

1 SENATE BILL NO. 246

2 INTRODUCED BY M. MACDONALD

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE PUBLIC SERVICE COMMISSION;
5 REQUIRING PUBLIC SERVICE COMMISSIONERS TO BE NONPARTISAN CANDIDATES; REQUIRING THE
6 ENERGY AND TELECOMMUNICATIONS INTERIM COMMITTEE TO REVIEW THE COMMISSION DISTRICTS
7 AND MAKE RECOMMENDATIONS TO REVISE THE SIZE AND COMPOSITION OF THE COMMISSION;
8 REVISING THE PROCESS FOR ESTABLISHING PUBLIC SERVICE COMMISSION SALARIES; REVISING THE
9 PROCESS FOR FILLING PUBLIC SERVICE COMMISSION VACANCIES; AMENDING SECTIONS 2-16-405,
10 5-5-230, 13-12-207, 13-14-111, 13-35-231, 13-37-216, 69-1-105, AND 69-1-106, MCA; AND PROVIDING AN
11 IMMEDIATE EFFECTIVE DATE."

12

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

14

15 **NEW SECTION. Section 1. Energy and telecommunications interim committee -- redistricting for**
16 **public service commission.** (1) (a) In the 2021-2022 interim, using the county population figures for each federal
17 population census, the energy and telecommunications interim committee provided for in 5-5-230 shall review
18 the public service commission districts provided for in 69-1-104 and recommend changes to the legislature to
19 revise the commission from five districts to three districts.

20 (b) Beginning in 2023, in each interim following the release of county population figures for each federal
21 population census, the energy and telecommunications interim committee provided for in 5-5-230 shall review
22 the public service commission districts provided for in 69-1-104.

23 (2) In developing a plan for revising public service commission districts, the committee shall:

24 (a) comply with the requirements of [section 2];

25 (b) complete its work before September 15 of the year preceding a legislative session; and

26 (c) submit its recommendations to the legislature in the form of draft legislation or in the form of a report
27 if draft legislation is not needed and changes to the districts are unnecessary.

28 (3) The committee may consult with the public service commission and with the districting and
29 apportionment commission provided for in Title 5, chapter 1, part 1, in preparing the plan.

30 (4) (a) Before the committee submits a public service commission redistricting plan to the legislature, it

1 shall hold at least one public hearing on the plan at the state capitol.

2 (b) The committee may hold other hearings as it considers necessary.

3

4 **NEW SECTION. Section 2. Redistricting criteria.** (1) In the development of public service commission
5 districts, a plan must provide for three public service commission districts, with one commissioner elected from
6 each district, distributed as follows:

7 (a) The districts must be as equal as practicable based on population.

8 (b) District boundaries must coincide with the boundaries of counties of the state.

9 (c) The districts must be contiguous, meaning that the district must be in one piece.

10 (2) A district may not be drawn for the purpose of favoring a political party or an incumbent public service
11 commissioner. The following data or information may not be considered in the development of a plan:

12 (a) addresses of incumbent public service commissioners;

13 (b) political affiliations of registered voters;

14 (c) partisan political voter lists; and

15 (d) previous election results unless required as a remedy by a court.

16

17 **NEW SECTION. Section 3. Salaries for public service commissioners.** Before June 30 of each
18 even-numbered year, the department of administration shall conduct a salary survey of public service
19 commissioners in other states in which public service commissioners do not have professional qualifications. The
20 department shall include the salary for the Montana commissioners in determining the average salary for the
21 officials who do not have professional qualifications. If the average salary is greater than or less than the salary
22 for the commissioner in Montana, then beginning July 1 of the year following the year in which the survey is
23 conducted, the average salary is the new salary for the commissioner.

24

25 **NEW SECTION. Section 4. Nonpartisan election of public service commissioners.** (1) A public
26 service commissioner must file and be elected on the nonpartisan ballot in accordance with Title 13, chapter 14.

27 (2) Section 13-35-231, prohibiting political party contributions to judicial officers and public service
28 commissioners, applies to candidates for the public service commission.

