**** BILL NO. ****

INTRODUCED BY ****

BY REQUEST OF THE ****

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS TO PROHIBIT ATTORNEY FEE AWARDS AGAINST THE STATE RELATING TO LEGISLATIVE VETO OVERRIDES; PROHIBITING ATTORNEY FEES AGAINST THE STATE WHEN THE RESULT OF A LEGISLATIVE VETO OVERRIDE DOES NOT RESULT IN AN OVERRIDE OF A VETO; AMENDING SECTION 25-10-711, MCA; PROVIDING AN IMMEDIATE EFFECTIVE DATE; PROVIDING AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 25-10-711, MCA, is amended to read:

"**25-10-711. Award of costs against governmental entity when suit or defense is frivolous or pursued in bad faith -- award of costs against governmental entity relating to legislative veto override poll.** (1) In any civil action brought by or against the state, a political subdivision, or an agency of the state or a political subdivision, the opposing party, whether plaintiff or defendant, is entitled to the costs enumerated in 25-10-201 and reasonable attorney fees as determined by the court if:

(a) the opposing party prevails against the state, political subdivision, or agency; and

(b) the court finds that the claim or defense of the state, political subdivision, or agency that brought or defended the action was frivolous or pursued in bad faith.

(2) In any action relating to a party seeking a writ of mandamus to compel a legislative veto override poll, the opposing party has not prevailed if the result of the poll does not override the veto. This subsection (2) applies to any award of costs against a governmental entity regardless of whether the defense is frivolous or pursued in bad faith.

~~(2)~~(3) Costs may be granted pursuant to subsection (1) notwithstanding any other provision of the law to the contrary."

NEW SECTION. **Section 2. {standard} Effective date.** [This act] is effective on passage and approval.

NEW SECTION. **Section 3. Applicability.** [This act] applies to actions relating to a legislative veto override commenced on or after [the effective date of this act].

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