

HOUSE BILL NO. 393

Introduced: 01/19/83

Referred to Committee on State Appropriations: 01/19/83

Hearing: 1/25/83

Report: 01/25/83, Do Not Pass

Objection 1/26/83

2nd Reading: 01/29/83, Do Not Pass, As Amended

Bill Killed

1 *House* BILL NO. *393*  
2 INTRODUCED BY *J. Jensen*  
3 *Eck Blaylock* *Manahan, Bengtson*

4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR  
5 PREPUBLICATION NOTICE TO A CANDIDATE WHOSE VOTING RECORD OR  
6 PERSONAL HISTORY IS MENTIONED IN A CAMPAIGN ADVERTISEMENT TO  
7 BE GIVEN BY THE SPONSOR OF THE ADVERTISEMENT AND THE MEDIUM  
8 CARRYING THE ADVERTISEMENT; AND PROVIDING PENALTIES."

9  
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 Section 1. Candidates to be notified in advance of  
12 advertisements. A person who intends to publish or  
13 distribute by handbill, newspaper, or electronic medium an  
14 advertisement concerning the voting record or personal  
15 history of a candidate shall submit the content of the  
16 proposed advertisement to the candidate not less than 5 days  
17 prior to the election involved.

18 Section 2. Communications medium to notify candidate  
19 prior to publication of advertising. A communications medium  
20 which accepts an advertisement concerning the voting record  
21 or personal history of a candidate shall notify the  
22 candidate prior to the publication of the advertisement in  
23 sufficient time to afford the candidate an opportunity to  
24 respond before the election. A communications medium which  
25 publishes an advertisement concerning the voting record or

1 personal history of a candidate shall afford that candidate  
2 the opportunity to respond, at the candidate's expense, in a  
3 location of a printed medium or time on an electronic medium  
4 which is reasonably comparable to the publication of the  
5 original advertisement.

6 Section 3. What constitutes notification of candidate.  
7 The mailing of a copy of the proposed advertisement or the  
8 script of the advertisement, along with notice of the time  
9 and place where the advertisement will be published, aired,  
10 or distributed, to the last-known address of the candidate  
11 within the time set forth in [sections 1 through 7]  
12 constitutes compliance with [sections 1 through 7].

13 Section 4. Violation by candidate to void election. A  
14 candidate who violates [sections 1 through 7] or who knows  
15 in advance of publication of a violation of [sections 1  
16 through 7] by another person over whom he could exercise  
17 sufficient control to prevent the violation shall, upon a  
18 finding to this effect by the district court, be removed  
19 from the nomination or public office to which he was elected  
20 if the advertisement involved in the violation was false and  
21 sufficiently material to have had a reasonable possibility  
22 of producing a different vote by a substantial number of  
23 electors.

24 Section 5. Publishers and electronic communications  
25 medium managers -- penalties for violations. A publisher or

1 electronic communications medium manager or any employee of  
2 either who violates [sections 1 through 7] shall be fined  
3 not less than \$100 or more than \$1,000.

4 Section 6. Comment not restrained. Nothing in  
5 [sections 1 through 7] prevents any communications medium  
6 from commenting on the voting record or personal history of  
7 a candidate in an editorial, news story, or any other  
8 nonadvertising message.

9 Section 7. Limitations. To the extent that [sections 1  
10 through 7] are in conflict with or suspended by the federal  
11 Campaign Communications Reform Act, Title 47, section 315,  
12 U.S.C., [sections 1 through 7] are ineffective.

13 Section 8. Codification instruction. Sections 1  
14 through 7 are intended to be codified as an integral part of  
15 Title 13, chapter 35, part 2, and the provisions of Title 13  
16 apply to sections 1 through 7.

17 Section 9. Severability. If a part of this act is  
18 invalid, all valid parts that are severable from the invalid  
19 part remain in effect. If a part of this act is invalid in  
20 one or more of its applications, the part remains in effect  
21 in all valid applications that are severable from the  
22 invalid applications.

