

FINAL STATUS

SB 12 INTRODUCED BY CRIPPEN, ET AL.
AMEND CONSTITUTION TO ALLOW LEGISLATURE TO LIMIT
PRIVATE AND PUBLIC LIABILITY

3/26	INTRODUCED		
3/26	REFERRED TO JUDICIARY		
3/27	MOTION FAILED TO TAKE FROM COMMITTEE		
	AND PLACE ON 2ND READING	23	27
3/29	COMMITTEE REPORT-BILL PASS AS AMENDED		
3/29	2ND READING PASS	24	25
3/29	2ND READING PASS AS AMENDED	24	25
3/29	3RD READING PASS	24	25

TRANSMITTED TO HOUSE
3/29 REFERRED TO JUDICIARY
3/29 COMMITTEE REPORT-BILL CONCURRED AS AMENDED
3/29 2ND READING CONCURRED AS AMENDED 58 41
3/29 3RD READING CONCURRED 58 41

CONSTITUTIONAL AMENDMENT

REFER TO
JUDICIARY

1 *Senate* BILL NO. *12*

2 INTRODUCED BY *Casper T. Maguire Mercer Bob Brown*

3 *Shaw STEPHENS McCallum - Holt Hoffmann*
4 *LANE*
5 A BILL FOR AN ACT ENTITLED: "AN ACT TO SUBMIT TO THE

6 QUALIFIED ELECTORS OF MONTANA AMENDMENTS TO ARTICLE II,

7 SECTIONS 16 AND 18, OF THE MONTANA CONSTITUTION TO AUTHORIZE

8 THE LEGISLATURE TO ENACT STATUTES LIMITING OR MODIFYING

9 REMEDIES, CLAIMS FOR RELIEF, OR DAMAGES IN CIVIL

10 PROCEEDINGS; AND PROVIDING AN EFFECTIVE DATE."

11 *Himel E. Smith Related People Conover*

12 WHEREAS, the Legislature historically has prescribed

13 the public policy governing the form and substance of civil

14 proceedings; and

15 WHEREAS, the Legislature historically believed that its

16 statutes in this area were reviewable under an equal

17 protection analysis using the rational basis test; and

18 WHEREAS, the Montana Supreme Court in recent decisions

19 determined that the Montana Constitution requires that

20 statutes in this area are reviewable under the strict

21 scrutiny test; and

22 WHEREAS, the Legislature finds a public interest in

23 restoring the power to the Legislature to prescribe the form

24 and substance of civil proceedings subject to review under

25 the rational basis test.

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:

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-

CONSTITUTIONAL AMENDMENT

APPROVED BY COMMITTEE
ON JUDICIARY

SENATE BILL NO. 12

INTRODUCED BY CRIPPEN, MAZUREK, MERCER, B. BROWN, SHAW,
STEPHENS, MCCALLUM, GALT, H. HAMMOND, LANE, GOODOVER,
TVEIT, AKLESTAD, HARDING, GAGE, FARRELL, THAYER,
SEVERSON, HIRSCH, HIMSL, E. SMITH, KOLSTAD, BOYLAN,
CONOVER, B. WILLIAMS

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; REQUIRING A TWO-THIRDS VOTE OF EACH HOUSE OF
THE LEGISLATURE TO ESTABLISH A MAXIMUM DOLLAR AMOUNT OF
COMPENSATORY DAMAGES; 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:

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

"Section 16. The administration of justice. (1) Courts
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
this state. ~~Right and justice shall be administered without~~
~~sale, denial, or delay.~~

SECOND READING

(3) This section shall not be construed as a limitation upon the authority of the legislature to enact statutes limiting or modifying remedies, claims for relief, or damages in any civil proceeding. A LAW ESTABLISHING A MAXIMUM DOLLAR AMOUNT OF COMPENSATORY DAMAGES THAT MAY BE RECOVERED FOR INJURIES MAY NOT BE ENACTED EXCEPT BY A TWO-THIRDS VOTE OF EACH HOUSE OF THE LEGISLATURE."

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

"Section 18. State---subject---to---suit Governmental liability. (1) The EXTENT OF CIVIL LIABILITY AND PROVISIONS GOVERNING IMMUNITY OR NONIMMUNITY FROM SUIT FOR THE state, counties, cities, towns, and all other governmental entities shall be subject-to-suit-for-injury-to-a-person-or--property AS PROVIDED BY LAW.

