

SENATE BILL NO. 98
INTRODUCED BY D. HARRINGTON
BY REQUEST OF THE LEGISLATIVE COUNCIL

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE LAWS APPLICABLE TO THE LEGISLATURE AND LEGISLATORS; DEFINING MAJORITY LEADER, MAJORITY PARTY, MINORITY LEADER, AND MINORITY PARTY; AMENDING SECTIONS 2-2-135, 2-15-212, 2-15-246, 2-15-1019, 2-15-2110, 5-1-103, 5-2-221, 5-5-211, 5-11-101, 5-11-305, 5-12-202, 5-13-202, 5-16-101, 13-37-102, 53-2-1203, 53-10-203, AND 75-6-231, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

NEW SECTION. **Section 1. Terms relating to legislature.** (1) Unless the context requires otherwise, the following definitions apply in the Montana Code Annotated:

(a) "Majority leader" means the leader of the majority party, elected by the caucus as provided in 5-2-221.

(b) "Majority party" means the party with the most members in a house of the legislature, subject to subsection (2).

(c) "Minority leader" means the leader of the minority party, elected by the caucus as provided in 5-2-221.

(d) "Minority party" means the party with the second most members in a house of the legislature, subject to subsection (2).

(2) If there are an equal number of members of each party in a house of the legislature, then the majority party is the party of the president of the senate or the speaker of the house and the minority party is the other party with an equal number of members.

Section 2. Section 2-2-135, MCA, is amended to read:

"2-2-135. Ethics committees. (1) Each house of the legislature shall establish an ethics committee. The committee must consist of two members of ~~each political~~ the majority party and two members of the minority party. The committees may meet jointly. Each committee shall educate members concerning the provisions of this part concerning legislators and may consider conflicts between public duty and private interest as provided in 2-2-112. The joint committee may consider matters affecting the entire legislature.

(2) Pursuant to Article V, section 10, of the Montana constitution, the legislature is responsible for enforcement of the provisions of this part concerning legislators."

Section 3. Section 2-15-212, MCA, is amended to read:

"2-15-212. Reserved water rights compact commission. (1) There is created a reserved water rights compact commission. In negotiations, the commission is acting on behalf of the governor.

(2) Commissioners are appointed as follows:

(a) two members of the house of representatives appointed by the speaker, ~~each from a different political~~ one from the majority party and one from the minority party;

(b) two members of the senate appointed by the president, ~~each from a different political~~ one from the majority party and one from the minority party;

(c) four members designated by the governor; and

(d) one member designated by the attorney general.

(3) Legislative members of the commission are entitled to receive compensation and expenses as provided in 5-2-301 for each day actually spent on commission business. Other members are entitled to salary and expenses as state employees.

(4) The commission is attached to the department of natural resources and conservation for administrative purposes only, as prescribed in 2-15-121, unless inconsistent with the provisions of Title 85, chapter 2, part 7. A sufficient and appropriate staff must be assigned to serve the commission within the budget established by the legislature. The commission staff is a principal unit within the department, and the commission shall direct and assign the staff.

(5) Members are appointed for 4-year terms and may be reappointed. A legislative member position is vacant if the person no longer serves in the legislature. The position of a member appointed by the governor or attorney general is vacant if that person is elected to the legislature. A vacancy must be filled in the manner of the original appointment."

Section 4. Section 2-15-246, MCA, is amended to read:

"2-15-246. Rail service competition council. (1) There is a rail service competition council consisting of the following members:

(a) the director of the department of agriculture provided for in 2-15-3001;

(b) the director of the department of transportation provided for in 2-15-2501;

- (c) the director of the department of revenue provided for in 2-15-1301;
 - (d) the chief business development officer of the office of economic development provided for in 2-15-218;
 - (e) six people appointed by the governor with the following qualifications:
 - (i) one person with substantial knowledge and experience related to Class I railroads;
 - (ii) one person with substantial knowledge and experience related to Class II railroads;
 - (iii) one person who is a farm commodity producer in the state of Montana and who has substantial knowledge and experience related to transportation of farm commodities;
 - (iv) one person with substantial knowledge and experience in the trucking industry in the state of Montana;
 - (v) one person with substantial knowledge and experience related to transportation for the mineral industry in the state of Montana; and
 - (vi) one person with substantial knowledge and experience related to transportation for the wood products industry in the state of Montana; and
 - (f) two members, one from ~~each political~~ the majority party and one from the minority party and one from each house of the legislature, from the economic affairs interim committee established in 5-5-223, selected by the presiding officer of the economic affairs interim committee with the concurrence of the vice presiding officer.
- (2) The rail service competition council shall perform the following duties:
- (a) promote rail service competition in the state of Montana that results in reliable and adequate service at reasonable rates;
 - (b) develop a comprehensive and coordinated plan to increase rail service competition in the state of Montana;
 - (c) reevaluate the state's railroad taxation practices to ensure reasonable competition while minimizing any transfer of tax burden. The reevaluation of the state's railroad taxation practices should include but is not limited to a reevaluation of property taxes, taxes that minimize highway damage, special fuel taxes, and corporate tax rates.
 - (d) develop various means to assist Montanans impacted by high rates and poor rail service;
 - (e) analyze the feasibility of developing legal structures to facilitate growth of producer transportation investment cooperatives and rural transportation infrastructure authorities;
 - (f) provide advice and recommendations to the department of transportation on the department's activities under 60-11-113 through 60-11-116;

