

SENATE BILL NO. 240

INTRODUCED BY BRENDEN, T. BROWN, BALYEAT, PERRY, HINKLE, TUTVEDT, DE. BARRETT,
RIPLEY, MURPHY, GEBHARDT, LEWIS, BALES, BARKUS, J. PETERSON

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THAT A PERSON APPOINTED BY THE GOVERNOR
TO A BOARD OR COMMISSION MUST BE, AT THE TIME OF APPOINTMENT AND THROUGHOUT THE
TERM OF APPOINTMENT, A RESIDENT OF THE JURISDICTION FOR OR OVER WHICH THE ENTITY TO
WHICH THE PERSON IS APPOINTED HAS RESPONSIBILITY, CONTROL, OR OVERSIGHT; CLARIFYING
THE RULES FOR DETERMINING RESIDENCE; AND AMENDING SECTIONS 1-1-215, 2-15-201, 2-16-102,
AND 2-16-111, MCA."

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

NEW SECTION. **Section 1. Appointment and qualifications of members of boards and
commissions.** (1) When the governor makes an appointment to or fills a vacancy on a board or commission as
required in 2-15-201(2), the person appointed must, at the time of appointment and throughout the term of
appointment, reside within the political jurisdiction for or over which the entity to which the person is appointed
has responsibility, control, or oversight.

(2) If the composition of the entity requires a member to be appointed from a specific district, county,
municipality, or similar jurisdiction, the person appointed must, at the time of appointment and throughout the term
of appointment, reside within the district, county, municipality, or similar jurisdiction from which the person was
appointed.

(3) If during the term of appointment the appointed person establishes residence outside the applicable
jurisdiction under subsection (1) or (2), the person is immediately ineligible to serve in the appointed position and
the position is considered vacant.

(4) For the purposes of this section, the rules for determining residence provided in 1-1-215 apply.

~~NEW SECTION. **Section 2. Appointment and qualifications of members of boards and
commissions.** (1) When the governing body makes an appointment to or fills a vacancy on a board or
commission as may be required in this title, the person appointed must, at the time of appointment and throughout~~

1 the term of appointment, reside within the political jurisdiction for or over which the entity to which the person is
2 appointed has responsibility, control, or oversight.

3 ~~———(2) If the composition of the entity requires a member to be appointed from a specific district, county,~~
4 ~~municipality, or similar jurisdiction, the person appointed must, at the time of appointment and throughout the term~~
5 ~~of appointment, reside within the district, county, municipality, or similar jurisdiction from which the person was~~
6 ~~appointed.~~

7 ~~———(3) If during the term of appointment the appointed person establishes residence outside the applicable~~
8 ~~jurisdiction under subsection (1) or (2), the person is immediately ineligible to serve in the appointed position and~~
9 ~~the position is considered vacant.~~

10 ~~———(4) For the purposes of this section, the rules for determining residence provided in 1-1-215 apply.~~

11

12 **Section 2.** Section 1-1-215, MCA, is amended to read:

13 **"1-1-215. Residence -- rules for determining.** (1) Every person has, in law, a residence. In
14 determining the place of residence, the following rules are to be observed:

15 ~~(1)(a)~~ (a) It is the place where a person remains when not called elsewhere for labor or other special or
16 temporary purpose and to which the person returns in seasons of repose.

17 ~~(2)(b)~~ (b) There may be only one residence. If a person claims a residence within Montana for any purpose,
18 then that location is the person's residence for all purposes unless there is a specific statutory exception.

19 ~~(3)(c)~~ (c) A residence cannot be lost until another is gained.

20 (2) Residence is indicated but not necessarily determined by:

21 (a) the site of the dwelling in which a person has lived for at least 6 months during the preceding 12
22 months;

23 (b) the address from which a person files or, for the most recent filing period, filed a Montana state
24 income tax return as a resident, if the person is required to file;

25 (c) the address at which a person registers and titles or, for the most recent registration period,
26 registered in Montana any vehicles that the person owns and operates in Montana; and

27 (d) the address at which a person is registered to vote, if the person is registered.

