

HOUSE BILL NO. 755

INTRODUCED BY D. FERN, D. BEDEY, T. WELCH, J. HAMILTON, J. FITZPATRICK, B. BARKER, P. TUSS,  
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A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR THE APPOINTMENT OF PUBLIC SERVICE COMMISSIONERS; PROVIDING QUALIFICATION STANDARDS; REVISING COMMISSION DISTRICTS; AMENDING SECTIONS 10-1-1010, 13-12-207, 13-37-216, 13-37-240, 69-1-103, 69-1-104, 69-1-105, 69-1-106, AND 69-1-107, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A TERMINATION DATE."

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

**Section 1.** Section 10-1-1010, MCA, is amended to read:

**"10-1-1010. Appointment of acting officials.** (1) When an elected official is ordered to military service, an acting official must be appointed as provided in this section if:

(a) the elected official is precluded pursuant to federal law from performing the official duties of the office; or

(b) the elected official requests the appointment of an acting official.

(2) If an acting official is appointed, the acting official shall take any oath of office required to assume the office, shall exercise all the rights, powers, and duties vested in the office, and must be provided with all the employment rights and benefits associated with the position until the elected official is restored to office pursuant to 10-1-1008(5) or the elected official's term expires, whichever occurs first.

(3) (a) The governor shall appoint the acting official for any office elected by the state at large and for the office of district judge, ~~public service commissioner~~, or any other elected regional or district office of the state.

(b) An acting official for a legislative district must be appointed using the procedures in 5-2-402.

(c) The board of county commissioners shall appoint the acting official for any elected office of a county.

1 (d) The city or town council shall appoint the acting official for any elected office of a city or town.

2 (4) For any elected office not covered under subsection (3), the governing body shall determine  
3 the method by which an acting official may be appointed pursuant to this section.

4 (5) An appointment of an acting official pursuant to this section must be made for a period not to  
5 exceed the unexpired term for the office and subject to the right of the elected official to be restored to the office  
6 upon returning from the military service, as provided in 10-1-1008(5)."

7

8 **Section 2.** Section 13-12-207, MCA, is amended to read:

9 **"13-12-207. Order of placement.** (1) The order on the ballot for state and federal offices must be as  
10 follows:

11 (a) If the election is in a year in which a president of the United States is to be elected, in spaces  
12 separated from the balance of the party tickets by a line must be the names and spaces for voting for  
13 candidates for president and vice president. The names of candidates for president and vice president for each  
14 political party must be grouped together.

15 (b) United States senator;

16 (c) United States representative;

17 (d) governor and lieutenant governor;

18 (e) secretary of state;

19 (f) attorney general;

20 (g) state auditor;

21 (h) state superintendent of public instruction;

22 ~~(i) public service commissioners;~~

23 ~~(j)~~(i) clerk of the supreme court;

24 ~~(k)~~(j) chief justice of the supreme court;

25 ~~(l)~~(k) justices of the supreme court;

26 ~~(m)~~(l) district court judges;

27 ~~(n)~~(m) state senators;

28 ~~(o)~~(n) members of the Montana house of representatives.

1 (2) The following order of placement must be observed for county offices:

2 (a) clerk of the district court;

3 (b) county commissioner;

4 (c) county clerk and recorder;

5 (d) sheriff;

6 (e) coroner;

7 (f) county attorney;

8 (g) county superintendent of schools;

9 (h) county auditor;

10 (i) public administrator;

11 (j) county assessor;

12 (k) county treasurer;

13 (l) surveyor;

14 (m) justice of the peace.

15 (3) The secretary of state shall designate the order for placement on the ballot of any offices not  
16 on the above lists, except that the election administrator shall designate the order of placement for municipal,  
17 charter, or consolidated local government offices and district offices when the district is part of only one county.

18 (4) Constitutional amendments must be placed before statewide referendum and initiative  
19 measures. Ballot issues for a county, municipality, school district, or other political subdivision must follow  
20 statewide measures in the order designated by the election administrator.

21 (5) If any offices are not to be elected they may not be listed, but the order of the offices to be filled  
22 must be maintained.

23 (6) If there is a short-term and a long-term election for the same office, the long-term office must  
24 precede the short-term."