(g) coordinate efforts and develop cooperative partnerships with other states and federal agencies to promote rail service competition; and

(h) act as the state's liaison in working with Class I railroads to promote rail service competition.

(3) The council shall cooperate with and report to any standing or interim legislative committee that is assigned to study or has oversight duties for rail service competition issues.

(4) The council must be compensated, reimbursed, and otherwise governed by the provisions of 2-15-122.

(5) The council is attached for administrative purposes only to the governor's office, which may assist the council by providing staff and budgetary, administrative, and clerical services that the council or its presiding officer requests.

(6) Staffing and other resources may be provided to the council only from state and nonstate resources donated to the council and from direct appropriations by each legislature."

Section 5. Section 2-15-1019, MCA, is amended to read:

"2-15-1019. Board of directors of state compensation insurance fund -- legislative liaisons. (1)

There is a board of directors of the state compensation insurance fund.

(2) The board is allocated to the department for administrative purposes only as prescribed in 2-15-121. However, the board may employ its own staff.

(3) The board may provide for its own office space and the office space of the state fund.

(4) The board consists of seven members appointed by the governor. The executive director of the state fund is an ex officio nonvoting member.

(5) At least four of the seven members shall represent state fund policyholders and may be employees of state fund policyholders. At least four members of the board shall represent private, for-profit enterprises. One of the seven members may be a licensed insurance producer. A member of the board may not:

(a) except for the licensed insurance producer member, represent or be an employee of an insurance company that is licensed to transact workers' compensation insurance under compensation plan No. 2; or

(b) be an employee of a self-insured employer under compensation plan No. 1.

(6) A member is appointed for a term of 4 years. The terms of board members must be staggered. A member of the board may serve no more than two 4-year terms. A member shall hold office until a successor is appointed and qualified.

(7) The members must be appointed and compensated in the same manner as members of a

quasi-judicial board as provided in 2-15-124, except that the requirement that at least one member be an attorney does not apply.

(8) There must be two legislative liaisons to the board consisting of members of the economic affairs interim committee provided for in 5-5-223. The presiding officer of the economic affairs interim committee shall appoint the liaisons from ~~two separate political parties~~ the majority party and the minority party at the first interim committee meeting.

(9) Legislative liaisons shall serve from appointment through each even-numbered calendar year.

(10) A legislative liaison may:

- (a) attend board meetings; and
- (b) receive board meeting agendas and information relating to agenda items from the staff of the state fund.

(11) Legislative liaisons appointed pursuant to subsection (8) are entitled to compensation and expenses, as provided in 5-2-302, to be paid by the economic affairs interim committee."

Section 6. Section 2-15-2110, MCA, is amended to read:

"2-15-2110. Small business compliance assistance advisory council. (1) There is a small business compliance assistance advisory council.

(2) The council consists of seven members, as follows:

(a) two members that are not owners or representatives of owners of small business stationary sources, appointed by the governor to represent the general public;

(b) four members that are owners or representatives of owners of small business stationary sources and who are not legislators, one to be appointed by the majority leader and minority ~~leadership~~ leader of the house of representatives and one to be appointed by the majority leader and minority ~~leadership~~ leader of the senate; and

(c) one member that is a representative of the department of environmental quality, appointed by the director of that department.

(3) Appointed members shall serve for terms of 3 years.

(4) The provisions of 2-15-122(5) through (8) apply to the council and its members."

Section 7. Section 5-1-103, MCA, is amended to read:

"5-1-103. Vacancy on commission. (1) ~~In the event~~ If a vacancy occurs on the commission, the

appointing authority of the vacated seat shall designate a successor.

