

SENATE BILL NO. 54

INTRODUCED BY BOHLINGER

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4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE LAWS GOVERNING THE COMMISSIONER OF
5 POLITICAL PRACTICES; ~~REMOVING~~ TRANSFERRING FROM THE GOVERNOR TO THE BOARD OF
6 EXAMINERS THE ABILITY ~~OF THE GOVERNOR~~ TO REMOVE THE COMMISSIONER OF POLITICAL
7 PRACTICES; CLARIFYING THAT THE COMMISSIONER OF POLITICAL PRACTICES IS SUBJECT TO
8 RECALL; PROVIDING QUALIFICATIONS AND RESTRICTIONS ON WHO MAY BE APPOINTED AS
9 COMMISSIONER OF POLITICAL PRACTICES; PROVIDING RESTRICTIONS ON THE ACTIVITIES OF THE
10 COMMISSIONER OF POLITICAL PRACTICES; AMENDING SECTIONS 13-37-102, 13-37-103, AND 13-37-104,
11 MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

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15 **Section 1.** Section 13-37-102, MCA, is amended to read:

16 **"13-37-102. Creation of office.** ~~(1)~~(1) There is a commissioner of political practices who is appointed
17 by the governor, subject to confirmation by a majority of the senate. A four-member selection committee
18 ~~comprised~~ composed of the speaker of the house, the president of the senate, and the minority floor leaders of
19 both houses of the legislature shall submit to the governor a list of not less than two or more than five names
20 of individuals for his consideration. A majority of the members of the selection committee shall agree upon each
21 nomination.

22 ~~(2) The individual selected to serve as commissioner of political practices may be removed by the~~
23 ~~governor prior to the expiration of the term only for incompetence, malfeasance, or neglect of duty. The~~
24 ~~sufficiency of such causes shall be subject to judicial review.~~

25 (2) PRIOR TO EXPIRATION OF THE TERM, THE INDIVIDUAL SELECTED TO SERVE AS COMMISSIONER OF POLITICAL
26 PRACTICES MAY BE REMOVED BY THE BOARD OF EXAMINERS, ESTABLISHED IN 2-15-1007, AFTER INFORMAL PROCEEDINGS
27 PURSUANT TO 2-4-604, IF THE BOARD FINDS THE COMMISSIONER TO BE INCOMPETENT, TO HAVE ENGAGED IN
28 MALFEASANCE, OR TO HAVE NEGLECTED THE COMMISSIONER'S DUTIES. THE COMMISSIONER MAY REQUEST JUDICIAL
29 REVIEW OF THE BOARD'S ACTION. THE COMMISSIONER IS ALSO SUBJECT TO RECALL, PURSUANT TO TITLE 2, CHAPTER 16,
30 PART 6."

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Section 2. Section 13-37-103, MCA, is amended to read:

"13-37-103. Term of office -- limitations on holding other office. (1) ~~The~~ Subject to 13-37-104, the individual selected to serve as ~~the~~ commissioner of political practices is appointed for a 6-year term; but ~~he is~~ thereafter ineligible may not be reappointed to serve as ~~the~~ commissioner of political practices.

(2) The individual selected to serve as commissioner of political practices is precluded from being a candidate for public office, as defined in 13-1-101, for a period of 5 years from the time that ~~he~~ the individual leaves office as commissioner."

Section 3. Section 13-37-104, MCA, is amended to read:

"13-37-104. Vacancy. (1) If for any reason a vacancy occurs in the position of commissioner, a successor ~~shall~~ must be appointed within 30 days, as provided in 13-37-102(4), to serve out the unexpired term. Every nomination ~~shall~~ must be confirmed by the senate, but a nomination made while the senate is not in session ~~shall be~~ is effective as an appointment until the end of the next session.

(2) An individual who is selected to serve out the unexpired term of a preceding commissioner and who has served 3 years or more of an unexpired term is not eligible for reappointment.

(3) An individual who is selected to serve out the unexpired term of a preceding commissioner and who has served less than 3 years may be reappointed for a 6-year term as provided in 13-37-102(4)."

NEW SECTION. Section 4. Commissioner of political practices -- qualifications -- restrictions -- definitions. (1) The individual appointed to serve as commissioner of political practices must be a citizen of the United States and a resident of Montana. The individual appointed as commissioner may not be a:

(a) public officer or public employee at the time of appointment; IF A PUBLIC OFFICER OR PUBLIC EMPLOYEE IS NOMINATED, THE PERSON SHALL RESIGN FROM THE PREVIOUS POSITION PRIOR TO APPOINTMENT.

(b) candidate for any public office;

(c) registered lobbyist or a principal; or

(d) member of the immediate family of a public officer, public employee, candidate, lobbyist, or principal.

(2) THE PROHIBITION AGAINST APPOINTING AN IMMEDIATE FAMILY MEMBER PURSUANT TO SUBSECTION (1)(D) DOES NOT CONSTITUTE MARITAL STATUS DISCRIMINATION UNDER TITLE 49.

(3) As used in this section, the following definitions apply:

- 1 (a) "Lobbyist" has the meaning provided in 5-7-102.
- 2 (b) "Principal" has the meaning provided in 5-7-102.
- 3 (c) "Public employee" has the meaning provided in 2-2-102.
- 4 (d) "Public office" has the meaning provided in 13-1-101.
- 5 (e) "Public officer" has the meaning provided in 2-2-102.

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7 **NEW SECTION. Section 5. Commissioner of political practices -- restrictions.** The commissioner
 8 of political practices may not PURPOSELY OR KNOWINGLY:

- 9 (1) participate in any political activity or in a political campaign;
- 10 (2) make a financial contribution or engage in any ~~activity~~ ACTIVITIES PRIMARILY INTENDED to support or
 11 oppose a candidate, a political committee, or a ballot issue; or
- 12 (3) ~~purposely or knowingly~~ attend an event intended to raise funds for the benefit of a candidate, a
 13 political committee, or a ballot issue.

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15 **NEW SECTION. Section 6. Codification instruction.** [Sections 4 and 5] are intended to be codified
 16 as an integral part of Title 13, chapter 37, part 1, and the provisions of Title 13, chapter 37, part 1, apply to
 17 [sections 4 and 5].

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19 **NEW SECTION. Section 7. Effective date.** [This act] is effective on passage and approval.

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