

1 *House* BILL NO. *399*  
 2 INTRODUCED BY *Robbins, Dinsinger, Day, McFadden,*  
 3 *Walters, G. J. ...*

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE THE POWERS OF  
 5 THE COMMISSION SUPERVISING A CITY DEPARTMENT OF PUBLIC  
 6 SAFETY; TO ESTABLISH APPEAL PROCEDURES FOR EMPLOYEES  
 7 DISCHARGED OR TERMINATED BY THE DIRECTOR OF A DEPARTMENT OF  
 8 PUBLIC SAFETY; AMENDING SECTIONS 16-2726, 16-2727, 16-2728  
 9 AND 16-2729, R.C.M. 1947; AND PROVIDING AN EFFECTIVE DATE."

10  
 11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12 Section 1. Section 16-2726, R.C.M. 1947, is amended to  
 13 read as follows:

14 "16-2726. Department of public safety--supervision by  
 15 commission. On agreement of the legislative body of a city  
 16 or town with the county commissioners of the county in which  
 17 it is located, there may be established, in counties other  
 18 than first and second class counties, in lieu of a police  
 19 department and a sheriffs' office, a department of public  
 20 safety. The department shall be under the supervision of a  
 21 public safety commission, selected jointly by the county  
 22 commissioners and the city or town, legislative bodies  
 23 consisting of not more than seven (7) members. The  
 24 commission shall consist of three (3), five (5), or seven  
 25 (7) members. Each member of the commission shall serve a

1 four (4) year term and shall be appointed as provided in  
 2 this act."

3 Section 2. There is a new R.C.M. section that reads as  
 4 follows:

5 Appointment of public safety commission members. (1)  
 6 Upon the creation of a three (3) member commission, one  
 7 (1) member shall be appointed by the legislative body of the  
 8 city or town, one (1) shall be appointed by the board of  
 9 county commissioners, and one (1) shall be appointed by the  
 10 members of the board of county commissioners and the members  
 11 of the legislative body of the city or town meeting in joint  
 12 session. In order to be appointed, a candidate for  
 13 appointment by the joint meeting must receive a majority of  
 14 the votes of the members of the board of county  
 15 commissioners and a majority of the votes of the members of  
 16 the legislative body of the city or town voting on the  
 17 question of his appointment. Initially, one (1) commission  
 18 member shall serve a four (4) year term and two (2)  
 19 commission members shall each serve a two (2) year term.  
 20 Each commission member shall draw a lot to determine the  
 21 length of his term.

22 (2) Upon the creation of a five (5) member commission,  
 23 two (2) members shall be appointed by the legislative body  
 24 of the city or town, two (2) shall be appointed by the board  
 25 of county commissioners, and one (1) shall be appointed by

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1 the members of the board of county commissioners and the  
 2 members of the legislative body of the city or town meeting  
 3 in joint session. In order to be appointed, a candidate for  
 4 the appointment to a five (5) member commission by the joint  
 5 meeting must receive a majority of the votes of the members  
 6 of the board of county commissioners and a majority of the  
 7 votes of members of the legislative body of the city or town  
 8 voting on the question of his appointment. Initially, two  
 9 (2) commission members shall each serve a four (4) year term  
 10 and three (3) commission members shall each serve a two (2)  
 11 year term. Each commission member must draw a lot to  
 12 determine the length of his term.

13 (3) Upon the creation of a seven (7) member  
 14 commission, three (3) members shall be appointed by the  
 15 legislative body of the city or town, three (3) shall be  
 16 appointed by the board of county commissioners, and one (1)  
 17 shall be appointed by the members of the board of county  
 18 commissioners and the members of the city or town meeting in  
 19 joint session. In order to be appointed, a candidate for  
 20 the appointment to a seven (7) member commission by the  
 21 joint meeting must receive a majority of the votes of the  
 22 members of the board of county commissioners and a majority  
 23 of the votes of the members of the legislative body of the  
 24 city or town voting on the question of his appointment.  
 25 Initially, three (3) commission members shall each serve a

1 four (4) year term and four (4) commission members shall  
 2 each serve a two (2) year term. Each commission member  
 3 shall draw a lot to determine the length of his term.

4 (4) Each commission member shall reside at the time of  
 5 his appointment within the county if selected by the board  
 6 of county commissioners or within the city or town by which  
 7 appointed.

8 (5) No commission member may be an official of any  
 9 unit of local government.

10 Section 3. There is a new R.C.M. section that reads as  
 11 follows:

12 Vacancies, Succession -- Compensation. (1) In case of  
 13 a vacancy for any cause, a new member shall be appointed in  
 14 the same manner as the person he replaces. A person so  
 15 appointed shall serve out the unexpired portion of the term  
 16 of the person he replaces.

17 (2) The successor for a commission member whose term  
 18 has expired shall be appointed in the same manner used to  
 19 appoint the commission member he succeeds.

20 (3) A member of a public safety commission is eligible  
 21 for reappointment to the commission at the end of his term.

22 (4) Members of a public safety commission shall  
 23 receive no compensation but may receive actual and necessary  
 24 travel and other expenses incurred in the performance of  
 25 official duties. Such costs shall be borne by the county if

1 the commission member is appointed by the board of county  
2 commissioners, by the city or town by which appointed, or  
3 borne equally by the county and city or town if jointly  
4 appointed.

5 Section 4. There is a new R.C.M. section that reads as  
6 follows:

7 Organization -- selection and duties of chairman --  
8 meetings. (1) Not later than sixty (60) days after the  
9 commission is authorized, the members of the commission  
10 shall meet and organize at a time which shall be set by the  
11 board of county commissioners and the legislative body of  
12 the city or town.

13 (2) At the first meeting of the commission, the member  
14 jointly appointed by the board of county commissioners and  
15 the legislative body of the city or town shall be designated  
16 by the commission to serve as temporary chairman. As its  
17 first official act, the commission members shall select a  
18 chairman and vice-chairman from their own number.

19 (3) The chairman of the commission shall preside over  
20 all meetings and hearings of the commission. In the absence  
21 or inability of the chairman, the vice-chairman shall  
22 preside over all meetings and hearings of the commission.