(2) ~~In the event~~ If the appointing authority at the time a vacancy occurs is of ~~the opposite~~ a different political party than that of the appointing authority that made the appointment that is vacant, the majority leader or minority leader of the same political party as the appointing authority that made the original appointment of the commissioner whose position is vacated shall designate the successor."

Section 8. Section 5-2-221, MCA, is amended to read:

"5-2-221. Officers and employees of the senate and house of representatives. (1) The officers of the senate include a president, a president pro tempore, a majority ~~floor~~ leader, a minority ~~floor~~ leader, a majority whip, and a minority whip.

(2) The officers of the house of representatives include a speaker, a speaker pro tempore, a majority ~~floor~~ leader, a minority ~~floor~~ leader, a majority whip, and a minority whip.

(3) The president and president pro tempore of the senate and the speaker and speaker pro tempore of the house ~~shall~~ must be elected by the house of which they are a member.

(4) The majority ~~floor~~ leader, minority ~~floor~~ leader, majority whip, and minority whip of the senate and house ~~shall~~ must be elected by their respective caucuses.

(5) A secretary of the senate, sergeant at arms, and chaplain ~~shall~~ must be appointed by the president subject to confirmation by the senate, and a chief clerk of the house, sergeant at arms, and chaplain ~~shall~~ must be appointed by the speaker subject to confirmation by the house."

Section 9. Section 5-5-211, MCA, is amended to read:

"5-5-211. Appointment and composition of interim committees. (1) Senate interim committee members must be appointed by the committee on committees.

(2) House interim committee members must be appointed by the speaker of the house.

(3) Appointments to interim committees must be made by the time of adjournment of the legislative session.

(4) A legislator may not serve on more than two interim committees unless no other legislator is available or is willing to serve.

(5) (a) Subject to subsection (5)(b), the composition of each interim committee must be as follows:

(i) four members of the house, ~~no more than two of whom may be of one political~~ from the majority party and two from the minority party; and

(ii) four members of the senate, ~~no more than two of whom may be of one political~~ from the majority party and two from the minority party.

(b) If the committee workload requires, the legislative council may request the appointing authority to appoint one or two additional interim committee members from ~~each political~~ the majority party and the minority party.

(6) The membership of the interim committees must be provided for by legislative rules. The rules must identify the committees from which members are selected, and the appointing authority shall attempt to select not less than 50% of the members from the standing committees that consider issues within the jurisdiction of the interim committee. In making the appointments, the appointing authority shall take into account term limits of members so that committee members will be available to follow through on committee activities and recommendations in the next legislative session.

(7) An interim committee or the environmental quality council may create subcommittees. Nonlegislative members may serve on a subcommittee. Unless the person is a full-time salaried officer or employee of the state or a political subdivision of the state, a nonlegislative member appointed to a subcommittee is entitled to salary and expenses to the same extent as a legislative member. If the appointee is a full-time salaried officer or employee of the state or of a political subdivision of the state, the appointee is entitled to reimbursement for travel expenses as provided for in 2-18-501 through 2-18-503."

Section 10. Section 5-11-101, MCA, is amended to read:

"5-11-101. Appointment and composition of council. (1) There is a legislative council. Subject to subsection (3), the legislative council consists of:

(a) the speaker of the house, the minority leader of the house, and four members chosen by the speaker of the house, ~~no more than two of whom may be of the same political~~ from the majority party and two from the minority party; and

(b) the president of the senate, the minority leader of the senate, and four members chosen by the committee on committees, ~~no more than two of whom may be of the same political~~ from the majority party and two from the minority party.

~~(2) No more than three members of each house may be of the same political party.~~

~~(3)~~(2) If a legislator is or would be a member of the legislative council by virtue of a legislative leadership position and the legislator will not serve in the following legislative session because of term limits, the legislator may designate another member of the same house and the same political party to serve on the legislative council

in the legislator's place."

Section 11. Section 5-11-305, MCA, is amended to read:

"5-11-305. Legislative council appointments to interstate, international, and intergovernmental entities. (1) Unless otherwise provided by law, the legislative council shall appoint legislators to serve as members of appropriate interstate, international, and intergovernmental entities.

(2) The president of the senate, the speaker of the house, the minority leader of the senate, and the minority leader of the house may recommend nominees for the legislative council's consideration in making appointments to interstate, international, and intergovernmental entities.

(3) If the legislative council appoints more than one legislator to participate as a member in an interstate, international, or intergovernmental entity, ~~no more than 50% of the number of legislators appointed may be from one political~~ the majority party and the minority party must be equal.

