

HOUSE BILL NO. 353

INTRODUCED BY STRIZICH, BLAYLOCK, WHALEN, DOHERTY,
O'KEEFE, NISBET, HARPER, B. BROWN, MAZUREK
BY REQUEST OF THE SECRETARY OF STATE

IN THE HOUSE

JANUARY 22, 1991 INTRODUCED AND REFERRED TO COMMITTEE
ON JUDICIARY.

JANUARY 23, 1991 FIRST READING.

FEBRUARY 4, 1991 COMMITTEE RECOMMEND BILL
DO PASS AS AMENDED. REPORT ADOPTED.

FEBRUARY 5, 1991 PRINTING REPORT.

FEBRUARY 6, 1991 SECOND READING, DO PASS AS AMENDED.

FEBRUARY 7, 1991 ENGROSSING REPORT.

FEBRUARY 8, 1991 THIRD READING, PASSED.
AYES, 95; NOES, 1.

TRANSMITTED TO SENATE.

IN THE SENATE

FEBRUARY 9, 1991 INTRODUCED AND REFERRED TO COMMITTEE
ON JUDICIARY.

FIRST READING.

APRIL 1, 1991 COMMITTEE RECOMMEND BILL BE
CONCURRED IN. REPORT ADOPTED.

APRIL 4, 1991 SECOND READING, CONCURRED IN.

APRIL 5, 1991 THIRD READING, CONCURRED IN.
AYES, 48; NOES, 2.

IN THE HOUSE

APRIL 5, 1991 RECEIVED FROM SENATE.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

CONSTITUTIONAL AMENDMENT

1 *House* BILL NO. 353
 2 INTRODUCED BY *Blaylock Whalen*
 3 *Ruffe* BY REQUEST OF THE SECRETARY OF STATE *Maguire*
 4 *Bob Brown*

5 A BILL FOR AN ACT ENTITLED: "AN ACT TO SUBMIT TO THE
 6 QUALIFIED ELECTORS OF MONTANA AN AMENDMENT TO ARTICLE VII,
 7 SECTION 8, OF THE MONTANA CONSTITUTION TO GENERALLY REVISE
 8 THE LAW RELATING TO THE SELECTION OF SUPREME COURT JUSTICES
 9 AND DISTRICT COURT JUDGES; TO REQUIRE THAT ELECTION,
 10 CONFIRMATION, AND RETENTION OF JUSTICES OR JUDGES MUST BE AS
 11 PROVIDED BY LAW; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

12
 13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 14 **Section 1.** Article VII, section 8, of The Constitution
 15 of the State of Montana is amended to read:

16 "Section 8. Selection. (1) Supreme court justices and
 17 district court judges shall be elected by the qualified
 18 electors at a general election as provided by law.

19 (2) The For any vacancy in the office of supreme court
 20 justice or district court judge, the governor shall nominate
 21 appoint a replacement from nominees selected in the manner
 22 provided by law for any vacancy in the office of supreme
 23 court justice or district court judge. If the governor fails
 24 to nominate appoint within thirty days after receipt of
 25 nominees, the chief justice or acting chief justice shall

1 make the nomination appointment from the same nominees
 2 within thirty days of the governor's failure to appoint.
 3 Appointments made under this subsection may be subject to
 4 confirmation by the senate, as provided by law. Each
 5 nomination shall be confirmed by the senate, but a
 6 nomination made while the senate is not in session shall be
 7 effective as an appointment until the end of the next
 8 session. If the nomination is not confirmed, the office
 9 shall be vacant and another selection and nomination shall
 10 be made.

11 (2) If, at the first election after senate
 12 confirmation, and at the election before each succeeding
 13 term of office, any candidate other than the incumbent
 14 justice or district judge files for election to that office,
 15 the name of the incumbent shall be placed on the ballot. If
 16 there is no election contest for the office, the name of the
 17 incumbent shall nevertheless be placed on the general
 18 election ballot to allow voters of the state or district to
 19 approve or reject him. If an incumbent is rejected, another
 20 selection and nomination shall be made.

21 (3) If an incumbent does not run, there shall be an
 22 election for the office."

23 NEW SECTION. Section 2. Effective date. This amendment
 24 is effective on approval by the electorate.

25 NEW SECTION. Section 3. Submission to electorate. This



-2-
 INTRODUCED BILL
 HB 353

LC 0604/01

1 amendment shall be submitted to the qualified electors of
2 Montana at the general election to be held in November 1992
3 by printing on the ballot the full title of this act and the
4 following:

- 5 FOR amending the constitution to mandate the
6 election of justices and judges as provided by law.
7 AGAINST amending the constitution to mandate the
8 election of justices and judges as provided by law.

-End-

CONSTITUTIONAL AMENDMENT
APPROVED BY COMMITTEE
ON JUDICIARY

HOUSE BILL NO. 353

INTRODUCED BY STRIZICH, BLAYLOCK, WHALEN, DOHERTY,

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BY REQUEST OF THE SECRETARY OF STATE

A BILL FOR AN ACT ENTITLED: "AN ACT TO SUBMIT TO THE QUALIFIED ELECTORS OF MONTANA AN AMENDMENT TO ARTICLE VII, SECTION 8, OF THE MONTANA CONSTITUTION TO GENERALLY REVISE THE LAW RELATING TO THE SELECTION OF SUPREME COURT JUSTICES AND DISTRICT COURT JUDGES; TO REQUIRE THAT ELECTION, CONFIRMATION, AND RETENTION OF JUSTICES OR JUDGES MUST BE AS PROVIDED BY LAW; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. Article VII, section 8, of The Constitution of the State of Montana is amended to read:

"Section 8. Selection. (1) Supreme court justices and district court judges shall be elected by the qualified electors at a general election as provided by law.

