

1 SENATE BILL NO. 177

2 INTRODUCED BY C. SQUIRES

3 BY REQUEST OF THE STATE ADMINISTRATION AND VETERANS' AFFAIRS INTERIM COMMITTEE

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT EXTENDING THE TIME IN WHICH A PETITION MAY BE FILED
6 WITH A DISTRICT COURT TO SET ASIDE AN AGENCY DECISION MADE IN VIOLATION OF THE PUBLIC
7 PARTICIPATION IN GOVERNMENT STATUTES IN TITLE 2, CHAPTER 3, PART 1 OR 2, MCA; AND
8 AMENDING SECTIONS 2-3-114 AND 2-3-213, MCA."

9
10 WHEREAS, sections 2-3-114 and 2-3-213, MCA, now require that civil actions brought under either of
11 those sections in District Court to enforce the laws allowing citizen participation in government be brought within
12 30 days of an agency decision made in violation of those laws; and

13 WHEREAS, the effect of the 30-day limitation is to prohibit suits brought after that 30-day limit, as was
14 confirmed by the Montana Supreme Court in the case of Kadillak v. The Anaconda Co., 184 M 127 (1979), in
15 which the Supreme Court held that a District Court had no jurisdiction to even consider a case brought after the
16 30-day period had passed; and

17 WHEREAS, if an agency, board, or other public entity holds a meeting but does not give notice of a
18 meeting, does not publish an agenda for the meeting, and does not publish minutes of a meeting, there is no way
19 for the public to know whether a meeting occurred, whether a decision was made by the agency, board, or other
20 public entity that is of public interest, or whether the 30-day "clock" has in fact started, except by word of mouth;
21 and

22 WHEREAS, if a potential plaintiff learns of the meeting by word of mouth at a time too late in the 30-day
23 period to discuss the violation of the participation in government statutes with a potential defendant, it could force
24 a hasty decision to bring suit against the agency, board, or other public entity just because the 30-day period has
25 almost passed.

26 THEREFORE, it is the determination of the State Administration and Veterans' Affairs Interim Committee
27 that the starting of the 30-day "clock" at the time that a potential plaintiff or petitioner learns or should have
28 learned of a decision made at a meeting held in violation of the law will still apply a limitation to the time that a
29 suit may be brought, but is more fair to a plaintiff or petitioner who might otherwise be precluded from legal action,
30 with the agency, board, or other public entity thereby being rewarded for its secrecy.

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. A petition pursuant to this section must be filed within 30 days of the date on which the petitioner learns, or reasonably should have learned, of the agency's decision."

Section 2. Section 2-3-213, MCA, is amended to read:

"2-3-213. Voidability. Any decision made in violation of 2-3-203 may be declared void by a district court having jurisdiction. A suit to void ~~any such a~~ decision must be commenced within 30 days of the ~~decision date~~ on which the plaintiff or petitioner learns, or reasonably should have learned, of the agency's decision."

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