23 (4) Meetings of the commission shall be held upon call  
24 of the chairman, the vice-chairman in the absence or  
25 inability of the chairman, or a majority of the commission

1 members. Hearings in all cases involving employee discharge  
2 or termination shall be held upon request of any employee so  
3 discharged or terminated.

4 Section 5. There is a new R.C.M. section that reads as  
5 follows:

6 Application to existing commissions. Upon its passage  
7 and approval, this act shall apply to all commissions that  
8 supervise a department of public safety. The members of all  
9 such commissions shall draw lots to determine the length of  
10 their respective terms.

11 Section 6. Section 16-2727, R.C.M. 1947, is amended to  
12 read as follows:

13 "16-2727. Sheriff as director--appointed or elected.  
14 The director of the department of public safety shall be  
15 the sheriff who may be elected, or may be appointed by the  
16 public safety commission, ~~in the event of municipal-county~~  
17 ~~government,~~ if the form of county government provides for an  
18 appointed sheriff. A director so appointed shall receive a  
19 majority of the votes of the public safety commission  
20 members voting on the question of his appointment."

21 Section 7. Section 16-2728, R.C.M. 1947, is amended to  
22 read as follows:

23 "16-2728. Powers and duties of officers, patrolmen and  
24 director. Officers and patrolmen of the city or town police  
25 department and deputies of the county sheriffs' office shall

1 be subordinate to the director and shall have the power and  
 2 perform the duties conferred on and required of police  
 3 officers and patrolmen in cities and towns and of sheriffs'  
 4 deputies in counties, as required by state law and municipal  
 5 ordinance. The director shall have the powers and perform  
 6 the duties conferred on and required of sheriffs, and police  
 7 officers, and chiefs of police except in cases involving  
 8 the discharge or termination of employment of subordinate  
 9 employees.

10 (1) "Employee" or "subordinate employee" means, but  
 11 are not limited to, any officer or patrolman of the city or  
 12 town police department, deputy of the county sheriff's  
 13 office, or any person employed as a clerk, dispatcher, or  
 14 secretary by the department of public safety or so employed  
 15 by the city or town police department or the county  
 16 sheriff's office prior to the establishment of the  
 17 department of safety.

18 (2) In all cases involving the discharge or the  
 19 termination of employment of any subordinate employee by the  
 20 director of the department of public safety, such employee  
 21 is entitled to a full hearing as provided in this act."

22 Section 8. There is a new R.C.M. section that reads as  
 23 follows:

24 Hearing procedure for an employee discharged by an  
 25 appointed director. (1) A director appointed by the public

1 safety commission shall at the time of the discharge or  
 2 termination of the employment of any subordinate employee  
 3 provide such employee a written statement subscribed and  
 4 sworn to by the director setting forth the cause or causes  
 5 for the discharge or termination of employment.

6 (2) Within thirty (30) days from the date of discharge  
 7 or termination of his employment such employee may make  
 8 application to the public safety commission for a hearing  
 9 before the commission on the charges resulting in the  
 10 employee's discharge or termination of employment. Such  
 11 employee may be present at the hearing in person and may be  
 12 represented by legal counsel. The commission shall keep a  
 13 record of the proceedings in such cases and the records  
 14 shall be a matter of public record. For the purpose of  
 15 keeping a record of the proceedings in such a case, the  
 16 department of public safety shall provide the commission  
 17 with a person qualified to keep a record of the proceedings.  
 18 Such person may be an employee of the department.

19 (3) The commission shall, after the conclusion of the  
 20 hearing, decide whether the charges resulting in the  
 21 employee's discharge or termination of employment have been  
 22 proven.

23 (4) The commission shall have the power in all cases,  
 24 wherein a majority of the commission members find the  
 25 charges not proven, to reinstate any employee at the same

1 salary that employee received prior to discharge or  
2 termination of employment.

3 (5) In all cases wherein a majority of the commission  
4 members find the charges proven, the employee may appeal the  
5 decision of the commission to the district court of the  
6 county wherein the employee was employed. Such appeal must  
7 be initiated within sixty (60) days of the ruling of the  
8 commission.

9 Section 9. There is a new R.C.M. section that reads as  
10 follows:

11 Hearing procedure for an employee discharged by an  
12 elected director. (1) A director who is elected shall at  
13 the time of the discharge or termination of employment of  
14 any subordinate employee be required to follow the  
15 procedures of notice required of an appointed director.

16 (2) Any employee discharged or terminated by an  
17 elected director is entitled to a hearing before the public  
18 safety commission.

19 (3) The public safety commission shall, after the  
20 conclusion of the hearing, decide whether the charges  
21 resulting in the employee's discharge or termination have  
22 been proven.

23 (4) The commission may request that the elected  
24 director reinstate an employee in all cases wherein a  
25 majority of the commission members find the charges not

1 proven. The director may deny such a request for  
2 reinstatement but shall provide the commission with a  
3 written statement subscribed and sworn to by the director  
4 setting forth the reason or reasons for the refusal to  
5 reinstate the discharged or terminated employee. Such  
6 written statement shall become a part of the records of the  
7 proceedings of the commission and shall be open to public  
8 scrutiny.

9 (5) In all cases wherein the commission finds the  
10 charges not proven, but the elected director refuses to  
11 reinstate the discharged or terminated employee, or cases  
12 wherein a majority of the commission members find the  
13 charges proven, the employee may appeal the decision in the  
14 manner provided in section 8 of this act.

15 Section 10. There is a new R.C.M. section that reads  
16 as follows:

17 Reinstatement of a discharged employee who prevails in  
18 district court. In the event that an employee prevails in  
19 an appeal to the district court he shall be entitled to be  
20 reinstated to the same position he held and at the same  
21 salary he received prior to his discharge or termination by  
22 the director.

23 Section 11. Section 16-2729, R.C.M. 1947, is amended  
24 to read as follows:

25 \*16-2729. Salaries. The provisions of section 25-605,

1 R.C.M. 1947, notwithstanding, the salaries of the director  
2 and employees of the department of public ~~law--enforcement~~  
3 safety shall be established by the public safety  
4 commission and shall be paid by the city or town with the  
5 board of county commissioners ~~of-the-county~~. Said salaries  
6 in any event shall not be less than that specified in  
7 section 25-605, R.C.M. 1947."

