

# **Board of Pardons and Parole**

## **Agency Overview**

**December 2011**

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*For the Law and Justice Interim Committee*

**Agency Head:** Chairman Mike McKee, appointed by governor  
Executive Director, Fern Osler, hired by the board

### **Description and Responsibilities:**

- Created by statute, 7 governor-appointed members serving staggered 4-year terms
- Independent agency with quasi-judicial authority, administratively attached to the Department of Corrections
- Members must be trained in American Indian culture - at least one member must be an enrolled member of a recognized tribe
- By statute, hearings panels have "full authority and power to order the denial, grant, or revocation of parole and to make final decisions and recommendations in matters of executive clemency" (section 46-23-104, MCA)
- Exempt by statute from Montana Administrative Procedures Act so may adopt rules without notice, comment, or hearing.
- Statute requires a majority vote of all members to adopt a rule, procedure, or policy
- By statute, if a 2-member panel conducts hearing, they must agree - if they disagree, chair will convene 3-member panel
- By statute, board may grant parole "when in the board's opinion there is reasonable probability that a prisoner can be released without detriment to the prisoner or the community", subject to certain conditions (section 46-23-201, MCA)
- Inmate must serve 25% of sentence to be eligible for parole and sentence may not be reduced by good time for offenses committed after April 13, 1995
- Statute allows that if parole is denied, the board may order that the prisoner serve up to 6 years before another hearing, but requires the board to adopt rules by which a prisoner may request an earlier hearing or review
- Statute provides that the hearing panel shall consider all available and pertinent information regarding the prisoner, including:
  - circumstances of the offense;
  - previous social history and criminal record;
  - conduct, employment, and attitude in prison;
  - physical, psychological, and mental evaluations;
  - written oral statements from criminal justice authorities, other interested persons, the inmates legal representative, or victims (section 46-23-210, MCA)
- By rule, an offender in a community-based program must have at least 90 days free of severe or major disciplinary violations before appearing before the board. An offender in a secure facility must have 120 days free of major disciplinary violations.
- A prisoner on parole remains in the legal custody of the Department of Corrections but is subject to the orders of the board.
- Board rules govern parole revocation hearings.

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### **Current Parole Board Members**

By statute, board members "must be compensated as provided by legislative appropriation" (section 2-15-2302, MCA). According to the board's website, board members receive \$75 for each day they conduct business, \$50 for each day of preparation, and reimbursement for authorized travel expenses.

<b>Name</b>	<b>Occupation</b>	<b>Appointed</b>	<b>Expires</b>
John Rex	CD Program Manager	1/1/2011	1/1/2015
Margaret Bowman	Businesswoman	1/1/2010	1/1/2014
Mike McKee - Chair	Consultant	1/1/2011	1/1/2015
John Ward	Businessman	3/10/2009	1/1/2013
Teresa O'Connor	Attorney	3/10/2009	1/1/2013
Darryl Dupuis	Retired	1/1/2010	1/1/2014
Sam Lemaich	Retired	3/10/2009	1/1/2013

### **Staff**

The board is authorized by statute to hire its own staff and is supported by 10 employees.

<b>Name</b>	<b>Position</b>
Fern Osler	Executive Director
Christine Slaughter	Parole Board Analyst
Timothy Allred	Parole Board Analyst
Michael Webster	Parole Board Analyst
Meaghan Shone	Parole Board Analyst
Cathy Leaver	Administrative Specialist
Lisa Wirth	Administrative Assistant
Michelle Oliver	Filing Secretary
Dotsie Lucier	Receptionist

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### **Budget**

The total budget for board member per diem and travel reimbursement amounts to approximately \$40,000 each fiscal year. The entire budget is approximately \$750,000 each fiscal year, which includes the salaries of the board's 10 employees.

### **Data on Parole Decisions**

The board publishes a biennial report, which includes some data on parole, such as the following:

- 72% of the correctional population is eligible for parole;
- 60% of inmates eligible for parole at their initial appearance are denied parole; and
- 94% of those returned to custody after parole are returned for technical violations.

### **Legislative Audits Covering Parole:**

- None

### **Agency Bills Requested During 2011 Session:**

- None

### **Significant Non-Agency Bills During 2011 Session:**

- Revise make up, operation, procedures of the Board of Pardons and Parole - HB 141 (Peterson) - PASSED
- Revise parole for those in custody of DPHHS and in state facility - SB 76 (Jent) - PASSED

### **Law and Justice Interim Committee Areas of Interest:**

The Law and Justice Interim Committee has not examined matters of parole within the last 10 years.

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