

House Bill 779

In The House

February 16, 1981

Introduced and referred
to Committee on State
Administration.

April 23, 1981

Died in Committee.

1 HOUSE BILL NO. 779
2 INTRODUCED BY Balderson

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR A
5 TEMPORARY COMMISSION TO REGULATE BALLOT ISSUE CAMPAIGN
6 PRACTICES."

7
8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

9 Section 1. Commission of ballot issue advertising
10 practices. (1) There is a commission of ballot issue
11 advertising practices.

12 (2) The commission consists of five members, one of
13 whom is appointed by the attorney general, one by the
14 secretary of state, one by the speaker of the house, one by
15 the president of the senate, and a fifth member appointed by
16 the first four members to serve as chairman. Each member
17 must be a resident of the state.

18 (3) Appointments must be made by July 15 of each
19 general election year. No member may be associated in any
20 way with a ballot issue campaign during the year of his
21 appointment.

22 (4) Not more than three members may be from the same
23 congressional district or the same political party.

24 (5) The members shall serve a temporary term in each
25 general election year of 3 months from August 15 to November

1 15.
2 (6) The commission is allocated to the office of the
3 secretary of state for administrative purposes only as
4 prescribed in 2-15-121.

5 Section 2. Definitions. Unless the context requires
6 otherwise, the following definitions apply:

7 (1) "Commission" means the commission of ballot issue
8 advertising practices.

9 (2) "False" means clearly incorrect, contrary to fact,
10 mistaken, or untruthful.

11 (3) "Misleading" means clearly inaccurate,
12 exaggerative, or designed to deceive or cause misperception.

13 Section 3. Compensation of members -- expenses. Each
14 member of the commission is entitled to receive as
15 compensation for each day actually spent on official duties
16 the sum of \$45 and travel expenses, as provided for in
17 2-18-501 through 2-18-503.

18 Section 4. Attorney general to act as attorney for
19 commission. The attorney general shall act as attorney for
20 the commission in actions and proceedings brought by or
21 against it under [this act]. Fees and expenses of the
22 attorney general acting in this capacity shall be paid out
23 of the commission's account in the earmarked revenue fund.

24 Section 5. False or misleading statements relating to
25 ballot issues. No person or political committee as defined

1 in 13-1-101 may knowingly, either through actual or
 2 constructive knowledge, make, publish, or circulate any
 3 false or misleading statement, claim, slogan, or message in
 4 any letter, circular, advertisement, telephone advertising,
 5 or poster or in any other writing or form of media including
 6 radio, television, buttons, or stickers, that is designed to
 7 affect the vote on any ballot issue provided for in Title
 8 13, chapter 27.

9 Section 6. Statement of opinion -- penalty. (1) Any
 10 letter, circular, advertisement, or poster or any other
 11 writing or electronic advertisement paid for by a political
 12 committee or person and designed to affect the vote on any
 13 ballot issue must contain within it a clearly conspicuous
 14 statement that all information contained therein is an
 15 expression of opinion of the person or committee
 16 disseminating the information.

17 (2) Failure to comply with this section is punishable
 18 by a fine of \$50 per letter, circular, advertisement, or
 19 segment or unit of any other writing referred to in
 20 subsection (1).

21 Section 7. Initiation of proceedings -- public
 22 disclaimer -- penalties. (1) The commission shall, on the
 23 sworn complaint in writing of any individual, determine
 24 whether a person or political committee has violated the
 25 provisions of [section 5 or 6].

1 (2) If the commission determines by a vote of a
 2 majority of its members that a person or committee has
 3 violated [section 5], it may order the offending party to
 4 either discontinue issuance of the false or misleading
 5 information or to issue a public disclaimer in the same
 6 medium or media that carried the false or misleading
 7 information stating:

8 (a) that this information was found to be false or
 9 misleading; and

10 (b) the reasons for the finding.

11 (3) A person or committee that fails to comply with an
 12 order of the commission is subject to a fine of \$500 a day.
 13 Any penalties collected under this subsection shall be
 14 deposited in the revenue fund account earmarked for
 15 operation of the commission.

16 Section 8. Expedited hearing -- frivolous or unfounded
 17 complaint -- notice and hearing. (1) Upon receipt of a
 18 complaint, the commission shall schedule a hearing within 3
 19 days of receipt of the complaint and shall render a
 20 determination within 7 days of receipt.

21 (2) Whenever a complaint is received after October 15
 22 of a general election year, the commission shall schedule a
 23 hearing within 1 day of receipt of the complaint and shall
 24 render a determination within 3 days of receipt.

25 (3) The commission may assess costs including

1 reasonable costs incurred by a defendant against any
2 complaining party who submits a complaint found by the
3 commission to be frivolous or without foundation.

4 (4) Each party to a proceeding under this section is
5 entitled to reasonable notice, opportunity for a hearing,
6 within the constraints of subsections (1) and (2), and
7 judicial review. Each petition for judicial review filed
8 pursuant to this subsection shall be reviewed by the
9 appropriate district court within the same time intervals as
10 in subsections (1) and (2).

11 Section 9. Rulemaking authority. The commission may
12 adopt any rules necessary to carry out the provisions of
13 [this act].

14 Section 10. Investigative and hearing powers. (1) The
15 commission may inspect any records, transcripts, drafts, or
16 notes used in preparation of any writing or advertisement
17 referred to in [section 5] by any person or political
18 committee accused of violating [section 5].

19 (2) The commission may administer oaths, subpoena
20 witnesses and compel their attendance, take evidence, and
21 require the production of materials referred to in
22 subsection (1) that are relevant or material for the purpose
23 of conducting any hearing or investigation.

-End-