

HOUSE BILL NO. 673

INTRODUCED BY KADAS

IN THE HOUSE

February 5, 1985	Introduced and referred to Committee on Local Government.
February 13, 1985	Committee recommend bill do pass as amended. Report adopted. Bill printed and placed on members' desks.
February 16, 1985	Second reading, do pass as amended.
February 18, 1985	Correctly engrossed.
February 19, 1985	Third reading, passed. Transmitted to Senate.

IN THE SENATE

February 21, 1985	Introduced and referred to Committee on Local Government.
March 29, 1985	Committee recommend bill be concurred in as amended. Report adopted. On motion, rules temporarily suspended in order that all bills considered on second reading on the 70th Legislative Day advance to third reading that same day.

March 30, 1985

Second reading, motion to concur. Motion failed. Ayes, 20; Noes, 22.

Second reading, indefinitely postponed. Ayes, 24; Noes, 22.

On motion, HB 673 be reconsidered. Motion adopted.

Senate requests return of HB 673 for further consideration.

IN THE HOUSE

March 30, 1985

Received from Senate.

On motion, request of Senate granted for return of HB 673 for further consideration.

Bill returned to Senate.

IN THE SENATE

March 30, 1985

Received from House. Bill placed on second reading.

April 1, 1985

Second reading, concurred in as amended.

Third reading, concurred in. Ayes, 43; Noes, 7.

Returned to House with amendments.

IN THE HOUSE

April 2, 1985

Received from Senate.

April 8, 1985

Second reading, amendments concurred in.

April 8, 1985

On motion, rules suspended and
bill placed on third reading
this day.

Third reading, amendments
concurrent in.

Sent to enrolling.

Reported correctly enrolled.

1 HOUSE BILL NO. 673
2 INTRODUCED BY Kadas

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO CHANGE THE TIME WHEN
5 A LOCAL GOVERNMENT MAY BRING A SUIT CHALLENGING THE VALIDITY
6 AND CONSTITUTIONALITY OF A PETITION AND PROPOSED ACTION;
7 REVISING THE PROVISION RELATING TO CONTENTS OF THE COMPLAINT
8 IN SUCH A SUIT; AND AMENDING SECTION 7-5-135, MCA."

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

11 Section 1. Section 7-5-135, MCA, is amended to read:

12 "7-5-135. Suit to determine validity and
13 constitutionality of petition and proposed action. (1)
14 ~~Before submitting the question to the electors~~ Within 30
15 days of the date a petition has been approved as to form
16 under 7-5-134, the governing body may direct that a suit be
17 brought in district court by the local government to
18 determine whether the petition is regular in form ~~and has~~
19 ~~sufficient signatures~~ and whether the proposed action would
20 be valid and constitutional.

21 (2) The complaint shall name as ~~defendants not less~~
22 ~~than 10 or more than 20 of the petitioners~~ ~~in addition to~~
23 ~~the names of the defendants, to the caption of the complaint~~
24 ~~there shall be added the words: "And all petitioners whose~~
25 ~~names appear on the petition for an ordinance filed on the~~

1 ~~the day of _____ in the year _____~~ "7" ~~stating the date of~~
2 ~~filing~~ defendant the person or persons who submitted the
3 petition for approval under 7-5-134. The summons shall be
4 similarly directed and shall be served on the defendants
5 named therein and in addition shall be published."

-End-



-2- INTRODUCED BILL
 HB 673

APPROVED BY COMM.
ON LOCAL GOVERNMENT

1 HOUSE BILL NO. 673
 2 INTRODUCED BY KADAS
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 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO CHANGE THE TIME WHEN
 5 A LOCAL GOVERNMENT MAY BRING A SUIT CHALLENGING THE VALIDITY
 6 AND CONSTITUTIONALITY OF A PETITION AND PROPOSED ACTION;
 7 REVISING THE PROVISION RELATING TO CONTENTS OF THE COMPLAINT
 8 IN SUCH A SUIT; AND AMENDING SECTION 7-5-135, MCA."
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10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 11 Section 1. Section 7-5-135, MCA, is amended to read:
 12 "7-5-135. Suit to determine validity and
 13 constitutionality of petition and proposed action. (1)
 14 ~~Before submitting the question to the electors~~ Within 30 10
 15 WORKING days of the date a petition has been approved as to
 16 form under 7-5-134, the governing body may direct that a
 17 suit be brought in district court by the local government to
 18 determine whether the petition is regular in form and has
 19 ~~sufficient signatures~~ and whether the proposed action would
 20 be valid and constitutional.
 21 (2) The complaint shall name as ~~defendants not less~~
 22 ~~than 10 or more than 20 of the petitioners. In addition to~~
 23 ~~the names of the defendants, to the caption of the complaint~~
 24 ~~there shall be added the words: "And all petitioners whose~~
 25 ~~names appear on the petition for an ordinance filed on the~~

