

HOUSE BILL NO. 504
INTRODUCED BY KADAS

IN THE HOUSE

JANUARY 28, 1987 INTRODUCED AND REFERRED TO COMMITTEE
 ON STATE ADMINISTRATION.

FEBRUARY 11, 1987 COMMITTEE RECOMMEND BILL
 DO PASS. REPORT ADOPTED.

FEBRUARY 12, 1987 PRINTING REPORT.

FEBRUARY 13, 1987 SECOND READING, DO PASS.

FEBRUARY 14, 1987 ENGROSSING REPORT.

 THIRD READING, PASSED.
 AYES, 63; NOES, 31.

 TRANSMITTED TO SENATE.

IN THE SENATE

FEBRUARY 16, 1987 INTRODUCED AND REFERRED TO COMMITTEE
 ON STATE ADMINISTRATION.

MARCH 4, 1987 COMMITTEE RECOMMEND BILL BE
 CONCURRED IN AS AMENDED. REPORT
 ADOPTED.

MARCH 6, 1987 SECOND READING, CONCURRED IN.

MARCH 9, 1987 ON MOTION, TAKEN FROM THIRD READING
 AND REREFERRED TO COMMITTEE
 ON JUDICIARY.

MARCH 23, 1987 COMMITTEE RECOMMEND BILL BE
 CONCURRED IN AS AMENDED. REPORT
 ADOPTED.

MARCH 28, 1987 SECOND READING, CONCURRED IN AS
 AMENDED.

MARCH 30, 1987

THIRD READING, CONCURRED IN.
AYES, 45; NOES, 5.

RETURNED TO HOUSE WITH AMENDMENTS.

IN THE HOUSE

APRIL 8, 1987

RECEIVED FROM SENATE.

SECOND READING, AMENDMENTS
CONCURRED IN.

APRIL 9, 1987

THIRD READING, AMENDMENTS
CONCURRED IN.

SENT TO ENROLLING.

1 House BILL NO. 504
2 INTRODUCED BY Kadas

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT LIMITING CHALLENGES TO
5 INITIATIVES AND REFERENDUMS PRIOR TO ELECTIONS TO THOSE
6 ALLEGING PROCEDURAL DEFECTS IN COMPLYING WITH THE ELECTION
7 LAWS; AND AMENDING SECTIONS 3-2-202 AND 3-5-302, MCA."

8
9 WHEREAS, Article II, section 1, of the Montana
10 Constitution recognizes that all political power is vested
11 in and derived from the people and that all government of
12 right originates with the people, is founded on their will
13 only, and is instituted solely for the good of the whole;
14 and

15 WHEREAS, the right of the people to make statutory
16 changes by initiative is retained in Article III, section 4,
17 of the Montana Constitution; and

18 WHEREAS, the right of the people to alter their
19 Constitution by initiative is retained in Article XIV,
20 section 9, of the Montana Constitution.

21
22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
23 Section 1. Section 3-2-202, MCA, is amended to read:
24 "3-2-202. Original jurisdiction. (1) in Except as
25 provided in subsection (3), in the exercise of its original

1 jurisdiction, the supreme court has power to issue writs of
2 mandamus, certiorari, prohibition, injunction, and habeas
3 corpus.

4 (2) It also has power to issue all other writs
5 necessary and proper to the complete exercise of its
6 appellate jurisdiction.

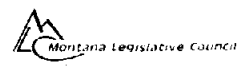
7 (3) Prior to an election on a ballot measure submitted
8 by initiative or referendum, an action may only be brought
9 alleging procedural defects in complying with the election
10 laws."

11 Section 2. Section 3-5-302, MCA, is amended to read:
12 "3-5-302. Original jurisdiction. (1) The Except as
13 provided in subsection (6), the district court has original
14 jurisdiction in:

- 15 (a) all criminal cases amounting to felony;
- 16 (b) all civil and probate matters;
- 17 (c) all cases at law and in equity;
- 18 (d) all cases of misdemeanor not otherwise provided
- 19 for; and
- 20 (e) all such special actions and proceedings as are
- 21 not otherwise provided for.

