

MINUTES OF THE MEETING
STATE ADMINISTRATION COMMITTEE
MONTANA STATE SENATE

January 14, 1981

The fifth meeting of the Senate State Administration Committee was called to order by Senator Kolstad, vice chairman.

ROLL CALL: All members were present, with the exception of Senator Story.

CONSIDERATION OF SENATE BILL #86:

AN ACT TO SUBMIT TO THE QUALIFIED ELECTORS OF MONTANA AN AMENDMENT TO ARTICLE III, SECTION 4 OF THE MONTANA CONSTITUTION TO INCREASE THE NUMBER OF SIGNATURES REQUIRED ON AN INITIATIVE PETITION.

The Vice-Chairman Kolstad introduced Senator Jack Galt, Martinsdale, District 23, who stated that the purpose of his bill is to raise from 5 percent to 10 percent the number of signatures required on an initiative petition. He said no more that 15 percent of any one district can be included, which prohibits urban area domination of the initiative process.

PROPOSERS:

Elmer Schye said that we do need the initiative process "but if we are going to be run by initiatives, we might as well do away with the legislature." He felt there is no problem getting enough signatures.

Mons Teigen, speaking for the Woolgrowers and the Cowbells, urged support.

Keith Anderson submitted written testimony that you will find enclosed.

Bob Holding also testified orally in favor of the bill.

OPPOSERS:

Jerry Calvert testified and submitted testimony which you will find enclosed.

Senator Dorothy Eck rose in opposition to this bill #86 because she had been on the committee at the Constitutional Convention which reviewed this matter and their decision was that 5 percent is an adequate number. Her feelings were that extending beyond that number would

January 14, 1981

dilute the process of putting the initiative on the ballot. She is sensitive to the rural area, although she does not think this bill addresses them.

James W. Murry submitted written testimony which is enclosed.

Opponent Larry Williams enclosed his statement, finishing with his feelings that the initiative process would be destroyed if it is increased to ten percent.

Opponent Mike Males, EIC, submitted written testimony which is enclosed.

Mike O'Malley submitted written testimony which is enclosed.

Representative Kenneth Mordtvedt sees no reason to tighten the initiative process.

Mr. Mackin claimed that this is asking people to restrict their very rights; people do not realize how tough it is. He questioned that the people know that this bill would double the number of signatures. He suggested an amendment to Senate Bill #86 which is enclosed.

Kelly Jenkins submitted written testimony and verbally told the committee that this bill will be taken as an insult to the intelligence of the people. He feels they have the capability of reviewing the measure and deciding if it should be passed.

Questions from the Committee: there being none, a closing statement was made by Senator Galt. "We are probably the national average; we ask just to put it on the ballot for the people to decide."

CONSIDERATION OF SENATE BILL #87:

A BILL FOR AN ACT ENTITLED: "AN ACT TO
PROHIBIT SOLICITATION OF BALLOT ISSUE
PETITION SIGNATURES ON ELECTION DAY AND
PROVIDING A PENALTY;

Senator Galt introduced his bill, Senate Bill #87. He feels strongly that this is an important bill because people do not like to be bothered while they are in the process of voting. He would prefer that people are not allowed to petition at all on election day, but this bill would at least keep them 200 feet away from any polling place.

January 14, 1981

PROPONENTS:

Peter Jackson expressed support for the bill and his feelings that people running for office should stay 200 feet away from the polls.

S. Keith Anderson spoke in favor of the bill and left a prepared statement, which is enclosed.

Forrest H. Boles, Montana Chamber of Commerce, has the same reasons for support, telling the committee about the numerous phone calls he had received from people who had been harrassed at the polls this past election day.

Elmer Schye again rose and supported both bills.

Bob Holding indicated oral support.

OPPONENTS:

Carole Brass, Citizen's Legislative Coalition, claimed his committee took a poll after election and none reported any harrassment during polling this year. Enclosed are statements opposing SB 86 and SB 87.

Mark Mackin submitted written testimony prepared by both himself and Mike Males. He prefaced his statements to the committee by saying, "One person's harrassment is another's political opportunity." He feels that harrassment does not get one anywhere. He feels strongly that responsible, sensitive groups will always exercise courtesy.

Calvert expressed his feelings were the same as Mr. Macklin. His enclosed statement had included both bills, 86 and 87.

James W. Murry submitted written testimony.

Males stressed strongly that it has been a right since the country was founded to petition and pointed out that there have been no objections from people in the room today that had been bothered at the polls. He stated that the existing law does prohibit people from being harrassed. He challenged Senator Galt to try to get an issue on the ballot. Perhaps 87 should have a referendum. He said, "It is sad that we are talking about restricting the process of democracy."

Kelly Jenkins enclosed a testimony.

