

HOUSE BILL NO. 603

INTRODUCED BY G. OVERSTREET

A BILL FOR AN ACT ENTITLED: "AN ACT REMOVING THE REQUIREMENT THAT AT LEAST ONE MEMBER OF A QUASI-JUDICIAL BOARD BE AN ATTORNEY LICENSED TO PRACTICE LAW IN MONTANA; ~~AND~~ AMENDING SECTIONS 2-15-124, 2-15-1019, 2-15-1822, 2-15-2305, 2-15-2502, 2-15-3110, 2-15-3402, AND 2-15-3406, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

**Section 1.** 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 these 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 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 \$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 the members in attendance at a meeting at which a quorum is present is required to adopt any resolution, motion, or other decision, unless otherwise provided by law."

**Section 2.** Section 2-15-1019, MCA, is amended to read:

**"2-15-1019. Board of directors of state compensation insurance fund -- legislative liaisons. (1)**

There is a board of directors of the state compensation insurance fund.

(2) The board is allocated to the department for administrative purposes only as prescribed in 2-15-121. However, the board may employ its own staff.

(3) The board may provide for its own office space and the office space of the state fund.

(4) The board consists of seven members appointed by the governor. The executive director of the state fund is an ex officio nonvoting member.

(5) (a) At least four of the seven members shall represent state fund policyholders and may be employees of state fund policyholders. At least four members of the board shall represent private enterprises. One of the seven members may be a licensed insurance producer. One of the seven members must be a

1 person with executive management experience in an insurance company or executive level experience in  
2 insurance financial accounting.

3 (b) A member of the board may not:

4 (i) except for the licensed insurance producer member, represent or be an employee of an  
5 insurance company that is licensed to transact workers' compensation insurance under compensation plan No.  
6 2; or

7 (ii) be an employee of a self-insured employer under compensation plan No. 1.

8 (6) A member is appointed for a term of 4 years. A term begins April 1 of odd-numbered years and  
9 ends March 31. The governor shall appoint board members on or before February 1 of the odd-numbered years  
10 that coincide with the expiration of the board members' terms. The terms of board members must be staggered.  
11 A member of the board may serve no more than two 4-year terms. A member shall hold office until the end of  
12 the term.

13 (7) The members must be appointed and compensated in the same manner as members of a  
14 quasi-judicial board as provided in 2-15-124, except as otherwise provided in this section ~~and except that the~~  
15 ~~requirement that at least one member be an attorney does not apply.~~

16 (8) There must be two legislative liaisons to the board consisting of members of the economic  
17 affairs interim committee provided for in 5-5-223. Subject to 5-5-234, the presiding officer of the economic  
18 affairs interim committee shall appoint the liaisons from the majority party and the minority party at the first  
19 interim committee meeting.

20 (9) Legislative liaisons shall serve from appointment through each even-numbered calendar year.

21 (10) A legislative liaison may:

22 (a) attend board meetings; and

23 (b) receive board meeting agendas and information relating to agenda items from the staff of the  
24 state fund.

25 (11) Legislative liaisons appointed pursuant to subsection (8) are entitled to compensation and  
26 expenses, as provided in 5-2-302, to be paid by the economic affairs interim committee and the state fund from  
27 a \$100 annual fee paid by the state fund into the general fund."  
28

**Section 3.** Section 2-15-1822, MCA, is amended to read:

**"2-15-1822. Hard-rock mining impact board.** (1) There is a hard-rock mining impact board.

(2) The hard-rock mining impact board is a five-member board.

(3) (a) Subject to subsections (3)(b) and (3)(c), the hard-rock mining impact board must include among its members:

(i) a representative of the hard-rock mining industry;

(ii) a representative of a major financial institution in Montana;

(iii) a person who, when appointed to the board, is an elected school district trustee;

(iv) a person who, when appointed to the board, is an elected county commissioner;

(v) a member of the public at large.

(b) Three persons appointed to the board must reside in an area impacted or expected to be impacted by large-scale mineral development.

(c) At least two persons must be appointed from each district provided for in 2-15-156.

(4) The hard-rock mining impact board is a quasi-judicial board subject to the provisions of 2-15-124 ~~except that one of the members need not be an attorney licensed to practice law in this state.~~ The board shall elect a presiding officer from among its members."

**Section 4.** Section 2-15-2305, MCA, is amended to read:

**"2-15-2305. Montana board of pardons and parole -- composition and qualifications -- allocation -- quasi-judicial.** (1) There is a board of pardons and parole consisting of five members.