8 Section 12. Effective date. This act is effective on  
9 its passage and approval.

-End-

Approved by Committee  
on Labor & Employment  
Relations

HOUSE BILL NO. 399

INTRODUCED BY ROBBINS, DASSINGER, DAY, MCFADDEN,

JAMES MOORE, GERKE, JACK MOORE, FABREGA

A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE THE POWERS OF  
THE COMMISSION SUPERVISING A ~~CITY~~ DEPARTMENT OF PUBLIC  
SAFETY; TO ESTABLISH APPEAL PROCEDURES FOR EMPLOYEES  
DISCHARGED OR TERMINATED BY THE DIRECTOR OF A DEPARTMENT OF  
PUBLIC SAFETY; AMENDING SECTIONS 16-2726, 16-2727, 16-2728  
AND 16-2729, R.C.M. 1947, ~~AND PROVIDING AN EFFECTIVE DATE.~~"

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

Section 1. Section 16-2726, R.C.M. 1947, is amended to  
read as follows:

"16-2726. Department of public safety--supervision by  
commission. On agreement of the legislative body of a city  
or town with the county commissioners of the county in which  
it is located, there may be established, in counties other  
than first and second class counties, in lieu of a police  
department and a sheriffs' office, a department of public  
safety. The department shall be under the supervision of a  
public safety commission. ~~selected jointly by the county~~  
~~commissioners and the city or town, legislative bodies~~  
~~consisting of not more than seven (7) members. The~~  
commission shall consist of three (3), five (5), or seven

(7) members. Each member of the commission shall serve a  
four (4) year term and shall be appointed as provided in  
this act."

Section 2. There is a new R.C.M. section that reads as  
follows:

Appointment of public safety commission members. (1)  
Upon the creation of a three (3) member commission, one  
(1) member shall be appointed by the legislative body of the  
city or town, one (1) shall be appointed by the board of  
county commissioners, and one (1) shall be appointed by the  
members of the board of county commissioners and the members  
of the legislative body of the city or town meeting in joint  
session. In order to be appointed, a candidate for  
appointment by the joint meeting must receive a majority of  
the votes of the members of the board of county  
commissioners and a majority of the votes of the members of  
the legislative body of the city or town voting on the  
question of his appointment. Initially, one (1) commission  
member shall serve a four (4) year term and two (2)  
commission members shall each serve a two (2) year term.  
Each commission member shall draw a lot to determine the  
length of his term.

(2) Upon the creation of a five (5) member commission,  
two (2) members shall be appointed by the legislative body  
of the city or town, two (2) shall be appointed by the board

1 of county commissioners, and one (1) shall be appointed by  
 2 the members of the board of county commissioners and the  
 3 members of the legislative body of the city or town meeting  
 4 in joint session. In order to be appointed, a candidate for  
 5 the appointment to a five (5) member commission by the joint  
 6 meeting must receive a majority of the votes of the members  
 7 of the board of county commissioners and a majority of the  
 8 votes of members of the legislative body of the city or town  
 9 voting on the question of his appointment. Initially, two  
 10 (2) commission members shall each serve a four (4) year term  
 11 and three (3) commission members shall each serve a two (2)  
 12 year term. Each commission member must draw a lot to  
 13 determine the length of his term.

14 (3) Upon the creation of a seven (7) member  
 15 commission, three (3) members shall be appointed by the  
 16 legislative body of the city or town, three (3) shall be  
 17 appointed by the board of county commissioners, and one (1)  
 18 shall be appointed by the members of the board of county  
 19 commissioners and the members of the city or town meeting in  
 20 joint session. In order to be appointed, a candidate for  
 21 the appointment to a seven (7) member commission by the  
 22 joint meeting must receive a majority of the votes of the  
 23 members of the board of county commissioners and a majority  
 24 of the votes of the members of the legislative body of the  
 25 city or town voting on the question of his appointment.

1 Initially, three (3) commission members shall each serve a  
 2 four (4) year term and four (4) commission members shall  
 3 each serve a two (2) year term. Each commission member  
 4 shall draw a lot to determine the length of his term.

5 (4) Each commission member shall reside at the time of  
 6 his appointment within the county if selected by the board  
 7 of county commissioners or within the city or town by which  
 8 appointed.

9 (5) No commission member may be an official of any  
 10 unit of local government.

11 Section 3. There is a new R.C.M. section that reads as  
 12 follows:

13 Vacancies, succession -- compensation. (1) In case of  
 14 a vacancy for any cause, a new member shall be appointed in  
 15 the same manner as the person he replaces. A person so  
 16 appointed shall serve out the unexpired portion of the term  
 17 of the person he replaces.

18 (2) The successor for a commission member whose term  
 19 has expired shall be appointed in the same manner used to  
 20 appoint the commission member he succeeds.

21 (3) A member of a public safety commission is eligible  
 22 for reappointment to the commission at the end of his term.

23 (4) Members of a public safety commission shall  
 24 receive no compensation but may receive actual and necessary  
 25 travel and other expenses incurred in the performance of



1 official duties. Such costs shall be borne by the county if  
 2 the commission member is appointed by the board of county  
 3 commissioners, by the city or town by which appointed, or  
 4 borne equally by the county and city or town if jointly  
 5 appointed.

6 Section 4. There is a new R.C.M. section that reads as  
 7 follows:

8 Organization -- selection and duties of chairman --  
 9 meetings. (1) Not later than sixty (60) days after the  
 10 commission is authorized, the members of the commission  
 11 shall meet and organize at a time which shall be set by the  
 12 board of county commissioners and the legislative body of  
 13 the city or town.

14 (2) At the first meeting of the commission, the member  
 15 jointly appointed by the board of county commissioners and  
 16 the legislative body of the city or town shall be designated  
 17 by the commission to serve as temporary chairman. As its  
 18 first official act, the commission members shall select a  
 19 chairman and vice-chairman from their own number.

20 (3) The chairman of the commission shall preside over  
 21 all meetings and hearings of the commission. In the absence  
 22 or inability of the chairman, the vice-chairman shall  
 23 preside over all meetings and hearings of the commission.

24 (4) Meetings of the commission shall be held upon call  
 25 of the chairman, the vice-chairman in the absence or

1 inability of the chairman, or a majority of the commission  
 2 members. Hearings in all cases involving employee discharge  
 3 or termination shall be held upon request of any employee so  
 4 discharged or terminated.