January 14, 1981

Questions from the Committee:

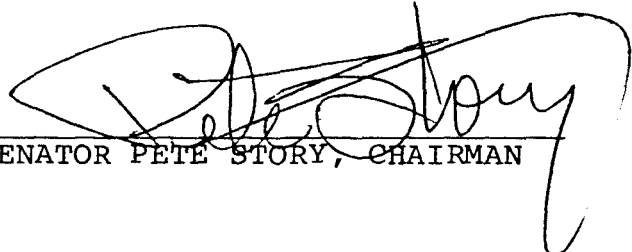
Senator Hafferman emphatically told the room he will vote for the SB 87 because no polling place should have anything political. He feels that people will sign "because one more won't make any difference." He gave an example that if a candidate goes to vote, is asked to sign a petition, and states that he does not believe in it, therefore, he may lose some votes. Senator Hafferman says, "It is political and should be forbidden."

Senator Towe replied that this applies to all petitions. He then told Senator Galt that he has distributed a bill that would control petitioning at the polls and asked if he thinks that would suffice. Senator Galt said, "No!"

Senator Kolstad asked Mr. Macklin, opponent, about the possibility of petitioners blocking access to the polls. Who would determine the guilty party if there were many? Mr. Macklin said this probably would never happen, but the election judge would have the right to ask them to leave.

Closing of this Senate Bill #87 was done by Senator Galt who indicated the need to pass this bill.

ADJOURNMENT: The meeting was adjourned at 11:15.



SENATOR PETE STORY, CHAIRMAN

Fifth Meeting

ROLL CALL

STATE ADMINISTRATION COMMITTEE

47th LEGISLATIVE SESSION - - 1981

Date 1-14-81

NAME	PRESENT	ABSENT	EXCUSED
Senator Pete Story, Chairman	<i>γ</i>		
Senator Allen Kolstad, V. C.	<i>X</i>		
Senator William Hafferman	<i>X</i>		
Senator H. W. Hammond	<i>X</i>		
Senator Jan Johnson	<i>X</i>		
Senator Patrick Ryan	<i>X</i>		
Senator Thomas Towe	<i>X</i>		

Each day attach to minutes.

DATE

1-14-81

COMMITTEE ON

BILL NO. SB 86

VISITOR'S REGISTER

NAME	REPRESENTING	Check One	
		Support	Oppose
Carole Brass	Citizens Legislative Coalition		✓
James W. Murray	Mont. State AFL-CIO		✓
Alan Ostby	Common Cause		✓
SUSAN LEHART	DEMOCRATIC LEGISLATIVE		
MIKE MALES	ENVIRONMENTAL TWO CITIES		✓
Steve Carey	ASUM		✓
Mike Dohlem	"		
Jeanne Marie Saurpney	Northern Plains Resource Council		
Jessie Remington	Intern - Sec'y of State		
Moira Teigen	Mont. Stockgrowers Assn	X	
Peter Jackson	WETA	X	
James Schuy	Self	X	
James H. Boles	Montana Chamber of Commerce	X	
Mike O'Malley	Common Cause		X
Stephen Wilkins	AFL-CIO		✓
Kelly Jenkins	Common Cause		✓
Mark Macken	Citizens Legislative Coalition		✓
JERRY W. CALVERT	Myself		✓
LARRY WILLIAMS	MONT. TAX REDUCTION MOVEMENT		✓
Leigh Kirkpatrick	Sen. Tom Lowe		
James Tate	Rep. Thomas		

Please fill out the other form if you plan to testify.

(Please leave prepared statement with Secretary)

DATE _____

COMMITTEE ON _____ BILL NO. *SB 87*

BILL NO. SB 87

VISITOR'S REGISTER

[illegible]

(Please leave prepared statement with Secretary)

437
J. L. ...
1-1

MONTANA'S INITIATIVE PROCESS -- DOES IT NEED MORE REGULATIONS?

Since 1908, the Montana Constitution has allowed Montana citizens the right to propose legislation by petition and enact or reject it at the polls. The 1981 legislature is faced with six bills relating to the initiative process, two of which would place unprecedented regulations on that process.

This sheet, prepared by Montanans who have used the initiative process, is intended to provide information to legislators before they vote on these bills.

DO INITIATIVES COST TAXPAYERS A LOT OF MONEY?

Like any other bills, some initiatives would increase taxes, others lower taxes, others have no effect. SB 72 seeks to require ballot issues to carry fiscal notes showing the cost or savings of each proposal. The fiscal note would have to be printed on the petition, in the voter handbook, and on the ballot. SB 72 will help prevent irresponsible speculation about the tax impacts of ballot issues and deserves your "yes" vote. Suggested amendment: SB 72 should be amended to require that legislatively-referred ballot issues under 13-27-315 also have their fiscal note printed on the ballot. (MCA reference: 13-27-312)

IS IT TOO EASY TO GET AN INITIATIVE ON THE BALLOT IN MONTANA?

Judge for yourself. Since 1975, the number of initiative petitions filed, qualified for the ballot, and approved by voters is shown below:

Number of initiative petitions filed:	30
Number with enough signatures to qualify for the ballot:	11
Number of initiatives approved by Montana voters:	8

The Secretary of State's records show that 63% of the petitions filed never make it on the ballot, and 72% are never enacted into law.

An initiative petition proposal has only a 28% chance of being enacted into law. Contrast this low success rate with that of a legislative bill, which in the 1979 session had a 40% chance of being enacted into law.

