

SENATE BILL NO. 59
INTRODUCED BY J. O'NEIL

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE LAWS RELATING TO THE SUMMONING OF JURIES OF INQUEST; ALLOWING THE GOVERNOR, SECRETARY OF STATE, STATE AUDITOR, OR LEGISLATURE TO SUMMON A JURY OF INQUEST; AND AMENDING SECTIONS 2-15-201, 2-15-401, 2-15-601, AND 3-15-105, MCA."

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

Section 1. Section 2-15-201, MCA, is amended to read:

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

(1)(a) ~~He~~ The governor shall supervise the official conduct of all executive and ministerial officers.

(2)(b) ~~He~~ The governor shall see that all offices are filled and the duties ~~thereof~~ of the office performed or, in default ~~thereof~~, apply ~~such~~ the remedy ~~as that~~ the law allows. If the remedy is imperfect, ~~he~~ the governor shall ~~acquaint~~ notify the legislature ~~therewith~~ of the inadequacy at ~~its~~ the legislature's next session.

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

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

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

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

(b)(ii) A copy of the notice required under subsection ~~(3)(a)~~ (1)(c)(i) must be sent to the lieutenant governor who may publish the notice in an appropriate publication.

(4)(d) ~~He~~ The governor is the sole official organ of communication between the government of this state and the government of any other state or of the United States.

(5)(e) Whenever any suit or legal proceeding is pending against this state or ~~which~~ that may affect the title of this state to any property or ~~which~~ that may result in any claim against the state, ~~he~~ the governor may direct the attorney general to appear on behalf of the state and may employ ~~such~~ additional counsel as ~~he~~ the governor

may judge expedient.

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

~~(7)(g)~~ He The governor may require the attorney general to aid the county attorney in the discharge of ~~his~~ the county attorney's duties.

~~(8)(h)~~ He The governor may offer rewards not exceeding \$1,000 each, payable out of the general fund, for the apprehension of any convict who has escaped from the state prison or any person who has committed or is charged with an offense punishable by death.

~~(9)(i)~~ He The governor shall perform ~~such the~~ duties respecting fugitives from justice ~~as are~~ prescribed by Title 46, chapter 30.

~~(10)(j)~~ He The governor shall issue land warrants and patents, as prescribed in 77-2-342.

~~(11)(k)~~ He The governor may require any officer or board to make special reports to ~~him~~ the governor, upon demand, in writing.

~~(12)(l)~~ He The governor shall discharge the duties of member of the board of examiners, of nonvoting ex officio member of the state board of education, and of member of the board of land commissioners.

~~(13)(m)~~ He The governor has the other powers and ~~must shall~~ perform the other duties ~~as that~~ are devolved upon him required by this code or any other law of this state.

(2) The governor may appoint a jury of inquest as provided in 3-15-105."

Section 2. Section 2-15-401, MCA, is amended to read:

"2-15-401. Duties of secretary of state -- authority. (1) In addition to the duties prescribed by the constitution, it is the duty of the secretary of state to:

(a) attend at every session of the legislature for the purpose of receiving bills and resolutions and to perform other duties as may be devolved upon the secretary of state by resolution of the two houses or either of them;

(b) keep a register of and attest the official acts of the governor, including all appointments made by the governor, with date of commission and names of appointees and predecessors;

(c) affix the great seal, with the secretary of state's attestation, to commissions, pardons, and other public instruments to which the official signature of the governor is required;

(d) record in proper books all articles of incorporation filed in the secretary of state's office;

(e) take and file receipts for all books distributed by the secretary of state and direct the county clerk of

each county to do the same;

(f) certify to the governor the names of those persons who have received at any election the highest number of votes for any office, the incumbent of which is commissioned by the governor;

(g) furnish, on demand, to any person paying the fees, a certified copy of all or any part of any law, record, or other instrument filed, deposited, or recorded in the secretary of state's office;

(h) keep a fee book in which must be entered all fees, commissions, and compensation earned, collected, or charged, with the date, name of payer, paid or unpaid, and the nature of the service in each case, which must be verified annually by the secretary of state's affidavit entered in the fee book;

(i) file in the secretary of state's office descriptions of seals in use by the different state officers;

(j) discharge the duties of member of the board of examiners and of the board of land commissioners and all other duties required by law;

(k) register marks as provided in Title 30, chapter 13, part 3;

(l) report annually to the legislative services division all watercourse name changes received pursuant to 85-2-134 for publication in the Laws of Montana;

(m) keep a register of all applications for pardon or for commutation of any sentence, with a list of the official signatures and recommendations in favor of each application.

(2) The secretary of state may develop and implement a statewide electronic filing system as described in 2-15-404.

(3) The secretary of state may appoint a jury of inquest as provided in 3-15-105."

Section 3. Section 2-15-601, MCA, is amended to read:

"2-15-601. State auditor. (1) There is a state auditor as provided in Article VI, section 1, of the Montana constitution.

(2) The state auditor may appoint a jury of inquest as provided in 3-15-105."

Section 4. Section 3-15-105, MCA, is amended to read:

"3-15-105. Jury of inquest defined -- subpoenas -- oaths -- examinations of witness and evidence.

(1) A jury of inquest is a body of persons summoned from the citizens of a particular district before the sheriff, coroner, ~~or other ministerial officer~~ governor, secretary of state, state auditor, or legislature to inquire concerning particular facts.

(2) Jury of inquest proceedings are public. In the conduct of an inquiry, a jury may subpoena witnesses,

take the testimony of any person under oath, administer oaths, and, in connection with the inquiry, require the production for examination of books, papers, or other tangible evidence relating to a matter in question before the jury that may be necessary and proper for the purposes of the inquiry. The method for service of subpoenas, witness fees, and mileage is the same as required in civil actions in the district courts of this state. Witness fees and mileage must be paid by the entity that summoned the jury. Testimony before a jury must be given under oath. The testimony of the witnesses examined and proceedings before the jury must be recorded and transcribed.

(3) If a person refuses to obey a subpoena issued by the jury, the district court of the first judicial district of Lewis and Clark County or other district court having proper venue, upon application for an order to compel compliance with the subpoena or the giving of testimony, may order the person to produce documentary evidence or to give evidence relating to the matter under investigation or in question. If a person fails to obey the order of the court, the person may be punished by the court for contempt of court.

(4) After inquiry, the jury shall render its verdict, which must be by majority vote, and certify the same in writing, signed by each juror. The record of the inquest and the verdict of the jury must be filed in the office of the clerk of the district court of the county in which the inquiry was held. The expenses of recording and transcribing must be paid by the entity that summoned the jury upon claims rendered and certified to by the jury in the same manner as other claims against the summoning entity are paid."

NEW SECTION. Section 5. Jury of inquest -- summons. The legislature may appoint a jury of inquest as provided in 3-15-105.

NEW SECTION. Section 6. Codification instruction. [Section 5] is intended to be codified as an integral part of Title 5, chapter 5, part 1, and the provisions of Title 5, chapter 5, part 1, apply to [section 5].

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