



1972 Montana State Constitution

I. History

In its 120 year history as a US State, Montana has had only two constitutions: the original document of 1889 and its current constitution, ratified in 1972.

According to Bob Campbell, a Montana attorney and delegate to the 1971-1972 Convention, Montana's original constitution of 1889 was a deeply flawed document drafted by the state's then-powerful mining interests:

"The governor was severely limited with many independently elected boards which were beyond the control of any branch of government. The Legislature was severely limited in the length of time and how often it could meet. There were no provisions requiring recorded votes or open meetings. As a result, closed door smoke-filled rooms could operate beyond the view of press or public".¹

By 1967, the problems had become too burdensome to ignore, and the state legislature moved to put the call for a Constitutional Convention on the ballot. The vote was held in 1970, where it was overwhelmingly approved by the Montanan electorate. The convention was held the following year. The Montana State Constitution was drafted by delegates to the 1971-1972 Constitutional Convention, and was submitted to and ratified by the voters of Montana in 1972.

II. Summary

By 1967, a consensus opinion emerged among the Montana electorate that the 1889 Constitution had aged poorly, and the institutions of state government needed to be revamped. That year, Montanans voted for a constitutional convention to do just that.

Revisions were mostly centered on political reform, like forcing legislative sessions into the public record whereas the legislature previously operated from behind closed doors. More contentious reforms included moving the legislature to meet annually instead of biannually, and the establishment of bipartisan citizen committees to handle reapportionment.

The 1972 constitution also mandated periodic voter referendums on the performance and structure of various local governments.

III. Popularity

The Constitution drafted by the 1971-1972 Convention was narrowly ratified (116,415 in favor and 113,883 opposed) by Montana voters during the 1972 general election.

¹ Campbell, Bob. "1972 Constitutional Convention." The Missoulian. Ed. Mike McNally. 1999. 2 July 2009 <<http://www.missoulian.com/specials/100montanans/index.html>>.

Opposition came primarily from the Montana Farm Bureau which wanted local, not state, tax appraisal.²

Despite its narrow ratification, Montana voters apparently have grown to trust the Constitution produced by the delegates to the 1972 Convention. Voters saw their first referendum on the Constitution in 1990 where they were asked whether or not a new Con Con should be convened. A large majority (84%) voted “no”.

IV. Key Features

The 1972 Constitutional Convention made several significant changes to Montana State law. Among the most important reforms:

- *Limits the size of the Legislature to 40-50 senators and 80-100 representatives.*
- *Ends the practice of the lieutenant governor presiding over the state Senate.*
- *Establishes a bipartisan citizen commission to reapportion legislative districts.*
- *Calls for 60-day annual sessions instead of the biennial sessions that have been tradition since statehood.*
- *Requires all meetings of the Legislature and its committees to be open to the public.*³

In Montana, convention delegates are chosen through popular elections. However, in the run up to the 1971 Con Con, the Montana State Supreme Court ruled that sitting state legislators could not hold office as convention delegates. The decision is said to have had an important role in shaping the tone of the convention,

*“The delegates brought none of the acrimony and bitterness to the Convention that sometimes develops between seasoned politicians with preconceived positions on major state issues. Thus, the delegates were able to approach the principle issues before the Convention in an objective manner, and they also avoided a good deal of the pressures to which legislators are subjected. The probable unforeseen result of the Supreme Court’s action was a constitutional body relatively free from influence and dedicated to basic changes in Montana’s constitutional framework”.*⁴

As mentioned above, the 1972 constitution also requires periodic voter review of local governments.

“The constitution requires that, every ten years, voters in each local government must vote on whether to undertake local government review. A yes vote on local government

² Campbell, Bob. "1972 Constitutional Convention." The Missoulian. Ed. Mike McNally. 1999. 2 July 2009 <<http://www.missoulian.com/specials/100montanans/index.html>>.

³ "Highlights from Legislative History." 8 Jan. 2009. Montana State Legislature. 2 July 2009 <<http://leg.mt.gov/css/about%20the%20legislature/history.asp>>.

⁴ “Montana Constitutional Convention 1971-1972”. [Archive.org](http://www.archive.org/stream/montanaconstitut01mont#page/n6/mode/1up). Montana Legislature, Montana Legislative Council, and the Constitutional Editing and Publishing Committee. Helena, Montana; 1979. <http://www.archive.org/stream/montanaconstitut01mont#page/n6/mode/1up>

review requires the election of a local government study commission. IN 1994, voters authorized study commissions in 33 of the 56 counties, and in 79 of the 126 municipalities.⁵

Like many state constitutions of the past half-century, the 1972 Montana Constitution requires that, every 20 years, Montanans vote on whether or not a new Constitutional Convention should be convened.

V. Criticism

As mentioned above, opposition to ratification of the 1972 Constitution came primarily from the Montana Farm Bureau which wanted local, not state, tax appraisal. Voters (narrowly) rebuffed these concerns, when they approved the constitution in the following election.

An immediate criticism of the 1972 Constitution was that the new part-time legislature would meet every year. With a 1972 population of about 750,000, Montana was, and currently is, one of the smallest states and had been governed by a part-time biannual legislature throughout its history. The annual legislature lasted only two years; in 1974 Montana voters amended the new constitution to revert the legislature back to meeting biannually.

VI. Key Lessons

- Greater transparency has made state government more accountable.
- When given the opportunity, voters are willing to review the performance of local governments.
- Barring sitting politicians from serving as Con Con delegates increases the legitimacy of Convention and the Constitution it produced.

⁵ Elison, Larry M., and Fritz Snyder. The Montana State Constitution, A Guidebook. Santa Barbara: Greenwood Publishing Group, 2001. 169 July 2009.
<http://books.google.com/books?id=xZSajCBQL1sC&pg=PA16&lpg=PA16&dq=montanas+vote+on+constitutional+convention+1990&source=bl&ots=wHmrs9EMI-&sig=-v-JG8QiyT-NuZiXTeAYU0iK6_U&hl=en&ei=MjtWSveROI7MsQPxr430>.