If the initiative process were producing a lot of frivolous ballot issues, voters would be rejecting a lot of them. Yet voters have approved 8 of the 11 issues which have made it to the ballot since 1975, or 73%. Contrast this with the 67% approval rate for issues placed on the ballot by the legislature since 1975 (6 of 9 approved). It appears the initiative process has been remarkably successful both in killing most proposals and in enacting measures the voters want.

Given that 150 Montana legislators vote on approximately 1,500 bills every session, is it really a problem that 350,000 voters vote on 3 or 4 ballot issues every two years? The sponsors of SB 86 seem to think so. SB 86 would double the number of signatures required to place an initiative on the ballot from today's 18,300 (5% of the previous vote for governor) to 36,600 (10%). The sponsor's stated purpose is to "make it harder to get an issue on the ballot."

SB 86 would, overnight, double the cost and work involved for local election officials to check and tabulate a doubled volume of signatures. Further, it would place unnecessary hardships on petition groups who (according to the 1980 campaign finance reports for Initiatives 84, 85, 86, and 87) spent over \$16,000, or nearly 20¢ per signature, and an average of 2,000 person-hours to qualify their issues for the election ballot.

Second, SB 86 contains an unfair, and possibly unconstitutional, provision which would void the signature of every voter who signs a petition after his/her legislative district has already supplied 15% of those voting in that district. Why should a voter who has legally signed a petition have his/her signature voided? No other state's law has such a bizarre regulation. Montana law already has an adequate distributional requirement for petition signatures (at least 34 legislative districts must each supply 5% of their total) and it is a positive requirement, not a negative one like SB 86's. (Reference: Constitution, Article III, Sec. 4).

Third, the title of SB 86 is vague and misleading. SB 86 would not merely "increase" the number of signatures required -- it would double them. Reference to the voiding provision should also be made. The title should more accurately read: "FOR or AGAINST doubling the number of signatures require to place an initiative on the election ballot, and voiding voter signatures under certain conditions."

Again, we ask: is it worth all this trouble, expense, and regulation to insure that voters vote on fewer issues? Are 3 or 4 ballot issues every two years really too many?

We urge legislators to hold the sponsors of SB 86 to their word. SB 86 should be defeated, but a warm invitation should be extended to SB 86's backers to file an initiative petition and get the signatures necessary to place their issue on the 1982 ballot. If the Montana initiative process is really "too easy," as they allege, then they should have no trouble getting SB 86 before the voters. But we suspect a little practical experience with that process will show SB 86's sponsors that the initiative process is plenty hard enough right now.

SHOULD SIGNATURE COLLECTING AT POLLING PLACES BE PROHIBITED?

Since 1975, and perhaps before, petitioners have collected thousands of signatures outside of polls on a wide variety of issues. In 1980, approximately 15,000 signatures were collected at the April school board election and over 30,000 at the June 3 primary.

Petitioning outside polling places is legal and practiced in a number of states including Montana, Oregon, Michigan, Colorado, California, Wyoming, and others. In 1980, the Montana Attorney General stated: "A total ban on the collection of signatures at polling places raises serious First Amendment questions. . . Orderly signature gathering which does not interfere with the election process cannot be prohibited."

Petitioning on public property is a constitutional right which can only be limited to serve a compelling state interest. SB 87 seeks to enact a total ban on all signature gathering on ballot issues outside polling places, or on election day at any location. What is the abuse being corrected and the compelling state interest being served by SB 87?

Apparently, sponsors of SB 87 believe some voters are being "harrassed" by petitioners, that petitioning interferes with the election process, and that voters won't vote if they have to "run a gauntlet" of petitioners. Both harrassment of voters and interference with an election are expressly prohibited by current Montana law. Petitioning at polling places has had no effect on the number of voters, even when such petitioning was widely publicized in 1980.

SB 87 would effectively deny the 45,000 voters who read and signed initiative petitions outside polling places in 1980 the opportunity to do so. The justification for this blanket prohibition is a few isolated complaints, many of which originated with persons who objected to the content of the petitions being circulated, not to the method of petitioning. Using the logic of SB 87, any petitioning on public property anywhere could be prohibited.

Supporters of such a petition ban paint a picture of ruthless, aggressive bands of petitioners all but blocking polling place doors until a signature is obtained. Nothing could be further from the truth. A petitioner who does not maintain a quiet, polite, and orderly demeanor will not get signatures. Any legislator knows that his/her constituents would not sign a petition if they were harrassed or annoyed in any way. The 45,000 voters who signed initiatives at the polls in 1980 testify to the fact that such petitioning is indeed orderly and lawful. The isolated complaints (if justified) can be handled under current Montana laws, and Montana voters don't need SB 87's ban on their opportunity to read and sign petitions at polls. They can say "no" to a petitioner without such government "protection."