(2) The legislature shall have the authority to limit or modify remedies, claims for relief, or damages in any civil proceeding involving the state,--counties,--cities, towns,--and--all--other--local governmental entities shall--have no--immunity--from--suit--for--injury--to--a--person--or--property, except as may be specifically provided by law by a 2/3--vote of--each--house--of--the--legislature referred to in subsection (1). A LAW IMPOSING IMMUNITY FROM SUIT OR ESTABLISHING A MAXIMUM DOLLAR AMOUNT OF COMPENSATORY DAMAGES THAT MAY BE RECOVERED FOR INJURIES MAY NOT BE ENACTED EXCEPT BY A

TWO-THIRDS VOTE OF EACH HOUSE OF THE LEGISLATURE.

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

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

☐ FOR granting the legislature the authority to limit or modify remedies, claims for relief, or damages in any civil proceeding, including those involving governmental entities, BUT REQUIRING A TWO-THIRDS VOTE OF EACH HOUSE TO SET A MAXIMUM DOLLAR AMOUNT OF COMPENSATORY DAMAGES WHICH MAY BE RECOVERED.

☐ AGAINST granting the legislature the authority to limit or modify remedies, claims for relief, or damages in any civil proceeding, including those involving governmental entities, BUT REQUIRING A TWO-THIRDS VOTE OF EACH HOUSE TO SET A MAXIMUM DOLLAR AMOUNT OF COMPENSATORY DAMAGES WHICH MAY BE RECOVERED.

-End-

CONSTITUTIONAL AMENDMENT

S B 12 - Grey

This is a copy of SB 12 as passed by the House
Judiciary Committee without House Committee
of the Whole amendments. The House Committee
of the Whole amendments are attached to the back
of this copy.

SENATE BILL NO. 12

INTRODUCED BY CRIPPEN, MAZUREK, MERCER, B. BROWN, SHAW,
STEPHENS, MCCALLUM, GALT, H. HAMMOND, LANE, GOODOVER,
TVEIT, AKLESTAD, HARDING, GAGE, PARRELL, THAYER,
SEVERSON, HIRSCH, HIMSL, E. SMITH, KOLSTAD, BOYLAN,
CONOVER, B. WILLIAMS

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 SUBMITTING TO THE ELECTORS THE QUESTION OF
REQUIRING A TWO-THIRDS VOTE OF EACH HOUSE OF THE LEGISLATURE
TO ESTABLISH A MAXIMUM DOLLAR AMOUNT OF COMPENSATORY DAMAGES
OR TO IMPOSE GOVERNMENTAL IMMUNITY FROM SUIT; 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:

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

"Section 16. The administration of justice. (1) Courts
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

1 this state. ~~Right-and-justice-shall-be-administered--without~~
 2 ~~sate,-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. [A LAW ESTABLISHING A
 7 MAXIMUM DOLLAR AMOUNT OF COMPENSATORY DAMAGES THAT MAY BE
 8 RECOVERED FOR INJURIES MAY NOT BE ENACTED EXCEPT BY A
 9 TWO-THIRDS VOTE OF EACH HOUSE OF THE LEGISLATURE.]"

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

12 "Section 18. State---subject---to---suit Governmental
 13 liability. (1) The EXTENT OF CIVIL LIABILITY AND PROVISIONS
 14 GOVERNING IMMUNITY OR NONIMMUNITY FROM SUIT FOR THE state,
 15 counties, cities, towns, and all other governmental entities
 16 shall be subject-to-suit-for-injury-to-a-person-or--property
 17 AS PROVIDED BY LAW.

18 (2) The legislature shall have the authority to limit
 19 or modify remedies, claims for relief, or damages in any
 20 civil proceeding involving the state,-counties,-cities,
 21 towns,-and-all-other-local governmental entities shall--have
 22 no--immunity--from--suit-for-injury-to-a-person-or-property,
 23 except-as-may-be-specifically-provided-by-law-by-a-2/3--vote
 24 of--each--house-of-the-legislature referred to in subsection
 25 (1). [A LAW IMPOSING IMMUNITY FROM SUIT OR ESTABLISHING A

1 MAXIMUM DOLLAR AMOUNT OF COMPENSATORY DAMAGES THAT MAY BE
 2 RECOVERED FOR INJURIES MAY NOT BE ENACTED EXCEPT BY A
 3 TWO-THIRDS VOTE OF EACH HOUSE OF THE LEGISLATURE.]"