25

26 **Section 3.** Section 13-37-216, MCA, is amended to read:

27 **"13-37-216. Limitations on contributions -- adjustment.** (1) (a) Subject to adjustment as provided  
28 for in subsection (3) and subject to 13-35-227 and 13-37-219, aggregate contributions for each election in a

1 campaign by a political committee or by an individual, other than the candidate, to a candidate are limited as  
2 follows:

3 (i) for candidates filed jointly for the office of governor and lieutenant governor, not to exceed  
4 \$1,000;

5 (ii) for a candidate to be elected for state office in a statewide election, other than the candidates  
6 for governor and lieutenant governor, not to exceed \$700;

7 (iii) for a candidate for any other public office, not to exceed \$400.

8 (b) Except as provided in 13-37-211 and subsection (5) of this section:

9 (i) a contribution to a candidate includes contributions made to any political committee organized  
10 on the candidate's behalf; and

11 (ii) a political committee that is not independent of the candidate is considered to be organized on  
12 the candidate's behalf.

13 (2) All political committees except those of political party organizations are subject to the  
14 provisions of subsection (1). Political party organizations may form political committees that are subject to the  
15 following aggregate limitations, adjusted as provided for in subsection (3) and subject to 13-37-219, from all  
16 political party committees:

17 (a) for candidates filed jointly for the offices of governor and lieutenant governor, not to exceed  
18 \$100,000;

19 (b) for a candidate to be elected for state office in a statewide election, other than the candidates  
20 for governor and lieutenant governor, not to exceed \$75,000;

21 ~~(c) for a candidate for public service commissioner, not to exceed \$15,000;~~

22 ~~(d)(c)~~ for a candidate for the state senate, not to exceed \$3,000;

23 ~~(e)(d)~~ for a candidate for any other public office, not to exceed \$2,000.

24 (3) (a) The commissioner shall adjust the limitations in subsections (1) and (2) by multiplying each  
25 limit by an inflation factor, which is determined by dividing the consumer price index for June of the year prior to  
26 the year in which a general election is held by the consumer price index for June 2021.

27 (b) The resulting figure must be rounded up or down to the nearest:

28 (i) \$10 increment for the limits established in subsection (1); and

1 (ii) \$50 increment for the limits established in subsection (2).

2 (c) The commissioner shall publish the revised limitations as a rule.

3 (4) A candidate may not accept any contributions, including in-kind contributions, in excess of the  
4 limits in this section.

5 (5) For the purposes of applying the limits in this section if the contributions were received by a  
6 joint fundraising committee, a contribution must be construed to be:

7 (a) from the person who originally contributed funds to the joint fundraising committee; and

8 (b) received by the candidate participant to whom the funds were allocated by the joint fundraising  
9 committee as provided in 13-37-211.

10 (6) For purposes of this section, "election" means the general election or a primary election that  
11 involves two or more candidates for the same nomination. If there is not a contested primary, there is only one  
12 election to which the contribution limits apply. If there is a contested primary, then there are two elections to  
13 which the contribution limits apply."  
14

15 **Section 4.** Section 13-37-240, MCA, is amended to read:

16 **"13-37-240. Surplus campaign funds.** (1) A candidate shall dispose of any surplus funds from the  
17 candidate's campaign within 120 days after the time of filing the closing campaign report pursuant to 13-37-228.  
18 In disposing of the surplus funds, a candidate may not contribute the funds to another campaign, including the  
19 candidate's own future campaign, or use the funds for personal benefit. A successful candidate for a statewide  
20 elected or legislative office ~~or for public service commissioner~~ may establish a constituent services account as  
21 provided in 13-37-402. The candidate shall provide a supplement to the closing campaign report to the  
22 commissioner showing the disposition of any surplus campaign funds.

23 (2) For purposes of this section, "personal benefit" means a use that will provide a direct or indirect  
24 benefit of any kind to the candidate or any member of the candidate's immediate family."  
25

26 **Section 5.** Section 69-1-103, MCA, is amended to read:

27 **"69-1-103. Composition of commission.** (1) The commission shall consist of five members, who  
28 ~~shall~~ must be qualified electors of the district from which they are ~~elected~~ appointed, with each ~~such~~ member

1 ~~elected~~ appointed from a separate district of the state and who meet the qualifications in subsection (4).