A number of petition groups voluntarily co-operated in 1980 to limit the number of petitioners at any one polling place, and to wait until after voters had voted to discuss the initiative petitions. In all cases, the wishes of local elections officials were respected by petitioners. While these voluntary practices could be mandated into law, there is no need for SB 87's blanket ban. This legislature, to member, is dedicated to preventing unnecessary regulations on citizen practices -- if 45,000 Montanans were satisfied with a product, and a few objected, the legislature would not ban it. SB 87 contains unnecessary, politically-motivated regulations and should be rejected. (Reference: 13-35-233; Constitution, Article II, Section 6).

IS THERE EVIDENCE OF FRAUD AND FORGERY IN THE MONTANA INITIATIVE PROCESS?

No fraud or forgery of signatures has even been alleged in recent years, let alone proven. Current law effectively prevents such crimes by requiring local clerks and recorders to check every petition name for voter registration and additionally to check signatures at random against signatures on voter cards -- if any signature does not appear genuine, all signatures on that sheet must be checked. (Ref: 13-27-303).

A senate bill (yet unnumbered) would require local clerks and recorders to check every signature against the signature on voter cards. No state in the country requires such an exhaustive check, because the expense is great and the benefits are negligible. We recommend a "no" vote on this senate bill unless a fiscal note shows the expense to local officials is small, the effect on slowing the signature count not substantial, and the benefits in terms of preventing forgery exist.

HOW CAN WE TELL WHO CIRCULATES A PETITION IN CASE OF FRAUD?

Current Montana law requires the circulator of each petition sheet or section to sign an affidavit in front of a notary public. Unfortunately, the notarization form does not require a petitioner to provide his/her address. A proposed senate bill (yet unnumbered) would require all petition circulators to be registered Montana voters. (Reference: 13-27-302).

That proposal unfortunately falls short of providing positive circulator identification since it still does not require the circulator's address. It also prohibits concerned high school students from circulating a petition, a restriction which seems unnecessary in light of the fact that all petition signers must be registered Montana voters by current law. While there seems no abuse which needs legislative correction, it is also true that most states prohibit signature gathering by non-voters. If this

senate bill does not contain a provision allowing positive circulator identification so it can be enforced, it deserves your "no" vote as unworkable.

WHAT ABOUT THOSE INITIATIVES WITH "TRICKY TITLES"?

The ballot title which appears on an initiative petition is written by the attorney general's office, with the approval of the secretary of state. Either the proponents or the opponents may now challenge a ballot title or statement which is believed to be other than "a true and impartial explanation of the purpose of the proposed ballot issue in plain, easily understood language" (13-27-312). In 1980, a ballot title was changed by an out-of-court agreement between a ballot issue's proponents and opponents.

A senate bill proposal (yet unnumbered) would transfer the authority for writing the ballot title and statement for a ballot issue from the attorney general's office to the legislative council. The council now writes the titles for legislative bills and is purportedly non-partisan. We have no particular opinion on this bill; either office seems suitable.

WHO WOULD BENEFIT FROM RESTRICTIONS ON MONTANA'S INITIATIVE PROCESS?

Not Montanans. Since 1975, voters have enacted a variety of initiative laws, both "conservative" and "liberal" in nature -- including Initiative 79 (local control of pornography), 80 (voter approval for nuclear power facilities), 81 (wine sales in grocery stores), 84 (restrictions on nuclear waste disposal) 85 (lobbyist disclosure), and 86 (tax indexing).

Groups promoting initiative laws in Montana have, since 1975, spent an aggregate total of about \$125,000, 85% of which was contributed by Montana citizens, groups, and businesses to advocate passage of the issues they favored.

In contrast, an aggregate total of \$1.07 million has been spent by opponents of Montana ballot issues, less than 10% of which was donated by Montana citizens, businesses, or organizations. More than 90% of all money used to fight Montana initiative proposals since 1975 has come from outside Montana.

The primary beneficiaries of the over-regulation and crippling restrictions proposed by SB 86 and SB 87 are these out-of-state interests. After failing to beat popular ballot issues at the polls despite an 8-1 spending advantage, these interests would prefer to see these issues kept off the ballot through a series of regulations no previous Montana legislature would permit.

The next practitioner of Montana's initiative process may be you. It is too bad that a few legislators (and a few initiative petitioners) see the initiative and legislative processes as opposed to each other. They are not. Both processes derive their power from the same source: Montana voters. Just as legislators would resent restrictions on how they introduce bills or communicate with their constituents, so the initiative process should be kept free and open to use by Montana citizens.

12 January 1981

This information prepared by:

Mike A. Males (lobbyist, Environmental Information Center)
Mark Mackin (lobbyist, Citizens Legislative Coalition)



JAMES W. MURRY
EXECUTIVE SECRETARY

Box 1176, Helena, Montana

ZIP CODE 59601
406/442-1708

Room 100 "Steamboat Block"
616 Helena Ave.

TESTIMONY OF JAMES W. MURRY ON SENATE BILL 86, BEFORE THE SENATE COMMITTEE
ON STATE ADMINISTRATION, JANUARY 14, 1981

The Montana State AFL-CIO is opposed to Senate Bill 86. The right of the people to enact laws by initiative on all matters except appropriations of money and local or special laws is guaranteed by the Montana Constitution. The initiative process has been used responsibly in Montana since 1908. Direct popular legislation, the purest form of democracy, has reformed our election laws, established the first University mill levy, provided funds for reclamation of farm land and insured appropriate taxation of our mineral resources.