22 (2) The district court has concurrent original
23 jurisdiction with the justice's court in the following
24 criminal cases amounting to misdemeanor:

- 25 (a) misdemeanors arising at the same time as and out



-2- INTRODUCED BILL
HB-504

1 of the same transaction as a felony or misdemeanor offense
2 charged in district court;

3 (b) misdemeanors resulting from the reduction of a
4 felony or misdemeanor offense charged in the district court;
5 and

6 (c) misdemeanors resulting from a finding of a lesser
7 included offense in a felony or misdemeanor case tried in
8 district court.

9 (3) The district court has exclusive original
10 jurisdiction in all civil actions that might result in a
11 judgment against the state for the payment of money.

12 (4) The district court has the power of naturalization
13 and of issuing papers therefor in all cases where it is
14 authorized to do so by the laws of the United States.

15 (5) The district court and its judges have power to
16 issue, hear, and determine writs of mandamus, quo warranto,
17 certiorari, prohibition, and injunction, other original
18 remedial writs, and all writs of habeas corpus on petition
19 by or on behalf of any person held in actual custody in
20 their respective districts. Injunctions and writs of
21 prohibition and habeas corpus may be issued and served on
22 legal holidays and nonjudicial days.

23 (6) Prior to an election on a ballot measure submitted
24 by initiative or referendum, an action may only be brought
25 alleging procedural defects in complying with the election

1 laws, or as provided in 13-27-316."

-End-

APPROVED BY COMMITTEE
ON STATE ADMINISTRATION

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2 INTRODUCED BY Kaden

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19 for; and
- 20 (e) all such special actions and proceedings as are
21 not otherwise provided for.

22 (2) The district court has concurrent original
23 jurisdiction with the justice's court in the following
24 criminal cases amounting to misdemeanor:

- 25 (a) misdemeanors arising at the same time as and out

1 of the same transaction as a felony or misdemeanor offense
2 charged in district court;

3 (b) misdemeanors resulting from the reduction of a
4 felony or misdemeanor offense charged in the district court;
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7 included offense in a felony or misdemeanor case tried in
8 district court.

9 (3) The district court has exclusive original
10 jurisdiction in all civil actions that might result in a
11 judgment against the state for the payment of money.

12 (4) The district court has the power of naturalization
13 and of issuing papers therefor in all cases where it is
14 authorized to do so by the laws of the United States.

15 (5) The district court and its judges have power to
16 issue, hear, and determine writs of mandamus, quo warranto,
17 certiorari, prohibition, and injunction, other original
18 remedial writs, and all writs of habeas corpus on petition
19 by or on behalf of any person held in actual custody in
20 their respective districts. Injunctions and writs of
21 prohibition and habeas corpus may be issued and served on
22 legal holidays and nonjudicial days.

23 (6) Prior to an election on a ballot measure submitted
24 by initiative or referendum, an action may only be brought
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1 laws, or as provided in 13-27-316."

-End-

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- 19 for; and
- 20 (e) all such special actions and proceedings as are
- 21 not otherwise provided for.

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7 included offense in a felony or misdemeanor case tried in
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10 jurisdiction in all civil actions that might result in a
11 judgment against the state for the payment of money.

12 (4) The district court has the power of naturalization
13 and of issuing papers therefor in all cases where it is
14 authorized to do so by the laws of the United States.

15 (5) The district court and its judges have power to
16 issue, hear, and determine writs of mandamus, quo warranto,
17 certiorari, prohibition, and injunction, other original
18 remedial writs, and all writs of habeas corpus on petition
19 by or on behalf of any person held in actual custody in
20 their respective districts. Injunctions and writs of
21 prohibition and habeas corpus may be issued and served on
22 legal holidays and nonjudicial days.

23 (6) Prior to an election on a ballot measure submitted
24 by initiative or referendum, an action may only be brought
25 alleging procedural defects in complying with the election

1 laws, or as provided in 13-27-316."