(4) If funds are available that the legislative council has the authority to expend, the legislative council, as the appropriate funding authority, may authorize that a legislator appointed as a member to an interstate, international, or intergovernmental entity be compensated, as provided in 5-2-302, for salary and expenses associated with participating in an entity-sponsored activity.

(5) If a vacancy occurs in membership to an interstate, international, or intergovernmental entity, appointment to fill the vacancy must be made in the same manner as the original appointment.

(6) The legislative council shall make appointments to any policy committee established by the Pacific Northwest economic region as provided in 5-11-707(2)."

Section 12. Section 5-12-202, MCA, is amended to read:

"5-12-202. Appointment of members. (1) The legislative finance committee consists of:

(a) four members of the senate finance and claims committee appointed by the ~~chairman~~ presiding officer;

(b) two members of the senate appointed at large by the committee on committees;

(c) four members of the house of representatives appropriations committee appointed by the ~~chairman~~ presiding officer; and

(d) two members of the house appointed at large by the speaker.

(2) These members ~~shall~~ must be appointed before the end of each legislative session. ~~No more than three~~ Three members of each house, two committee members and one at-large member, ~~may~~ must be from the

~~same political majority party and the other three members of that house must be from the minority party.~~"

Section 13. Section 5-13-202, MCA, is amended to read:

"5-13-202. Appointment and term of members -- officers -- vacancies. (1) The legislative audit committee consists of six members of the senate and six members of the house of representatives appointed before the end of each regular session in the same manner as standing committees of the respective houses are appointed. ~~No more than three~~ Three of the appointees of each house ~~may~~ must be members of the ~~same political majority party and three of the appointees must be members of the minority party.~~

(2) A member of the committee shall serve until the member's term of office as a legislator ends or until a successor is appointed, whichever occurs first.

(3) The committee shall elect one of its members as presiding officer and other officers as it considers necessary.

(4) A vacancy on the committee occurring when the legislature is not in session ~~shall~~ must be filled by the selection of a member of the legislature by the remaining members of the committee. If there is a vacancy on the committee at the beginning of a legislative session because a member's term of office as a legislator has ended, a member of the same political party must be appointed in the same manner as the original appointment, no later than the 10th legislative day, to serve until a successor is appointed under subsection (1)."

Section 14. Section 5-16-101, MCA, is amended to read:

"5-16-101. Appointment and composition. The environmental quality council consists of 17 members as follows:

(1) the governor or the governor's designated representative is an ex officio member of the council and shall participate in council meetings as a nonvoting member;

(2) six members of the senate and six members of the house of representatives appointed before the 50th legislative day in the same manner as standing committees of the respective houses are appointed. ~~No more than three~~ Three of the appointees of each house ~~may~~ must be members of the ~~same political majority party and three appointees must be members of the minority party.~~

(3) four members of the general public. Two public members must be appointed by the speaker of the house with the consent of the house minority leader, and two must be appointed by the president of the senate with the consent of the senate minority leader."

Section 15. Section 13-37-102, MCA, is amended to read:

"13-37-102. Creation of office -- removal. (1) There is a commissioner of political practices who is appointed by the governor, subject to confirmation by a majority of the senate. A four-member selection committee composed of the speaker of the house, the president of the senate, and the minority floor leaders of both houses of the legislature shall submit to the governor a list of not less than two or more than five names of individuals for the governor's consideration. A majority of the members of the selection committee shall agree upon each nomination.

(2) The individual selected to serve as commissioner may be removed by the governor prior to the expiration of the term only for incompetence, malfeasance, or neglect of duty. The governor's decision to remove the commissioner must be stated in writing, and the sufficiency of the governor's stated causes for removing the commissioner is subject to judicial review."

Section 16. Section 53-2-1203, MCA, is amended to read:

"53-2-1203. State workforce investment board -- membership -- duties. (1) There is a state workforce investment board.

(2) The state board consists of:

(a) the governor or a person designated by the governor to act on behalf of the governor;

(b) two members of the house of representatives, each one from a different political the majority party and one from the minority party, and two members of the senate, each one from a different political the majority party and one from the minority party, appointed by the presiding officer of each respective chamber; and

(c) individuals appointed by the governor, including:

(i) representatives of businesses located in Montana who:

(A) are owners of businesses, chief executive or operating officers, and other business executives or employers with optimum policymaking or hiring authority, including business members of local boards; and

(B) represent businesses with employment opportunities that reflect the employment opportunities in Montana;

(ii) chief elected officials of local government;

(iii) representatives of labor organizations;

(iv) representatives of individuals and organizations who have experience with respect to youth activities;

(v) representatives of individuals and organizations who have experience and expertise in the delivery of workforce investment activities;

(vi) representatives of the state agencies who are responsible for the programs and activities that are carried out by the one-stop centers, including but not limited to:

- (A) the department of labor and industry;
 - (B) the department of public health and human services;
 - (C) the office of the commissioner of higher education; and
 - (D) the office of public instruction; and
- (vii) other representatives that the governor may designate.