Montanans have been selective in their approval of initiatives placed on the ballot in the past 74 years of the initiative process, passing only 19 of the 32 initiatives which have made the ballot.

The Constitution of 1889 required the signatures of 8% of the qualified electors, did not allow constitutional amendment by initiative and required that the petitions be received by the Secretary of State's Office four months prior to the election. The 1972 Constitution, in an obvious effort to make the initiative process easier for the average citizen, changed the percentage of signatures to 5%, allowed for constitutional amendments by initiative and required petitions to be in the Secretary of State's Office three months prior to the election.

It makes no sense to pass legislation which makes the initiative process more restrictive than that required by the 1889 Constitution, when only nine years ago the process was made less difficult.

Senate Bill 86 would double the number of signatures needed to qualify an initiative for the ballot, raising the number of signatures from 5% to 10% of the total qualified electors of the state. There were 496,402 registered voters in Montana by the time of the 1980 general election. This legislation would require the collection of 10% of that figure or 49,640 signatures of qualified electors rather than the 5%, or 24,820 now required by state law. In addition, it would require that no more than 15% of the qualified electors from any one district be included in the 10% figure.

This legislation would accomplish one thing, and one thing only: it would weaken the ability and the right of the people to place an initiative on the ballot. It takes an enormous amount of time and effort now to collect the required number of signatures, and for most citizens groups this work is done by hard working and dedicated volunteers. Special interest groups financed by large corporations and big business, often from out of state, would not be adversely affected by this bill, because those groups are able to hire and pay well the individuals collecting signatures on their behalf.

We oppose any legislation which would make it more difficult for the people of Montana to exercise their right to place an initiative on the ballot.

NAME S. Keith Anderson, President Senate
BILL No. 86
ADDRESS P. O. Box 4909 DATE 1/14/81
WHOM DO YOU REPRESENT Montana Taxpayers Association
SUPPORT X OPPOSE AMEND

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

The Montana Taxpayers Association was a proponent of the Income Tax Indexing issue that was voted into law at the General Election. Association members were probably instrumental in getting the issue qualified for the ballot. Despite this fact I believe that the qualified electors should be increased and generally be made more difficult to put issues on the General ballot.

As it is now almost any small group with a particular axe to grind against government or against a segment of society can qualify an issue for the ballot and through emotional rhetoric delude the public into approving the issue.

The initiative process essentially avoids the legislature and those individuals elected to represent their constituents in the various districts of the state. To begin with some expertise is lent to the bill drafting process as each bill must go through the Montana Legislative Council. Then a bill must go through the hearing process in order to determine if it is necessary and for the general good of the state. There is the opportunity to amend the legislation and to take the views of various groups into consideration.

With the initiative process the proposals invariably have a narrow viewpoint and there is no opportunity to go through the regular legislative process.

In our view the strengthening of the Constitution will cure these objections and if initiatives are proposed they will be drafted more carefully and if an issue truly must be addressed through the initiative process it obviously will be able to receive the necessary number of signatures.

I endorse Senate Bill 86 and urge its adoption.

Oppose 86

My name is Mike O'Malley, and I am an intern for Common Cause.

Representative government has long been recognized as a "necessary evil" in democratic systems of government. In the ideal setting, government would not exist and the ordinary citizenship would dictate the rules under the foundation of majority rule with minority rights.

Representative government has achieved many accomplishments during the past two centuries. One of the most significant development was that of a responsive, intelligent, citizenery.

Why now, in the era of awareness, are the leaders of Montana's representative government attempting to take away the voice of the citizen through initiative restraint? Are the voters of Montana unable to make decisions for themselves? Are their legislators that much more enlightened?

A signature on a initiative petition is not a declaration of opinion by the citizen. The signature simply means that the issue has merit and that the entire state should have a chance to voice an opinion. SB 86 restricts the opportunity for Montana to choose issues of merit and to voice their opinion on those issues.

DATE: 11/13/81

ADDRESS: Helena

PHONE: _____

REPRESENTING WHOM? Montana Stockgrowers - Woolgrowers - Cattle Raisers

APPEARING ON WHICH PROPOSAL: 5886

DO YOU: SUPPORT? X AMEND? _____ OPPOSE? _____

COMMENTS:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

NAME: LARRY WILLIAMS DATE: 1/14/81

ADDRESS: 520 6th AVE EAST

PHONE: KALISPELL 755-7889

REPRESENTING WHOM? MONTANA TAX REDUCTION MOVEMENT

APPEARING ON WHICH PROPOSAL: SB 86

DO YOU: SUPPORT? AMEND? OPPOSE? ✓

COMMENTS: SB 86 WILL NOT ALTER THE INATIVE PROCESS

IT WILL DESTROY IT. OUR EXPERIENCE IS THAT COLLECTING

5% OF VOTERS SIGNATURES IS EXTREMELY DIFFICULT

1 THAT 10% WOULD, IN REALITY HURT MOST IF NOT ALL

INATIVE ISSUES. NOTE THAT ATTEMPTS FOR A NATIONAL INATIVE

LED BY CONGRESSMAN JARIC KEMP CAN FOR ONLY 3% OF THE

EXEMPTED SIGNATURES.

