

TO: Legislative Council  
FROM: Maddie Krezowski, Staff Attorney  
RE: Default effective date statute, 1-2-201, MCA, and potential amendment

**Issue:**

What is the intention of the Legislature when a bill becomes law later in the year than the default effective dates provided in section 1-2-201, MCA, or a specific effective date provided in the enacting legislation, such as when the Legislature successfully overrides the governor's veto of an appropriation bill through a post-session poll after July 1?

**An Emerging Issue**

The number of bills that have been vetoed after the Legislature has adjourned sine die and triggered a veto override poll by the Secretary of State has increased over the last few legislative sessions. In 2021, the Secretary of State conducted veto override polls for 8 bills. In 2023, the Secretary of State conducted veto override polls of 24 bills and 11 line-item vetoes. In 2025, the Secretary of State conducted veto override polls of 26 bills. Polls are open for 30 days, which can push the date a bill becomes law out substantially past the end of session.

HB 643 from the 2025 legislative session is illustrative.

HB 643 (2025) was introduced during the 2025 session to increase reimbursement to local detention centers for holding certain inmates that had been committed to the Department of Public Health and Human Services. The bill did not include an effective date section. An amendment added in in the House Judiciary committee added a \$6 million appropriation for the biennium beginning 2025 in Section 2 of the bill that provided "There is appropriated \$6 million . . . to the department of public health and human services for the biennium beginning July 1, 2025." HB 643 (2025) passed both houses on April 28, 2025, and was sent to the Governor on June 2, 2025. The Governor vetoed the bill on June 9, 2025. Following the veto, the Secretary of State sent out a veto override poll to the members of the legislature beginning on June 14, 2025. At the close of the 30-day polling period on July 15, 2025, the Legislature successfully overrode the Governor's veto. The bill was assigned chapter number 777.<sup>1</sup>

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<sup>1</sup> Section 1 of HB 643 (2025) (Ch. 777) is voided by a coordination instruction in HB 913 (2025). See 2025 Mont. Laws Ch. 752, sec. 7. Sections 2 and 3 of the bill remain operative. Section 2 of the bill provides the \$6 million appropriation. Section 3 terminates the bill on June 30, 2027.

Because HB 643 (2025) does not contain a section providing an effective date, Section 1-2-201, MCA, provides a default effective date for the bill. That section provides:

1-2-201. Statutes — effective date. (1) (a) Except as provided in subsection (1)(b), (1)(c), or (1)(d), every statute adopted after January 1, 1981, takes effect on the first day of October following its passage and approval unless a different time is prescribed in the enacting legislation.

(b) Subject to subsection (1)(d), every statute providing for appropriation by the legislature for public funds for a public purpose takes effect on the first day of July following its passage and approval unless a different time is prescribed in the enacting legislation.

(c) Subject to subsection (1)(d), every statute providing for the taxation of or the imposition of a fee on motor vehicles takes effect on the first day of January following its passage and approval unless a different time is prescribed in the enacting legislation.

(d) Every statute enacted during a special session of the legislature takes effect upon passage and approval unless a different time is prescribed in the enacting legislation.

(2) "Passage", as used in subsection (1), means the enactment into law of a bill, which has passed the legislature, either with or without the approval of the governor, as provided in the constitution.

In relevant part for HB 643 (2025), section 1-2-201(1)(b), MCA, provides that: “every statute providing for appropriation by the legislature for public funds for a public purpose takes effect on the first day of July *following its passage and approval* unless a different time is prescribed in the enacting legislation.” (Emphasis added.) Subsection (2) of section 1-2-201, MCA, provides that “‘Passage’ . . . means the enactment into law of a bill, which has passed the legislature, either with or without the approval of the governor, as provided in the constitution.” Under Article VI, Section 10(4)(a), of the Montana Constitution: “If two-thirds or more of the members of each house vote to override the veto [in a veto override poll], the bill shall become law.” Pursuant to this language in the constitution, HB 643 (2025) became law after the Legislature overrode the Governor’s veto on July 15, 2025 and thus “passage” of HB 643 (2025) under the definition in section 1-2-201(2), MCA, also occurred on July 15, 2025. Pursuant to the plain language of section 1-2-201(1)(b), MCA, the \$6 million appropriation provided for in section 2 of HB 643 (2025) is effective the July 1 following its passage and approval on July 15, 2025, which is July 1, 2026.