(3) The selection and appointment of members of the state board must follow the nominating provisions of section 111 of the Act (29 U.S.C. 2821).

(4) The governor shall appoint enough individuals described in subsection (2)(c)(i) so that those persons compose a majority of the membership of the state board.

(5) The governor shall consider the special needs of Montana's hard-to-serve Indian population and the state's relationship with tribal governments when making appointments to the state board.

(6) The state board shall perform the functions described in section 111 of the Act (29 U.S.C. 2821)."

Section 17. Section 53-10-203, MCA, is amended to read:

"53-10-203. Commission on provider rates and services. (1) The department shall form an advisory commission to be known as the commission on provider rates and services to provide information to the department concerning provider services, costs, and reimbursement rates. The commission membership must include a maximum of 15 individuals representing providers, consumers of provider services, and family members of consumers and is as follows:

- (a) at least three providers;
- (b) at least three of a combination of consumers of provider services and family members of consumers;
- (c) two employees of the department;
- (d) one representative from the legislative fiscal division;
- (e) one representative from the governor's office on budget and program planning;
- (f) one member of each of the ~~two major political parties~~ majority party and one member of the minority party of the house of representatives; and
- (g) one member of each of the ~~two major political parties~~ majority party and one member of the minority party of the senate.

(2) Except as provided in this section, the commission is subject to the provisions of 2-15-122.

(3) Except as provided in this section, members shall serve for a term of 2 years and may be reappointed by the appointing authority for one additional term. A member appointed to fill an unexpired term may be appointed for an additional two terms. The appointing authority shall stagger the first terms of the first board to terms of 2 to 4 years. Members appointed to represent state departments, offices, or other state bodies may be appointed and reappointed as the department determines necessary.

(4) The commission shall elect a presiding officer and vice presiding officer and by vote determine its rules of operation. The commission shall meet at the call of the presiding officer, who shall determine meeting times in consultation with the department.

(5) The commission is allocated to the department for administrative purposes only as provided in 2-15-121."

Section 18. Section 75-6-231, MCA, is amended to read:

"75-6-231. Intended use plan -- advisory committee. (1) The department shall prepare an annual intended use plan for the state that meets the requirements of section 300j-12(b) of the federal act, (42 U.S.C. 300j-12(b)).

(2) The intended use plan must include:

(a) a list of projects in the state that are eligible for assistance, including both the priority assigned to each project based on public health needs and on the financial needs of the project and, to the extent known, the expected funding schedule for each project; and

(b) a description of the funds to be allocated to activities under 75-6-212 and 75-6-221(2) and funds to be transferred to or received by the water pollution control state revolving fund, as allowed in 75-6-211(5), for the annual fiscal period following publication of the intended use plan.

(3) Before finalizing an intended use plan, the department shall prepare a draft document containing the information required in subsection (2) and shall provide public notice and opportunity to comment on the draft document.

(4) (a) Following the public comment period provided for in subsection (3) and any department modifications to the intended use plan resulting from the public comment, a summary of the public comment and the intended use plan must be presented for review, comment, and recommendations to an advisory committee formed by the department and consisting of six individuals from the following entities appointed by their respective presiding officers, directors, or executive officials:

(i) one member from the Montana league of cities and towns;

(ii) one member from the Montana association of counties;

(iii) one member from the department of natural resources and conservation;

(iv) one member from the department of environmental quality; and

(v) two members from the legislature. One member must be from the house of representatives and one from the senate, and ~~they may not~~ one must represent the ~~same political~~ majority party and one must represent the minority party.

(b) The advisory committee is attached to the department for administrative purposes only.

(5) The department shall address in writing any comments and recommendations provided by the advisory committee provided for in subsection (4) before finalizing an intended use plan and prior to awarding any contracts under 75-6-212(1)(g)."

NEW SECTION. Section 19. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 1, chapter 1, part 2, and the provisions of Title 1, chapter 1, part 2, apply to [section 1].

NEW SECTION. Section 20. Effective date. [This act] is effective on passage and approval.

- END -