5 Section 5. There is a new R.C.M. section that reads as  
 6 follows:

7 Application to existing commissions. Upon its passage  
 8 and approval, this act shall apply to all commissions that  
 9 supervise a department of public safety. The members of all  
 10 such commissions shall draw lots to determine the length of  
 11 their respective terms.

12 Section 6. Section 16-2727, R.C.M. 1947, is amended to  
 13 read as follows:

14 "16-2727. Sheriff as director--appointed or elected.  
 15 The director of the department of public safety shall be  
 16 the sheriff who may be elected, or may be appointed by the  
 17 public safety commission, ~~in the event of municipal county~~  
 18 government; if the form of county government provides for an  
 19 appointed sheriff. A director so appointed shall receive a  
 20 majority of the votes of the public safety commission  
 21 members voting on the question of his appointment."

22 Section 7. Section 16-2728, R.C.M. 1947, is amended to  
 23 read as follows:

24 "16-2728. Powers and duties of officers, patrolmen and  
 25 director. Officers and patrolmen of the city or town police

1 department and deputies of the county sheriffs' office shall  
 2 be subordinate to the director and shall have the power and  
 3 perform the duties conferred on and required of police  
 4 officers and patrolmen in cities and towns and of sheriffs'  
 5 deputies in counties, as required by state law and municipal  
 6 ordinance. The director shall have the powers and perform  
 7 the duties conferred on and required of sheriffs, and police  
 8 officers, and chiefs of police except in cases involving  
 9 the discharge or termination of employment of subordinate  
 10 employees.

11 (1) "Employee" or "subordinate employee" means, but  
 12 are IS not limited to, any officer or patrolman of the city  
 13 or town police department, deputy of the county sheriff's  
 14 office, or any person employed as a clerk, dispatcher, or  
 15 secretary by the department of public safety or so employed  
 16 by the city or town police department or the county  
 17 sheriff's office prior to the establishment of the  
 18 department of safety.

19 (2) In all cases involving the discharge or the  
 20 termination of employment of any subordinate employee by the  
 21 director of the department of public safety, such employee  
 22 is entitled to a full hearing as provided in this act,  
 23 EXCEPT THAT THOSE EMPLOYEES COVERED UNDER COLLECTIVE  
 24 BARGAINING AGREEMENTS AS PROVIDED FOR IN CHAPTER 16 OF TITLE  
 25 59, R.C.M. 1947, SHALL BE ENTITLED TO USE ANY GRIEVANCE

1 PROCEDURE PROVIDED FOR WITHIN THE COLLECTIVE BARGAINING  
 2 AGREEMENT."

3 Section 8. There is a new R.C.M. section that reads as  
 4 follows:

5 Hearing procedure for an employee discharged by an  
 6 appointed director. (1) A director appointed by the public  
 7 safety commission shall at the time of the discharge or  
 8 termination of the employment of any subordinate employee  
 9 provide such employee a written statement subscribed and  
 10 sworn to by the director setting forth the cause or causes  
 11 for the discharge or termination of employment.

12 (2) Within thirty (30) days from the date of discharge  
 13 or termination of his employment such employee may make  
 14 application to the public safety commission for a hearing  
 15 before the commission on the charges resulting in the  
 16 employee's discharge or termination of employment. Such  
 17 employee may be present at the hearing in person and may be  
 18 represented by legal counsel. The commission shall keep a  
 19 record of the proceedings in such cases and the records  
 20 shall be a matter of public record. For the purpose of  
 21 keeping a record of the proceedings in such a case, the  
 22 department of public safety shall provide the commission  
 23 with a person qualified to keep a record of the proceedings.  
 24 Such person may be an employee of the department.

25 (3) The commission shall, after the conclusion of the

1 hearing, decide whether the charges resulting in the  
2 employee's discharge or termination of employment have been  
3 proven.

4 (4) The commission shall have the power in all cases,  
5 wherein a majority of the commission members find the  
6 charges not proven, to reinstate any employee TO THE SAME  
7 POSITION HE HELD AND at the same salary ~~that--employee~~ HE  
8 received prior to discharge or termination of employment.

9 (5) In all cases wherein a majority of the commission  
10 members find the charges proven, the employee may appeal the  
11 decision of the commission to the district court of the  
12 county wherein the employee was employed. Such appeal must  
13 be initiated within sixty (60) days of the ruling of the  
14 commission.

15 Section 9. There is a new R.C.M. section that reads as  
16 follows:

17 Hearing procedure for an employee discharged by an  
18 elected director. (1) A director who is elected shall at  
19 the time of the discharge or termination of employment of  
20 any subordinate employee be required to follow the  
21 procedures of notice required of an appointed director.

22 (2) Any employee discharged or terminated by an  
23 elected director is entitled to a hearing before the public  
24 safety commission IN THE MANNER PROVIDED IN SECTION 8 OF  
25 THIS ACT.

1 (3) The public safety commission shall, after the  
2 conclusion of the hearing, decide whether the charges  
3 resulting in the employee's discharge or termination have  
4 been proven.

5 (4) The commission may request that the elected  
6 director reinstate an employee in all cases wherein a  
7 majority of the commission members find the charges not  
8 proven. The director may deny such a request for  
9 reinstatement but shall provide the commission with a  
10 written statement subscribed and sworn to by the director  
11 setting forth the reason or reasons for the refusal to  
12 reinstate the discharged or terminated employee. Such  
13 written statement shall become a part of the records of the  
14 proceedings of the commission and shall be open to public  
15 scrutiny.

16 (5) In all cases wherein the commission finds the  
17 charges not proven, but the elected director refuses to  
18 reinstate the discharged or terminated employee, or cases  
19 wherein a majority of the commission members find the  
20 charges proven, the employee may appeal the decision in the  
21 manner provided in section 8 of this act.

22 Section 10. There is a new R.C.M. section that reads  
23 as follows:

24 Reinstatement of a discharged employee who prevails in  
25 district court. In the event that an employee prevails in

1 an appeal to the district court he shall be entitled to be  
2 reinstated to the same position he held and at the same  
3 salary he received prior to his discharge or termination by  
4 the director.