28 ~~(4)(3)~~ (3) The residence of an unmarried minor is:

29 (a) the residence of the minor's parents;

30 (b) if one of the parents is deceased or the parents do not share the same residence, the residence of

1 the parent having legal custody;

2 (c) if neither parent has legal custody, the residence of the parent with whom the minor customarily
3 resides; or

4 (d) if the conditions in 20-5-502 are met, the last-known residence of the parent with whom the minor
5 normally resided immediately prior to residing with the caretaker relative.

6 ~~(5)~~(4) In the case of a controversy, the district court may declare which parental residence is the
7 residence of an unmarried minor.

8 ~~(6)~~(5) Except as provided in Title 20, chapter 5, part 5, the residence of an unmarried minor who has a
9 parent living cannot be changed by either the minor's own act or that of the minor's guardian.

10 ~~(7)~~(6) The residence can be changed only by the union of act and intent."
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12 **Section 3.** Section 2-15-201, MCA, is amended to read:

13 **"2-15-201. Powers and duties of governor.** (1) In addition to the duties prescribed by the constitution,
14 the governor shall:

15 (a) supervise the official conduct of all executive and ministerial officers;

16 (b) ensure that all offices are filled and that the duties of the offices are performed or, in default of the
17 performance, apply a remedy that the law allows. If the remedy is imperfect, the governor shall acquaint the
18 legislature with the issue at its next session.

19 (2) (a) The governor shall make the appointments and fill the vacancies as required by law. When a
20 vacancy in a position on a council, board, commission, or committee has occurred or is expected to occur and
21 must be filled by gubernatorial appointment, the governor shall have posted in a conspicuous place in the state
22 capitol a notice:

23 (i) announcing the actual or anticipated vacancy in the position;

24 (ii) describing the qualifications for the position, if any; and

25 (iii) describing the procedure for applying for appointment to the position.

26 (b) A copy of the notice required under subsection (2)(a) must be sent to the lieutenant governor who
27 may publish the notice in an appropriate publication.

28 (c) The appointment and qualification provisions in [section 1] apply to all appointments made under this
29 subsection (2).

30 (3) The governor is the sole official organ of communication between the government of this state and

1 the government of any other state or of the United States.

2 (4) Whenever any suit or legal proceeding is pending against this state that may affect the title of this
3 state to any property or that may result in any claim against the state, the governor may direct the attorney
4 general to appear on behalf of the state and may employ additional counsel that the governor may judge
5 expedient.

6 (5) The governor may require the attorney general or the county attorney of any county to inquire into
7 the affairs or management of any corporation existing under the laws of this state.

8 (6) The governor may require the attorney general to aid the county attorney in the discharge of the
9 county attorney's duties.

10 (7) The governor may offer rewards not exceeding \$1,000 each, payable out of the general fund, for the
11 apprehension of any convict who has escaped from the state prison or any person who has committed or is
12 charged with an offense punishable by death.

13 (8) The governor shall perform the duties respecting fugitives from justice that are prescribed by Title
14 46, chapter 30.

15 (9) The governor shall issue land warrants and patents, as prescribed in 77-2-342.

16 (10) The governor may require any officer or board to make special reports, upon demand, in writing.

17 (11) The governor shall discharge the duties of a member of the board of examiners, of a nonvoting ex
18 officio member of the state board of education, and of a member of the board of land commissioners.

19 (12) The governor has the other powers and shall perform the other duties that are devolved upon the
20 governor by this section or any other law of this state."

21

22 **Section 4.** Section 2-16-102, MCA, is amended to read:

23 **"2-16-102. Qualifications generally -- age and citizenship.** (1) Provisions respecting disqualifications
24 for particular offices are contained in the constitution, ~~and~~ in the provisions of the laws concerning the various
25 offices, ~~and as provided in [section 1(3)].~~

26 (2) A person is not eligible to hold civil office in this state who at the time of election or appointment is
27 not 18 years of age or older and a citizen of this state and does not meet the requirements of [section 1(1) and
28 (2)]."

29

30 **Section 5.** Section 2-16-111, MCA, is amended to read:

