

HOUSE BILL NO. 314

INTRODUCED BY T. BROCKMAN

A BILL FOR AN ACT ENTITLED: "AN ACT INCREASING THE DAILY RATE OF COMPENSATION FOR  
BOARDS, COMMISSIONS, AND COUNCILS; STANDARDIZING COMPENSATION RATES FOR BOARDS,  
COMMISSIONS, AND COUNCILS; REMOVING DISCRETIONARY ADJUSTMENT OF COMPENSATION  
BASED ON THE PERSONAL CONSUMPTION EXPENDITURES PRICE INDEX; AMENDING SECTIONS 2-  
15-122, 2-15-124, 5-2-301, 19-20-202, 23-7-201, 37-43-201, 53-19-304, AND 87-1-251, MCA; AND  
PROVIDING AN EFFECTIVE DATE."

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

**Section 1.** Section 2-15-122, MCA, is amended to read:

**"2-15-122. Creation of advisory councils.** (1) (a) A department head or the governor may create  
advisory councils.

(b) An agency or an official of the executive branch of state government other than a department  
head or the governor, including the superintendents of the state's institutions and the presidents of the units of  
the state's university system, may also create advisory councils but only if federal law or regulation requires that  
the official or agency create the advisory council as a condition to the receipt of federal funds.

(c) The board of public education, the board of regents of higher education, the state board of  
education, the attorney general, the state auditor, the secretary of state, and the superintendent of public  
instruction may create advisory councils, which shall serve at their pleasure, without the approval of the  
governor. The creating authority shall file a record of each council created by it in the office of the governor and  
the office of the secretary of state in accordance with subsection (9).

(2) Each advisory council created under this section must be known as the "... advisory council".

(3) The creating authority shall:

(a) prescribe the composition and advisory functions of each advisory council created;

(b) appoint its members, who shall serve at the pleasure of the creating authority; and

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(d) the council's purpose; and

(e) the council's term of existence, in accordance with subsection (10).

(10) An advisory council may not be created to remain in existence longer than 2 years after the date of its creation or beyond the period required to receive federal or private funds, whichever occurs later, unless extended by the appointing authority in the manner set forth in subsection (1). If the existence of an advisory council is extended, the appointing authority shall specify a new date, not more than 2 years later, when the existence of the advisory council ends and file a record of the order in the office of the governor and the office of the secretary of state. The existence of any advisory council may be extended as many times as necessary.

~~(11) For the purposes of this section, "PCE" means the implicit price deflator for personal consumption expenditures as published quarterly in the survey of current business by the bureau of economic analysis of the U.S. department of commerce."~~

**Section 2.** Section 2-15-124, MCA, is amended to read:

**"2-15-124. Quasi-judicial boards.** If an agency is designated by law as a quasi-judicial board for the purposes of this section, the following requirements apply:

(1) The number of and qualifications of its members are as prescribed by law. In addition to those qualifications, unless otherwise provided by law, at least one member must be an attorney licensed to practice law in this state.

(2) The governor shall appoint the members. A majority of the members must be appointed to serve for terms concurrent with the gubernatorial term and until their successors are appointed. The remaining members must be appointed to serve for terms ending on the first day of the third January of the succeeding gubernatorial term and until their successors are appointed. It is the intent of this subsection that the governor appoint a majority of the members of each quasi-judicial board at the beginning of the governor's term and the remaining members in the middle of the governor's term. As used in this subsection, "majority" means the next whole number greater than half.

(3) The appointment of each member is subject to the confirmation of the senate then meeting in regular session or next meeting in regular session following the appointment. A member so appointed has all

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the powers of the office upon assuming that office and is a de jure officer, notwithstanding the fact that the senate has not yet confirmed the appointment. If the senate does not confirm the appointment of a member, the governor shall appoint a new member to serve for the remainder of the term.

(4) A vacancy must be filled in the same manner as regular appointments, and the member appointed to fill a vacancy shall serve for the unexpired term to which the member is appointed.

(5) The governor shall designate the presiding officer. The presiding officer may make and second motions and vote.

(6) Members may be removed by the governor only for cause.

(7) Unless otherwise provided by law, each member is entitled to be paid ~~\$50~~ \$100 for each day in which the member is actually and necessarily engaged in the performance of board duties and is also entitled to be reimbursed for travel expenses, as provided for in 2-18-501 through 2-18-503, incurred while in the performance of board duties. Members who are full-time salaried officers or employees of this state or of a political subdivision of this state are not entitled to be compensated for their service as members except when they perform their board duties outside their regular working hours or during time charged against their leave, but those members are entitled to be reimbursed for travel expenses as provided for in 2-18-501 through 2-18-503. Ex officio board members may not receive compensation but must receive travel expenses.

(8) A majority of the membership constitutes a quorum to do business. A favorable vote of at least a majority of all members of a board is required to adopt any resolution, motion, or other decision, unless otherwise provided by law."

**Section 3.** Section 5-2-301, MCA, is amended to read:

**"5-2-301. Compensation and expenses for members while in session.** (1) Legislators are entitled to a salary commensurate to that of the daily rate for an employee earning \$10.33 an hour when the regular session of the legislature in which they serve is convened under 5-2-103 for those days during which the legislature is in session. The hourly rate must be adjusted by any statutorily required pay increase. The president of the senate and the speaker of the house must receive an additional \$5 a day in salary for those days during which the legislature is in session.

(2) Legislators may serve for no salary.