

COMMISSIONER OF  
POLITICAL PRACTICES

STATE ADMINISTRATION

Exhibit No. 2

Date 2-23-15

Bill No. SB 319



STATE OF MONTANA

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February 23, 2015

Honorable Dee Brown  
Chairperson  
Senate State Administration  
Committee  
Roger Webb– Vice Chair  
Sue Malek – M. Vice Chair

Members

Robyn Driscoll  
Jedediah Hinkle  
Doug Kary  
Lea Whitford

Re: Senate Bill 319  
Hearing Date: Wednesday, February  
23, 2015 at 3:00 PM  
Sponsor: Senator Blasdel

Dear Chairperson Brown and members of the Committee:

The Office of the Commissioner of Political Practices respectfully opposes SB 319. We have several reasons for this opposition.

As the members of this Committee know, the COPP is mandated to enforce Montana's campaign practice laws on behalf of the people of Montana. If judicial action is necessary, the filing of such action is allowed (see §13-37-113 MCA) in the district courts of Lewis and Clark County, the 1<sup>st</sup> Judicial District of the State of Montana. SB 319 changes the filing site (or venue) for enforcement of campaign practice violations from the courts of the 1<sup>st</sup> Judicial District to Judicial Districts throughout Montana, depending on where a candidate or political committee resides.

There is no meritorious reason for the venue change proposed by SB 319. The COPP is not, and has not, engaged in enforcement litigation that

somehow triggers a need for a change in venue. During the past two years the COPP's enforcement work has taken an equal role with the transparency work that has historically been the dominate COPP activity.<sup>1</sup> During the past two years the COPP has dealt with a large inventory of backlogged complaints, issuing 122 Decisions resolving 142 COPP complaints. The Decisions included 73 sufficiency Decisions requiring enforcement through settlement or litigation. The scope of this enforcement work is unprecedented in the 40 year history of the COPP, both in the number and complexity of the issues presented and decided.

Most sufficiency Decisions have or will settle but some will require judicial enforcement. During the past two years the COPP's enforcement work has included sufficiency Decisions dealing with the extraordinary intrusion of illegal corporate resources in the 2010 Montana Republican primary elections. The Decisions dealing with these 2010 election issues have caused unprecedented enforcement litigation. Cases are now filed by the COPP in Montana's 1<sup>st</sup> Judicial District against 7 candidates and 3 third party groups that were involved in 2010 Montana legislative elections.

This recent COPP litigation proves the efficacy of the existing system of enforcement, including venue. Despite increased work and limited staff/funds the COPP was able to timely and properly file each enforcement action. In turn, each enforcement action was procedurally sound, both in substance and due process. The Defendants involved in those enforcement actions have been provided full due process. In fact, they have collectively filed 6 derivative counterclaims, 3 declaratory judgment actions and 3 appeals of procedural decisions to the Montana Supreme Court. In addition, the Defendants have briefed and argued 19 separate motions in these enforcement actions. To date the COPP has passed through every litigation challenge, winning each motion filed.

As the above establishes, the COPP has had to pass through a historically unprecedented period of enforcement litigation. It did so under the existing venue system. That system served the people of Montana by allowing an office with few staff and little resources to act in a manner that served Montana's people through enforcement of Montana's election laws. Candidates

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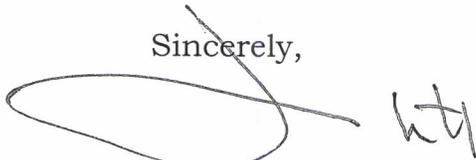
<sup>1</sup> As this Committee knows, the COPP has two primary functions. It is the State of Montana's transparency arm in regard to campaign finance information. In that capacity it receives and posts campaign finance reports for review by the public, press and opposing candidates. The COPP was established in 1974 and for the first two decades of its existence its primary and nearly sole function was its transparency work.

and political committees were treated fairly because each was and is provided full due process by the courts of the 1<sup>st</sup> Judicial District.

SB 319 would change the existing venue system by adding multiple venue sites for enforcement. Multiple venue sites would disadvantage the people of Montana because the COPP's limited staff and resources would not stretch to cover enforcement actions filed in district courts throughout Montana. There is no gain, only loss, for the people of Montana in this change. Whatever "gain" might be argued for SB 319 accrues solely to the individual, not the community. This sort of gain, when argued for a legislator, goes against the public trust obligation imposed on every legislator by Montana law, an obligation that requires duties be carried for "for the benefit of the people" of Montana. §2-2-103(1) MCA.

Thank you for your consideration of the COPP's comments opposing SB 319.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jonathan R. Motl', is written over a large, loopy scribble. To the right of the signature, the initials 'JRM' are written in a cursive style.

Jonathan R. Motl  
Commissioner of Political Practices