

Unofficial Draft Copy

As of: February 24, 2006 (2:33pm)

LC10002

**** Bill No. ****

Introduced By *****

By Request of the State Administration and Veterans' Affairs

Interim Committee

A Bill for an Act entitled: "An Act deleting language qualifying the right of an individual to bring a civil action to enforce the requirements of the public participation in government statutes in Title 2, chapter 3, part 1 of the Montana Code Annotated; amending section 2-3-114, MCA."

WHEREAS, sections 2-3-114, MCA, allows a civil action to be filed to void a decision of a state agency made in violation of the right to notice and opportunity to be heard and 2-3-213, MCA, allows a civil action to be filed to void a decision of a state agency made in violation of the right to open meetings; and

WHEREAS, under 2-3-114, MCA, a person may bring a civil action only if the person is a "person whose rights have been prejudiced" by the agency's actions, but under 2-3-213, MCA, there is no such stated limitation in the section; and

WHEREAS, there is no reason why a person bringing an action under 2-3-114 should not be subject to the requirements for standing as a person bringing an action under 2-2-213, MCA; and

WHEREAS, it is therefore the intention of the State Administration and Veterans' Affairs Interim Committee that by eliminating the requirement that a person can only bring an action under 2-3-114, MCA, if the plaintiff is a "person whose

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rights have been prejudiced" that the standing to sue of persons bringing a civil action under either 2-3-114 or 2-3-213, MCA be governed by the requirements of Rule 17(a) of the Montana Rules of Civil Procedure.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 2-3-114, MCA, is amended to read:

"2-3-114. Enforcement. The district courts of the state have jurisdiction to set aside an agency decision under this part upon petition made within 30 days of the date of the decision of ~~any person whose rights have been prejudiced.~~"

{*Internal References to 2-3-114: None.*}

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