

Amendment - 1st Reading/2nd House-blue - Requested by: Kenneth Bogner - (S) Finance and Claims

- 2023

68th Legislature 2023

Drafter: Julie Johnson, 406-444-4024

HB0260.002.001

1 HOUSE BILL NO. 260
2 INTRODUCED BY M. REGIER, R. KNUDSEN
3
4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING EXEMPT PERSONAL STAFF OF LEGISLATIVE
5 LEADERSHIP LAWS; PROVIDING FOR ONE FOUR ADDITIONAL PERSONAL STAFF TO SERVE AS
6 SPECIAL COUNSEL FOR THE LEGISLATURE EXEMPT PERSONAL LEGAL STAFF FOR EACH CAUCUS
7 ON AN AS-NEEDED BASIS; PROVIDING A FUNDING ALLOCATION FOR THE ADDITIONAL PERSONAL
8 LEGAL STAFF; PROVIDING SPECIAL COUNSEL MAY ENTER A CONTACT CONTRACT TO PERFORM
9 THE DUTIES OF SPECIAL COUNSEL AFTER SERVING IN THAT POSITION AS AN EMPLOYEE; MAKING
10 THE SPECIAL COUNSEL POSITION PERMANENT; REVISING A DEFINITION; AMENDING SECTIONS 2-2-
11 201, AND 2-18-104, AND 5-5-110, MCA; REPEALING SECTION 6, CHAPTER 523, LAWS OF 2021; AND
12 PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

13
14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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

17 **"2-2-201. Public officers, employees, and former employees not to have interest in contracts.**

18 (1) Members of the legislature; state, county, city, town, or township officers; or any deputies or employees of
19 an enumerated governmental entity may not be interested in any contract made by them in their official capacity
20 or by any body, agency, or board of which they are members or employees if they are directly involved with the
21 contract. A former employee may not, within 6 months following the termination of employment, contract or be
22 employed by an employer who contracts with the state or any of its subdivisions involving matters with which
23 the former employee was directly involved during employment.

24 (2) In this section, the term:

25 (a) "be interested in" does not include holding a minority interest in a corporation;

26 (b) "contract" does not include:

27 (i) contracts awarded based on competitive procurement procedures conducted after the date of

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- 1 employment termination;
- 2 (ii) merchandise sold to the highest bidder at public auctions;
- 3 (iii) investments or deposits in financial institutions that are in the business of loaning or receiving
- 4 money;
- 5 (iv) a contract with an interested party if, because of geographic restrictions, a local government
- 6 could not otherwise reasonably afford itself of the subject of the contract. It is presumed that a local government
- 7 could not otherwise reasonably afford itself of the subject of a contract if the additional cost to the local
- 8 government is greater than 10% of a contract with an interested party or if the contract is for services that must
- 9 be performed within a limited time period and no other contractor can provide those services within that time
- 10 period.
- 11 (v) a contract with a former employee that served as special counsel pursuant to 5-5-110 if the
- 12 former employee is hired on a contract basis to fulfill the role of special counsel any period of time after
- 13 termination of employment;
- 14 (c) "directly involved" means the person directly monitors a contract, extends or amends a
- 15 contract, audits a contractor, is responsible for conducting the procurement or for evaluating proposals or
- 16 vendor responsibility, or renders legal advice concerning the contract;
- 17 (d) "former employee" does not include a person whose employment with the state was
- 18 involuntarily terminated because of a reduction in force or other involuntary termination not involving violation of
- 19 the provisions of this chapter."

21 **Section 2.** Section 2-18-104, MCA, is amended to read:

22 **"2-18-104. Exemption for personal staff -- limit.** (1) Subject to the limitations in subsections (2) and

23 (3), members of a personal staff are exempt from parts 1 through 3 and 10.

24 (2) The personal staff who are exempted by subsection (1) may not exceed 10 unless otherwise

25 approved by the department according to criteria developed by the department. Under no circumstances may

26 the total exemptions of each elected official exceed 15.

27 (3) The number of members of the personal staff of the public service commission who are

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1 exempted by subsection (1) may not exceed 6.

2 (4) The number of members of the personal staff of the leadership of the legislature AND THE LEGAL
3 STAFF OF THE MAJORITY AND MINORITY CAUCUSES who are exempted by subsection (1) may not exceed:

4 (a) one personal staff for the speaker of the house of representatives;

5 (b) one personal staff for the minority leader of the house of representatives;

6 (c) one personal staff for the president of the senate;

7 (d) one personal staff for the minority leader of the senate; ~~and~~

8 (E) ONE PERSONAL LEGAL STAFF THAT SERVES ON AN AS-NEEDED BASIS FOR THE MAJORITY PARTY OF
9 THE HOUSE OF REPRESENTATIVES;

10 (F) ONE PERSONAL LEGAL STAFF THAT SERVES ON AN AS-NEEDED BASIS FOR THE MINORITY PARTY OF THE
11 HOUSE OF REPRESENTATIVES;

12 (G) ONE PERSONAL LEGAL STAFF THAT SERVES ON AN AS-NEEDED BASIS FOR THE MAJORITY PARTY OF
13 THE SENATE;

14 (H) ONE PERSONAL LEGAL STAFF THAT SERVES ON AN AS-NEEDED BASIS FOR THE MINORITY PARTY OF THE
15 SENATE; AND

16 ~~(e)(l) one personal staff, and one additional personal staff as needed, that serves serve SERVES at~~
17 ~~the pleasure of the speaker of the house of representatives and the president of the senate for the purposes~~
18 ~~provided in 5-5-110.~~

19 (5) SUBJECT TO LEGISLATIVE APPROPRIATION, THE FUNDING ALLOCATED TO THE PERSONAL LEGAL STAFF
20 FOR THE MINORITY PARTY IN SUBSECTIONS (4)(F) AND (4)(H) IS EQUAL TO ONE-THIRD OF THE total funding and the
21 amount ALLOCATED TO THE PERSONAL LEGAL STAFF FOR THE MAJORITY PARTY IN SUBSECTIONS (4)(E) AND (4)(G) IS
22 two-thirds of the total funding. THE EXEMPT PERSONAL LEGAL STAFF FOR THE MAJORITY AND MINORITY PARTIES MUST
23 BE LICENSED TO PRACTICE LAW IN MONTANA AND MAY BE HIRED ON A CONTRACT BASIS.-(Subsection (4)(e) terminates
24 June 1, 2023—sec. 6, Ch. 523, L. 2021.)"

25

26 **Section 3.** Section 5-5-110, MCA, is amended to read:

27 **"5-5-110. (Temporary) Special counsel -- powers -- appointment -- reporting.** (1) The speaker of