prevent the imposition of a real estate transfer tax, and a third to change how some hunting licenses are granted.

On the other hand, voters tend to think of referendums as a law that the Legislature passes but puts before the voters before it goes into effect, to make sure voters agree with the law.

But the Montana Constitution also allows for a process in which voters may place an act of the Legislature on the ballot as a referendum if interested parties submit a petition that is signed by at least 5% of the registered voters in at least 34 House districts and by 5% of the voters statewide. The total number required is based on the number of votes cast for governor statewide and by House district in 2008.

The proposal must go through the review process required for all ballot measures, including:

- submission of the proposed ballot statements and text to the Secretary of State;
- review of the ballot statements and text by the Legislative Services Division;
- rejection, acceptance, or modification of the Legislative Services Division recommendations by the sponsor;
- the sponsor's submission the final ballot statements and text to the Secretary of State;
- review of the proposed ballot language by the Attorney General's Office, including an

opportunity for public comment; and

- final issuance of the petition by the Secretary of State after the Attorney General's Office has completed its review and found that the petition is "legally sufficient".

After those steps are completed, the sponsor may begin collecting signatures.

An act referred to the ballot through the initiative process remains in effect until the election is held unless enough signatures are obtained to suspend it. That would occur if the Secretary of State certifies that at least 15% of the registered voters in each of at least 51 House districts signed the petition.

#### Timeline for the SB 423 Petition

The Secretary of State accepted the petition from the Association on May 12, starting the clock ticking on the various timelines for review. To date, the following events have occurred:

- **May 26:** The Legislative Services Division completed its review of the ballot statements and text and provided the sponsor with suggested changes.
- **May 31:** The sponsor responded to the Legislative Services Division comments.
- **June 1:** The sponsor submitted the revised ballot statements and text to the Secretary of State.
- **June 2:** The Attorney General's Office received the ballot language and text for review.
- **June 6:** The Attorney General's Office asked the Governor's Office of Budget and Program Planning to estimate the fiscal impact of SB 423. The Budget Office has 10 days to prepare a fiscal note.

The Attorney General's Office must complete its review by July 5. If it approves the proposal, the proposed ballot issue will be returned to the Secretary of State. That office will then provide the approved petition to the sponsor, who may begin gathering signatures at that time.

Signed petitions may be submitted to county election officials until September 30. The county officials must certify the signatures and file the signed petitions and certified totals with the Secretary of State no later than October 28. If enough verified signatures have been gathered, the Secretary of State will certify to the Governor that the initiative referendum will appear on the November 2012 ballot and/or has been suspended.

Petition sponsors must gather and submit 24,337 verified signatures, including signatures representing 5% of the registered voters in each of at least 34 House districts, to place the measure on the ballot. If they meet that threshold, they may then attempt to gather additional signatures to suspend the law until the November 2012 vote. Anywhere from 31,238 to 43,247 signatures are needed to suspend the law, depending on the House districts in which the signatures are gathered.

If sponsors meet the requirements for either step sooner than Sept. 30 and enough verified signatures are on file with the Secretary of State's Office before October 28, the measure could be certified for the ballot or be suspended before those deadlines occur.