

SENATE BILL NO. 428

INTRODUCED BY B. MOLNAR

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING FISH AND WILDLIFE COMMISSIONERS TO BE ELECTED; ESTABLISHING TERMS; PROVIDING FOR THE REVIEW OF DISTRICTS; AND AMENDING SECTIONS 2-15-3402, 13-12-207, AND 13-37-240, MCA."

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

Section 1. Section 2-15-3402, MCA, is amended to read:

"2-15-3402. Fish and wildlife commission. (1) There is a fish and wildlife commission.

(2) (a) The commission consists of seven nonpartisan members. ~~At least one member must be experienced in the breeding and management of domestic livestock. The governor shall appoint one member for each of the~~ One member must reside in and be elected from a district based on the administrative regions of the department of fish, wildlife, and parks, which are headquartered in the following locations:

- (i) Kalispell;
- (ii) Missoula;
- (iii) Bozeman;
- (iv) Great Falls;
- (v) Billings;
- (vi) Glasgow; and
- (vii) Miles City.

(b) ~~(i) To be eligible to serve on the commission, the member must reside in the administrative region the member will represent or within 10 air miles of the region's boundary as it exists on the date the member is appointed.~~

~~(ii)~~ If the ~~commission~~ legislature adjusts a region's boundary after a member is elected or appointed so that the member no longer meets the requirements of subsection ~~(2)(b)(i)~~ (2)(a), the member may continue to represent the region until the member's current term expires.

1           (3)     ~~Appointments must be made without regard to political affiliation and must be made solely for~~  
 2 ~~the wise management of fish, wildlife, and related recreational resources of this state. A person may not be~~  
 3 ~~appointed to the commission unless the person is informed or interested and experienced in the subject of fish,~~  
 4 ~~wildlife, and recreation and the requirements for the conservation and protection of fish, wildlife, and~~  
 5 ~~recreational resources.~~ If a commissioner fails to perform the commissioner's duties as provided in Title 23, Title  
 6 87, and this title, the commissioner may be removed from office as provided by 45-7-401.

7           (4)     A vacancy occurring on the commission must be filled by the governor ~~in the same manner and~~  
 8 ~~from the administrative region district~~ in which the vacancy occurs. The appointee shall hold office until the next  
 9 general election and until a successor is elected and qualified. At the biennial election following the occurrence  
 10 of a vacancy on the commission, a commissioner must be elected to fill the unexpired term for which the  
 11 vacancy exists.

12           (5)     Except as provided in [section 5], the term of each commissioner is 4 years. When elected, the  
 13 commissioner shall qualify at the time and in the manner provided by law for other state officers and shall take  
 14 office on the first Monday of January after the election. A commissioner shall serve until a successor is elected  
 15 and qualified.

16           (6)     The commission shall select a presiding officer from its membership at the first meeting of each  
 17 year after a general election.

18           ~~(5)(7) (a) —~~ The Except as provided in subsection (7)(b), the fish and wildlife commission is  
 19 designated as a quasi-judicial board for the purposes of 2-15-124. Notwithstanding the provisions of 2-15-  
 20 124(1), the governor is not required to appoint an attorney to serve as a member of the commission. Title 2,  
 21 chapter 2, part 1; Title 2, chapter 4; 2-15-124(7) and (8); and Title 75, chapter 1, parts 1 through 3.

22           (b)     Subject to appropriation by the legislature, each member of the fish and wildlife commission is  
 23 entitled to a salary of \$50,000, half paid from the general fund and half paid from the fish and game account in  
 24 the state special revenue fund."

25  
 26           **NEW SECTION. Section 2. Fish and wildlife commission -- review of districts.** (1) Except as  
 27 provided in subsection (8), each interim following the release of county population figures for each federal  
 28 population census, the environmental quality council provided for in 5-16-101 shall review the fish and wildlife

1 commission districts provided for in 2-15-3402.

2 (2) When considering whether commission districts must be revised, the council shall:

3 (a) comply with the requirements of subsections (3) and (4);

4 (b) complete its work before September 15 of the year preceding a legislative session; and

5 (c) submit its recommendations to the legislature in the form of draft legislation or in the form of a  
6 report if draft legislation is not needed and revisions to the districts are unnecessary.

7 (3) A plan to revise commission districts must provide at least five districts, with one commissioner  
8 elected from each district, distributed as follows:

9 (a) the districts must be as equal as practicable based on population and not exceeding 3%  
10 deviation;

11 (b) district boundaries must follow as closely as practicable existing administrative regions; and

12 (c) the districts must be contiguous, meaning that a district must be in one piece.

13 (4) A commission district may not be drawn for the purpose of favoring a political party or an  
14 incumbent commissioner. The following data or information may not be considered in the development of a  
15 plan:

16 (a) addresses of incumbent commissioners;

17 (b) political affiliations of registered voters;

18 (c) partisan political voter lists; and

19 (d) previous election results unless required as a remedy by a court.

20 (5) The council may consult with the fish and wildlife commission and with the districting and  
21 apportionment commission provided for in Title 5, chapter 1, part 1, in preparing the plan.