However, even if HB 643 (2025), had included a standard effective date of July 1, 2025, the bill would have been enacted after that provided effective date. This raises the questions whether a bill can become effective before it has been passed and approved.<sup>2</sup>

Section 2 of HB 643 (2025) provides that the \$6 million appropriation is “for the biennium beginning July 1, 2025,” yet under 1-2-201, MCA, the bill does not become effective until halfway through the biennium and terminates on June 30, 2027. Amendments to section 1-2-201, MCA, could address this issue and prevent an apparent conflict in legislative intent for the effective date of bills in the future.

### **Purpose of Effective Date Statutes to Provide the Legislature’s Intent and Notice to the Public**

Section 1-2-201, MCA, provides default effective dates for bills that do not include an effective date section. This section provides two important functions. First, it resolves the ambiguity that could arise about the effective date of a bill that does not contain a specific effective date section within the bill itself or when that effective date has passed.

Second, the default effective dates set a standard for provide notice and sufficient time both to the general public to come into compliance with the change in the law and to executive branch agencies and local governments to prepare procedure for the changes.

To illustrate the importance of effective dates, in 2002, Governor Martz called the Legislature into a second special session when a bill passed during the first special session that year failed to provide an effective date. The sole purpose of the second special session was to add an effective date to a bill passed during the first special session. During the following 2003 regular session, the Legislature amended section 1-2-201, MCA, to include a provision that bills passed during a special session go into effect immediately unless otherwise provided in the bill. See SB 17 (2003), 2003 Mont. Laws Ch. 104.

### **Background on 1-2-201, MCA**

Currently, section 1-2-201, MCA, provides four standard effective dates: October 1 after passage and approval for general bills; July 1 after passage and approval for bills providing an appropriation; January 1 after passage and approval for bills providing for taxation or imposition of a fee on motor vehicles; and an immediate effective date for bills enacted during a special session.

What is now section 1-2-201, MCA, was originally enacted as two sections of code by the Montana Legislature in 1895. In the ensuing 130 years, the statute was recodified several

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<sup>2</sup> Bills may have retroactive applicability with a retroactive applicability date, which is different than when a bill becomes effective.

times as different code sections in different iterations of the Revised Codes of Montana (R.C.M.). When the State moved from the R.C.M. to the Montana Code Annotated (MCA) in 1979, the two sections were combined as subsections (1) and (2) in section 1-2-201, MCA, where it can be found today.

The statute has been amended by the Legislature eight times since 1895. (See attached document.) In 1895, the provision provided that bills became effective 20 days after passage. In 1921, the default effective date was changed to July 1 of the year of its passage and approval. In 1979, the statute was changed to July 1 following its passage and approval. In 1981, the statute was amended to differentiate between general bills which became effective on October 1 and appropriations bills that became effective on July 1. In 1991, the Legislature added the January 1 effective date for bills providing for taxation or imposition of fees on motor vehicles. And in 2003 the Legislature amended the statute to provide for an immediate effective date for bills passed in a special session.

#### **Other states:**

33 states have provisions in their state constitutions that provide effective dates for legislation. Some of these constitutional provisions provide default dates that can be deviated from by providing an effective date in a bill and some provide mandatory effective dates that cannot be deviated from or can only be deviated from with a super-majority vote of the legislative body. These provisions are often a set number of days after a legislative session has adjourned sine die. All but one of the remaining states, including Montana, provide for a default effective date in statute that provides an effective date to apply when a bill does not contain an effective date section. These constitutional provisions and statutes vary in complexity and comprehensiveness. Additional research in this area can be provided to the Council on request.

#### **Options for Legislative Council**

- Take no action
- Amend language from "following passage and approval" to "of the year of its passage and approval or upon its passage and approval, whichever is later"
- Amend the definition of "passage" and provide other relevant definitions
- Make other substantive changes to the statute