-End-

HOUSE BILL NO. 504
INTRODUCED BY KADAS

A BILL FOR AN ACT ENTITLED: "AN ACT LIMITING CHALLENGES TO INITIATIVES AND REFERENDUMS PRIOR TO ELECTIONS TO THOSE ALLEGING PROCEDURAL DEFECTS IN COMPLYING WITH THE ELECTION LAWS; AND AMENDING SECTIONS 3-2-202 AND 3-5-302, MCA."

WHEREAS, Article II, section 1, of the Montana Constitution recognizes that all political power is vested in and derived from the people and that all government of right originates with the people, is founded on their will only, and is instituted solely for the good of the whole; and

WHEREAS, the right of the people to make statutory changes by initiative is retained in Article III, section 4, of the Montana Constitution; and

WHEREAS, the right of the people to alter their Constitution by initiative is retained in Article XIV, section 9, of the Montana Constitution.

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Section 1. Section 3-2-202, MCA, is amended to read:

"3-2-202. Original jurisdiction. (1) In Except as provided in subsection (3), in the exercise of its original

jurisdiction, the supreme court has power to issue writs of mandamus, certiorari, prohibition, injunction, and habeas corpus.

(2) It also has power to issue all other writs necessary and proper to the complete exercise of its appellate jurisdiction.

(3) Prior to an election on a ballot measure submitted by initiative or referendum, an action may only be brought alleging procedural defects in complying with the election laws, but no action may be brought challenging constitutional defects in the substance of a proposed ballot issue until after the election. Procedural defects include serious and material violation of any provision of the election laws, but are not limited to laws relating to qualification for inclusion on the ballot, illegal petition signatures, or an erroneous or fraudulent count of petition signatures.

(3) (A) EXCEPT AS PROVIDED IN SUBSECTION (3)(B), A CONTEST OF A BALLOT ISSUE SUBMITTED BY INITIATIVE OR REFERENDUM MAY BE BROUGHT PRIOR TO THE ELECTION ONLY IF IT IS FILED WITHIN 30 DAYS AFTER THE DATE ON WHICH THE ISSUE WAS CERTIFIED TO THE GOVERNOR, AS PROVIDED IN 13-27-308, AND ONLY FOR THE FOLLOWING CAUSES:

(1) VIOLATION OF THE LAW RELATING TO QUALIFICATIONS FOR INCLUSION ON THE BALLOT;

REFERENCE BILL.

HB 504

SECOND PRINTING

AS AMENDED



1 (II) CONSTITUTIONAL DEFECT IN THE SUBSTANCE OF A
 2 PROPOSED BALLOT ISSUE; OR

3 (III) ILLEGAL PETITION SIGNATURES OR AN ERRONEOUS OR
 4 FRAUDULENT COUNT OR CANVASS OF PETITION SIGNATURES.

5 (B) A CONTEST OF A BALLOT ISSUE BASED ON SUBSECTION
 6 (3)(A)(I) OR (3)(A)(III) MAY BE BROUGHT AT ANY TIME AFTER
 7 DISCOVERY OF ILLEGAL PETITION SIGNATURES OR AN ERRONEOUS OR
 8 FRAUDULENT COUNT OR CANVASS OF PETITION SIGNATURES.

9 (C) NOTHING IN SUBSECTION (3) LIMITS THE RIGHT TO
 10 CHALLENGE A MEASURE ENACTED BY A VOTE OF THE PEOPLE."

11 Section 2. Section 3-5-302, MCA, is amended to read:

12 "3-5-302. Original jurisdiction. (1) The Except as
 13 provided in subsection (6), the district court has original
 14 jurisdiction in:

- 15 (a) all criminal cases amounting to felony;
- 16 (b) all civil and probate matters;
- 17 (c) all cases at law and in equity;
- 18 (d) all cases of misdemeanor not otherwise provided
- 19 for; and

20 (e) all such special actions and proceedings as are

21 not otherwise provided for.

22 (2) The district court has concurrent original

23 jurisdiction with the justice's court in the following

24 criminal cases amounting to misdemeanor:

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1 of the same transaction as a felony or misdemeanor offense

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4 felony or misdemeanor offense charged in the district court;

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7 included offense in a felony or misdemeanor case tried in

8 district court.

