

## SENATE BILL NO. 175

INTRODUCED BY J. PETERSON

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4 A BILL FOR AN ACT ENTITLED: "AN ACT SUBMITTING TO THE QUALIFIED ELECTORS OF MONTANA AN  
5 AMENDMENT TO ARTICLE VII, SECTION 8, OF THE MONTANA CONSTITUTION TO REVISE THE METHOD  
6 BY WHICH MONTANA SUPREME COURT JUSTICES AND DISTRICT COURT JUDGES ARE SELECTED;  
7 PROVIDING FOR THE MERIT-BASED APPOINTMENT OF SUPREME COURT JUSTICES AND DISTRICT  
8 COURT JUDGES FOLLOWED BY JUDICIAL PERFORMANCE EVALUATIONS AND RETENTION ELECTIONS;  
9 AND PROVIDING AN EFFECTIVE DATE 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.** Article VII, section 8, of The Constitution of the State of Montana is amended to read:  
14 **"Section 8. Selection.** ~~(1) Supreme court justices and district court judges shall be elected by the~~  
15 ~~qualified electors as provided by law.~~  
16 ~~————(2) For any vacancy in the office of supreme court justice or district court judge, the governor shall~~  
17 ~~appoint a replacement from nominees selected in the manner provided by law. If the governor fails to appoint~~  
18 ~~within thirty days after receipt of nominees, the chief justice or acting chief justice shall make the appointment~~  
19 ~~from the same nominees within thirty days of the governor's failure to appoint. Appointments made under this~~  
20 ~~subsection shall be subject to confirmation by the senate, as provided by law. If the appointee is not confirmed,~~  
21 ~~the office shall be vacant and a replacement shall be made under the procedures provided for in this section. The~~  
22 ~~appointee shall serve until the election for the office as provided by law and until a successor is elected and~~  
23 ~~qualified. The person elected or retained at the election shall serve until the expiration of the term for which his~~  
24 ~~predecessor was elected. No appointee, whether confirmed or unconfirmed, shall serve past the term of his~~  
25 ~~predecessor without standing for election.~~  
26 ~~————(3) If an incumbent files for election and there is no election contest for the office, the name of the~~  
27 ~~incumbent shall nevertheless be placed on the general election ballot to allow the voters of the state or district~~  
28 ~~to approve or reject him. If an incumbent is rejected, the vacancy in the office for which the election was held shall~~  
29 ~~be filled as provided in subsection (2):~~ (1) Supreme court justices and district court judges shall be selected as  
30 provided in this section.

1           (2) Candidates for each open office of supreme court justice or district court judge shall be screened by  
2 a merit selection commission. The commissioners shall be state residents and may not hold office in any political  
3 party. A majority of the commissioners shall be lay members who are neither attorneys nor elected officeholders.

4           (3) The commission shall forward a list of candidates to the governor. The governor shall appoint a  
5 justice or judge from the list for an initial period not to exceed 3 years. During the initial period of appointment,  
6 an appointed justice or judge who desires to remain in office shall stand for retention for a full term at a general  
7 election.

8           (4) A justice or judge who desires to remain in office after serving a full term shall stand for retention for  
9 a subsequent term at a general election.

10           (5) A judicial performance evaluation shall be conducted and disseminated to the public prior to each  
11 retention election. If the justice or judge is not retained, the office shall become open at the end of the year in  
12 which the election is held.

13           (6) The procedures for screening, appointment, evaluation, and retention elections and for the  
14 composition and procedures of the merit selection commission shall be as provided by law."

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16           NEW SECTION. Section 2. Severability. If a part of [this act] is invalid, all valid parts that are severable  
17 from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part  
18 remains in effect in all valid applications that are severable from the invalid applications.

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20           NEW SECTION. Section 3. Two-thirds vote required. Because [section 1] is a legislative proposal  
21 to amend the constitution, Article XIV, section 8, of the Montana constitution requires an affirmative roll call vote  
22 of two-thirds of all the members of the legislature, whether one or more bodies, for passage.

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24           NEW SECTION. Section 4. Effective date. If approved by the electorate, [this act] is effective July 1,  
25 2013.

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27           NEW SECTION. Section 5. Applicability -- retroactive applicability. (1) [This act] applies to the  
28 selection of supreme court justices and district court judges to and the retention of supreme court justices and  
29 district court judges in office for terms that begin on or after [the effective date of this act].

30           (2) [This act] applies retroactively, within the meaning of 1-2-109, to the selection of supreme court

1 justices and district court judges to fill openings in office during terms that began before [the effective date of this  
2 act] when the openings occur on or after [the effective date of this act].

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4 NEW SECTION. Section 6. Submission to electorate. [This act] shall be submitted to the qualified  
5 electors of Montana at the general election to be held in November 2012 by printing on the ballot the full title of  
6 [this act] and the following:

7  FOR providing for the merit-based appointment of supreme court justices and district court  
8 judges followed by judicial performance evaluations and retention elections.

9  AGAINST providing for the merit-based appointment of supreme court justices and district court  
10 judges followed by judicial performance evaluations and retention elections.

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