-End-

Committee  
on State Administration  
recommend do not pass  
Objection Raised to  
Adverse Committee Report

1 *House* BILL NO. *393*  
2 INTRODUCED BY *J. Jensen*  
3 *Eck Blaylock* *Manahan* *Bengtsen*  
4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR  
5 PREPUBLICATION NOTICE TO A CANDIDATE WHOSE VOTING RECORD OR  
6 PERSONAL HISTORY IS MENTIONED IN A CAMPAIGN ADVERTISEMENT TO  
7 BE GIVEN BY THE SPONSOR OF THE ADVERTISEMENT AND THE MEDIUM  
8 CARRYING THE ADVERTISEMENT; AND PROVIDING PENALTIES."  
9  
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
11 Section 1. Candidates to be notified in advance of  
12 advertisements. A person who intends to publish or  
13 distribute by handbill, newspaper, or electronic medium an  
14 advertisement concerning the voting record or personal  
15 history of a candidate shall submit the content of the  
16 proposed advertisement to the candidate not less than 5 days  
17 prior to the election involved.  
18 Section 2. Communications medium to notify candidate  
19 prior to publication of advertising. A communications medium  
20 which accepts an advertisement concerning the voting record  
21 or personal history of a candidate shall notify the  
22 candidate prior to the publication of the advertisement in  
23 sufficient time to afford the candidate an opportunity to  
24 respond before the election. A communications medium which  
25 publishes an advertisement concerning the voting record or

1 personal history of a candidate shall afford that candidate  
2 the opportunity to respond, at the candidate's expense, in a  
3 location of a printed medium or time on an electronic medium  
4 which is reasonably comparable to the publication of the  
5 original advertisement.

6 Section 3. What constitutes notification of candidate.  
7 The mailing of a copy of the proposed advertisement or the  
8 script of the advertisement, along with notice of the time  
9 and place where the advertisement will be published, aired,  
10 or distributed, to the last-known address of the candidate  
11 within the time set forth in [sections 1 through 7]  
12 constitutes compliance with [sections 1 through 7].

13 Section 4. Violation by candidate to void election. A  
14 candidate who violates [sections 1 through 7] or who knows  
15 in advance of publication of a violation of [sections 1  
16 through 7] by another person over whom he could exercise  
17 sufficient control to prevent the violation shall, upon a  
18 finding to this effect by the district court, be removed  
19 from the nomination or public office to which he was elected  
20 if the advertisement involved in the violation was false and  
21 sufficiently material to have had a reasonable possibility  
22 of producing a different vote by a substantial number of  
23 electors.

24 Section 5. Publishers and electronic communications  
25 medium managers -- penalties for violations. A publisher or

1 electronic communications medium manager or any employee of  
2 either who violates [sections 1 through 7] shall be fined  
3 not less than \$100 or more than \$1,000.

4 Section 6. Comment not restrained. Nothing in  
5 [sections 1 through 7] prevents any communications medium  
6 from commenting on the voting record or personal history of  
7 a candidate in an editorial, news story, or any other  
8 nonadvertising message.

9 Section 7. Limitations. To the extent that [sections 1  
10 through 7] are in conflict with or suspended by the federal  
11 Campaign Communications Reform Act, Title 47, section 315,  
12 U.S.C., [sections 1 through 7] are ineffective.

13 Section 8. Codification instruction. Sections 1  
14 through 7 are intended to be codified as an integral part of  
15 Title 13, chapter 35, part 2, and the provisions of Title 13  
16 apply to sections 1 through 7.

17 Section 9. Severability. If a part of this act is  
18 invalid, all valid parts that are severable from the invalid  
19 part remain in effect. If a part of this act is invalid in  
20 one or more of its applications, the part remains in effect  
21 in all valid applications that are severable from the  
22 invalid applications.

-End-