5 Section 11. Section 16-2729, R.C.M. 1947, is amended  
6 to read as follows:

7 "16-2729. Salaries. The provisions of section 25-605,  
8 R.C.M. 1947, notwithstanding, the salaries of the director  
9 and employees of the department of public ~~law-enforcement~~  
10 safety shall be established by the public safety  
11 commission and shall be paid by the city or town with the  
12 board of county commissioners ~~of-the-county~~. Said salaries  
13 in any event shall not be less than that specified in  
14 section 25-605, R.C.M. 1947."

15 ~~Section 12,--Effective-date,--This-act-is-effective--on~~  
16 ~~its-passage-and-approval.~~

-End-

HOUSE BILL NO. 399

INTRODUCED BY ROBBINS, DASSINGER, DAY, MCFADDEN,  
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than first and second class counties, in lieu of a police  
department and a sheriffs' office, a department of public  
safety. The department shall be under the supervision of a  
public safety commission, selected jointly by the county  
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four (4) year term and shall be appointed as provided in  
this act."

Section 2. There is a new R.C.M. section that reads as  
follows:

Appointment of public safety commission members. (1)  
Upon the creation of a three (3) member commission, one  
(1) member shall be appointed by the legislative body of the  
city or town, one (1) shall be appointed by the board of  
county commissioners, and one (1) shall be appointed by the  
members of the board of county commissioners and the members  
of the legislative body of the city or town meeting in joint  
session. In order to be appointed, a candidate for  
appointment by the joint meeting must receive a majority of  
the votes of the members of the board of county  
commissioners and a majority of the votes of the members of  
the legislative body of the city or town voting on the  
question of his appointment. Initially, one (1) commission  
member shall serve a four (4) year term and two (2)  
commission members shall each serve a two (2) year term.  
Each commission member shall draw a lot to determine the  
length of his term.

(2) Upon the creation of a five (5) member commission,  
two (2) members shall be appointed by the legislative body  
of the city or town, two (2) shall be appointed by the board

1 of county commissioners, and one (1) shall be appointed by  
 2 the members of the board of county commissioners and the  
 3 members of the legislative body of the city or town meeting  
 4 in joint session. In order to be appointed, a candidate for  
 5 the appointment to a five (5) member commission by the joint  
 6 meeting must receive a majority of the votes of the members  
 7 of the board of county commissioners and a majority of the  
 8 votes of members of the legislative body of the city or town  
 9 voting on the question of his appointment. Initially, two  
 10 (2) commission members shall each serve a four (4) year term  
 11 and three (3) commission members shall each serve a two (2)  
 12 year term. Each commission member must draw a lot to  
 13 determine the length of his term.

14 (3) Upon the creation of a seven (7) member  
 15 commission, three (3) members shall be appointed by the  
 16 legislative body of the city or town, three (3) shall be  
 17 appointed by the board of county commissioners, and one (1)  
 18 shall be appointed by the members of the board of county  
 19 commissioners and the members of the city or town meeting in  
 20 joint session. In order to be appointed, a candidate for  
 21 the appointment to a seven (7) member commission by the  
 22 joint meeting must receive a majority of the votes of the  
 23 members of the board of county commissioners and a majority  
 24 of the votes of the members of the legislative body of the  
 25 city or town voting on the question of his appointment.

1 Initially, three (3) commission members shall each serve a  
 2 four (4) year term and four (4) commission members shall  
 3 each serve a two (2) year term. Each commission member  
 4 shall draw a lot to determine the length of his term.

5 (4) Each commission member shall reside at the time of  
 6 his appointment within the county if selected by the board  
 7 of county commissioners or within the city or town by which  
 8 appointed.

9 (5) No commission member may be an official of any  
 10 unit of local government.

11 Section 3. There is a new R.C.M. section that reads as  
 12 follows:

13 Vacancies, succession -- compensation. (1) In case of  
 14 a vacancy for any cause, a new member shall be appointed in  
 15 the same manner as the person he replaces. A person so  
 16 appointed shall serve out the unexpired portion of the term  
 17 of the person he replaces.

18 (2) The successor for a commission member whose term  
 19 has expired shall be appointed in the same manner used to  
 20 appoint the commission member he succeeds.

21 (3) A member of a public safety commission is eligible  
 22 for reappointment to the commission at the end of his term.

23 (4) Members of a public safety commission shall  
 24 receive no compensation but may receive actual and necessary  
 25 travel and other expenses incurred in the performance of

1 official duties. Such costs shall be borne by the county if  
 2 the commission member is appointed by the board of county  
 3 commissioners, by the city or town by which appointed, or  
 4 borne equally by the county and city or town if jointly  
 5 appointed.

6 Section 4. There is a new R.C.M. section that reads as  
 7 follows:

8 Organization -- selection and duties of chairman --  
 9 meetings. (1) Not later than sixty (60) days after the  
 10 commission is authorized, the members of the commission  
 11 shall meet and organize at a time which shall be set by the  
 12 board of county commissioners and the legislative body of  
 13 the city or town.

14 (2) At the first meeting of the commission, the member  
 15 jointly appointed by the board of county commissioners and  
 16 the legislative body of the city or town shall be designated  
 17 by the commission to serve as temporary chairman. As its  
 18 first official act, the commission members shall select a  
 19 chairman and vice-chairman from their own number.

20 (3) The chairman of the commission shall preside over  
 21 all meetings and hearings of the commission. In the absence  
 22 or inability of the chairman, the vice-chairman shall  
 23 preside over all meetings and hearings of the commission.

24 (4) Meetings of the commission shall be held upon call  
 25 of the chairman, the vice-chairman in the absence or

1 inability of the chairman, or a majority of the commission  
 2 members. Hearings in all cases involving employee discharge  
 3 or termination shall be held upon request of any employee so  
 4 discharged or terminated.

5 Section 5. There is a new R.C.M. section that reads as  
 6 follows:

7 Application to existing commissions. Upon its passage  
 8 and approval, this act shall apply to all commissions that  
 9 supervise a department of public safety. The members of all  
 10 such commissions shall draw lots to determine the length of  
 11 their respective terms.