29

30 **Section 5.** Section 2-16-405, MCA, is amended to read:

1 **"2-16-405. Salaries of certain elected state officials.** (1) The salaries paid to the following elected
2 officials are determined as provided in subsection (2):

3 (a) governor;

4 (b) lieutenant governor;

5 (c) attorney general;

6 (d) state auditor;

7 (e) superintendent of public instruction;

8 ~~(f) public service commission presiding officer;~~

9 ~~(g) public service commissioners, other than presiding officer;~~

10 ~~(h)~~(f) secretary of state;

11 ~~(i)~~(g) clerk of the supreme court.

12 (2) Before June 30 of each even-numbered year, the department of administration shall conduct a salary
13 survey of executive branch officials with similar titles to the Montana officials listed in subsection (1) for the states
14 of North Dakota, South Dakota, Wyoming, and Idaho. The department shall include the salary for the Montana
15 official in determining the average salary for the officials with similar titles. If the average salary is greater than
16 the salary for the official in Montana, then beginning July 1 of the year following the year in which the survey is
17 conducted, the average salary is the new salary for the official."

18

19 **Section 6.** Section 5-5-230, MCA, is amended to read:

20 **"5-5-230. Energy and telecommunications interim committee.** The energy and telecommunications
21 interim committee;

22 (1) has administrative rule review, draft legislation review, program evaluation, and monitoring functions
23 for the department of public service regulation and the public service commission; and

24 (2) is responsible for recommending public service commission districts and redistricting in accordance
25 with [sections 1 and 2]."

26

27 **Section 7.** Section 13-12-207, MCA, is amended to read:

28 **"13-12-207. Order of placement.** (1) The order on the ballot for state and federal offices must be as
29 follows:

30 (a) If the election is in a year in which a president of the United States is to be elected, in spaces

1 separated from the balance of the party tickets by a line must be the names and spaces for voting for candidates
2 for president and vice president. The names of candidates for president and vice president for each political party
3 must be grouped together.

- 4 (b) United States senator;
- 5 (c) United States representative;
- 6 (d) governor and lieutenant governor;
- 7 (e) secretary of state;
- 8 (f) attorney general;
- 9 (g) state auditor;
- 10 (h) state superintendent of public instruction;
- 11 ~~(i) public service commissioners;~~
- 12 ~~(j)(i)~~ clerk of the supreme court;
- 13 ~~(k)(j)~~ chief justice of the supreme court;
- 14 ~~(l)(k)~~ justices of the supreme court;
- 15 ~~(m)(l)~~ district court judges;
- 16 (m) public service commissioners;
- 17 (n) state senators;
- 18 (o) members of the Montana house of representatives.

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

- 20 (a) clerk of the district court;
- 21 (b) county commissioner;
- 22 (c) county clerk and recorder;
- 23 (d) sheriff;
- 24 (e) coroner;
- 25 (f) county attorney;
- 26 (g) county superintendent of schools;
- 27 (h) county auditor;
- 28 (i) public administrator;
- 29 (j) county assessor;
- 30 (k) county treasurer;

1 (l) surveyor;

2 (m) justice of the peace.

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

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

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

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

13

14 **Section 8.** Section 13-14-111, MCA, is amended to read:

15 **"13-14-111. Application of general laws.** Except as otherwise provided in this chapter, candidates for
16 nonpartisan offices, including judicial offices and the public service commission, must be nominated and elected
17 according to the provisions of this title."

18

19 **Section 9.** Section 13-35-231, MCA, is amended to read:

20 **"13-35-231. Unlawful for political party to contribute to judicial or public service commission**
21 **candidate.** A political party may not contribute to a judicial candidate or to a candidate for the public service
22 commission."

23

24 **Section 10.** Section 13-37-216, MCA, is amended to read:

25 **"13-37-216. Limitations on contributions -- adjustment.** (1) (a) Subject to adjustment as provided for
26 in subsection (3) and subject to 13-35-227 and 13-37-219, aggregate contributions for each election in a
27 campaign by a political committee or by an individual, other than the candidate, to a candidate are limited as
28 follows:

29 (i) for candidates filed jointly for the office of governor and lieutenant governor, not to exceed \$500;

30 (ii) for a candidate to be elected for state office in a statewide election, other than the candidates for

1 governor and lieutenant governor, not to exceed \$250;

2 (iii) for a candidate for any other public office, not to exceed \$130.