2 (2) The members of the commission must be appointed by the governor for each district and  
3 confirmed by the senate.

4 (3) (a) There is a public service commission nomination advisory committee consisting of:

5 (i) four legislators appointed by the president of the senate and the speaker of the house of  
6 representatives; and

7 (ii) three legislators appointed by the minority leader of the senate and the minority leader of the  
8 house of representatives.

9 (b) The committee shall evaluate and submit no fewer than three candidates in each district for the  
10 governor's consideration in making appointments to the commission.

11 (4) (a) When appointing commissioners, the governor shall consider persons who have 5 years or  
12 more experience practicing law in the state, or persons in science, technology, engineering, and math fields,  
13 public accounting, or property and utility valuation and finance professions. Commissioners must have a  
14 bachelor's degree from an accredited university, be a representative of the general public, and have a general  
15 knowledge of the laws governing and administering the department of public service regulation and the purpose  
16 of the commission.

17 (b) A person is not eligible to be appointed if the person has been employed with an entity or an  
18 affiliated company of an entity that is subject to regulation by the commission within 5 years from the date when  
19 the person's term on the commission begins.

20 (c) A person is not eligible for appointment unless the person has resided in the state 2 years  
21 immediately before appointment."

22

23 **Section 6.** Section 69-1-104, MCA, is amended to read:

24 **"69-1-104. Public service commission districts.** (1) In this state there are five public service  
25 commission districts, with one commissioner elected from each district, distributed as follows:

26 (1)(a) first district: Blaine, Cascade, Chouteau, Daniels, Dawson, Fergus, Garfield, Glacier, Hill, Judith  
27 Basin, Liberty, McCone, Musselshell, Petroleum, Phillips, Pondera, Richland, Roosevelt, Sheridan, Toole,  
28 Valley, and Wibaux Counties;

1           ~~(2)(b)~~ second district: Big Horn, Carbon, Carter, Custer, Fallon, Powder River, Prairie, Rosebud,  
2 Treasure, and Yellowstone Counties;

3           ~~(3)(c)~~ third district: Beaverhead, Broadwater, ~~Deer Lodge~~, Gallatin, Golden Valley, Jefferson,  
4 Madison, Meagher, ~~Musselshell~~, Park, Silver Bow, Stillwater, Sweet Grass, and Wheatland Counties;

5           ~~(4)(d)~~ fourth district: Deer Lodge, Granite, Lincoln, Mineral, Missoula, Powell, Ravalli, and Sanders  
6 Counties;

7           ~~(5)(e)~~ fifth district: Flathead, ~~Glacier~~, Lake, Lewis and Clark, ~~Pondera~~, and Teton Counties.

8           (2) The legislature shall evaluate existing commission districts during the legislative session  
9 following the receipt of the official final decennial census data and may adjust commission boundaries to  
10 comply with the United States constitution."  
11

12           **Section 7.** Section 69-1-105, MCA, is amended to read:

13           "**69-1-105. Term of office -- term limits.** (1) A term is for a period of 4 years. A commissioner, when  
14 ~~elected~~ appointed, shall qualify at the time and in the manner provided by law ~~for other state officers~~ and shall  
15 take office on the first Monday ~~of January after the election~~ the commissioner's appointment and approval by  
16 the Montana senate.

17           (2) A commissioner may not serve more than 8 years in a 16-year period.

18           ~~(2)(3)~~ (3) A commissioner shall serve until a successor is ~~elected and qualified~~ appointed and takes  
19 office.

20           ~~(3)~~ ~~The secretary of state or other authorized official may not certify a candidate's nomination or~~  
21 ~~election to the public service commission or print or cause to be printed on any ballot the name of a candidate~~  
22 ~~for the public service commission if, at the end of the current term of that office, the candidate will have served~~  
23 ~~in that office or, had the candidate not resigned or been recalled, would have served in that office for 8 or more~~  
24 ~~years in a 16-year period.~~

25           ~~(4)~~ ~~When computing the time served for the purposes of subsection (3), the provisions of subsection~~  
26 ~~(3) do not apply to time served in terms that ended during or prior to January 1995."~~

