

1 SENATE BILL NO. 143  
2 INTRODUCED BY J. ESP

3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR A REFERENDUM TO TERMINATE A CITIZEN-  
5 INITIATED ZONING DISTRICT; REMOVING CERTAIN PROTEST PROVISIONS THAT HAVE BEEN  
6 INVALIDATED BY DISTRICT COURT; AMENDING SECTION 76-2-101, MCA; AND PROVIDING AN  
7 IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

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

10  
11 Section 1. Section 76-2-101, MCA, is amended to read:

12 "76-2-101. Planning and zoning commission and district. (1) Subject to the provisions of  
13 subsections ~~(5) and (6)~~ subsection (5), whenever the public interest or convenience may require and ~~upon~~ on  
14 petition of 60% of the affected real property owners in the proposed district, the board of county commissioners  
15 may create a planning and zoning district and may appoint a planning and zoning commission consisting of up  
16 to seven members.

17 (2) A planning and zoning district may not be created in an area that has been zoned by an  
18 incorporated city pursuant to 76-2-310 and 76-2-311.

19 (3) For the purposes of this part, the word "district" means any area that consists of not less than  
20 40 acres.

21 (4) ~~Except as provided in subsection (5), an~~ An action challenging the ~~creation of~~ process to create  
22 a planning and zoning district must begin within 6 months after the date of the order by the board of county  
23 commissioners creating the district.

24 ~~(5) If real property owners representing 50% of the titled property ownership in the district protest the~~  
25 ~~establishment of the district within 90 days of its creation, the board of county commissioners may not create~~  
26 ~~the district. An area included in a district protested under this subsection may not be included in a zoning district~~  
27 ~~petition under this section for a period of 1 year.~~

28 (6)(5) (a) Before the board of county commissioners determines whether the number of affected real

1 property owners necessary to meet the petition requirement of subsection (1) has been met, draft documents of  
2 the proposed materials that may potentially govern the proposed district must be made available to the board of  
3 county commissioners. Draft documents of the proposed materials required in this subsection-~~(6)~~(5) may  
4 include but are not limited to drafts of:

- 5 (i) a development pattern as provided in 76-2-104;
  - 6 (ii) a resolution as provided in 76-2-107; and
  - 7 (iii) the land use and zoning regulations as provided in 76-2-107.
- 8 (b) The final adopted development pattern, resolutions, and other materials that govern the zoning  
9 district as required in 76-2-104 and 76-2-107 must be similar to the draft documents provided to the county  
10 commissioners as required in subsection-~~(6)~~(a) ~~(5)~~(a)."

11  
12 **NEW SECTION. Section 2. Referendum to terminate zoning district.** (1) Real property owners in a  
13 zoning district may petition the board of county commissioners to submit a referendum to the registered  
14 electors residing in the zoning district to terminate the zoning district. The petition must be in writing and contain  
15 the signatures and addresses of 20% or more of the real property owners in the zoning district. The petition  
16 requesting a referendum for the termination of a zoning district must be delivered to the county clerk and  
17 recorder, who shall endorse on it the date when the petition was received and validate the signatures within 60  
18 days of receipt of the petition. If the petition contains valid signatures of at least 20% of the real property owners  
19 within the zoning district, the county clerk and recorder shall notify the county commissioners.

20 (2) On receipt of a valid petition described in subsection (1), the county commissioners shall  
21 submit the referendum to the registered electors residing in the district in an election conducted pursuant to  
22 Title 13, chapter 1, part 4 or 5

23 (3) If the referendum described in subsection (1) and conducted under subsection (2) is not  
24 successful, the real property owners in the zoning district may not bring forth a subsequent referendum petition  
25 for 3 years from the date that the original referendum was submitted to the registered electors pursuant to  
26 subsection (2).

27  
28 **NEW SECTION. Section 3. Codification instruction.** [Section 2] is intended to be codified as an

**Amendment - 1st Reading-white - Requested by: John Esp - (S) Local Government**

- 2023

68th Legislature 2023

Drafter: Toni Henneman, 406-444-3593

SB0143.001.001

1 integral part of Title 76, chapter 2, part 1, and the provisions of Title 76, chapter 2, part 1, apply to [section 2].

2

3 NEW SECTION. **Section 4. Effective date.** [This act] is effective on passage and approval.

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5 NEW SECTION. **Section 4. Applicability.** [This act] applies to zoning districts created pursuant to

6 Title 76, chapter 2, part 1, on or after January 1, 2023.

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- END -

AMENDED