MEA-MFT v. State of Montana, 2014 MT 33

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“Superfluity does not vitiate.” But it may require an explanation. According to the Montana Supreme Court in *MEA-MFT v. State of Montana*, if the title of a bill passed by the Legislature is inaccurate or misleading the Attorney General may be required to revise the Statement of Purpose to clarify the Legislature’s intent.

In *MEA-MFT v. State of Montana*, 2014 MT 33, the Montana Supreme Court declined to rewrite the title of a legislative initiative designed to eliminate late, same-day, voter registration in Montana on the grounds that the Court “has no power to reform or amend the title.” Rather, the Court instructed the Attorney General to revise his statement of purpose for the ballot initiative to include a disclaimer that the National Voting Rights Act (NVRA) does not require the elimination of same-day voter registration. Largely relying on its decision in *Harper v. Greely*, 234 Mont. 259 (1988), the Court recognized that “ballot language must identify the measure on the ballot so that a Montana voter, drawing on both official and unofficial sources of information and education, will [be able to] exercise his or her political judgment.” LR-126 was titled inappropriately because the bill’s title included, among other things, the phrase: “ENSURING COMPLIANCE WITH THE NATIONAL VOTER REGISTRATION ACT.”

Plaintiffs claimed the language was inaccurate and misleading because the NVRA does not require the elimination of same-day voter registration, and LR-126 did. Montana is otherwise in compliance with the NVRA. The Attorney General’s initial statement read:

The 2013 Legislature submitted this proposal for a vote. LR-126 changes the deadline for late voter registration from the close of polls on election day to 5:00 p.m. on the Friday before the election. LR-126 also moves the deadline for changes to an elector’s voter registration from the close of polls on election day to 5:00 p.m. on the Friday before the election.

The Court ultimately deferred to the Legislature by reasoning “that the legislature is a co-ordinate [sic] branch of the government, and that its action, if fair, should be sustained . . . .”

Montana practitioners should be cognizant of the Court’s deference to the Legislature in matters relating to legislative process. By requiring the Attorney General to re-draft his Statement of Purpose, the Court simultaneously avoided direct conflict with the Legislature and exerted its prerogative under Mont. Code Ann. § 13–27–312, which allows the Court to review Attorney General opinions or approved
petitioner statements. The Attorney General’s redraft could determine whether this case was merely a shot over the Legislature’s bow or if the Court is readying itself for a possible battle over voter rights in Montana.

An original proceeding filed pursuant to § 13–27–316(2) of the Montana Code Annotated

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For Respondent: Timothy C. Fox, Montana Attorney General | Lawrence Van Dyke Montana Solicitor General | Jon Bennion, Deputy Attorney General; Helena, Montana

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