

Former SLC Mayor Leads Suit Against Utah Political Leaders Regarding Proposition 2

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By Rick Brough

Summit County residents passed Proposition 2 by 76% while Wasatch County passed Prop. 2 by 53%. They were two of the eight counties in Utah to pass the proposition.

Credit Michael Fischer

It's no secret that a lawsuit is being prepared against the Medical Marijuana bill that was passed Monday by the Utah Legislature.

One of the leaders of the opposition, attorney and former Salt Lake City Mayor Rocky Anderson, says the lawmakers have disregarded the voice of Utah voters who passed Proposition 2, for medical cannabis, and instead substituted a bill that is "a combination of Kafka and Alice in Wonderland" as he put it.

Voters in Summit County supported Proposition 2 by the largest percentage of any county in the state.

But Anderson told KPCW that, lawmakers have been incredibly anti-democratic and contemptuous of the state-wide approval, by passing a bill that, he argued, completely wipes out many provisions for meaningful access to Medical Marijuana.

"It clearly was driven by the LDS Church which was the major opponent of Proposition 2. What people are calling a compromise is really a total capitulation to the opponents of Proposition 2."

He said the lawsuit will likely name as plaintiffs the governor, and the head of the state's Health Department. He said they hoped to have a filing done by Tuesday or Wednesday, but they're dealing with a 200-page convoluted bill.

"This is a moving target. They kept changing the bill repeatedly in fact as late as the Friday before the Monday special session another version of it came out. It's now 200 pages long. It's a combination of Kafka and Alice in Wonderland. The extent to which the LDS Church and the legislature have gone to deny people access to relief from suffering is truly shameful."

He said legislators have made several ineffective excuses for the bill. Anderson said some have argued that their districts didn't vote for Prop 2, but he said that's an ultra-parochial attitude. Others have said voters expected a compromise was coming on Capitol Hill. Anderson said that's purely speculative. He responded to another argument.

"I hear legislatures make a point, well we live in a representative democracy. Well no, they haven't read our state's constitution. Because it was amended in 1900 to provide the legislative powers not just to the legislature but also it resides in the people who have all of the political power. Through the initiative process they're to be able to pass laws through direct democracy. It's time the people stand up for that right and fight against this kind of emasculation."

Anderson said the legislation has limited access in several ways.

"The legislature should not be free, for instance, to strip out all immune diseases as qualifying conditions. All immune diseases except for, there are two, chromes disease and ulcerative colitis. All other immune diseases they stripped out. What do they say? They say, 'The Utah Medical Association wanted to shorten the list.' There's no renter protection. Under Proposition 2, 18-21 years old were covered. Here every person 18-21, although they can be proscribed opioids by their doctors, if a doctor wants to recommend medical cannabis every one of those people 18-21 have to jump through these additional hoops. Going before a so-called compassionate use board for them to make the determination as to whether they get medical cannabis."

He said the bill could well drive people to a black market in Wendover or Colorado, given the legislation's cumbersome distribution and dispensary system.

"They put in place a state bureaucracy that's going to delay relief for suffering. It's going to be very expensive. It's going to be very cumbersome; and it's going to make things much less reasonably accessible in terms of numbers of dispensaries and where they're going to be located. Now instead of private market model as contemplated by Proposition 2—although it was highly regulated it was a free market system—they put in a state, they call it a central-fill system where all the orders for marijuana will be filled there and then distributed to a greatly reduced number of private dispensaries."

The bill, he said, establishes that local health departments would be pick-up spots for the drug.

"There's no guarantee that the health department's ever going to put that in place and in fact, the bill contemplates that those offices very well may not be put into place because the bill provides for contingency saying that if they're not put into place then there will be after a period of time two more private dispensaries allowed and then after a period of time perhaps one. So instead of 30 plus dispensaries provided for under Proposition 2 now they're providing for only seven private dispensaries which may be as many at 10."

He said the legislation is about control—and, as one supporter admitted, Anderson said, it's about saving face for the Church.

He said it's role will probably be cited in the complaint.

“We have a very unusual establishment clause in our constitution it’s because of the theocracy in Utah prior to statehood. They put in—I don’t think it’s in any other state’s constitution—no church shall control the state or interfere in functions of government. They do it all the time, we all know they do it all the time. I think that everybody tries to be really polite and dances around the issue but there’s no question. Anybody will tell you, there’s not an alcohol law that will ever see the light of day in Utah State Legislature, won’t even come up for a vote unless it has the imprimatur, the approval of the first presidency of the Church of Jesus Christ of Latter-Day Saints.”

Rocky Anderson, who said their first move in court will be to ask for an immediate injunction. He said the suit is financed by the Epilepsy Association of Utah, and an organization Truce—headed by Christine Stenquist, a person who, Anderson said, owes her life to the use of medical marijuana.