3 (b) A contribution to a candidate includes contributions made to any political committee organized on
4 the candidate's behalf. A political committee that is not independent of the candidate is considered to be
5 organized on the candidate's behalf.

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

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

11 (b) for a candidate to be elected for state office in a statewide election, other than the candidates for
12 governor and lieutenant governor, not to exceed \$6,500;

13 ~~(c) for a candidate for public service commissioner, not to exceed \$2,600;~~

14 ~~(d)~~(c) for a candidate for the state senate, not to exceed \$1,050;

15 ~~(e)~~(d) for a candidate for any other public office, not to exceed \$650.

16 (3) (a) The commissioner shall adjust the limitations in subsections (1) and (2) by multiplying each limit
17 by an inflation factor, which is determined by dividing the consumer price index for June of the year prior to the
18 year in which a general election is held by the consumer price index for June 2002.

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

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

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

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

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

25 (5) For purposes of this section, "election" means the general election or a primary election that involves
26 two or more candidates for the same nomination. If there is not a contested primary, there is only one election
27 to which the contribution limits apply. If there is a contested primary, then there are two elections to which the
28 contribution limits apply."

29

30 **Section 11.** Section 69-1-105, MCA, is amended to read:

1 **"69-1-105. Term of office -- term limits.** (1) A term is for a period of 4 years. A commissioner when
 2 elected shall qualify ~~at the time and in the manner provided by law for other state officers~~ as provided in [section
 3 4] and ~~shall~~ take office on the first Monday of January after the election.

4 (2) A commissioner shall serve until a successor is elected and qualified.

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

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

12

13 **Section 12.** Section 69-1-106, MCA, is amended to read:

14 **"69-1-106. Vacancies.** (1) Any vacancy occurring in the commission must be filled by appointment by
 15 the governor as provided in this section. The appointee shall hold office until the next general election and until
 16 a successor is elected and qualified. At the biennial election following the occurrence of any vacancy in the
 17 commission, there must be elected one member to fill out the unexpired term for which the vacancy exists.

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

21 ~~———(b) If the former incumbent was an independent or was originally nominated from a party that does not~~
 22 ~~meet the requirements of 13-10-601, the The governor shall appoint an individual to the vacant position within~~
 23 45 days of receiving notification from the secretary of state of the vacancy.

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

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

30 ~~———(b) If the governor does not select an appointee from the list forwarded pursuant to subsection (4)(a)~~

1 ~~within 15 days, the central committee shall, within 15 days, forward a second list of three prospective appointees,~~
2 ~~each of whom must be a resident of the district represented by the former incumbent. The second list may not~~
3 ~~contain a name submitted on the first list. Within 15 days of receipt of the second list, the governor shall select~~
4 ~~an appointee from either list."~~

5
6 **NEW SECTION. Section 13. Transition.** (1) (a) For the purposes of the 2020 election, the three public
7 service commission seats up for election shall meet the nonpartisan requirements of [section 4].

8 (b) For the purposes of the 2022 election, the remaining two public service commission seats up for
9 election shall meet the nonpartisan requirements of [section 4].

10 (2) The terms of office of all current commissioners continue until expiration of their term.

11
12 **NEW SECTION. Section 14. Notification to tribal governments.** The secretary of state shall send
13 a copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell
14 Chippewa tribe.

15
16 **NEW SECTION. Section 15. Codification instruction.** [Sections 1 through 4] are intended to be
17 codified as an integral part of Title 69, chapter 1, part 1, and the provisions of Title 69, chapter 1, part 1, apply
18 to [sections 1 through 4].

19
20 **NEW SECTION. Section 16. Saving clause.** [This act] does not affect rights and duties that matured,
21 penalties that were incurred, or proceedings that were begun before [the effective date of this act].

22
23 **NEW SECTION. Section 17. Severability.** If a part of [this act] is invalid, all valid parts that are
24 severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications,
25 the part remains in effect in all valid applications that are severable from the invalid applications.

26
27 **NEW SECTION. Section 18. Effective date.** [This act] is effective on passage and approval.

28 - END -