9 (3) The district court has exclusive original

10 jurisdiction in all civil actions that might result in a

11 judgment against the state for the payment of money.

12 (4) The district court has the power of naturalization

13 and of issuing papers therefor in all cases where it is

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15 (5) The district court and its judges have power to

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17 certiorari, prohibition, and injunction, other original

18 remedial writs, and all writs of habeas corpus on petition

19 by or on behalf of any person held in actual custody in

20 their respective districts. Injunctions and writs of

21 prohibition and habeas corpus may be issued and served on

22 legal holidays and nonjudicial days.

23 ~~(6) Prior to an election on a ballot measure submitted~~

24 ~~by initiative or referendum, an action may only be brought~~

25 ~~alleging procedural defects in complying with the election~~

1 ~~LAWS, OR AS PROVIDED IN 13-27-316, BUT NO ACTION MAY BE~~
 2 ~~BROUGHT CHALLENGING CONSTITUTIONAL DEFECTS IN THE SUBSTANCE~~
 3 ~~OF A PROPOSED BALLOT ISSUE UNTIL AFTER THE ELECTION.~~
 4 ~~PROCEDURAL DEFECTS INCLUDE SERIOUS AND MATERIAL VIOLATION OF~~
 5 ~~ANY PROVISION OF THE ELECTION LAWS, BUT ARE NOT LIMITED TO~~
 6 ~~LAWS RELATING TO QUALIFICATION FOR INCLUSION ON THE BALLOT,~~
 7 ~~ILLEGAL PETITION SIGNATURES, OR AN ERRONEOUS OR FRAUDULENT~~
 8 ~~COUNT OF PETITION SIGNATURES.~~

9 (6) (A) EXCEPT AS PROVIDED IN SUBSECTION (6)(B), A
 10 CONTEST OF A BALLOT ISSUE SUBMITTED BY INITIATIVE OR
 11 REFERENDUM MAY BE BROUGHT PRIOR TO THE ELECTION ONLY IF IT
 12 IS FILED WITHIN 30 DAYS AFTER THE DATE ON WHICH THE ISSUE
 13 WAS CERTIFIED TO THE GOVERNOR, AS PROVIDED IN 13-27-308, AND
 14 ONLY FOR THE FOLLOWING CAUSES:

15 (I) VIOLATION OF THE LAW RELATING TO QUALIFICATIONS
 16 FOR INCLUSION ON THE BALLOT;

17 (II) CONSTITUTIONAL DEFECT IN THE SUBSTANCE OF A
 18 PROPOSED BALLOT ISSUE; OR

19 (III) ILLEGAL PETITION SIGNATURES OR AN ERRONEOUS OR
 20 FRAUDULENT COUNT OR CANVASS OF PETITION SIGNATURES.

21 (B) A CONTEST OF A BALLOT ISSUE BASED ON SUBSECTION
 22 (6)(A)(I) OR (6)(A)(III) MAY BE BROUGHT AT ANY TIME AFTER
 23 DISCOVERY OF ILLEGAL PETITION SIGNATURES OR AN ERRONEOUS OR
 24 FRAUDULENT COUNT OR CANVASS OF PETITION SIGNATURES.

25 (C) NOTHING IN SUBSECTION (6) LIMITS THE RIGHT TO

1 CHALLENGE A MEASURE ENACTED BY A VOTE OF THE PEOPLE."

-End-

MR. PRESIDENT

SENATE STATE ADMINISTRATION

We, your committee on.....

HOUSE BILL

504

having had under consideration.....

No.....

third

reading copy (

blue

)
color

LIMIT CHALLENGES TO INITIATIVES PRIOR TO ELECTION

Kadas (Hoffman)

Respectfully report as follows: That.....

HOUSE BILL

504

No.....

be amended as follows:

1. Page 2, line 10.

Following: "laws"

Strike: "."

