

SENATE BILL NO. 13

INTRODUCED BY D. EMRICH

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

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

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

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

"3-2-202. Original jurisdiction—~~review of ballot statements.~~ (1) In the exercise of its original jurisdiction, the supreme court has power to issue writs of mandamus, certiorari, prohibition, injunction, and habeas corpus.

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

~~(3)—(a) The supreme court has original jurisdiction to review the petitioner's ballot statements for initiated measures and the attorney general's ballot statements for referred measures and the attorney general's legal sufficiency determination in an action brought pursuant to 13-27-605.~~

~~(b)—(i) In an original proceeding under subsection (3)(a), the petitioner and the attorney general shall certify the absence of factual issues or shall stipulate to and file any factual record necessary to the supreme court's consideration of the petitioner's ballot statements or the attorney general's legal sufficiency determination.~~

~~(ii)—If the parties to an original proceeding under subsection (3)(a) fail to make the certification or stipulation required by subsection (3)(b)(i), the supreme court shall refer the proceeding to the district court in the county of residence of the lead petitioner for development of a factual record and an order that addresses the issues provided in 13-27-605(3). Any party may appeal the order of the district court to the supreme court~~

~~by filing a notice of appeal within 5 days of the date of the order of the district court. If a lead petitioner has not been designated in accordance with this section or if the parties to the proceeding agree, the proceeding must be referred to the district court for Lewis and Clark County.~~

~~(4) As used in this section, "lead petitioner" means an individual designated by the petitioner or petitioners on a form provided by the secretary of state.~~

~~(5) Nothing in subsection (3) limits the right to challenge a ballot issue enacted by a vote of the people."~~

Section 2. Section 13-27-605, MCA, is amended to read:

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

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

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

(b) If the proceeding requests modification of ballot statements, an action brought under this section must state how the petitioner's ballot statements approved by the attorney general do not satisfy the requirements of 13-27-212 or 13-27-213 and must propose alternate ballot statements that satisfy the requirements of 13-27-212 and 13-27-213.

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

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4 ~~NEW SECTION. Section 2. Repealer. The following section of the Montana Code Annotated is~~
5 ~~repealed:~~

6 ~~3-2-202. Original jurisdiction -- review of ballot statements.~~

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

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