

FINAL STATUS

HB 17 INTRODUCED BY MERCER, CRIPPEN, ET AL.
 AMEND CONSTITUTION TO AUTHORIZE LIMITS ON LIABILITY

3/26	INTRODUCED		
3/26	REFERRED TO JUDICIARY		
3/26	FISCAL NOTE REQUESTED		
3/27	FISCAL NOTE RECEIVED		
3/27	HEARING		
3/27	COMMITTEE REPORT-BILL PASS AS AMENDED		
3/27	2ND READING PASS	64	36
3/27	3RD READING PASS	65	35

	TRANSMITTED TO SENATE		
3/28	REFERRED TO JUDICIARY		
3/28	HEARING		
3/29	2ND READING CONCURRED	25	24
3/29	3RD READING CONCURRED	26	24
	(BILL TO AMEND CONSTITUTION FAILED TO RECEIVE REQUIRED 2/3 VOTE OF LEGISLATURE) BILL KILLED		

CONSTITUTIONAL AMENDMENT

1 House BILL NO. 17
2 INTRODUCED BY Mayor Edwin Bob Brown - Missoula
3 Full STEPHENS Reyer Wicks

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO SUBMIT TO THE
5 QUALIFIED ELECTORS OF MONTANA AMENDMENTS TO ARTICLE II,
6 SECTIONS 16 AND 18, OF THE MONTANA CONSTITUTION TO AUTHORIZE
7 THE LEGISLATURE TO ENACT STATUTES LIMITING OR MODIFYING
8 REMEDIES, CLAIMS FOR RELIEF, OR DAMAGES IN CIVIL
9 PROCEEDINGS; AND PROVIDING AN EFFECTIVE DATE."

10
11 WHEREAS, the Legislature historically has prescribed
12 the public policy governing the form and substance of civil
13 proceedings; and

14 WHEREAS, the Legislature historically believed that its
15 statutes in this area were reviewable under an equal
16 protection analysis using the rational basis test; and

17 WHEREAS, the Montana Supreme Court in recent decisions
18 determined that the Montana Constitution requires that
19 statutes in this area are reviewable under the strict
20 scrutiny test; and

21 WHEREAS, the Legislature finds a public interest in
22 restoring the power to the Legislature to prescribe the form
23 and substance of civil proceedings subject to review under
24 the rational basis test.

25 THEREFORE, it is the intent of the Legislature to refer

1 this constitutional amendment to the people of the state in
2 order to restore the historical power of the Legislature to
3 prescribe the form and substance of civil proceedings.

4
5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

6 Section 1. Article II, section 16, of the Constitution
7 of the State of Montana is amended to read:

8 "Section 16. The administration of justice. (1) Courts
9 of justice shall be open to every person, and speedy remedy
10 afforded for every injury of person, property, or character.
11 Right and justice shall be administered without sale,
12 denial, or delay.

13 (2) No person shall be deprived of ~~this--full~~ legal
14 redress for injury incurred in employment for which another
15 person may be liable except as to fellow employees and his
16 immediate employer who hired him if such immediate employer
17 provides coverage under the Workmen's Compensation Laws of
18 this state. ~~Right-and-justice-shall-be-administered-without~~
19 ~~sale, denial, or delay.~~

20 (3) This section shall not be construed as a
21 limitation upon the authority of the legislature to enact
22 statutes limiting or modifying remedies, claims for relief,
23 or damages in any civil proceeding."

24 Section 2. Article II, section 18, of the Constitution
25 of the State of Montana is amended to read:

-2- INTRODUCED BILL
HB17

1 "Section 18. State---subject---to---suit Governmental
 2 liability. (1) The state, counties, cities, towns, and all
 3 other governmental entities shall be subject to suit for
 4 injury to a person or property.

5 (2) The legislature shall have the authority to limit
 6 or modify remedies, claims for relief, or damages in any
 7 civil proceeding involving the state,--counties,--cities,
 8 towns,--and-all-other-local governmental entities shall have
 9 no-immunity-from-suit-for-injury-to-a--person--or--property,
 10 except--as-may-be-specifically-provided-by-law-by-a-2/3-vote
 11 of-each-house-of-the-legislature referred to in subsection
 12 (1).

