

Montana Conservation Voters

EXHIBIT 3
DATE 3-30-05
SB 390

Mr. Chairman and members of the committee:

My name is Jeanne-Marie Souvigney and I'm here on behalf of Montana Conservation Voters to oppose SB 390.

We opposed this bill in the Senate, and although the Senate State Administration committee made certain changes we requested, there is still one section in particular that is very problematic we want to bring to your attention.

MCV frequently works with candidates as well as other organizations that are interested in issues that may, in one form or another, find their way onto a ballot. We are very, very careful to advise these folks what the statutes are that affect their activities and urge them to ensure they are in compliance with the laws, even when those laws are vague or ambiguous and have therefore been open, in our mind, to somewhat subjective interpretations.

Our concern in SB 390 is with the language about ballot issue committees in Section 2, because this bill, as currently crafted, could apply to hundreds of groups that have to file as incidental committees on ballot issues, and right now, anyone trying to comply with this section of the bill will have a very tough time doing it.

Section 2 (page 1, lines 28-29) mentions ballot issue committees who have filed a certification under 13-37-201, which is the provision requiring political committees (associations of two or more people or individuals) to file a certain form and identify a campaign treasurer.

There are various types of political committees. One that is specifically organized to support or oppose a ballot issue, for example, is a "principal campaign committee." Often, there are only a couple of such committees for each ballot issue.

There are other political committees, such as independent committees, that are not organized to support or oppose a particular issue but may be organized around a variety of issues or candidates, such as PACs or political parties. They sometimes get involved with ballot issues.

There are also organizations, like the Chamber of Commerce, trade groups, conservation organizations, or religious, civic or social groups that are not specifically organized to influence an election but may incidentally become a political committee under Montana law because of a contribution or expenditure in support of or opposition to a ballot issue. These groups must, under Montana law, file a campaign report as incidental committees if they spend any money on a ballot issue.

You can have many dozens or even hundreds of incidental committees on a single ballot issue. In 2004, there were eight actual or potential ballot issues for which there were principal or incidental committees.



* I-147, the cyanide initiative, had two principal ballot issue committees filed and 44 incidental committees.

* The 2004 tobacco initiative, I-149, had 2 principal committees and 28 incidental committees. *
The 2000 gambling initiative had hundreds of incidental committees.

The Commissioner of Political Practices office does not keep a running list of incidental ballot issue committees. So what's going to happen when someone calls that office and asks for a list in order to comply with this law? Either the commissioner is going to tell each one of those committees to go through the files themselves, or he is going to have his staff do it; either way, it's going to be incredibly time-consuming for someone – maybe for lots of people; some of these filings are going to get missed; and it could be very expensive just to meet these notification requirements. And, since you are putting civil penalties in Section 3 on any violation of this new law, there's the potential for a lot of complaints and lawsuits, something that was acknowledged in the fiscal note.

The fact is most of these incidental committees don't want all this material. They have become an incidental committee by virtue of some ads they placed, a flyer they distributed, a contribution they made, or something similar. They are usually not individually involved with the details of a ballot issue campaign, but will instead align themselves with a principal committee.

I would like to suggest that if you decide to pass this bill and keep this notification requirement in for ballot issue committees, that you at least amend Section 2, subsections 1 and 2 to only apply to principal ballot issue committees. Any group that really wants get all this required material on a specific ballot issue simply has to file as a principal committee.

This will make it possible for the Commissioner to track the small number of principal committees who must meet these requirements, allow the Commissioner to advise other principal committees to whom they must send material, and ensure that ballot issue committees aren't being forced to wastefully and unnecessarily send materials to groups that really don't want the information.

In closing, I want to also suggest that if your goal is campaign disclosure, you might go a lot farther toward reaching that goal by enabling the Commissioner's office to make campaign filing information readily and more timely available on his office's web site. I think that kind of open access is what's needed, rather than more laws that are open to interpretation and may be very difficult to enforce.

Thank you.