22 (6) Before the council submits to the legislature a plan to revise commission districts, it shall hold  
23 at least one public hearing on the plan at the state capitol. The council may hold other hearings as it considers  
24 necessary.

25 (7) The council shall submit its plan to revise commission districts to the legislature at the first  
26 regular session after the census figures are available in the form of a committee bill.

27 (8) The council shall review the commission districts in compliance with this section using 2020  
28 census data before September 15, 2024. The 69th legislature shall adopt commission districts prior to

1 adjourning sine die.

2

3 **Section 3.** Section 13-12-207, MCA, is amended to read:

4 **"13-12-207. Order of placement.** (1) The order on the ballot for state and federal offices must be as  
5 follows:

6 (a) If the election is in a year in which a president of the United States is to be elected, in spaces  
7 separated from the balance of the party tickets by a line must be the names and spaces for voting for  
8 candidates for president and vice president. The names of candidates for president and vice president for each  
9 political party must be grouped together.

- 10 (b) United States senator;
- 11 (c) United States representative;
- 12 (d) governor and lieutenant governor;
- 13 (e) secretary of state;
- 14 (f) attorney general;
- 15 (g) state auditor;
- 16 (h) state superintendent of public instruction;
- 17 (i) public service commissioners;
- 18 (j) clerk of the supreme court;
- 19 (k) chief justice of the supreme court;
- 20 (l) justices of the supreme court;
- 21 (m) district court judges;
- 22 (n) state senators;
- 23 (o) members of the Montana house of representatives;
- 24 (p) fish and wildlife commissioners.

25 (2) The following order of placement must be observed for county offices:

- 26 (a) clerk of the district court;
- 27 (b) county commissioner;
- 28 (c) county clerk and recorder;

- 1 (d) sheriff;
- 2 (e) coroner;
- 3 (f) county attorney;
- 4 (g) county superintendent of schools;
- 5 (h) county auditor;
- 6 (i) public administrator;
- 7 (j) county assessor;
- 8 (k) county treasurer;
- 9 (l) surveyor;
- 10 (m) justice of the peace.

11 (3) The secretary of state shall designate the order for placement on the ballot of any offices not  
 12 on the above lists, except that the election administrator shall designate the order of placement for municipal,  
 13 charter, or consolidated local government offices and district offices when the district is part of only one county.

14 (4) Constitutional amendments must be placed before statewide referendum and initiative  
 15 measures. Ballot issues for a county, municipality, school district, or other political subdivision must follow  
 16 statewide measures in the order designated by the election administrator.

17 (5) If any offices are not to be elected they may not be listed, but the order of the offices to be filled  
 18 must be maintained.

19 (6) If there is a short-term and a long-term election for the same office, the long-term office must  
 20 precede the short-term office."

21

22 **Section 4.** Section 13-37-240, MCA, is amended to read:

23 "**13-37-240. Surplus campaign funds.** (1) A candidate shall dispose of any surplus funds from the  
 24 candidate's campaign within 120 days after the time of filing the closing campaign report pursuant to 13-37-228.  
 25 In disposing of the surplus funds, a candidate may not contribute the funds to another campaign, including the  
 26 candidate's own future campaign, or use the funds for personal benefit. A successful candidate for a statewide  
 27 elected or legislative office ~~or~~ for public service commissioner or for fish and wildlife commissioner may  
 28 establish a constituent services account as provided in 13-37-402. The candidate shall provide a supplement to

1 the closing campaign report to the commissioner showing the disposition of any surplus campaign funds.

2 (2) For purposes of this section, "personal benefit" means a use that will provide a direct or indirect  
3 benefit of any kind to the candidate or any member of the candidate's immediate family."  
4

5 NEW SECTION. Section 5. Transition. (1) Appointed fish and wildlife commissioners holding office  
6 on [the effective date of this act] shall continue in office, serving the districts to which they were appointed, until  
7 commissioners for the districts described in 2-15-3402 are elected in the November 2024 general election and  
8 take office pursuant to [this act].

9 (2) The first term of the commissioners elected to the Kalispell, Bozeman, and Miles City districts,  
10 as described in 2-15-3402, is 2 years. Subsequent terms are 4 years.

11 (3) The first term of the commissioners elected to the Missoula, Great Falls, Glasgow, and Billings  
12 districts, as described in 2-15-3402, is 4 years. Subsequent terms are 4 years.

13 (4) Appointed fish and wildlife commissioners holding office on [the effective date of this act] are  
14 eligible to file a declaration for nomination for an elected commission district pursuant to 13-10-201.  
15

16 NEW SECTION. Section 6. Notification to tribal governments. The secretary of state shall send a  
17 copy of [this act] to each federally recognized tribal government in Montana.  
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19 NEW SECTION. Section 7. Codification instruction. [Section 2] is intended to be codified as an  
20 integral part of Title 2, chapter 15, part 34, and the provisions of Title 2, chapter 15, part 34, apply to [section 2].  
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