



AN ACT AUTHORIZING THE GOVERNOR TO APPOINT SUBSTITUTE MEMBERS TO THE BOARD OF PERSONNEL APPEALS WHEN A BOARD MEMBER IS UNABLE TO PARTICIPATE IN A PROCEEDING; AMENDING SECTION 2-15-1705, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

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

Section 1. Section 2-15-1705, MCA, is amended to read:

"2-15-1705. Board of personnel appeals -- allocation -- composition -- vote necessary for decision -- quasi-judicial. (1) There is a board of personnel appeals.

(2) The board is allocated to the department of labor and industry for administrative purposes only as prescribed in 2-15-121.

(3) (a) The board consists of five members and three substitute members appointed by the governor as follows:

(i) two members who are full-time management employees in organizations with collective bargaining units or who represent management in collective bargaining activities and a substitute member with the same qualifications as the other two members who is to serve in place of an absent member and to participate only in the decisions of the proceeding that the substitute member is attending;

(ii) two members who are full-time employees or elected officials of a labor union or an association recognized by the board and a substitute member with the same qualifications as the other two members who is to serve in place of an absent member and to participate only in the decisions of the proceeding that the substitute member is attending; and

(iii) one other member having general labor-management experience, who is the presiding officer, and a substitute member with the same qualifications as the other member who is to serve in place of an absent member and to participate only in the decisions of the proceeding that the substitute member is attending.

(b) All members of the board shall serve as impartial decisionmakers and are not appointed to serve the interests of the organizations they represent.

(c) A substitute board member is entitled to the same compensation and per diem when serving as the other members of the board.

~~(4) When the presiding officer is unable to participate in a proceeding before the board, the remaining members of the board shall select an individual who qualifies under subsection (3)(a)(iii) to serve in the place of the presiding officer in that proceeding. The individual selected shall participate in the decisions in that proceeding. There may be only one presiding officer replacement appointed and serving at any one time. The individual selected is entitled to the same compensation and per diem that members of the board receive.~~

~~———— (5) When a board member other than the presiding officer is unable to participate in a proceeding before the board, the remaining members of the board shall select a substitute member who possesses the qualifications described in subsection (3)(a)(i) or (3)(a)(ii), depending on the qualifications of the absent board member. The substitute member shall serve in place of the absent board member and participate in the decisions in that proceeding. A substitute board member is entitled to the same compensation and per diem that members of the board receive.~~

~~(6)(4) In all proceedings before the board, a favorable vote of at least a majority of a quorum is sufficient to adopt any resolution, motion, or other decision.~~

~~(7)(5) The board is designated a quasi-judicial board for purposes of 2-15-124."~~

Section 2. Effective date. [This act] is effective on passage and approval.

- END -

I hereby certify that the within bill,
HB 0136, originated in the House.

Chief Clerk of the House

Speaker of the House

Signed this _____ day
of _____, 2009.

President of the Senate

Signed this _____ day
of _____, 2009.

HOUSE BILL NO. 136
INTRODUCED BY C. BOLAND
BY REQUEST OF THE DEPARTMENT OF LABOR AND INDUSTRY

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