27  
28           **Section 8.** Section 69-1-106, MCA, is amended to read:

1           **"69-1-106. Vacancies.** (1) Any vacancy occurring in the commission must be filled by appointment by  
2 the governor ~~as provided in this section. The appointee shall hold office until the next general election and until~~  
3 ~~a successor is elected and qualified. At the biennial election following the occurrence of any vacancy in the~~  
4 ~~commission, there must be elected one member to fill out the unexpired term for which the vacancy exists.~~

5           ~~(2) (a) When a vacancy occurs, if the former incumbent represented a party eligible for primary~~  
6 ~~election under 13-10-601, the person appointed by the governor must be a member of the same political party~~  
7 ~~and must be selected by the governor as provided in subsections (3) and (4).~~

8           ~~(b) If the former incumbent was an independent or was originally nominated from a party that does~~  
9 ~~not meet the requirements of 13-10-601, the governor shall appoint an individual to the vacant position within~~  
10 ~~45 days of receiving notification from the secretary of state of the vacancy.~~

11           ~~(3) Within 7 days of being notified of a vacancy as described in 2-16-501, the secretary of state shall~~  
12 ~~notify the governor and, if the former incumbent represented a party eligible for primary election under 13-10-~~  
13 ~~601, the state party that was represented by the former incumbent.~~

14           ~~(4) (a) Upon receipt of a notification of a vacancy, the state party central committee notified pursuant~~  
15 ~~to subsection (3) has 30 days to forward to the governor a list of three prospective appointees, each of whom~~  
16 ~~must be a resident of the district represented by the former incumbent.~~

17           ~~(b) If the governor does not select an appointee from the list forwarded pursuant to subsection (4)(a)~~  
18 ~~within 15 days, the central committee shall, within 15 days, forward a second list of three prospective~~  
19 ~~appointees, each of whom must be a resident of the district represented by the former incumbent. The second~~  
20 ~~list may not contain a name submitted on the first list. Within 15 days of receipt of the second list, the governor~~  
21 ~~shall select an appointee from either list.~~

22           ~~(2) If the senate is not in session, the appointment is subject to confirmation during the next~~  
23 ~~session. An appointment to fill a vacancy is for the unexpired term for which the vacancy exists."~~

24

25           **Section 9.** Section 69-1-107, MCA, is amended to read:

26           **"69-1-107. Presiding officer of commission.** A presiding officer must be selected by the  
27 commission from its membership at the first meeting of each odd-numbered year after a general election."

28



1            **NEW SECTION. Section 10. Salaries of public service commissioners.** Before June 30 of each  
2 even-numbered year, the department of public service regulation shall conduct a salary survey of public utility  
3 commissioners or officials with similar titles for the states of North Dakota, South Dakota, Wyoming, and Idaho.  
4 The department shall consider the current salary for the Montana commissioners in determining the average  
5 salary for the commissioners. If the average salary is greater than the salary for the commissioners in Montana,  
6 then beginning July 1 of the year following the year in which the survey is conducted, the average salary is the  
7 new salary for the commissioners.  
8

9            **NEW SECTION. Section 11. Transition to appointments.** (1) The governor shall appoint three  
10 commissioners to a 4-year term beginning January 1, 2025, after the expiration of the currently elected  
11 commissioners' terms.

12            (2) The governor may consider for appointment incumbent commissioners who are not term-  
13 limited and do not meet the requirements of [section 5] for the initial commission appointments.

14            (3) After the expiration of each initial appointment, the governor shall appoint commissioners to 4-  
15 year terms.  
16

17            **NEW SECTION. Section 12. Codification instruction.** [Section 10] is intended to be codified as an  
18 integral part of Title 69, chapter 1, part 1, and the provisions of Title 69, chapter 1, part 1, apply to [section 10].  
19

20            **NEW SECTION. Section 13. Severability.** If a part of [this act] is invalid, all valid parts that are  
21 severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications,  
22 the part remains in effect in all valid applications that are severable from the invalid applications.  
23

24            **NEW SECTION. Section 14. Effective date.** [This act] is effective on passage and approval.  
25

26            **NEW SECTION. Section 15. Termination.** [Section 11] terminates July 1, 2027.  
27

- END -