

SENATE BILL NO. 268

INTRODUCED BY J. BALYEAT

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4 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THAT SUPREME COURT JUSTICES BE ELECTED
5 AND APPOINTED FROM SUPREME COURT DISTRICTS; ESTABLISHING SUPREME COURT DISTRICTS;
6 PROVIDING THAT THE PROPOSED ACT BE SUBMITTED TO THE QUALIFIED ELECTORS OF MONTANA
7 AT A SPECIAL ELECTION TO BE HELD CONCURRENTLY WITH THE 2012 PRIMARY ELECTION;
8 AMENDING SECTIONS 3-2-101 AND 3-2-102, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE
9 AND AN APPLICABILITY DATE."

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

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13 **Section 1.** Section 3-2-101, MCA, is amended to read:
14 **"3-2-101. Number, election, and term of office -- selection of chief justice.** (1) The supreme court
15 consists of a chief justice and six associate justices who ~~are elected by the qualified electors of the state at large~~
16 must be qualified electors of the district from which they are elected, with each member elected from a separate
17 district of the state as provided in [section 3]. Each justice must be elected at the general ~~state elections~~ election
18 next preceding the expiration of the ~~terms~~ term of office of ~~their predecessors, respectively, the justice's~~
19 predecessor and ~~hold their offices~~ holds office for the term of 8 years from ~~and after~~ the first Monday of January
20 next succeeding ~~their~~ the justice's election.

21 (2) After the general election in 2016, the chief justice must be selected by the majority vote of the seven
22 justices at the first meeting of the court in each year after a general election."

23
24 **Section 2.** Section 3-2-102, MCA, is amended to read:
25 **"3-2-102. Qualifications and residence.** (1) A person is not eligible for the office of justice of the
26 supreme court unless the person is a citizen of the United States, has resided in the state 2 years immediately
27 before taking office, and has been admitted to practice law in Montana for at least 5 years prior to the date of
28 appointment or election.

29 (2) Justices of the supreme court must reside within the state during their terms of office. Once elected
30 from a district, a justice is not required to reside within the district during the justice's service in office.

1 (3) A supreme court justice must, at the time of initial election, be a qualified elector of the supreme court
 2 district from which the justice is elected. A supreme court justice appointed to fill a vacancy must, at the time of
 3 appointment, be a qualified elector of the same initial supreme court district as the justice being replaced, and
 4 in an election following an appointment, the elected justice must be a qualified elector of the initial district."

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 6 NEW SECTION. Section 3. Supreme court districts defined -- number of judges. (1) In this state
 7 there are seven supreme court judicial districts, distributed as follows:

8 (a) 1st district: Cascade, Chouteau, Fergus, Golden Valley, Hill, Judith Basin, Liberty, Meagher,
 9 Pondera, Teton, and Wheatland Counties;

10 (b) 2nd district: Big Horn, Blaine, Carbon, Carter, Custer, Daniels, Dawson, Fallon, Garfield, McCone,
 11 Musselshell, Park, Petroleum, Phillips, Powder River, Prairie, Richland, Roosevelt, Rosebud, Sheridan, Stillwater,
 12 Sweet Grass, Treasure, Valley, and Wibaux Counties;

13 (c) 3rd district: Yellowstone County;

14 (d) 4th district: Lewis and Clark, Deer Lodge, Granite, Jefferson, Ravalli, Powell, and Broadwater
 15 Counties;

16 (e) 5th district: Flathead, Lincoln, Glacier, Sanders, and Toole Counties;

17 (f) 6th district: Gallatin, Madison, Beaverhead, and Silver Bow Counties;

18 (g) 7th district: Missoula, Lake, and Mineral Counties.

19 (2) There must be one supreme court justice selected from each district.

20 (3) The legislature shall review the districts after each decennial census for purposes of maintaining
 21 districts with approximately equal populations while following county lines.

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 23 NEW SECTION. Section 4. Transition. (1) [This act] may not remove any justice that is holding office
 24 on [the effective date of this act] during the term for which the justice was elected or appointed. After [the effective
 25 date of this act], each sitting associate justice must be assigned to the judicial district that corresponds to the
 26 associate justice's current seat number and the chief justice must be assigned to the seventh district.

27 (2) (a) Except as provided in subsection (2)(b), each supreme court justice who chooses to seek
 28 reelection at the end of the justice's current term shall run for reelection in the district to which the justice is
 29 assigned under subsection (1).

30 (b) A sitting justice that chooses to seek election in a district other than the district assigned under

1 subsection (1) may run for election in the district if the justice resigns the justice's current seat effective as of the
2 date the justice files for election in the district to which the justice seeks election.

3 (3) In the 2012 election, the two candidates receiving the most votes in the primary for each seat up for
4 reelection advance to the 2012 general election for the district that corresponds to the same seat number.

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6 **NEW SECTION. Section 5. Codification instruction.** [Section 3] is intended to be codified as an
7 integral part of Title 3, chapter 2, and the provisions of Title 3, chapter 2, apply to [section 3].

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9 **NEW SECTION. Section 6. Severability.** If a part of [this act] is invalid, all valid parts that are severable
10 from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part
11 remains in effect in all valid applications that are severable from the invalid applications.

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13 **NEW SECTION. Section 7. Effective date.** [This act] is effective upon approval by the electorate.

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15 **NEW SECTION. Section 8. Applicability.** [This act] applies to the election and appointment of supreme
16 court justices to terms that begin on or after [the effective date of this act].

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18 **NEW SECTION. Section 9. Submission to electorate.** [This act] shall be submitted to the qualified
19 electors of Montana at a special election to be held concurrently with the primary election held in the spring of
20 2012 by printing on the ballot the full title of [this act] and the following:

21 [] FOR requiring supreme court justices to be elected or appointed from districts with approximately
22 equal populations.

23 [] AGAINST requiring supreme court justices to be elected or appointed from districts with
24 approximately equal populations.

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