12 Section 6. Section 16-2727, R.C.M. 1947, is amended to  
 13 read as follows:

14 "16-2727. Sheriff as director--appointed or elected.  
 15 The director of the department of public safety shall be  
 16 the sneriff who may be elected, or may be appointed by the  
 17 public safety commission, ~~in-the-event-of-municipal-county~~  
 18 ~~government- if the form of county government provides for an~~  
 19 appointed sheriff. A director so appointed shall receive a  
 20 majority of the votes of the public safety commission  
 21 members voting on the question of his appointment."

22 Section 7. Section 16-2728, R.C.M. 1947, is amended to  
 23 read as follows:

24 "16-2728. Powers and duties of officers, patrolmen and  
 25 director. Officers and patrolmen of the city or town police

1 department and deputies of the county sheriffs' office shall  
 2 be subordinate to the director and shall have the power and  
 3 perform the duties conferred on and required of police  
 4 officers and patrolmen in cities and towns and of sheriffs'  
 5 deputies in counties, as required by state law and municipal  
 6 ordinance. The director shall have the powers and perform  
 7 the duties conferred on and required of sheriffs, and police  
 8 officers, and chiefs of police except in cases involving  
 9 the discharge or termination of employment of subordinate  
 10 employees.

11 (1) "Employee" or "subordinate employee" means, but  
 12 are IS not limited to, any officer or patrolman of the city  
 13 or town police department, deputy of the county sheriff's  
 14 office, or any person employed as a clerk, dispatcher, or  
 15 secretary by the department of public safety or so employed  
 16 by the city or town police department or the county  
 17 sheriff's office prior to the establishment of the  
 18 department of safety.

19 (2) In all cases involving the discharge or the  
 20 termination of employment of any subordinate employee by the  
 21 director of the department of public safety, such employee  
 22 is entitled to a full hearing as provided in this act,  
 23 EXCEPT THAT THOSE EMPLOYEES COVERED UNDER COLLECTIVE  
 24 BARGAINING AGREEMENTS AS PROVIDED FOR IN CHAPTER 16 OF TITLE  
 25 59, R.C.M. 1947, SHALL BE ENTITLED TO USE ANY GRIEVANCE

1 PROCEDURE PROVIDED FOR WITHIN THE COLLECTIVE BARGAINING  
 2 AGREEMENT."

3 Section 8. There is a new R.C.M. section that reads as  
 4 follows:

5 Hearing procedure for an employee discharged by an  
 6 appointed director. (1) A director appointed by the public  
 7 safety commission shall at the time of the discharge or  
 8 termination of the employment of any subordinate employee  
 9 provide such employee a written statement subscribed and  
 10 sworn to by the director setting forth the cause or causes  
 11 for the discharge or termination of employment.

12 (2) Within thirty (30) days from the date of discharge  
 13 or termination of his employment such employee may make  
 14 application to the public safety commission for a hearing  
 15 before the commission on the charges resulting in the  
 16 employee's discharge or termination of employment. Such  
 17 employee may be present at the hearing in person and may be  
 18 represented by legal counsel. The commission shall keep a  
 19 record of the proceedings in such cases and the records  
 20 shall be a matter of public record. For the purpose of  
 21 keeping a record of the proceedings in such a case, the  
 22 department of public safety shall provide the commission  
 23 with a person qualified to keep a record of the proceedings.  
 24 Such person may be an employee of the department.

25 (3) The commission shall, after the conclusion of the



1 hearing, decide whether the charges resulting in the  
 2 employee's discharge or termination of employment have been  
 3 proven.

4 (4) The commission shall have the power in all cases,  
 5 wherein a majority of the commission members find the  
 6 charges not proven, to reinstate any employee TO THE SAME  
 7 POSITION HE HELD AND at the same salary ~~that--employee~~ HE  
 8 received prior to discharge or termination of employment.

9 (5) In all cases wherein a majority of the commission  
 10 members find the charges proven, the employee may appeal the  
 11 decision of the commission to the district court of the  
 12 county wherein the employee was employed. Such appeal must  
 13 be initiated within sixty (60) days of the ruling of the  
 14 commission.

15 Section 9. There is a new R.C.M. section that reads as  
 16 follows:

17 Hearing procedure for an employee discharged by an  
 18 elected director. (1) A director who is elected shall at  
 19 the time of the discharge or termination of employment of  
 20 any subordinate employee be required to follow the  
 21 procedures of notice required of an appointed director.

22 (2) Any employee discharged or terminated by an  
 23 elected director is entitled to a hearing before the public  
 24 safety commission IN THE MANNER PROVIDED IN SECTION 8 OF  
 25 THIS ACT.

1 (3) The public safety commission shall, after the  
 2 conclusion of the hearing, decide whether the charges  
 3 resulting in the employee's discharge or termination have  
 4 been proven.

5 (4) The commission may request that the elected  
 6 director reinstate an employee in all cases wherein a  
 7 majority of the commission members find the charges not  
 8 proven. The director may deny such a request for  
 9 reinstatement but shall provide the commission with a  
 10 written statement subscribed and sworn to by the director  
 11 setting forth the reason or reasons for the refusal to  
 12 reinstate the discharged or terminated employee. Such  
 13 written statement shall become a part of the records of the  
 14 proceedings of the commission and shall be open to public  
 15 scrutiny.

16 (5) In all cases wherein the commission finds the  
 17 charges not proven, but the elected director refuses to  
 18 reinstate the discharged or terminated employee, or cases  
 19 wherein a majority of the commission members find the  
 20 charges proven, the employee may appeal the decision in the  
 21 manner provided in section 8 of this act.

22 Section 10. There is a new R.C.M. section that reads  
 23 as follows:

24 Reinstatement of a discharged employee who prevails in  
 25 district court. In the event that an employee prevails in

1 an appeal to the district court he shall be entitled to be  
2 reinstated to the same position he held and at the same  
3 salary he received prior to his discharge or termination by  
4 the director.

5 Section 11. Section 16-2729, R.C.M. 1947, is amended  
6 to read as follows:

7 "16-2729. Salaries. The provisions of section 25-605,  
8 R.C.M. 1947, notwithstanding, the salaries of the director  
9 and employees of the department of public ~~law-enforcement~~  
10 safety shall be established by the public safety  
11 commission and shall be paid by the city or town with the  
12 board of county commissioners ~~of-the-county~~. Said salaries  
13 in any event shall not be less than that specified in  
14 section 25-605, R.C.M. 1947."

