

SENATE BILL NO. 561

INTRODUCED BY D. ZOLNIKOV

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE SELECTION OF MEMBERS OF THE PUBLIC SERVICE COMMISSION; AMENDING SECTIONS 69-1-103, 69-1-104, 69-1-105, AND 69-1-106, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

**Section 1.** Section 69-1-103, MCA, is amended to read:

**"69-1-103. Composition of commission.** (1) The commission shall consist ~~consists~~ of five members, ~~who shall be qualified electors of the district from which they are elected, with each such member elected from a separate district of the state~~

(2) ~~Two-Three~~ members must be elected. The elected members must be qualified electors of the district from which they are elected, with each member elected on a partisan basis from a separate district of the state as provided in 69-1-104. The elected members must meet the qualifications in [section 8].

(3) ~~Three-Two~~ members must be appointed by the governor in accordance with 2-15-201 and confirmed by the senate by the process provided in [section 6]."

**Section 2.** Section 69-1-104, MCA, is amended to read:

**"69-1-104. Public service commission districts.** (1) In this state there are five ~~two-three~~ public service commission districts, with one commissioner elected from each district. Districts are based on the ~~federal~~ house districts submitted as part of the redistricting plan to the secretary of state pursuant to Article V, section 14, of the Montana constitution. ~~The house districts are distributed as follows:~~

(a) ~~first district: 19, 20, 21, 22, 23, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 38, 43, 44, 45;~~

(b) ~~second district: 39, 40, 41, 42, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 61, 62;~~

(c) ~~third district: 37, 60, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 77, 78, 79, 85, 86;~~

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(d) — fourth district: 1, 2, 6, 8, 9, 10, 12, 13, 14, 87, 88, 89, 90, 93, 94, 95, 96, 97, 98, 100; and

(e) — fifth district: 3, 4, 5, 7, 11, 15, 16, 17, 18, 24, 25, 76, 80, 81, 82, 83, 84, 91, 92, 99.

(2) During a legislative session and following the receipt of the latest official final decennial census data, ~~the legislature: secretary of state shall match the public service commission districts to the federal congressional districts.~~

~~(3) — If, after the receipt of the latest official final decennial census date, the state gains or loses a congressional representative, then during the next legislative session the legislature:~~

(a) shall evaluate existing commission districts;

(b) may adjust commission boundaries to comply with the United States constitution;

(c) shall prepare and adopt a final ~~recommend a adopt a final~~ commission district map ~~to the redistricting and apportionment commission~~; and

(d) ~~after the commission approves the district map,~~ shall file the final commission district map with the secretary of state."

**Section 3.** Section 69-1-105, MCA, is amended to read:

**"69-1-105. Term of office -- term limits.** (1) (a) A term ~~for an elected commissioner~~ is for a period of 4 years ~~6 4 years~~. A commissioner when elected shall qualify at the time and in the manner provided by law for other state officers and shall take office on the first Monday of January after the election.

~~(2)(b) — A An elected commissioner shall serve until a successor is elected and qualified.~~

~~(c)(b)~~ Elected commissioners may serve 12 years in a 24-year period.

(2) (a) A term ~~for an appointed commissioner~~ is for a period of 6 4 years. A commissioner, when appointed, ~~must~~ qualify at the time and in the manner provided by law and takes office on the first Monday after the commissioner's appointment and approval by at least two-thirds of the senate.

(b) An appointed commissioner shall serve until a successor is appointed and qualified.

(c) An appointed commissioner may serve 12 years in a 24-year period. If appointed to a vacated spot, the abbreviated term does not count toward the commissioner's term limit.

(3) — The secretary of state or other authorized official may not certify a candidate's nomination or

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~~election to the public service commission or print or cause to be printed on any ballot the name of a candidate for the public service commission if, at the end of the current term of that office, the candidate will have served in that office or, had the candidate not resigned or been recalled, would have served in that office for 8 or more years in a 16-year period.~~

~~(4) When computing the time served for the purposes of subsection (3), the provisions of subsection (3) do not apply to time served in terms that ended during or prior to January 1995."~~

**Section 4.** Section 69-1-106, MCA, is amended to read:

**"69-1-106. Vacancies.** (1) Any vacancy occurring in the commission must be filled by appointment by the governor as provided in this section. ~~The~~

~~(2) If replacing an elected commissioner, the~~ appointee shall hold office until the next general election and until a successor is elected and qualified. At the biennial election following the occurrence of any vacancy in the commission, there must be elected one member for a new term for which the vacancy exists.

~~(2)(a)~~ (a)(i) When a vacancy occurs, if the former incumbent represented a party eligible for primary election under 13-10-601, the person appointed by the governor must be a member of the same political party and must be selected by the governor as provided in subsections ~~(3)-(2)(b)~~ and ~~(4) (2)(c)~~.

~~(b)(ii)~~ If the former incumbent was an independent or was originally nominated from a party that does not meet the requirements of 13-10-601, the governor shall appoint an individual to the vacant position within 45 days of receiving notification from the secretary of state of the vacancy.