(2) Board members must possess at least one of the following qualifications:

(a) a college degree in criminology, corrections, or a related social science;

(b) at least 5 years of extensive work experience in corrections, the criminal justice system, or criminal law; or

(c) a law degree.

(3) Consideration should be given to balancing members' expertise or knowledge of:

(a) American Indian culture;

(b) serious mental illness and recovery from serious mental illness; and

(c) victim awareness.

(4) Board members shall serve staggered 6-year terms. The terms of board members run with the position, and if a vacancy occurs, the governor shall appoint a person to fill the unexpired portion of the term.

(5) The governor shall designate the presiding officer, as provided in 2-15-124. The governor may designate a different presiding officer at any time. If the governor designates a different presiding officer, the former presiding officer still serves as a board member unless removed for cause pursuant to 2-15-124(6).

(6) The board is allocated to the department of corrections for administrative purposes only as prescribed in 2-15-121. However, the board may hire its own personnel, and 2-15-121(2)(d) does not apply.

(7) The board is designated as a quasi-judicial board for the purposes of 2-15-124, except that board members must be compensated as provided in 46-23-111, and the terms of board members must be staggered as provided in subsection (4), ~~and the provisions of 2-15-124(1) do not apply to the board.~~

(8) A favorable vote of a majority of the members of the board is required to implement a policy, procedure, or administrative rule. A favorable vote of the majority of the members of a hearing panel, as defined in 46-23-103, is required to make decisions regarding parole and executive clemency."

**Section 5.** Section 2-15-2502, MCA, is amended to read:

**"2-15-2502. Transportation commission.** (1) There is a transportation commission composed of five members. One member must be a resident of and appointed from each of these districts, each composed of the counties named:

(a) District 1. Lincoln, Flathead, Sanders, Lake, Mineral, Missoula, Ravalli, Granite, Powell;

(b) District 2. Deer Lodge, Silver Bow, Beaverhead, Madison, Gallatin, Meagher, Broadwater, Jefferson, Park;

(c) District 3. Glacier, Toole, Liberty, Hill, Blaine, Pondera, Teton, Chouteau, Cascade, Lewis and Clark;

(d) District 4. Carter, Powder River, Fallon, Custer, Rosebud, Garfield, Phillips, Valley, McCone, Prairie, Dawson, Wibaux, Richland, Roosevelt, Daniels, Sheridan;

(e) District 5. Golden Valley, Stillwater, Carbon, Big Horn, Yellowstone, Musselshell, Judith Basin, Fergus, Petroleum, Treasure, Wheatland, Sweet Grass.

(2) Of the members appointed from districts 1, 3, 4, and 5, at least one must have specific knowledge of Indian culture and tribal transportation needs. The member provided for under this subsection must be selected by the governor after consultation with the Montana members of the Rocky Mountain tribal leaders council.

(3) Two members may not be residents of the same district at the time of appointment or during their respective terms of office.

(4) Not more than three members may at the time of appointment or during their respective terms be members of the same political party.

(5) An elective state official or state officer, during the term of office to which elected or appointed, or a state employee may not be a member of the commission.

(6) A resolution, motion, or other decision of the commission may not be adopted or passed without the favorable vote of at least three members.

(7) The commission is allocated to the department of transportation for administrative purposes only as prescribed in 2-15-121.

(8) The commission is designated as a quasi-judicial board for the purposes of 2-15-124; however, the provision of 2-15-124(1) that at least one member of a quasi-judicial board be an attorney does not apply to the commission.

(9) The commission may adopt rules necessary for its government.

(10) The director of transportation or the director's designee shall act as liaison between the commission and the department."

**Section 6.** Section 2-15-3110, MCA, is amended to read:

**"2-15-3110. Livestock loss board -- purpose, membership, and qualifications.** (1) There is a livestock loss board. The purpose of the board is to administer the programs called for in the Montana gray wolf conservation and management plan, the Montana mountain lion management plan, and the Montana grizzly bear management plan and established in 2-15-3111 through 2-15-3113, with funds provided through the accounts established in 81-1-110, in order to minimize losses caused by wolves, mountain lions, and grizzly bears to livestock producers and to reimburse livestock producers for livestock losses from wolf, mountain lion,

1 and grizzly bear predation.