Insert: ", but no action may be brought challenging constitutional defects in the substance of a proposed ballot issue until after the election. Procedural defects include serious and material violation of any provision of the election laws, but are not limited to laws relating to qualification for inclusion on the ballot, illegal petition signatures, or an erroneous or fraudulent count of petition signatures."

2. Page 4, line 1.

Following: "13-27-316"

Strike: "."

Insert: ", but no action may be brought challenging constitutional defects in the substance of a proposed ballot issue until after the election. Procedural defects include serious and material violation of any provision of the election laws, but are not limited to laws relating to qualification for inclusion on the ballot, illegal petition signatures, or an erroneous or fraudulent count of petition signatures."

AND AS AMENDED
BE CONCURRED IN

XXXXKASSX

KMK

XXXXKASSX

Jack Haffey

SENATOR JACK HAFFEY

Chairman.

STANDING COMMITTEE REPORT

SENATE JUDICIARY
HB 504
Page 2

March 23 19 87

March 23 19 87

MR. PRESIDENT

We, your committee on SENATE JUDICIARY

having had under consideration HOUSE BILL No. 504
Ref. salmon
reading copy (color)

Limit challenges to initiatives prior to election.
Kadas (Hofman)

Respectfully report as follows: That HOUSE BILL No. 504

1. Title, lines 5 through 7.
Following: "ELECTIONS" on line 5
Strike: the remainder of line 5 through "LAWS" on line 7

2. Page 2, lines 7 through 17.
Strike: subsection (3) in its entirety
Insert: "(3) (a) Except as provided in subsection (3) (b), a contest of a ballot issue submitted by initiative or referendum may be brought prior to the election only if it is filed within 30 days after the date on which the issue was certified to the governor, as provided in 13-27-308, and only for the following causes:
(i) violation of the law relating to qualifications for inclusion on the ballot;
(ii) constitutional defect in the substance of a proposed ballot issue; or
(iii) illegal petition signatures or an erroneous or fraudulent count or canvass of petition signatures.
(b) A contest of a ballot issue based on subsection (3) (a) (iii) may be brought at any time after discovery of illegal petition signatures or an erroneous or fraudulent count or canvass of petition signatures.
(c) Nothing in subsection (3) limits the right to challenge a measure enacted by a vote of the people."

3. Page 4, lines 5 through 15.
Strike: subsection (6) in its entirety
Insert: "(6) (a) Except as provided in subsection (6) (b), a contest of a ballot issue submitted by initiative or referendum may be brought prior to the election only if it is filed within 30 days after the date on which the issue was certified to the governor, as provided in 13-27-308, and only for the following causes:
(i) violation of the law relating to qualifications for inclusion on the ballot;
(ii) constitutional defect in the substance of a proposed ballot issue; or
(iii) illegal petition signatures or an erroneous or fraudulent count or canvass of petition signatures.
(b) A contest of a ballot issue based on subsection (6) (a) (iii) may be brought at any time after discovery of illegal petition signatures or an erroneous or fraudulent count or canvass of petition signatures.
(c) Nothing in subsection (6) limits the right to challenge a measure enacted by a vote of the people."

Amendments, HB 504
7080h/C:JEANNE\WP:jj

~~XXXXXXXX~~

~~XXXXXXXXXXXX~~ CONTINUED

[Signature]
Senator Mazurek

Chairman

5-23-87

~~XXXXXXXXXX~~
AND AS AMENDED
BE CONCURRED IN

[Signature]

[Signature]
Senator Mazurek

COMMITTEE OF THE WHOLE AMENDMENT

SENATE

3-27-87

DATE

3:20

TIME

MR. CHAIRMAN: I MOVE TO AMEND House Bill

No. 504

reference reading copy (salmon) as follows:
Color

AMENDING SENATE JUDICIARY STANDING COMMITTEE REPORT, DATED MARCH 23, 1987.

1. Amendment No. 2, subsection (3) (b).

Following: "based on"

Strike: "subsection"

Insert: "subsections (3) (a) (i) or"

2. Amendment No. 3, subsection (6) (b).

Following: "based on"

Strike: "subsection"

Insert: "subsections (6) (i) or"

ADOPT

REJECT


Senator HALLIGAN