15 ~~Section 12.--Effective-date.--This-act-is-effective-on~~  
16 ~~its-passage-and-approval.~~

-End-

## 1 HOUSE BILL NO. 399

2 INTRODUCED BY ROBBINS, DASSINGER, DAY, MCFADDEN,

3 JAMES MOORE, CERKE, JACK MOORE, FARBECA

4  
5 A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE THE POWERS OF  
6 THE COMMISSION SUPERVISING A ~~CITY~~ DEPARTMENT OF PUBLIC  
7 SAFETY; TO ESTABLISH APPEAL PROCEDURES FOR EMPLOYEES  
8 DISCHARGED OR TERMINATED BY THE DIRECTOR OF A DEPARTMENT OF  
9 PUBLIC SAFETY; AMENDING SECTIONS 16-2726, 16-2727, 16-2728  
10 AND 16-2729, R.C.M. 1947, ~~AND PROVIDING AN EFFECTIVE DATE.~~"

11  
12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:13 Section 1. Section 16-2726, R.C.M. 1947, is amended to  
14 read as follows:

15 "16-2726. Department of public safety--supervision by  
16 commission. On agreement of the legislative body of a city  
17 or town with the county commissioners of the county in which  
18 it is located, there may be established, in counties other  
19 than first and second class counties, in lieu of a police  
20 department and a sheriffs' office, a department of public  
21 safety. The department shall be under the supervision of a  
22 public safety commission, selected jointly by the county  
23 commissioners and the city or town, legislative bodies  
24 consisting of not more than seven (7) members. The  
25 commission shall consist of three (3), five (5), or seven

1 (7) members. Each member of the commission shall serve a  
2 four (4) year term and shall be appointed as provided in  
3 this act."

4 Section 2. There is a new R.C.M. section that reads as  
5 follows:

6 Appointment of public safety commission members. (1)  
7 Upon the creation of a three (3) member commission, one (1)  
8 member shall be appointed by the legislative body of the  
9 city or town, one (1) shall be appointed by the board of  
10 county commissioners, and one (1) shall be appointed by the  
11 members of the board of county commissioners and the members  
12 of the legislative body of the city or town meeting in joint  
13 session. In order to be appointed, a candidate for  
14 appointment by the joint meeting must receive a majority of  
15 the votes of the members of the board of county  
16 commissioners and a majority of the votes of the members of  
17 the legislative body of the city or town voting on the  
18 question of his appointment. Initially, one (1) commission  
19 member shall serve a four (4) year term and two (2)  
20 commission members shall each serve a two (2) year term.  
21 Each commission member shall draw a lot to determine the  
22 length of his term.

23 (2) Upon the creation of a five (5) member commission,  
24 two (2) members shall be appointed by the legislative body  
25 of the city or town, two (2) shall be appointed by the board

1 of county commissioners, and one (1) shall be appointed by  
 2 the members of the board of county commissioners and the  
 3 members of the legislative body of the city or town meeting  
 4 in joint session. In order to be appointed, a candidate for  
 5 the appointment to a five (5) member commission by the joint  
 6 meeting must receive a majority of the votes of the members  
 7 of the board of county commissioners and a majority of the  
 8 votes of members of the legislative body of the city or town  
 9 voting on the question of his appointment. Initially, two  
 10 (2) commission members shall each serve a four (4) year term  
 11 and three (3) commission members shall each serve a two (2)  
 12 year term. Each commission member must draw a lot to  
 13 determine the length of his term.

14 (3) Upon the creation of a seven (7) member  
 15 commission, three (3) members shall be appointed by the  
 16 legislative body of the city or town, three (3) shall be  
 17 appointed by the board of county commissioners, and one (1)  
 18 shall be appointed by the members of the board of county  
 19 commissioners and the members of the city or town meeting in  
 20 joint session. In order to be appointed, a candidate for  
 21 the appointment to a seven (7) member commission by the  
 22 joint meeting must receive a majority of the votes of the  
 23 members of the board of county commissioners and a majority  
 24 of the votes of the members of the legislative body of the  
 25 city or town voting on the question of his appointment.

1 Initially, three (3) commission members shall each serve a  
 2 four (4) year term and four (4) commission members shall  
 3 each serve a two (2) year term. Each commission member  
 4 shall draw a lot to determine the length of his term.

5 (4) Each commission member shall reside at the time of  
 6 his appointment within the county if selected by the board  
 7 of county commissioners or within the city or town by which  
 8 appointed.

9 (5) No commission member may be an official of any  
 10 unit of local government.

11 Section 3. There is a new R.C.M. section that reads as  
 12 follows:

13 Vacancies, succession -- compensation. (1) In case of  
 14 a vacancy for any cause, a new member shall be appointed in  
 15 the same manner as the person he replaces. A person so  
 16 appointed shall serve out the unexpired portion of the term  
 17 of the person he replaces.

18 (2) The successor for a commission member whose term  
 19 has expired shall be appointed in the same manner used to  
 20 appoint the commission member he succeeds.

21 (3) A member of a public safety commission is eligible  
 22 for reappointment to the commission at the end of his term.

23 (4) Members of a public safety commission shall  
 24 receive no compensation but may receive actual and necessary  
 25 travel and other expenses incurred in the performance of

1 official duties. Such costs shall be borne by the county if  
 2 the commission member is appointed by the board of county  
 3 commissioners, by the city or town by which appointed, or  
 4 borne equally by the county and city or town if jointly  
 5 appointed.

6 Section 4. There is a new R.C.M. section that reads as  
 7 follows:

8 Organization -- selection and duties of chairman --  
 9 meetings. (1) Not later than sixty (60) days after the  
 10 commission is authorized, the members of the commission  
 11 shall meet and organize at a time which shall be set by the  
 12 board of county commissioners and the legislative body of  
 13 the city or town.

14 (2) At the first meeting of the commission, the member  
 15 jointly appointed by the board of county commissioners and  
 16 the legislative body of the city or town shall be designated  
 17 by the commission to serve as temporary chairman. As its  
 18 first official act, the commission members shall select a  
 19 chairman and vice-chairman from their own number.

