

HOUSE BILL 696

Introduced by Whalen, et al.

2/14	Introduced
2/14	Referred to Business & Economic Development
2/16	Hearing
2/18	Committee Report--Bill Not Passed
2/20	Adverse Committee Report Adopted

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HOUSE BILL NO. 696
 INTRODUCED BY Whalen
 A BILL FOR AN ACT ENTITLED: "AN ACT GRANTING A POLITICAL
 CANDIDATE THE RIGHT TO REPLY TO A NEWSPAPER EDITORIAL THAT
 ASSAILS OR OPPOSES THE CANDIDATE; PROVIDING A PENALTY FOR
 FAILURE TO COMPLY."

9 WHEREAS, the First Amendment of the United States
 10 Constitution was designed to encourage the widest
 11 dissemination of diverse views; and

12 WHEREAS, newspapers and publications are enormously
 13 powerful and influential in their capacity to manipulate
 14 popular opinion, change the course of events, and direct the
 15 outcome of an election; and

16 WHEREAS, through the concentration of control of
 17 newspapers and publications the power to inform people and
 18 shape public opinion is in the hands of a few people; and

19 WHEREAS, the people, through their government, currently
 20 have no means by which to control or check the enormous and
 21 influential power of newspapers or publications; and

22 WHEREAS, a political candidate risks and has no means of
 23 protecting his business reputation when he is subjected to
 24 the unbridled power of a newspaper or publication that
 25 attacks his business reputation and allows him no

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opportunity to respond; and

WHEREAS, requiring equal access to newspapers and
 publications does not abridge, restrict, or censor speech,
 but rather can be utilized to facilitate and enlarge public
 discussion; and

WHEREAS, a right of equal access to newspapers and
 publications does not compel the owners to affirm their
 belief in a political position, but leaves them free to
 publicly dissociate themselves from the views of the
 speakers.

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

NEW SECTION. **Section 1.** Political candidate's right to
 reply -- requirements of newspaper or publication. (1) A
 newspaper or other publication of general distribution or
 sale to the public shall provide a candidate an opportunity
 to reply to:

(a) an editorial it publishes that assails or opposes a
 legally qualified candidate for nomination or election,
 charges the candidate with malfeasance or misfeasance in
 office, or attacks his official record; and

(b) an endorsement of a candidate for nomination or
 election that is not supported with or explained by textual
 material.

(2) A least 5 days prior to publication of an editorial

1 referred to in subsection (1)(a), the newspaper or
2 publication shall mail to the candidate a copy of the exact
3 text of the editorial and the date on which it will be
4 published. If the candidate submits a reply to the editorial
5 to the newspaper or publication more than 24 hours before
6 the date on which the editorial is to appear in the
7 newspaper or publication, the reply must be printed on the
8 same day as the editorial. If the candidate submits a reply
9 to the editorial to the newspaper or publication less than
10 24 hours before or within 5 days after the day on which the
11 editorial appears, the newspaper or publication shall
12 publish the reply no later than 2 days after receipt of the
13 reply. The length of the reply must be reasonable when
14 compared to the editorial, and the reply must specifically
15 address issues contained in the editorial.

16 (3) At least 5 days prior to publication of an
17 endorsement referred to in subsection (1)(b), the newspaper
18 or publication shall mail to a nonendorsed candidate a copy
19 of the exact text of endorsement to be published and the
20 date on which it will be published. If, more than 24 hours
21 before the date on which the endorsement is to appear, the
22 nonendorsed candidate provides the newspaper or publication
23 with the names of not more than three organizations or
24 individuals endorsing the candidacy, the newspaper or
25 publication shall publish the names directly under the

1 endorsement and indicate whom they endorse.

2 (4) If a candidate fails to comply with subsection (2)
3 or (3) when submitting a reply, the provisions of
4 subsections (1) and (5) do not apply to the newspaper or
5 publication.

6 (5) Except as provided in subsection (4), a newspaper
7 or publication that fails to comply with subsection (1) is
8 liable for a civil penalty not to exceed \$200.