

BE IT ENACTED BY THE PEOPLE OF THE STATE OF MONTANA:

Section 1. Article VIII of the Constitution of the State of Montana is amended by adding a new section 17 that reads:

NEW SECTION. Section 17. People's right to vote on taxes -- fairness in tax elections -- enforcement.

(1) No new tax or tax increase may be enacted unless first approved by a majority of the electors voting on the measure in the geographic area subject to the tax.

(2) As used in this section, the following definitions apply:

(a) "Government" or "governmental unit" means the state or any political subdivision of the state, including but not limited to local governments, school districts, and other districts.

(b) "New tax" includes:

(i) any new tax imposed by a governmental unit; and

(ii) any tax extended to a geographic area not formerly subject to the tax.

(c) "Tax" means any financial charge, however denominated, imposed by a governmental unit and from which revenue accrues to government, other than:

(i) a price in a voluntary transaction in a competitive market where the item for which the price is being imposed is not monopolized by government, including but not limited to educational tuition; or

(ii) civil and criminal fines and other charges collected in cases of restitution or violation of law or contract.

(d) "Tax increase" includes:

(i) an increase in the rate of a tax;

(ii) an expansion in the legal definition of a tax base;

(iii) an extension of an expiring tax;

(iv) complete or partial repeal of inflation indexing;

(v) a required acceleration in payment of a tax; and

(vi) beginning with tax years following [the effective date of this amendment], any increase in

a governmental unit's expected annual property tax revenue that is not attributable to property improvements or to personal property being moved into the geographic area subject to the governmental unit. In calculating a prior year's property tax revenue in order to ascertain any rise in expected annual property tax revenue, revenue collected in excess of that permitted by this section shall be disregarded.

(3) This section does not apply to:

(a) new taxes and tax increases approved by voter initiative;

(b) specific taxes while dedicated to payment of public debt either existing on [the effective date of this amendment] or authorized by the voters;

(c) any specific emergency measure authorized by vote of three-fourths (3/4) of the members of each house of the legislature, subject to Article III, Section 5 and expiring not later than the end of the tax year during which the succeeding regular legislative session ends;

(d) any price for voluntary purchase of an item provided by a governmental unit where the purchaser is not a resident of the geographic area subject to the governmental unit charging the price.

(4) In order to promote fairness in tax elections:

(a) no governmental unit shall hold more than one tax election, which may include multiple ballot issues, in any calendar year. Every tax election shall be held on a date assigned by law for a primary or general election or, if there is no general election or no primary election during that year, on the corresponding date.

(b) each ballot issue shall encompass only a single tax and shall not encompass a general waiver or delegation of approval authority for future taxing power. Statements of implication for new taxes shall begin, "SHALL A NEW TAX, DESCRIBED AS FOLLOWS, BE IMPOSED?" [followed by description of new tax]." Statements of implication for tax increases shall begin, "SHALL THE [name of tax] TAX BE INCREASED ANNUALLY BY [followed by amount of annual increase when in full effect], IN THE FOLLOWING MANNER?" [followed by description of tax increase]. If a proposed tax increase requires an election because it raises the base or rate, but does not raise additional revenue, the statement of implication shall so declare.

(c) The legislature may raise the required level of voter turn-out or the required percentage of voter approval.

(5) Notwithstanding the referendum exception of Article VI, Section 10, before a bill imposing new or increased taxes is referred to the people the governor shall have veto power, to be exercised and overridden under the same rules applicable to other bills.

(6) In order to promote effective enforcement of this section:

(a) a governmental unit collecting revenue in violation of this section shall refund the revenue to the taxpayers within one year after the tax payment deadline, together with simple interest at the rate of 10 percent per year. All refunds, including refunds of property taxes, shall be based on excess actual collections rather than on estimated collections. A governmental unit may pay a refund of excess revenue and interest on the refund as a credit toward an entitled taxpayer's following year tax liability, but only insofar as the credit fully reimburses the taxpayer.

(b) any elector of a governmental unit has standing to sue for enforcement of this section against the governmental unit and its agents. Notwithstanding any legislative limitation created pursuant to Article II, Section 18, sovereign immunity does not shield public officials or employees from appropriate civil liability for violations of this section. To the extent the elector prevails, the elector is entitled to attorney fees.

(c) this section is self-executing and shall be liberally construed to subject to fair referendum new or increased government financial charges not subject to the discipline of the competitive market.

NEW SECTION. Section 2. Severability. If a part of this amendment is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this amendment is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

NEW SECTION. Section 3. Effect of conflict. If there is an irreconcilable conflict between any part of section 1 and any other pre-existing or contemporaneously approved constitutional provision, section 1 prevails.

NEW SECTION. Section 4. Effective date. If approved by the electorate, this amendment is effective immediately.