

HOUSE BILL NO. 646

INTRODUCED BY B. LER, E. ALBUS, R. GREGG, T. MILLETT, N. DURAM, B. MITCHELL, Z. WIRTH

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REQUIRING THAT SUPREME COURT JUSTICES BE ELECTED AND APPOINTED FROM DISTRICTS; ESTABLISHING SUPREME COURT DISTRICTS; PROVIDING A TRANSITION; AMENDING SECTIONS 3-2-101 AND 13-14-211, MCA; PROVIDING AN APPLICABILITY DATE."

WHEREAS, Article VII, section 8(1), of the Montana Constitution provides that "Supreme court justices and district court judges shall be elected by the qualified electors as provided by law"; and

WHEREAS, Article IV, section 4, of the Montana Constitution explicitly grants the legislature power to prescribe "additional qualifications" for "any public office"; and

WHEREAS, the current method of electing all state supreme court justices at large has not proved satisfactory in Montana, which differs from most other states in that there is no district-based intermediate appellate court and the population is scattered over a very large area; and

WHEREAS, electing supreme court justices by district would increase the likelihood that voters are familiar with candidates for the court; and

WHEREAS, states and territories of the United States--including the former Montana Territory--have a long history, dating from the colonial era to the present day, of prescribing that justices of their highest courts are selected in, or otherwise connected with, specific districts; and

WHEREAS, the long history of selecting state supreme court justices by district has not resulted in any reported deterioration of the judicial function, and may improve it by bringing to the court more knowledge of local circumstances; and

WHEREAS, several other states continue to elect justices of their highest courts by district, including but not limited to, Kentucky, Oregon, and our neighboring state of South Dakota, also without any reported deterioration of the judicial function; and

WHEREAS, two previous legislatures have endorsed electing Montana supreme court justices by district; and

WHEREAS, the decisions of the Montana Supreme Court invalidating those measures were based on clear errors of fact and law, including a lack of awareness of Article IV, section 4, of the Montana Constitution and a lack of awareness of America's long history of choosing justices of courts of last resort by district.

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

**Section 1.** Section 3-2-101, MCA, is amended to read:

**"3-2-101. Number, election, and term of office -- selection of chief justice.** (1) The supreme court consists of a chief justice and six associate justices who are each elected by the qualified electors of the state at large at the general state elections next preceding the expiration of the terms of office of their predecessors, respectively, and in a separate district by the qualified electors in that district at the election next preceding the expiration of the term of office of the justice's predecessor. Justices hold their offices for the term of 8 years from and after the first Monday of January next succeeding their election.

(2) After the general election in 2032, the chief justice must be selected by the majority vote of the seven justices at the first meeting of the court in each year after a general election."

**NEW SECTION. Section 2. Supreme court districts defined -- number of judges.** (1) In this state there are seven supreme court judicial districts, distributed as follows:

(a) First district: Blaine, Cascade, Chouteau, Fergus, Hill, Judith Basin, Liberty, Pondera, Teton, and Toole Counties;

(b) Second district: Big Horn, Carbon, Carter, Custer, Daniels, Dawson, Fallon, Garfield, Golden Valley, McCone, Meagher, Musselshell, Park, Petroleum, Phillips, Powder River, Prairie, Richland, Roosevelt, Rosebud, Sheridan, Stillwater, Sweet Grass, Treasure, Valley, Wheatland, and Wibaux Counties;

(c) Third district: Yellowstone County;

(d) Fourth district: Beaverhead, Broadwater, Deer Lodge, Granite, Jefferson, Lewis and Clark, Powell, and Ravalli Counties;

(e) Fifth district: Flathead, Glacier, Lincoln, and Sanders Counties;

(f) Sixth district: Gallatin, Madison, and Silver Bow Counties; and

(g) Seventh district: Mineral, Missoula, and Lake Counties.

(2) There must be one supreme court justice selected for each district.

(3) The legislature shall review the districts after each decennial census for purposes of maintaining districts with approximately equal populations while following county lines.

**Section 3.** Section 13-14-211, MCA, is amended to read:

**"13-14-211. Judicial offices separate and independent offices for election purposes.** (1) Each vacancy for justice of the supreme court is a separate and independent office for election purposes. The chief justice of the supreme court shall assign an individual number to the justices and certify these numbers to the office of the secretary of state.

(2) — Each vacancy for judicial office in a district that has more than one district judge is a separate and independent office for election purposes.

(3)(2) Each vacancy for office in a county that has more than one justice of the peace is a separate and independent office for election purposes."

NEW SECTION. **Section 4. Transition.** (1) [This act] may not remove any justice that is holding office on [the effective date of this act] during the term for which the justice was elected or appointed. After [the effective date of this act], the chief justice shall assign each sitting associate justice to the judicial district that corresponds to the associate justice's current seat number and certify these numbers to the office of the secretary of state, and the chief justice must be assigned to the seventh district.

(2) (a) Except as provided in subsection (2)(b), each supreme court justice who chooses to seek reelection at the end of the justice's current term shall run for reelection in the district to which the justice is assigned under subsection (1).

(b) A sitting justice that chooses to seek election in a district other than the district assigned under subsection (1) may run for election in the district if the justice resigns the justice's current seat effective as of the date the justice files for election in the district to which the justice seeks election.

NEW SECTION. **Section 5. Codification instruction.** [Section 2] is intended to be codified as an

1 integral part of Title 3, chapter 2, part 1, and the provisions of Title 3, chapter 2, part 1, apply to [section 2].

2

3 NEW SECTION. Section 6. Severability. If a part of [this act] is invalid, all valid parts that are  
4 severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications,  
5 the part remains in effect in all valid applications that are severable from the invalid applications.

6

7 NEW SECTION. Section 7. Applicability. [This act] applies to the election and appointment of  
8 supreme court justices to terms that begin on or after [the effective date of this act].

9

- END -