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10th Circuit asked to strike Utah constitutional amendment

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(09-15) 16:39 PDT DENVER (AP) --

An amendment to Utah's constitution making it difficult to pass ballot initiatives on wildlife issues has chilled free-speech rights for wildlife groups and others considering ballot measures, an attorney argued Monday in a court challenge to the amendment.

Lisa Watts Baskin, representing the Initiative and Referendum Institute, told a three-judge panel of the 10th U.S. Circuit Court of Appeals that the amendment unfairly singles out wildlife initiatives.

The amendment requires that initiatives affecting the time or manner of killing wildlife be approved by a two-thirds majority. Initiative on other subjects need approval only from a simple majority, 50 percent plus one vote.

Thom Roberts, an assistant Utah attorney general, said the amendment does not restrict political speech, only makes it harder to succeed on an initiative.

Watts Baskin said other interest groups fear that if they anger legislators by pressing too hard on a particular issue, the Legislature could approve a similar requirement on initiatives affecting their issues.

"The injury has already been suffered by my clients; they have felt their voices have been silenced," she said.

Roberts said wildlife groups are still free to circulate petitions and argue for restrictions on hunting.

"Plaintiffs are worried that they can't prevail," he said. "They can get on the ballot, they can argue. It doesn't affect their First Amendment rights how you count up the votes."

Environmental, animal-rights and voter-rights groups say attracting a two-thirds majority to change wildlife laws is so difficult that wildlife issues are likely never to appear on ballot initiatives in the state.

Utah state Rep. Mike Styler, R-Delta, who sponsored the 1998 bill that put the amendment on the ballot, said he believed conservation groups were considering an initiative to ban bear and cougar hunting, and he wanted to make it more difficult for them.

The court took the arguments under advisement. The consolidated cases are No. 02-4105 and 02-4123.

On the Net:

Appeals Court: www.ck10.uscourts.gov

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