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As of: April 2, 2004 (8:12am)

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THIS BILL DRAFT IS NOT AN EQC BILL DRAFT -- IT IS A PROPOSAL
BEING SUBMITTED TO THE COMMITTEE FOR THEIR REVIEW AND DISCUSSION

Introduced By *****

By Request of the *****

A Bill for an Act entitled: "An Act providing for the election of the chief water judge in the same manner as the election of district court judges; requiring that the judicial nominating commission provide a list of nominees for the chief water judge position to the governor in the event of a vacancy; providing that the governor shall nominate a chief water judge in the event of a vacancy; providing for the transition from the current appointment format to an elected format; amending sections 3-1-1001, 3-1-1010, 3-1-1011, 3-7-221, 13-14-212, and 85-2-705, MCA; and providing an immediate effective date."

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 3-1-1001, MCA, is amended to read:

"3-1-1001. Creation, composition, and function of commission. (1) A judicial nomination commission for the state is created. Its function is to provide the governor with a list of candidates for appointment to fill any vacancy on the supreme court, or any district court, or ~~and to provide the chief justice of the supreme court with a list of candidates for appointment to fill any term or vacancy for the chief water judge pursuant to~~ 3-7-221. The commission ~~shall be~~ is composed of seven members as

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follows:

(a) four lay members who are neither judges nor attorneys, active or retired, who reside in different geographical areas of the state, and each of whom is representative of a different industry, business, or profession, whether actively so engaged or retired, who ~~shall~~ must be appointed by the governor;

(b) two attorneys actively engaged in the practice of law, one from that part of the state that is composed of judicial districts 1 through 5, 9, 11, and 18 through 21 and one from that part of the state that is composed of judicial districts 6 through 8, 10, and 12 through 17, who ~~shall~~ must be appointed by the supreme court;

(c) one district judge elected by the district judges under an elective procedure initiated and conducted by the supreme court and certified to such election by the chief justice of the supreme court. The election ~~shall~~ must be considered an appointment for the purposes of this part.

(2) Appointments provided for in this section ~~shall~~ must be made within 30 days of the completion of the preceding terms."

{*Internal References to 3-1-1001: None.*}

Section 2. Section 3-1-1010, MCA, is amended to read:

"3-1-1010. Lists submitted to governor and ~~chief justice -- report on proceedings.~~ (1) If a supreme court justice, a district judge, the workers' compensation judge, or the chief water judge gives notice of ~~his~~ the justice's or judge's resignation to take effect on a specific date, the commission shall meet as soon as

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possible after the justice's or judge's proposed resignation date has been verified by the chief justice of the supreme court. If no notice is given, the commission shall meet as soon as possible after a vacancy occurs. The meeting must be held in compliance with 3-1-1007. The commission shall submit to the governor ~~or chief justice~~, within the time period established under 3-1-1007, a list of not less than three or more than five nominees for appointment to the vacant position.

(2) Any list must be accompanied by a written report indicating the vote on each nominee, the content of the application submitted by each nominee, letters and public comments received regarding the nominee, and the commission's reasons for recommending each nominee for appointment. The report must give specific reasons for recommending each nominee."

{ *Internal References to 3-1-1010:*
3-1-1007 x }

Section 3. Section 3-1-1011, MCA, is amended to read:

"3-1-1011. ~~Governor or chief justice of the supreme court to nominate from list.~~ The governor, ~~or the chief justice of the supreme court for the office described in 3-7-221,~~ must make a nomination from the list of nominees submitted by the commission."

{ *Internal References to 3-1-1011: None.* }

Section 4. Section 3-7-221, MCA, is amended to read:

"3-7-221. ~~Appointment of chief~~ Chief water judge -- term of

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office. (1) ~~The chief justice of the Montana supreme court shall appoint a chief water judge as provided in Title 3, chapter 1, part 10.~~ The chief water judge must be elected in the same manner as district court judges as provided in Title 3, chapter 5, part 2.

(2) To be eligible for the office of chief water judge, a person ~~shall~~ must have the qualifications for district court or supreme court judges found in Article VII, section 9, of the Montana constitution.

(3) ~~The term of office of the chief water judge is from the date of initial appointment until June 30, 1985. After June 30, 1985,~~ January 1, 2007, the term of office is 4 years, subject to continuation of the water divisions by the legislature."

{Internal References to 3-7-221:

3-1-1001x

3-1-1011 x

19-5-301x

85-2-705 x}

Section 5. Section 13-14-212, MCA, is amended to read:

"13-14-212. Form of ballot on retention of certain incumbent judicial officers. If there is no candidate other than the incumbent for the office of chief justice, supreme court justice, district court judge, chief water judge, or justice of the peace, the name of the incumbent must be placed on the official ballot for the general election as follows:

Shall (insert title of officer) (insert name of the incumbent officer) of the (insert title of the court) of the state of Montana be retained in office for another term?

Following the question, provision must be made, subject to

rules adopted pursuant to 13-12-202, for a voter to indicate a "yes" or "no" vote."

{ Internal References to 13-14-212:
13-14-213 x }

Section 6. Section 85-2-705, MCA, is amended to read:

"85-2-705. Status reports to chief water judge. (1) The Montana reserved water rights compact commission must submit to the chief water judge, ~~appointed~~ elected pursuant to 3-7-221, a report on the status of its negotiations on July 1, 1985, and every 6 months thereafter.

(2) Each report must state which Indian tribes and federal agencies are engaged in negotiations, whether any negotiations with Indian tribes or federal agencies have been terminated, and the progress of negotiations on a tribe-by-tribe and agency-by-agency basis. The report must be made available to the public."

{ Internal References to 85-2-705: None. }

NEW SECTION. **Section 7. Transition.** The chief water judge appointed by the chief justice whose term expires on June 30, 2005, shall remain as the chief water judge until an elected chief water judge takes office in 2007 or until a vacancy occurs. If a vacancy occurs, the person appointed to the vacant position shall hold office until the elected judge takes office.

NEW SECTION. **Section 8. {standard} Effective date.** [This

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act] is effective on passage and approval.

- END -

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