~~(3)(b)~~ Within 7 days of being notified of a vacancy as described in 2-16-501, the secretary of state shall notify the governor and, if the former incumbent represented a party eligible for primary election under 13-10-601, the state party that was represented by the former incumbent.

~~(4)(c)~~ (a)(i) ~~Upon~~ On receipt of a notification of a vacancy, the state party central committee notified pursuant to subsection ~~(3)-(2)(b)~~ has 30 days to forward to the governor a list of three prospective appointees, each of whom must be a resident of the district represented by the former incumbent.

~~(b)(ii)~~ If the governor does not select an appointee from the list forwarded pursuant to subsection ~~(4)(a)-(2)(c)(i)~~ within 15 days, the central committee shall, within 15 days, forward a second list of three

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prospective appointees, each of whom must be a resident of the district represented by the former incumbent. The second list may not contain a name submitted on the first list. Within 15 days of receipt of the second list, the governor shall select an appointee from either list.

(3) If replacing an appointed commissioner, the process provided in [section 6] must be followed. If the senate is not in session, ~~the appointment is subject to confirmation during the next session the secretary of state shall poll members of the senate by mail. The appointed commissioner may not serve until a majority of the senators polled vote to confirm the appointed commissioner.~~ An appointment to fill a vacancy is for the unexpired term for which the vacancy exists."

**NEW SECTION. Section 5. Qualifications for appointed commissioners.** (1) Appointed commissioners ~~are meant to~~ must be industry experts.

(2) An appointed commissioner must have a minimum of 4 years of separation from any professional affiliation with an entity or affiliated company of an entity that is subject to regulation by the commission.

(3) An appointed commissioner, spouse, or minor children may not have financial interests in any entity or affiliated company of an entity that is subject to regulation by the commission.

(4) An appointed commissioner must be a citizen of the United States and must have resided in the state of Montana for a minimum of 2 years immediately prior to appointment.

(5) (a) An appointed commissioner must have substantial experience or significant technical qualifications relevant to the laws governing and administering the public service commission.

(b) Experience and qualification include but are not limited to experience and qualifications:

(i) the fields of finance, law, or energy; or

(ii) fields within the utility sector that are subject to the provisions of Title 69.

(6) Prior to nomination by the governor pursuant to [section 6], a qualified commissioner shall document their relevant qualifications and file the document with a \$100 filing fee to the commissioner of political practices.

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**NEW SECTION. Section 6. Process for appointing commissioners.** (1) As provided in 69-1-103, commissioners ~~are to~~ must be appointed by the governor and confirmed by at least two-thirds of the senate.

~~(2) — An entity that is subject to regulation by the commission may not put forward candidate suggestions to the governor for consideration.~~

~~(3)(2)~~ The governor shall ensure that candidates meet the requirements provided in [section 5] before announcing their nomination.

~~(4)(3)~~ (a) During the confirmation process, the senate shall confirm that the governor's assessment of the candidates' qualifications is accurate. The senate may also explore the ethics and fitness for office of the candidates.

(b) The senate may refuse an appointment based on criteria not listed here or in [section 5].

**NEW SECTION. Section 7. Transition.** (1) The commissioners in office on [the effective date of this act] shall serve out the remainder of their respective terms.

(2) (a) On [the effective date of this act], the commissioner for the second district becomes the commissioner for the eastern congressional district and the commissioner for the third district becomes the commissioner for the western congressional district. These commission seats will remain election positions pursuant to 69-1-103.

(b) A commissioner elected at the general election in 2028 and in subsequent elections serves a 6-year term as provided in 69-1-105 and pursuant to the qualifications in [section 8].

(3) No later than January 1, 2027, the governor shall appoint commissioners to fill the seats for the current first and fifth districts when the current commissioners' terms end.

(4) No later than January 1, 2029, the governor shall appoint a commissioner to fill the seat for the current fourth district when the current commissioner's term ends.

**NEW SECTION. Section 8. Qualifications for elected commissioners.** (1) An elected commissioner must have a minimum of 4 years of separation from any professional affiliation with an entity or affiliated company of an entity that is subject to regulation by the commission.

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1 (2) An ~~appointed~~ elected commissioner, spouse, or minor children may not have financial interests  
2 in any entity or affiliated company of an entity that is subject to regulation by the commission.

3 (3) An ~~appointed~~ elected commissioner must be a citizen of the United States and must have  
4 resided in the state of Montana for a minimum of 2 years immediately prior to appointment.

5  
6 NEW SECTION. Section 9. Codification instruction. [Sections 5, 6 and 8] are intended to be  
7 codified as an integral part of Title 69, chapter 1, part 1, and the provisions of Title 69, chapter 1, part 1, apply  
8 to [sections 5, 6, and 8].

9  
10 NEW SECTION. Section 10. Severability. If a part of [this act] is invalid, all valid parts that are  
11 severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications,  
12 the part remains in effect in all valid applications that are severable from the invalid applications.

13  
14 NEW SECTION. Section 11. Effective date. [This act] is effective on passage and approval.

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