

HJ 48: STUDY OF FACIAL RECOGNITION TECHNOLOGY DRAFT LEGISLATION FOR DISCUSSION

BACKGROUND

At its April meeting, the Economic Affairs Interim Committee (EAIC) requested a bill draft to amend 44-5-501, MCA, regarding the appointment process of a legislative member of the Criminal Intelligence Information Advisory Council.

The appointment of members in 44-5-501, MCA, follows 2-15-122, MCA, in which a department head is allowed to set up an advisory council and appoint its members who serve at the pleasure of the creating authority. However, 2-15-122, MCA, is silent on the procedure for the treatment of legislators.

Present legislative appointment procedures are outlined in the Bill Drafting Manual (6-5) and generally call for the Committee on Committees or the Speaker of the House to appoint legislators to advisory committees. Provisions for reimbursement are also outlined in the manual.

The EAIC requested changes to 44-5-501, MCA, to include:

- Expansion of membership on the advisory council to one legislator from each chamber;
- Appointment of legislators according to the Bill Drafting Manual;
- Staggered term limits; and
- Reimbursement for legislators according to the Bill Drafting Manual.

TERM LIMITS

Advisory council members serve at the pleasure of the Attorney General and the statute contains no provisions for term limits or staggered terms. The Committee could revise the statute to include these provisions for all advisory council members or only legislative members. The following are subsections of the MCA that the Committee could use to address term limits and staggered terms:

Option 1: from 2-15-212 (Reserved water rights compact commission)

This option sets term limits to all council members but does not address staggered terms.

Alternatively, the language could be modified to only set term limits only to legislative members.

Advisory council members are appointed for 4-year terms and may be reappointed. A legislative member position is vacant if the person no longer serves in the legislature. The position of a member appointed by the [attorney general] is vacant if that person is elected to the legislature. A vacancy must be filled in the manner of the original appointment.

Option 2: from 2-15-1019 (Board of directors of state compensation insurance fund)

This option sets term limits to all council members and addresses staggered terms. Alternatively, the language could be modified to set term limits only to legislative members.

Advisory council members are appointed for a term of 4 years. A term begins April 1 of odd-numbered years and ends March 31. The [attorney general] shall appoint advisory council members on or before February 1 of the odd-numbered years that coincide with the expiration of the advisory council members' terms. The terms of the advisory council members must be staggered. A member of the advisory council may serve no more than two 4-year terms. A member shall hold office until the end of the term.

Option 3: from 19-19-201 (Local boards of trustees of funds)

This option sets term limits only to the legislative members and allows for staggered terms.

The two advisory council members who are also legislators shall serve terms of 2 years. One must be selected each year between May 1 and May 10, so that their terms are staggered.

Option 4: from 22-3-1002 (Montana heritage preservation and development commission)

This option sets term limits for all members, but different term limits depending on which member. This option does not stagger terms.

Except for initial appointments, members appointed by the attorney general under subsection (3)(a) shall serve 3-year terms. Members appointed by the committee on committees and the speaker of the house under subsection (3)(a) shall serve 2-year terms. If a vacancy occurs, the appointing authority shall make an appointment for the unexpired portion of the term.

LEGISLATOR REIMBURSEMENT

Advisory council members are entitled to reimbursement under 2-15-122, MCA, which provides for up to \$50 salary per day plus meals, lodging, and travel expenses (per 2-15-501, MCA through 2-15-503, MCA).

The Bill Drafting Guide requires a provision specifying whether reimbursement for salary as provided in 5-2-302, MCA is or is not authorized. Adding a legislator reimbursement provision pursuant to 5-2-302, MCA would increase the salary for the legislative members of the advisory council to equal one full day's pay rate instead of the \$50 limit provided in 2-15-122, MCA.

Option 1: Add a provision authorizing reimbursement for salary as provided in 5-2-302, MCA.

- An advisory council member appointed under subsection (3)(a)(v) or (3)(a)(vi) is entitled to compensation and expenses as provided in 5-2-302, to be paid by the department.
- Advisory council members must be reimbursed for travel expenses as provided in 2-18-501 through 2-18-503, except that legislative members are reimbursed and compensated as provided in 5-2-302, to be paid by the department.

Option 2: Clarify the reimbursement provision for all advisory council members.

- Advisory council members must be reimbursed for travel expenses as provided in 2-18-501 through 2-18-503.
- The advisory council is attached to the department for administrative purposes only, and members are entitled to reimbursement for travel expenses as provided in 2-18-501 through 2-18-503.

Option 3: Leave as is.