20 (3) The chairman of the commission shall preside over  
 21 all meetings and hearings of the commission. In the absence  
 22 or inability of the chairman, the vice-chairman shall  
 23 preside over all meetings and hearings of the commission.

24 (4) Meetings of the commission shall be held upon call  
 25 of the chairman, the vice-chairman in the absence or

1 inability of the chairman, or a majority of the commission  
 2 members. Hearings in all cases involving employee discharge  
 3 or termination shall be held upon request of any employee so  
 4 discharged or terminated.

5 Section 5. There is a new R.C.M. section that reads as  
 6 follows:

7 Application to existing commissions. Upon its passage  
 8 and approval, this act shall apply to all commissions that  
 9 supervise a department of public safety. The members of all  
 10 such commissions shall draw lots to determine the length of  
 11 their respective terms.

12 Section 6. Section 16-2727, R.C.M. 1947, is amended to  
 13 read as follows:

14 "16-2727. Sheriff as director--appointed or elected.  
 15 The director of the department of public safety shall be  
 16 the sheriff who may be elected, or may be appointed by the  
 17 public safety commission, in the event of municipal county  
 18 government, if the form of county government provides for an  
 19 appointed sheriff. A director so appointed shall receive a  
 20 majority of the votes of the public safety commission  
 21 members voting on the question of his appointment."

22 Section 7. Section 16-2728, R.C.M. 1947, is amended to  
 23 read as follows:

24 "16-2728. Powers and duties of officers, patrolmen and  
 25 director. Officers and patrolmen of the city or town police

1 department and deputies of the county sheriffs' office shall  
 2 be subordinate to the director and shall have the power and  
 3 perform the duties conferred on and required of police  
 4 officers and patrolmen in cities and towns and of sheriffs'  
 5 deputies in counties, as required by state law and municipal  
 6 ordinance. The director shall have the powers and perform  
 7 the duties conferred on and required of sheriffs, and police  
 8 officers, and chiefs of police except in cases involving  
 9 the discharge or termination of employment of subordinate  
 10 employees.

11 (1) "Employee" or "subordinate employee" means, but  
 12 are IS not limited to, any officer or patrolman of the city  
 13 or town police department, deputy of the county sheriff's  
 14 office, or any person employed as a clerk, dispatcher, or  
 15 secretary by the department of public safety or so employed  
 16 by the city or town police department or the county  
 17 sheriff's office prior to the establishment of the  
 18 department of safety.

19 (2) In all cases involving the discharge or the  
 20 termination of employment of any subordinate employee by the  
 21 director of the department of public safety, such employee  
 22 is entitled to a full hearing as provided in this act,  
 23 EXCEPT THAT THOSE EMPLOYEES COVERED UNDER COLLECTIVE  
 24 BARGAINING AGREEMENTS AS PROVIDED FOR IN CHAPTER 16 OF TITLE  
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1 PROCEDURE PROVIDED FOR WITHIN THE COLLECTIVE BARGAINING  
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3 Section 8. There is a new R.C.M. section that reads as  
 4 follows:

5 Hearing procedure for an employee discharged by an  
 6 appointed director. (1) A director appointed by the public  
 7 safety commission shall at the time of the discharge or  
 8 termination of the employment of any subordinate employee  
 9 provide such employee a written statement subscribed and  
 10 sworn to by the director setting forth the cause or causes  
 11 for the discharge or termination of employment.

12 (2) Within thirty (30) days from the date of discharge  
 13 or termination of his employment such employee may make  
 14 application to the public safety commission for a hearing  
 15 before the commission on the charges resulting in the  
 16 employee's discharge or termination of employment. Such  
 17 employee may be present at the hearing in person and may be  
 18 represented by legal counsel. The commission shall keep a  
 19 record of the proceedings in such cases and the records  
 20 shall be a matter of public record. For the purpose of  
 21 keeping a record of the proceedings in such a case, the  
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 23 with a person qualified to keep a record of the proceedings.  
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25 (3) The commission shall, after the conclusion of the

1 hearing, decide whether the charges resulting in the  
 2 employee's discharge or termination of employment have been  
 3 proven.

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 5 wherein a majority of the commission members find the  
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 7 POSITION HE HELD AND at the same salary ~~that--employee~~ HE  
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 10 members find the charges proven, the employee may appeal the  
 11 decision of the commission to the district court of the  
 12 county wherein the employee was employed. Such appeal must  
 13 be initiated within sixty (60) days of the ruling of the  
 14 commission.

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 18 elected director. (1) A director who is elected shall at  
 19 the time of the discharge or termination of employment of  
 20 any subordinate employee be required to follow the  
 21 procedures of notice required of an appointed director.

22 (2) Any employee discharged or terminated by an  
 23 elected director is entitled to a hearing before the public  
 24 safety commission IN THE MANNER PROVIDED IN SECTION 8 OF  
 25 THIS ACT.

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 2 conclusion of the hearing, decide whether the charges  
 3 resulting in the employee's discharge or termination have  
 4 been proven.

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 6 director reinstate an employee in all cases wherein a  
 7 majority of the commission members find the charges not  
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 9 reinstatement but shall provide the commission with a  
 10 written statement subscribed and sworn to by the director  
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 12 reinstate the discharged or terminated employee. Such  
 13 written statement shall become a part of the records of the  
 14 proceedings of the commission and shall be open to public  
 15 scrutiny.

16 (5) In all cases wherein the commission finds the  
 17 charges not proven, but the elected director refuses to  
 18 reinstate the discharged or terminated employee, or cases  
 19 wherein a majority of the commission members find the  
 20 charges proven, the employee may appeal the decision in the  
 21 manner provided in section 8 of this act.

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3 salary he received prior to his discharge or termination by  
4 the director.

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8 R.C.M. 1947, notwithstanding, the salaries of the director  
9 and employees of the department of public ~~law enforcement~~  
10 safety shall be established by the public safety  
11 commission and shall be paid by the city or town with the  
12 board of county commissioners ~~of the county~~. Said salaries  
13 in any event shall not be less than that specified in  
14 section 25-605, R.C.M. 1947."

15 ~~Section 12. --Effective date--This act is effective--on~~  
16 ~~its passage and approval.~~

-End-