

SENATE BILL NO. 52

INTRODUCED BY M. TROPILA, T. BROWN

BY REQUEST OF THE LEGISLATIVE AUDIT COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT PROHIBITING THE LEGISLATIVE AUDITOR FROM EMPLOYING AN AUDITOR UNLESS A BACKGROUND CHECK IS MADE ON THE PROSPECTIVE EMPLOYEE; PROHIBITING THE LEGISLATIVE AUDITOR FROM EMPLOYING A PERSON IF THE LEGISLATIVE AUDITOR DETERMINES THAT THE PERSON IS NOT APPROPRIATE FOR EMPLOYMENT BY THE AUDITOR; AND AMENDING SECTION 5-13-305, MCA."

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

Section 1. Section 5-13-305, MCA, is amended to read:

"5-13-305. Employees, consultants, and legal counsel -- background checks -- cure for impairment. (1) The legislative auditor may appoint and define the duties of employees and consultants who are necessary to carry out the provisions of this chapter; within the limitations of legislative appropriations. The legislative auditor shall set the pay for employees in accordance with the rules for classification and pay adopted by the legislative council. The legislative auditor may employ legal counsel to conduct proceedings under this chapter.

(2) (a) The legislative auditor may not employ a prospective employee TO CONDUCT OR SUPERVISE AUDITS without conducting or having conducted a background check on the prospective employee. The background check must include a fingerprint STATE AND FEDERAL FINGERPRINT-BASED check by the Montana department of justice and the federal bureau of investigation. WHEN REPORTING THE RESULTS OF THE BACKGROUND CHECK, THE MONTANA DEPARTMENT OF JUSTICE SHALL SPECIFICALLY REPORT ANY PREVIOUS CONVICTION OF THE PROSPECTIVE EMPLOYEE FOR EMBEZZLEMENT OR OTHER FINANCIAL CRIMES. The purpose of the background and fingerprint checks is to determine whether the prospective employee is an appropriate person to audit the records of one or more state agencies or programs.

(b) A COPY OF THE RESULTS OF THE BACKGROUND CHECK MUST BE DELIVERED TO THE LEGISLATIVE AUDITOR. If the legislative auditor determines, based upon the results of the background and fingerprint checks, that a prospective employee is not an appropriate person to audit one or more state agencies or programs, the



1 legislative auditor may not employ the prospective employee.

2 ~~(2)~~(3) The legislative auditor shall inform the legislative council and the legislative audit committee in
3 writing of an administrative policy or rule adopted under 5-11-105 that may impair the independence of the
4 division, along with a statement of the reasons for the opinion and suggested changes to cure the impairment.
5 The legislative council shall review the rule in question and adopt a revision that is generally applicable to the
6 legislative branch and that is designed to cure the impairment. While the impairment exists, the legislative audit
7 committee may adopt a specific exemption to the questioned rule that states the alternative rule to be employed
8 under the exemption."

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