2 (2) The board consists of five members, appointed by the governor, as follows:

3 (a) three members who are actively involved in the livestock industry and who have knowledge  
4 and experience with regard to wildlife impacts or management; and

5 (b) two members of the general public who are or have been actively involved in wildlife  
6 conservation or wildlife management and who have knowledge and experience with regard to livestock  
7 production or management.

8 (3) The board is designated as a quasi-judicial board for the purposes of 2-15-124.

9 ~~Notwithstanding the provisions of 2-15-124(1), the governor is not required to appoint an attorney to serve as a~~  
10 ~~member of the board.~~

11 (4) The board is allocated to the department of livestock for administrative purposes only as  
12 provided in 2-15-121.

13 (5) The board shall adopt rules to implement the provisions of 2-15-3110 through 2-15-3114 and  
14 81-1-110 through 81-1-113.

15 (6) The board shall prioritize grants for prevention of wolf and grizzly bear predation over those for  
16 mountain lion predation."

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18 **Section 7.** Section 2-15-3402, MCA, is amended to read:

19 **"2-15-3402. Fish and wildlife commission.** (1) There is a fish and wildlife commission.

20 (2) (a) The commission consists of seven members. At least one member must be experienced in  
21 the breeding and management of domestic livestock. The governor shall appoint one member for each of the  
22 administrative regions of the department of fish, wildlife, and parks, which are headquartered in the following  
23 locations:

24 (i) Kalispell;

25 (ii) Missoula;

26 (iii) Bozeman;

27 (iv) Great Falls;

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

(3) Appointments must be made without regard to political affiliation and must be made solely for the wise management of fish, wildlife, and related recreational resources of this state. A person may not be appointed to the commission unless the person is informed or interested and experienced in the subject of fish, wildlife, and recreation and the requirements for the conservation and protection of fish, wildlife, and recreational resources.

(4) A vacancy occurring on the commission must be filled by the governor in the same manner and from the administrative region in which the vacancy occurs.

(5) The fish and wildlife commission is designated as a quasi-judicial board for the purposes of 2-15-124. ~~Notwithstanding the provisions of 2-15-124(1), the governor is not required to appoint an attorney to serve as a member of the commission."~~

**Section 8.** Section 2-15-3406, MCA, is amended to read:

**"2-15-3406. State parks and recreation board -- composition.** (1) There is a state parks and recreation board.

(2) The board consists of five members appointed by the governor, as prescribed in 2-15-124. The governor shall appoint one member from each of the following districts:

(a) District No. 1, consisting of Lincoln, Flathead, Sanders, Lake, Mineral, Missoula, Powell, Ravalli, Granite, and Lewis and Clark Counties;

(b) District No. 2, consisting of Deer Lodge, Silver Bow, Beaverhead, Madison, Jefferson, Broadwater, Gallatin, Park, and Sweet Grass Counties;



**Amendment - 1st Reading-white - Requested by: Greg Overstreet - (H) Judiciary**

- 2025

69th Legislature 2025

Drafter: Rachel Weiss,

HB0603.001.001

(c) District No. 3, consisting of Glacier, Toole, Liberty, Hill, Pondera, Teton, Chouteau, Cascade, Judith Basin, Fergus, Blaine, Meagher, and Wheatland Counties;

(d) District No. 4, consisting of Phillips, Valley, Daniels, Sheridan, Roosevelt, Petroleum, Garfield, McCone, Richland, Dawson, and Wibaux Counties;

(e) District No. 5, consisting of Golden Valley, Musselshell, Stillwater, Carbon, Yellowstone, Big Horn, Treasure, Rosebud, Custer, Powder River, Carter, Fallon, and Prairie Counties.

(3) Appointments must be made without regard to political affiliation and must be made solely for the wise management of state parks and outdoor recreational resources administered pursuant to Title 23, chapter 1, and Title 23, chapter 2, parts 1, 4, and 9.

(4) A person appointed to the board must be informed or experienced in the conservation and protection of state parks, heritage resources, natural resources, tourism promotion and development, or outdoor recreation.

(5) A vacancy on the board must be filled by the governor in the same manner and from the district in which the vacancy occurs.

(6) The board is designated as a quasi-judicial board for the purposes of 2-15-124, ~~except that the requirement that at least one member be an attorney does not apply.~~

**NEW SECTION. Section 9. Transition.** The provisions of [this act] apply to any vacancies arising after [the effective date of this act] and does not affect any members serving as of [the effective date of this act].

**NEW SECTION. Section 10. Effective date.** [This act] is effective on passage and approval.

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