ADDITIONALLY NOT COLLECTING SIGNATURES AT THE POLLS

WOULD PRODUCE MORE IMPERFECT NAMES & SEVERELY LIMIT A DRIVES

ABILITY TO QUALIFY THE CORRECT NUMBER OF DISTRICTS,

AGAIN SUCH ACTION WOULD NOT CHANGE BUT DESTROY THE

PROCESS.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

NAME B. B. Helwig BILL No. HB 86
ADDRESS 316 Savings Center, Missoula, MT DATE 1-14-81
WHOM DO YOU REPRESENT MONTANA WOOD PRODUCTS ASSOC
SUPPORT ✓ OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

NAME S. Keith Anderson, President Senate
BILL No. 86
ADDRESS P. O. Box 4909 DATE 1/14/81
WHOM DO YOU REPRESENT Montana Taxpayers Association
SUPPORT X OPPOSE AMEND

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

The Montana Taxpayers Association was a proponent of the Income Tax Indexing issue that was voted into law at the General Election. Association members were probably instrumental in getting the issue qualified for the ballot. Despite this fact I believe that the qualified electors should be increased and generally be made more difficult to put issues on the General ballot.

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The initiative process essentially avoids the legislature and those individuals elected to represent their constituents in the various districts of the state. To begin with some expertise is lent to the bill drafting process as each bill must go through the Montana Legislative Council. Then a bill must go through the hearing process in order to determine if it is necessary and for the general good of the state. There is the opportunity to amend the legislation and to take the views of various groups into consideration.

With the initiative process the proposals invariably have a narrow viewpoint and there is no opportunity to go through the regular legislative process.

In our view the strengthening of the Constitution will cure these objections and if initiatives are proposed they will be drafted more carefully and if an issue truly must be addressed through the initiative process it obviously will be able to receive the necessary number of signatures.

I endorse Senate Bill 86 and urge its adoption.



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Room 100 "Steamboat Block"
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TESTIMONY OF JAMES W. MURRY ON SENATE BILL 87, BEFORE THE SENATE COMMITTEE
ON STATE ADMINISTRATION, JANUARY 14, 1981

The Montana State AFL-CIO is opposed to Senate Bill 87.

We are opposed to Senate Bill 87 because it makes it more difficult for the people of Montana to place an initiative on the ballot. When the legislature drags its feet on an important issue, the initiative process is the recourse given to the people by the Montana Constitution. Lobbyist disclosure bills, for example, have been introduced in the legislature in the past, but failed to win approval, even though Montana was one of only four states who did not have such a law. In the 1980 general election, lobbyist disclosure, which appeared as an initiative on the ballot, passed overwhelmingly, when four out of five Montana voters approved the measure.

In order to qualify for the ballot, initiative petitions must contain the signature of a qualified elector in substantially the same manner as it appears on the voter registration card, the elector's address, and the elector's precinct number. Many individuals, when approached at their door or on the street, are not able to recall this information accurately. When approached at their polling place, this information is readily available.

If there is concern that the collection of signatures might interfere with an election, MCA 13-35-218 (4) already prohibits the obstruction of an election and it is up to local election officials to see that no violation occurs.

Senate Bill 87 does not protect the voter at the polling place, it simply makes it more difficult for citizens collecting signatures for an initiative and thus makes it more difficult to place an initiative on the ballot. We are opposed to any legislation which weakens this constitutional right.

NAME: Mons. Leigen DATE: 1/15/81

ADDRESS: Helena

PHONE: 447-3420

REPRESENTING WHOM? (2887) *W. J. Williams & Co.*

APPEARING ON WHICH PROPOSAL: _____

DO YOU: SUPPORT? ☒ AMEND? OPPOSE?

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

NAME BOB HELDING BILL No. HB 87
ADDRESS 316 Savings Center - Missoula, MT. DATE 1-17-81
WHOM DO YOU REPRESENT MONTANA WOOD PRODUCTS ASSOC.
SUPPORT ✓ OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

NAME: Jerry W. Calvert DATE: 1-14-81
ADDRESS: 616 E. Lamme, Bozeman, MT 59715
PHONE: 584-4916

REPRESENTING WHOM? myself

APPEARING ON WHICH PROPOSAL: SB 86 89

DO YOU: SUPPORT? _____ AMEND? _____ OPPOSE? ☒

COMMENTS: _____

See prepared
statement
submitted

My name is Kelly Jenkins. I'm a volunteer lobbyist for Common Cause.

I am fundamentally unable to understand why the sponsors think this SB 87 is necessary.

The impact of this bill would be to place petition signature gatherers more than half a block away from polling places. This goes beyond maintaining an unobstructed entrance; it effectively precludes signature taking from individuals actively interested in government, who are about to exercise their right to vote, through an unconstitutional restraint on the right of assembly and right to petition.

