

HOUSE BILL 660

Introduced by Moore, et al.

2/11	Introduced
2/13	Referred to State Administration
2/16	Hearing
2/17	Committee Report--Bill Passed
2/21	2nd Reading Do Pass Motion Failed

1 *House* BILL NO. *660*
 2 INTRODUCED BY *Jim Moore* *Direct*
 3 *Steve Coe* *Donna* *Quinn* *Ch. Smith* *Tussock*
 4 A BILL FOR AN ACT ENTITLED: "AN ACT PERMITTING A PERSON TO
 5 FILE A CITIZEN'S ACTION FOR VIOLATION OF A CAMPAIGN FINANCE
 6 LAW; AND AMENDING SECTIONS 13-37-111 AND 13-37-130, MCA."

7
 8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

9 NEW SECTION. **Section 1. Citizen's action.** (1) A
 10 person who has filed with the commissioner of political
 11 practices a written complaint alleging that a violation of
 12 this chapter has occurred may, in the name of the state,
 13 file a civil action, known as a citizen's action, if:

14 (a) the commissioner does not:

15 (i) notify the appropriate county attorney, as
 16 provided in 13-37-124, within 30 days after receiving the
 17 complaint; or

18 (ii) file an action, as provided in 13-37-124, within 2
 19 days after the county attorney waives his right to prosecute
 20 or within 2 days after expiration of the 30-day time period
 21 provided in 13-37-124(1);

22 (b) after the commissioner does not act as provided in
 23 subsection (1)(a), the person files a written notice with
 24 the commissioner stating that a citizen's action will be
 25 filed unless the commissioner, within 5 days after receiving

1 the notice, notifies the county attorney of the alleged
 2 violation or files an action if the county attorney has
 3 waived his right to prosecute; and

4 (c) the commissioner does not act in accordance with
 5 the notice provided for in subsection (1)(b).

6 (2) (a) If a defendant to an action filed under
 7 subsection (1) is found to have violated a provision of this
 8 chapter, he shall pay a penalty equal to \$500 or three times
 9 the amount of the unlawful contribution or expenditure,
 10 whichever is greater. A penalty imposed under this
 11 subsection, except a penalty imposed in a justice's court,
 12 must be deposited in the state general fund.

13 (b) In addition to the penalty imposed under
 14 subsection (2)(a), a defendant who is a successful candidate
 15 may be deprived of the nomination or removed from office as
 16 provided in 13-35-106 and 13-35-107.

17 (3) (a) If the plaintiff to an action filed under
 18 subsection (1) prevails, he is entitled to be reimbursed by
 19 the defendant for court costs and attorney fees incurred.

20 (b) If an action filed under subsection (1) is
 21 dismissed and the court finds that the action was filed
 22 without reasonable cause, the court may order the plaintiff
 23 to pay court costs and attorney fees incurred by the
 24 defendant.

25 **Section 2.** Section 13-37-111, MCA, is amended to read:

"13-37-111. Investigative powers and duties. (1) The commissioner of political practices ~~shall be~~ is responsible for investigating all ~~of--the~~ alleged violations of the election laws contained in chapters 35, 36, or 37 of this title and, ~~shall~~ in conjunction with the county attorneys, be is responsible for enforcing these election laws.

(2) The commissioner may investigate all statements filed pursuant to the provisions of chapters 35, 36, or 37 of this title and shall also investigate alleged failures to file any statement or the alleged falsification of any statement filed pursuant to the provisions of chapters 35, 36, or 37 of this title. Upon the submission of a written complaint by any individual, the commissioner shall also investigate any other alleged violation of the provisions of chapters 35, 36, or 37 of this title or any rule adopted pursuant thereto to these chapters.

(3) The commissioner may inspect any records, accounts, or books that must be kept pursuant to the provisions of chapters 35, 36, or 37 of this title which that are held by any political committee or candidate, so long as such the inspection is made during reasonable office hours.

(4) The commissioner may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books,

papers, correspondence, memoranda, bank account statements of a political committee or candidate, or other records which that are relevant or material for the purpose of conducting any investigation pursuant to the provisions of chapters 35, 36, or 37 of this title.

(5) Nothing in this section prohibits a person from filing a citizen's action as provided in [section 1]."

Section 3. Section 13-37-130, MCA, is amended to read:

"13-37-130. Limitation of action. No An action may not be brought under 13-37-128 ~~and-13-37-129~~ or [section 1] more than 4 years after the occurrence of the facts which that give rise to the action. No more than one judgment against a particular defendant may be had on a single state of facts. The civil action created in 13-37-128, ~~and-13-37-129,~~ shall--be or [section 1] is the exclusive remedy for violation of the contribution, expenditure, and reporting provisions of this chapter, except as provided in 13-37-306. These provisions are not subject to the misdemeanor penalties of 13-35-103 but may be a ground for contest of election or removal from office as provided in 13-35-106(3) and Title 13, chapter 36."

NEW SECTION. Section 4. Extension of authority. Any existing authority to make rules on the subject of the provisions of [this act] is extended to the provisions of [this act].

1 NEW SECTION. **Section 5.** Codification instruction.
2 [Section 1] is intended to be codified as an integral part
3 of Title 13, chapter 37, and the provisions of Title 13,
4 chapter 37, apply to [section 1].

-End-

APPROVED BY COMMITTEE
ON STATE ADMINISTRATION

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3 *Sen. Cocchiarella*
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LC 1207/01

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