(2) The For any vacancy in the office of supreme court justice or district court judge, the governor shall nominate appoint a replacement from nominees selected in the manner provided by law for any vacancy in the office of supreme court justice or district court judge. If the governor fails to nominate appoint within thirty days after receipt of

nominees, the chief justice or acting chief justice shall make the nomination appointment from the same nominees within thirty days of the governor's failure to appoint. Appointments made under this subsection may SHALL be subject to confirmation by the senate, as provided by law. Each nomination--shall--be--confirmed--by--the--senate,---but---a nomination--made--while--the--senate--is--not--in--session--shall--be effective--as--an--appointment--until--the--end--of--the--next session.---If--the--nomination--is--not--confirmed,--the--office shall--be--vacant--and--another--selection--and--nomination--shall be--made.

(2) if,---at---the---first---election---after---senate confirmation,--and--at--the--election--before--each--succeeding term--of--office,--any--candidate--other--than--the--incumbent justice--or--district--judge--files--for--election--to--that--office,--the--name--of--the--incumbent--shall--be--placed--on--the--ballot,---if there--is--no--election--contest--for--the--office,--the--name--of--the incumbent--shall--nevertheless--be--placed--on--the--general election--ballot--to--allow--voters--of--the--state--or--district--to approve--or--reject--him.---If--an--incumbent--is--rejected,--another selection--and--nomination--shall--be--made.

(3) if--an--incumbent--does--not--run,--there--shall--be--an election--for--the--office. IF THE APPOINTEE IS NOT CONFIRMED, THE OFFICE SHALL BE VACANT AND A REPLACEMENT SHALL BE MADE UNDER THE PROCEDURES PROVIDED FOR IN THIS SECTION. THE

SECOND READING



1 APPOINTEE SHALL SERVE UNTIL THE NEXT GENERAL ELECTION AND
2 UNTIL A SUCCESSOR IS ELECTED AND QUALIFIED. THE PERSON
3 ELECTED OR RETAINED AT THAT GENERAL ELECTION SHALL SERVE
4 UNTIL THE EXPIRATION OF THE TERM FOR WHICH HIS PREDECESSOR
5 WAS ELECTED. NO APPOINTEE, WHETHER CONFIRMED OR UNCONFIRMED,
6 SHALL SERVE PAST THE TERM OF HIS PREDECESSOR WITHOUT
7 STANDING FOR ELECTION.

8 (3) IF AN INCUMBENT FILES FOR ELECTION AND THERE IS NO
9 ELECTION CONTEST FOR THE OFFICE, THE NAME OF THE INCUMBENT
10 SHALL NEVERTHELESS BE PLACED ON THE GENERAL ELECTION BALLOT
11 TO ALLOW THE VOTERS OF THE STATE OR DISTRICT TO APPROVE OR
12 REJECT HIM. IF AN INCUMBENT IS REJECTED, THE VACANCY IN THE
13 OFFICE FOR WHICH THE ELECTION WAS HELD SHALL BE FILLED AS
14 PROVIDED IN SUBSECTION (2)."

15 NEW SECTION. Section 2. Effective date. This amendment
16 is effective on approval by the electorate.

17 NEW SECTION. Section 3. Submission to electorate. This
18 amendment shall be submitted to the qualified electors of
19 Montana at the general election to be held in November 1992
20 by printing on the ballot the full title of this act and the
21 following:

- 22 FOR amending the constitution to mandate the
23 election of justices and judges as provided by law.
24 AGAINST amending the constitution to mandate the
25 election of justices and judges as provided by law.

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THIRD READING

HB 353

AS AMENDED



1 APPOINTEE SHALL SERVE UNTIL THE NEXT-GENERAL ELECTION FOR
 2 THE OFFICE AS PROVIDED BY LAW AND UNTIL A SUCCESSOR IS
 3 ELECTED AND QUALIFIED. THE PERSON ELECTED OR RETAINED AT
 4 THAT-GENERAL THE ELECTION SHALL SERVE UNTIL THE EXPIRATION
 5 OF THE TERM FOR WHICH HIS PREDECESSOR WAS ELECTED. NO
 6 APPOINTEE, WHETHER CONFIRMED OR UNCONFIRMED, SHALL SERVE
 7 PAST THE TERM OF HIS PREDECESSOR WITHOUT STANDING FOR
 8 ELECTION.

1

election of justices and judges as provided by law.

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 10 ELECTION CONTEST FOR THE OFFICE, THE NAME OF THE INCUMBENT
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(2) if at the first election after senate confirmation, and at the election before each succeeding term of office, any candidate other than the incumbent justice or district judge files for election to that office, the name of the incumbent shall be placed on the ballot. If there is no election contest for the office, the name of the incumbent shall nevertheless be placed on the general election ballot to allow voters of the state or district to approve or reject him. If an incumbent is rejected, another selection and nomination shall be made.

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