1 ~~xxxx-day-of-xxxxxx-in-the-year-xx"7-stating-the-date-of~~
 2 ~~filing defendant the person or persons who submitted the~~
 3 ~~petition for approval under 7-5-134. The summons shall be~~
 4 ~~similarly directed and shall be served on the defendants~~
 5 ~~named therein and in addition shall be published."~~

-End-



HOUSE BILL NO. 673

INTRODUCED BY KADAS

A BILL FOR AN ACT ENTITLED: "AN ACT TO CHANGE THE TIME WHEN A LOCAL GOVERNMENT MAY BRING A SUIT CHALLENGING THE VALIDITY AND CONSTITUTIONALITY OF A PETITION AND PROPOSED ACTION; REVISING THE PROVISION RELATING TO CONTENTS OF THE COMPLAINT IN SUCH A SUIT; CHANGING THE DEFENDANT FROM PETITIONER TO COUNTY ELECTION ADMINISTRATOR; PROVIDING FOR PRECEDENCE OF SUCH A SUIT IN THE COURT; TOLLING THE TIME LIMIT FOR COLLECTION OF SIGNATURES; AND AMENDING SECTION 7-5-135, MCA."

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

Section 1. Section 7-5-135, MCA, is amended to read:

"7-5-135. Suit to determine validity and constitutionality of petition and proposed action. (1) ~~Before-submitting-the-question-to-the-electors~~ Within 30 10 WORKING days of the date a petition has been approved as to form under 7-5-134, the governing body may direct that a suit be brought in district court by the local government to determine whether the petition is regular in form and has sufficient signatures and whether the proposed action would be valid and constitutional.

(2) The complaint shall name as defendants-not-less

~~than-10-or-more-than-20-of-the-petitioners,-in-addition--to the-names-of-the-defendants,-to-the-caption-of-the-complaint there--shall--be-added-the-words:-"And-all-petitioners-whose names-appear-on-the-petition-for-an-ordinance-filed--on--the ---day--of-----in--the-year---",-stating-the-date-of filing defendant the COUNTY ELECTION ADMINISTRATOR. THE person or persons who submitted the petition for approval under 7-5-134 HAVE AN UNCONDITIONAL RIGHT TO INTERVENE UPON TIMELY APPLICATION.~~ The summons shall be similarly directed and shall be served on the defendants named therein and in addition shall be published.

(3) AN ACTION BROUGHT UNDER THIS SECTION TAKES PRECEDENCE OVER OTHER CASES AND MATTERS IN THE DISTRICT COURT. THE COURT SHALL AS SOON AS POSSIBLE RENDER A DECISION AS TO WHETHER THE PETITION IS REGULAR IN FORM AND WHETHER THE PROPOSED ACTION WOULD BE VALID AND CONSTITUTIONAL.

(4) THE 90-DAY PERIOD DURING WHICH PETITION SIGNATURES MUST BE COLLECTED UNDER 7-5-134 BEGINS ON THE DATE OF THE COURT ORDER RESOLVING THE SUIT."

-End-



SENATE COMMITTEE OF THE WHOLE AMENDMENT

Apr. 1, 1985
DATE

10:00
TIME

MR. CHAIRMAN: I MOVE TO AMEND HOUSE BILL No. 673

third reading copy (blue) as follows:
Color

Page 1, line 25 through line 11, page 2.
Strike: subsection (2) in its entirety
Renumber: subsequent subsections

PC3HB673.701

ADOPT
REJECT

.....
VAN VALKENBURG

SENATE STANDING COMMITTEE REPORT

HOUSE BILL 673
PAGE 1 of 2 PAGES

MARCH 29 19 85

MR. PRESIDENT

We, your committee on LOCAL GOVERNMENT
having had under consideration HOUSE BILL No. 673
THIRD reading copy (BLUE color)
(MOHAR WILL CARRY)

ADVANCING TIME FOR TESTING LOCAL PETITION VALIDITY IN COURT

Respectfully report as follows: That HOUSE BILL No. 673

be amended as follows:

- Title, lines 8 and 9.
Following: "SUIT;" on line 8
Strike: remainder of line 8 through "ADMINISTRATOR;" on line 9
- Page 1, lines 18 and 19.
Following: "electors" on line 18
Strike: remainder of line 18 through "WORKING" on line 19
Insert: "The governing body may direct that a suit be brought in district court by the local government to determine whether the proposed action would be valid and constitutional, but such a suit must be initiated within 14"
- Page 1, lines 20 through 24.
Following: "7-5-134" on line 20
Strike: remainder of line 20 through "constitutional" on line 24
- Page 2, line 6.
Following: "defendant the"
Strike: remainder of line 6

XXXXXX
XXXXXXXXXX

CONTINUED

DFJ
Chairman.