I have collected signatures for petitions primary and special election polling places in Helena, Anaconda and Big Sandy. I have been the only signature gatherer and I have witnessed a table with several petitions within 20 feet of the entrance to a polling place. I have seen people sign several petitions and seen them decline on all of them. I have never seen nor heard about, in my discussions on the subject with over two dozen signaturer gathers, an instance of obstruction or harassment of voters by anyone carrying a petition. I have never heard of a voter complaining about the imposition or inconvenience of being given the option to review the issues and sign a petition.

I found the opposite to be true, that voters appreciate the chance to further exercise their civic duty by becoming more knowledgeable on and making a decision about a state-wide issue. The initiative process provides the average voter with the most direct influence he will exercise on government and the making of state policy. The right to petition the government directly for change is a precious right, one appreciated by the Montana voter. I've found the the exercise of it by voters to be extremely judicious.

Petitions can only put an issue on the ballot. The citizens are given a chance, after six months of scrutiny and debate, to decide on the ultimate woth of the measure. But initally, the voters should be given an opportunity to decide whether a measure should be considered in that detail. That opportunity is often best given them at the polling places, within the guidelines of current law which forbids electioneering on an issue to be voted on inside.

Making signature gathering a part of the election day process should be encouraged, not prohibited. If some still harbor an unspecified fear of the political interaction of their constituents outside the polling place, the more appropriate response might be to allow the option of officially sanctioned signature gathering inside the polling place under the watchful eye of the election judges.

SB 87 addresses a problem that doesn't exist and provides a solution that is politically stifling. With nothing to be gained and much to be lost by its passage, I urge a do not pass vote.

Calvert 1-14-81

Prepared Statement in Opposition to SB 86 and SB 87.

Jerry W. Calvert, Associate Professor of Political Science, Montana State University.

January 14, 1981

Senate Administration Committee

I urge this committee to give a "do not pass" recommendation on these two bills. My argument follows.

At the present time 23 states provide for legislation by initiative. South Dakota was the first to adopt this means of direct democracy in 1898. Montana adopted in 1906. Senator James Abourezk of South Dakota has argued that there are eight significant reasons why the initiative is a vital element in the democratic process. They are:

1. The use of the initiative is an exercise of the sovereign power of the American people to govern themselves.
2. The initiative is an actualization of the citizens' first amendment right "to petition the Government for redress of grievances."
3. The initiative provides for a concrete means for citizen participation in the policy-making of government.
4. The initiative process can lessen citizens' sense of alienation from government
5. The initiative is a natural complement to our system of checks and balances
6. The initiative enhances the accountability of government to the people.
7. The initiative provides a splendid, open arena where issues, which may not have been fully aired, can be addressed and debated.
8. The initiative process has proven to be a sound and workable process under our democratic system.

Can anyone doubt that the initiative process in Montana meets some or all of these functions?

Turning to SB 86, the proposal to double the number of signatures required to place a legislative initiative on the ballot, is unnecessary, smacks of elitism, and is impolitic.

It is unnecessary for the following reasons. Proponents would argue that the present arrangement has led or might lead to the placement of stupid, unconstitutional, impractical, or irresponsible laws on the books. Should that come to pass our system of checks and balances already provides a remedy. Unconstitutional laws may be challenged in court. Impractical, stupid, or irresponsible measures may be modified or repelled by the legislature. We have examples. The legislature did modify the recall and wine initiatives while retaining the spirit of their intentions. Efforts are now underway to "improve" lobbyist disclosure. I am hopeful that the spirit of that initiative will be retained. Having said all that

I am not willing to concede that the present process has led to us being swamped by stupid and petty legislation. With one exception, the ballot initiatives that have been placed before the people have had merit in my judgement. The one exception was the proposal to place a limit on state spending and phase out all Federal money in the state budget. Recall that it was also overwhelmingly defeated by the people in November, 1976. Let me say in closing on this point that proposing an initiative and getting on the ballot have proven to be too different things. It is not automatic. Recall the effort to legalize slot machines, the public power proposal, the plant closing initiative, and the initiative to create a unicameral legislature. If a proposal does not win the support of at least some of the people it will not get to first base.

On the question of elitism the proposal implies that people are so ignorant and so stupid that we (the legislature) cannot trust them to participate in the process of making policy. If we cannot, then we are all in trouble. To concede the point, even by implication as this proposal is doing, attacks the legitimacy of what has already been approved. Are you willing to follow the logic of the implication that the people are incompetent?

It is impolitic. I seriously doubt whether two-thirds of this legislature will vote for SB 86. If they did the people would decide and they would be asking some tough questions of those who so voted. I would venture to say they would be mad as hell and I would venture to predict that the proposal here would be soundly defeated by them and that defeat would seriously undermine the legitimacy of the legislature itself.

