

1 SENATE BILL NO. 13

2 INTRODUCED BY D. EMRICH

3 BY REQUEST OF THE SENATE SELECT COMMITTEE ON JUDICIAL OVERSIGHT AND REFORM

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT ELIMINATING ALL SUPREME COURT ORIGINAL JURISDICTION
6 OTHER THAN OF WRITS OF HABEAS CORPUS AND PROVIDING FOR DISTRICT COURT REVIEW OF
7 BALLOT MEASURES; AMENDING SECTION 13-27-605, MCA; REPEALING SECTION 3-2-202, MCA; AND
8 PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

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12 **Section 1.** Section 13-27-605, MCA, is amended to read:

13 **"13-27-605. Court review of attorney general opinion or approved petitioner statements.** (1) If
14 the proponents of a statewide ballot issue believe that the ballot statements approved by the attorney general
15 do not satisfy the requirements of 13-27-212 or 13-27-213 or believe that the attorney general was incorrect in
16 determining that the petition was legally deficient, they may, within 10 days of the attorney general's
17 determination regarding legal sufficiency provided for in 13-27-226, file an original proceeding in ~~the supreme~~
18 ~~court~~ district court challenging the adequacy of the statement or the attorney general's determination and
19 requesting the court to alter the statement or modify the attorney general's determination.

20 (2) If the opponents of a statewide ballot issue believe that the petitioner ballot statements
21 approved by the attorney general do not satisfy the requirements of 13-27-212 or 13-27-213 or believe that the
22 attorney general was incorrect in determining that the petition was legally sufficient, they may, within 10 days of
23 the date of certification to the governor that the completed petition has been officially filed, file an original
24 proceeding in ~~the supreme~~ district court challenging the adequacy of the statement or the attorney general's
25 determination and requesting the court to alter the statement or overrule the attorney general's determination
26 concerning the legal sufficiency of the petition. The attorney general shall respond to a complaint within 5 days.

27 (3) (a) Notice must be served upon the secretary of state and upon the attorney general.

28 (b) If the proceeding requests modification of ballot statements, an action brought under this

1 section must state how the petitioner's ballot statements approved by the attorney general do not satisfy the
2 requirements of 13-27-212 or 13-27-213 and must propose alternate ballot statements that satisfy the
3 requirements of 13-27-212 and 13-27-213.

4 (c) (i) Pursuant to Article IV, section 7(2), of the Montana constitution, an action brought pursuant
5 to this section takes precedence over other cases and matters in ~~the supreme district~~ court. The court shall
6 examine the proposed issue and the challenged statement or determination of the attorney general and shall as
7 soon as possible render a decision as to the adequacy of the ballot statements or the correctness of the
8 attorney general's determination.

9 (ii) If the district court decides that the ballot statements do not meet the requirements of 13-27-
10 212 or 13-27-213, it may order the attorney general to revise the ballot statements within 5 days or certify to the
11 secretary of state ballot statements that the court determines will meet the requirements of 13-27-212 and 13-
12 27-213. A ballot statement revised by the attorney general pursuant to the court's order or certified by the court
13 ~~must be placed on the petition for circulation and on the official ballot~~ is appealable to the supreme court.

14 (iii) If the district court decides that the attorney general's legal sufficiency determination is
15 incorrect and that a proposed issue does not comply with statutory and constitutional requirements governing
16 submission of the issue to the electors, any petitions supporting the issue are void and the issue may not
17 appear on the ballot unless otherwise ordered by the supreme court. A proponent of the statewide ballot issue
18 may resubmit a revised issue, pursuant to 13-27-214, subject to the deadlines provided in this chapter.

19 (iv) If the district court decides that the attorney general's legal deficiency determination is incorrect
20 and that a proposed statewide ballot issue complies with statutory and constitutional requirements governing
21 submission of the issue to the electors, the attorney general shall prepare ballot statements that comply with
22 13-27-212 and 13-27-213 and forward the statements to the secretary of state within 5 days of the court's
23 decision. This decision is appealable to the supreme court.

24 (4) A petition may be circulated by a signature gatherer upon transmission of the sample petition
25 form by the secretary of state pending review under this section. If, upon review, the attorney general, ~~or the~~
26 ~~supreme district court, or supreme~~ court revises the petition form or ballot statements, any petitions signed prior
27 to the revision are void.

28 (5) An original proceeding in ~~the supreme~~ district court under this section ~~is the exclusive remedy~~

1 may be appealed to the supreme court for a challenge to the petitioner's ballot statements, as approved by the
2 attorney general, or the attorney general's legal sufficiency determination. A statewide ballot issue may not be
3 invalidated under this section after the secretary of state has certified the ballot under 13-12-201.

4 (6) This section does not limit the right to challenge a constitutional defect in the substance of an
5 issue approved by a vote of the people."

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7 NEW SECTION. Section 2. Repealer. The following section of the Montana Code Annotated is
8 repealed:

9 3-2-202. Original jurisdiction -- review of ballot statements.

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11 NEW SECTION. Section 3. Effective date. [This act] is effective on passage and approval.

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