HOUSE BILL 673
PAGE 2 of 2 PAGES

MARCH 29 19 85

- Page 2, lines 8 and 9.
Following: "7-5-134" on line 8
Strike: remainder of line 8 through "APPLICATION" on line 9
- Page 2, line 15.
Following: "AS TO WHETHER"
Strike: remainder of line 15
- Page 2, line 17.
Following: line 16
Insert: "(4) If the defendant prevails, he is entitled to be reimbursed by the local government for costs and reasonable attorney's fees incurred."
Renumber: subsequent section

AND AS AMENDED
BE CONCURRED IN

KB

Senator Dave Fuller
Senator Dave Fuller, Chairman

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7 REVISING THE PROVISION RELATING TO CONTENTS OF THE COMPLAINT
8 IN SUCH A SUIT; ~~CHANGING THE DEFENDANT FROM PETITIONER TO~~
9 ~~COUNTY ELECTION ADMINISTRATOR; PROVIDING FOR PRECEDENCE OF~~
10 ~~SUCH A SUIT IN THE COURT; TOLLING THE TIME LIMIT FOR~~
11 ~~COLLECTION OF SIGNATURES; AND AMENDING SECTION 7-5-135,~~
12 MCA."

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14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

15 Section 1. Section 7-5-135, MCA, is amended to read:

16 "7-5-135. Suit to determine validity and
17 constitutionality of petition and proposed action. (1)
18 ~~Before submitting the question to the electors within 30 to~~
19 ~~working the governing body may direct that a suit be brought~~
20 ~~in district court by the local government to determine~~
21 ~~whether the proposed action would be valid and~~
22 ~~constitutional, but such a suit must be initiated within 14~~
23 ~~days of the date a petition has been approved as to form~~
24 ~~under 7-5-134; the governing body may direct that a suit be~~
25 ~~brought in district court by the local government to~~

1 determine whether the petition is regular in form and has
2 sufficient signatures and whether the proposed action would
3 be valid and constitutional.

4 ~~(2) The complaint shall name as defendants not less~~
5 ~~than 10 or more than 20 of the petitioners; in addition to~~
6 ~~the names of the defendants, to the caption of the complaint~~
7 ~~there shall be added the words: "And all petitioners whose~~
8 ~~names appear on the petition for an ordinance filed on the~~
9 ~~... day of ... in the year ...", stating the date of~~
10 ~~filing defendant the COUNTY ELECTION ADMINISTRATOR, THE~~
11 ~~person or persons who submitted the petition for approval~~
12 ~~under 7-5-134 have an unconditional right to intervene upon~~
13 ~~timely application. The summons shall be similarly directed~~
14 ~~and shall be served on the defendants named therein and in~~
15 ~~addition shall be published:~~

16 ~~(3)(2) AN ACTION BROUGHT UNDER THIS SECTION TAKES~~
17 ~~PRECEDENCE OVER OTHER CASES AND MATTERS IN THE DISTRICT~~
18 ~~COURT. THE COURT SHALL AS SOON AS POSSIBLE RENDER A DECISION~~
19 ~~AS TO WHETHER THE PETITION IS REGULAR IN FORM AND WHETHER~~
20 ~~THE PROPOSED ACTION WOULD BE VALID AND CONSTITUTIONAL.~~

21 ~~(4)(3) IF THE DEFENDANT PREVAILS, HE IS ENTITLED TO BE~~
22 ~~REIMBURSED BY THE LOCAL GOVERNMENT FOR COSTS AND REASONABLE~~
23 ~~ATTORNEY'S FEES INCURRED.~~

24 ~~(4)(5)(4) THE 90-DAY PERIOD DURING WHICH PETITION~~
25 ~~SIGNATURES MUST BE COLLECTED UNDER 7-5-134 BEGINS ON THE~~

REFERENCE BILL

HB 673

HB 0673/04

1 DATE OF THE COURT ORDER RESOLVING THE SUIT."

-End-