Proponents will also argue that the initiative process clutters up the ballot. Let's look at the record. In almost 83 years approximately 500-550 laws have been enacted by the initiative process in the 23 states. This suggests to me that the process has been used with restraint. In Montana 12 initiatives have been placed on the ballot since 1972. During the same period the legislature submitted 11 ballot propositions to the people. Only in 1978 could we say that the ballot was cluttered and in that year 7 of the 10 ballot proposals were submitted by the legislature! Looking at the record so far 1978 was an extraordinary year and should not be used as the basis upon which to justify passage of SB 86. In 1980 we faced five ballot propositions. Is anybody willing to concede that the people are so stupid that they cannot rationally handle that number? In summation there is no problem of such magnitude that justifies such a radical attack on the initiative process. Let me say that the "hidden issue" is the content of initiatives which we support or oppose. Let's fight it out on the merits of the proposals that come before us and not strangle the very process itself.

Turning briefly to SB 87 let me say that there are profound constitutional issues involved here involving a restriction of citizens' First Amendment rights. While legislatures may legitimately regulate the time, place, and manner in which citizen rights may be exercised so as to protect the rights of others, the regulations must not be so restrictive as to render the exercise of the right asserted a nullity. Prohibiting the gathering of petition signatures near polling places or absolutely prohibiting signature gathering anywhere on election day would be a strong step toward subverting the effectiveness of the entire process.

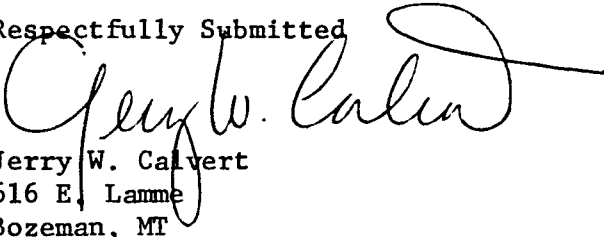
I would argue further that citizenship in a democracy such as ours involves responsibilities as well as rights. Citizens must be willing to tolerate some debate and some controversy. The few who may feel bothered by a petition gatherer simply cannot be allowed to dictate a real decline in democratic rights for the rest of us. Further, if an individual or individuals who are gathering signatures are genuinely offensive they will get little support. They do their cause injustice. Let's just leave it at that.

Again, let's debate the issues when they come up. Let's not undermine the process itself.

In conclusion, we often tend to forget the many good things that have come to us through the initiative process. The initiative has been used in the states to repeal the poll tax, grant women's suffrage, institute the direct primary, provide pensions for senior citizens, and enact workmen's compensation laws. More recently initiatives have been used to cut taxes, reduce government spending, reinforce the right to keep and bear arms, impose the death penalty for certain crimes, create state lotteries, and exempt the elderly and the disabled from the property tax among other things.

Again, it is the process we are talking about. It is a process worth defending. Let's fight out the merits of proposals in public debate in the political arena.

Respectfully Submitted



Jerry W. Calvert
616 E. Lamme
Bozeman, MT

NAME S. Keith Anderson, President Senate
BILL No. 87
ADDRESS P. O. Box 4909 DATE 1/14/81
WHOM DO YOU REPRESENT Montana Taxpayers Association
SUPPORT X OPPOSE AMEND

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

Voting should not only be considered a duty but likewise a pleasant process. It is not a pleasant process under the present situation where voters are besieged by numbers of individuals with petitions ~~and~~ within polling places.

Ray Bjork School is a good example of the situation that exists and happens to be the place where I vote. During the last election there were a number of individuals within the confines of the polling place stopping voters, delaying them from entering and leaving the polling place. Many weren't even polite in seeking petition signers but rather were rude when refused.

This is not the type of activity that should go on at a polling place and evidently it is necessary to establish stringent rules in order to protect those who go to vote.

I support this legislation and would even favor it being made stronger and the elimination of soliciting petition signers on election day eliminated altogether

NAME: CAROLE BRASS DATE: JAN 14, 1981

ADDRESS: 705 13th Butte

PHONE: 792-2015

REPRESENTING WHOM? Citizens Legislative Coalition

APPEARING ON WHICH PROPOSAL: SB-86, SB-87

DO YOU: SUPPORT? AMEND? OPPOSE? ✓

COMMENTS: SB-86

Doubling the signatures makes the process
needlessly difficult. It is already quite an
undertaking to qualify an initiative

SB-87

The voters have not complained of harassment
or other problems with petition carriers at the
polls. This is needless regulation of the
polling place. The Election Judge already has
the power to remove anyone causing problems
with the voting process.

NAME: MARK MACKIN DATE: 6-14

ADDRESS: 1316 Spring St

PHONE: 442-1177

REPRESENTING WHOM? Citizens Legislative Coalition

APPEARING ON WHICH PROPOSAL: 86 + 87

DO YOU: SUPPORT? AMEND? OPPOSE? ☒

COMMENTS: the entire package of Initiative
Bills are designed to destroy the
Initiative process

NAME S. Keith Anderson, President Senate
BILL No. 87
ADDRESS P. O. Box 4909 DATE 1/14/81
WHOM DO YOU REPRESENT Montana Taxpayers Association
SUPPORT X OPPOSE AMEND

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Comments:

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