13 NEW SECTION. Section 3. Effective date. This
 14 amendment is effective on approval by the electorate.

15 NEW SECTION. Section 4. Submission to electorate.
 16 This amendment shall be submitted to the electors of Montana
 17 at the general election to be held in November 1986 by
 18 printing on the ballot the full title of this act and the
 19 following:

20 ☐ FOR granting the legislature the authority to limit
 21 or modify remedies, claims for relief, or damages in
 22 any civil proceeding, including those involving
 23 governmental entities.

24 ☐ AGAINST granting the legislature the authority to
 25 limit or modify remedies, claims for relief, or

1 damages in any civil proceeding, including those
 2 involving governmental entities.

-End-

APPROVED BY COMMITTEE
ON JUDICIARY

HOUSE BILL NO. 17

INTRODUCED BY MERCER, CRIPPEN, B. BROWN, MAZUREK,
GALT, STEPHENS, KEYSER, MARKS, SWIFT, THOMAS, NATHE,
PHILLIPS, PATTERSON, SIMON, SCHULTZ, HARP, BRANDEWIE,
GRADY, ELLERD, THOPT, JACK MOORE, SALES, HANNAH, JONES,
C. SMITH, DONALDSON, GLASER, LORY, O'HARA, MILLER, NEILL,
COBB, CAMPBELL, HANSON, ERNST, WINSLOW, ASAY, IVERSON,
COMPTON, JENKINS, SWITZER, DEVLIN, RAMIREZ, REHBERG,
GILBERT, ELLISON, GOULD, PETERSON,
HAYNE, WALLIN, EUDAILY, KELLER

A BILL FOR AN ACT ENTITLED: "AN ACT TO SUBMIT TO THE
QUALIFIED ELECTORS OF MONTANA AMENDMENTS AN AMENDMENT TO
ARTICLE II, SECTIONS 16 AND 18, OF THE MONTANA CONSTITUTION
TO AUTHORIZE THE LEGISLATURE TO ENACT STATUTES LIMITING OR
MODIFYING REMEDIES, CLAIMS FOR RELIEF, OR DAMAGES IN CIVIL
PROCEEDINGS; AND PROVIDING AN EFFECTIVE DATE."

WHEREAS, the Legislature historically has prescribed
the public policy governing the form and substance of civil
proceedings; and

WHEREAS, the Legislature historically believed that its
statutes in this area were reviewable under an equal
protection analysis using the rational basis test; and

WHEREAS, the Montana Supreme Court in recent decisions

determined that the Montana Constitution requires that
statutes in this area are reviewable under the strict
scrutiny test; and

WHEREAS, the Legislature finds a public interest in
restoring the power to the Legislature to prescribe the form
and substance of civil proceedings subject to review under
the rational basis test.

THEREFORE, it is the intent of the Legislature to refer
this constitutional amendment to the people of the state in
order to restore the historical power of the Legislature to
prescribe the form and substance of civil proceedings.

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

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of justice shall be open to every person, and speedy remedy
afforded for every injury of person, property, or character.
Right and justice shall be administered without sale,
denial, or delay.

(2) No person shall be deprived of ~~this full~~ legal
redress for injury incurred in employment for which another
person may be liable except as to fellow employees and his
immediate employer who hired him if such immediate employer
provides coverage under the Workmen's Compensation Laws of

SECOND READING

1 this state. ~~Right-and-justice-shall-be-administered--without~~
 2 ~~sale,-denial,-or-delay-~~

3 (3) This section shall not be construed as a
 4 limitation upon the authority of the legislature to enact
 5 statutes limiting or modifying remedies, claims for relief,
 6 or damages in any civil proceeding."

7 Section 2. Article II, section 18, of the Constitution
 8 of the State of Montana is amended to read:

9 "Section 18. ~~State--subject---to---suit~~ Governmental
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 11 other governmental entities shall be subject to suit for
 12 injury to a person or property.

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 15 civil proceeding involving the state,-counties,-cities,-
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redress for injury incurred in employment for which another
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immediate employer who hired him if such immediate employer
provides coverage under the Workmen's Compensation Laws of

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-End-