4 NEW SECTION. Section 3. Effective date. This (1)
 5 EXCEPT AS PROVIDED IN SUBSECTION (2), THIS amendment is
 6 effective on approval by the electorate.

7 (2) THE BRACKETED LANGUAGE CONTAINED IN SUBSECTION (3)
 8 OF ARTICLE II, SECTION 16 AND SUBSECTION (2) OF ARTICLE II,
 9 SECTION 18 IS EFFECTIVE ONLY IF APPROVED BY A MAJORITY OF
 10 THE ELECTORS VOTING ON ISSUE 2.

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

16 PLEASE VOTE ON BOTH ISSUES

17 1.

18 (VOTE FOR ONE)

19 ☐ FOR GRANTING THE LEGISLATURE THE AUTHORITY TO LIMIT
 20 OR MODIFY REMEDIES, CLAIMS FOR RELIEF, OR DAMAGES IN
 21 ANY CIVIL PROCEEDING, INCLUDING THOSE INVOLVING
 22 GOVERNMENTAL ENTITIES.

23 ☐ AGAINST GRANTING THE LEGISLATURE THE AUTHORITY TO
 24 LIMIT OR MODIFY REMEDIES, CLAIMS FOR RELIEF, OR
 25 DAMAGES IN ANY CIVIL PROCEEDING, INCLUDING THOSE

1 INVOLVING GOVERNMENTAL ENTITIES.

2 2.

3 (VOTE FOR ONE)

4 ☐ ~~FOR granting-the-legislature-the-authority-to--limit~~
5 ~~or-modify-remedies,--claims-for-relief,--or-damages-in~~
6 ~~any--civil--proceeding,--including--those--involving~~
7 ~~governmental-entities,--BUT~~ REQUIRING A TWO-THIRDS
8 VOTE OF EACH HOUSE TO IMPOSE IMMUNITY FROM SUIT FOR
9 GOVERNMENTAL ENTITIES OR TO SET A MAXIMUM DOLLAR
10 AMOUNT OF COMPENSATORY DAMAGES WHICH MAY BE
11 RECOVERED.

12 ☐ ~~AGAINST granting-the-legislature--the--authority--to~~
13 ~~limit--or--modify--remedies,--claims--for-relief,--or~~
14 ~~damages-in-any--civil--proceeding,--including--those~~
15 ~~involving-governmental--entities,--BUT~~ REQUIRING A
16 TWO-THIRDS VOTE OF EACH HOUSE TO IMPOSE IMMUNITY
17 FROM SUIT FOR GOVERNMENTAL ENTITIES OR TO SET A
18 MAXIMUM DOLLAR AMOUNT OF COMPENSATORY DAMAGES WHICH
19 MAY BE RECOVERED.

-End-

3/29/86

DATE

8:40 p.m.

TIME

MR. CHAIRMAN: I MOVE TO AMEND SENATE BILL 12

2nd reading copy (yellow) as follows:
Color

1. Title, lines 13 - 15.

Strike: " REQUIRING " on line 13 through " DAMAGES; " on line 15

2. Page 3, lines 4 - 7.

Strike: " A LAW " on line 4 through " LEGISLATURE. " on line 7

3. Page 3, line 23 - line 1, page 4.

Strike: " A LAW " on line 23 through " LEGISLATURE. " on line 1, page 4

4. Page 4, lines 12 - 14.

Strike: " BUT " on line 12 through " RECOVERED " on line 14

5. Page 4, lines 18 - 21.

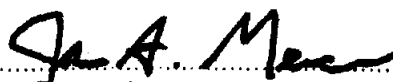
Strike: " BUT " on line 18 through " RECOVERED " on line 21

6. Sen. Mazurek's SENATE COMMITTEE OF THE WHOLE AMENDMENT, SENATE BILL 12, 3/29/86, 2 pages.

Strike: all Committee of the Whole Amendments

7. Strike: all of Rep. Hannah's HOUSE JUDICIARY AMENDMENTS, 3/29/86, 11:15 P.M.

ADOPT
REJECT


Rep. Mercer