

SENATE BILL NO. 216

INTRODUCED BY S. BROWN

BY REQUEST OF THE LEGISLATIVE AUDIT COMMITTEE

IN THE SENATE

January 20, 1981	Introduced and referred to Committee on State Administration.
January 28, 1981	Rereferred to Committee on Judiciary.
February 11, 1981	Committee recommend bill do pass. Report adopted.
February 12, 1981	Bill printed and placed on members' desks.
February 13, 1981	Second reading, do pass.
February 14, 1981	Correctly engrossed.
February 16, 1981	Third reading, passed. Ayes, 33; Noes, 13. Transmitted to House.

IN THE HOUSE

February 17, 1981	Introduced and referred to Committee on Judiciary.
March 19, 1981	Committee recommend bill be concurred in as amended. Report adopted.
March 27, 1981	Second reading, concurred in.
March 30, 1981	On motion rules suspended and bill allowed to be transmitted on 71st legislative day. Motion adopted.
March 31, 1981	Third reading, concurred in as amended. Ayes, 74; Noes, 23.

IN THE SENATE

April 1, 1981

Returned from House with amendments.

April 3, 1981

Second reading, amendments concurred in.

April 6, 1981

Third reading, amendments concurred in. Ayes, 47; Noes, 0. Sent to enrolling.

Reported correctly enrolled.

1 *Senate* BILL NO. *216*
 2 INTRODUCED BY *STEVE BROWN*

3 BY REQUEST OF THE LEGISLATIVE AUDIT COMMITTEE

4
 5 A BILL FOR AN ACT ENTITLED: "AN ACT TO DELETE THE
 6 REQUIREMENT THAT BEFORE BEING PAID SUPREME COURT JUSTICES
 7 AND DISTRICT COURT JUDGES FILE AN AFFIDAVIT THAT NO MATTERS
 8 BEFORE THEM HAVE BEEN PENDING FOR OVER 90 DAYS; AMENDING
 9 SECTION 3-2-104, MCA; REPEALING SECTION 3-5-212; AND
 10 PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

13 Section 1. Section 3-2-104, MCA, is amended to read:

14 "3-2-104. Salaries -- ~~affidavit-required--for--payment~~
 15 -- expenses. (1) The salaries of justices of the supreme
 16 court are provided for in 2-16-405.

17 ~~(2)--the-state-auditor-shall--not--draw--a--warrant--in~~
 18 ~~payment--of-the-services-of-any-justice-of-the-supreme-court~~
 19 ~~until-such-justice-shall-have--filed--with--the--auditor--an~~
 20 ~~affidavit--that-no-causey-motion-or-other-proceeding-in-his~~
 21 ~~court-remains-pending-and-undecided-for-a-period-of-90--days~~
 22 ~~after-the-same-shall-have-been-submitted-for-decision-unless~~
 23 ~~casualty-or-sickness-shall-have-intervened.~~

24 (3)(2) Actual and necessary travel expenses of the
 25 justices of the supreme court shall be the travel expenses,

1 as defined and provided in 2-18-501 through 2-18-503,
 2 incurred in the performance of their official duties."

3 Section 2. Repealer. Section 3-5-212, MCA, is
 4 repealed.

5 Section 3. Effective date. This act is effective on
 6 passage and approval.

-End-

INTRODUCED BILL

Approved by Committee
on Judiciary

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18 ~~payment of the services of any justice of the supreme court~~
19 ~~until such justice shall have filed with the auditor an~~
20 ~~affidavit that no cause, motion or other proceeding in his~~
21 ~~court remains pending and undecided for a period of 90 days~~
22 ~~after the same shall have been submitted for decision unless~~
23 ~~casualty or sickness shall have intervened.~~

24 ~~(3)~~(2) Actual and necessary travel expenses of the
25 justices of the supreme court shall be the travel expenses,

1 as defined and provided in 2-18-501 through 2-18-503,
2 incurred in the performance of their official duties."

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 9 SECTION 3-2-104, MCA; REPEALING SECTION 3-5-212; AND
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 25 justices of the supreme court shall be the travel expenses,

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 6 passage and approval.

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 6 REQUIREMENT THAT BEFORE BEING PAID SUPREME COURT JUSTICES
 7 AND DISTRICT COURT JUDGES FILE AN AFFIDAVIT THAT NO MATTERS
 8 BEFORE THEM HAVE BEEN PENDING FOR OVER 90 DAYS; REQUIRING AN
 9 AFFIDAVIT FOR MATTERS PENDING OVER 90 DAYS; PROVIDING FOR
 10 REFERRAL TO THE JUDICIAL STANDARDS COMMISSION AND FOR THE
 11 WITHHOLDING OF SALARY; AMENDING SECTION SECTIONS 3-2-104 AND
 12 3-5-212, MCA; REPEALING SECTION 3-5-212; AND PROVIDING AN
 13 IMMEDIATE EFFECTIVE DATE."

14
 15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 16 Section 1. Section 3-2-104, MCA, is amended to read:
 17 "3-2-104. Salaries -- ~~affidavit-required-for-payment~~
 18 -- expenses. (1) The salaries of justices of the supreme
 19 court are provided for in 2-16-405.

20 ~~(2) The state auditor shall not draw a warrant in~~
 21 ~~payment of the services of any justice of the supreme court~~
 22 ~~until such justice shall have filed with the auditor an~~
 23 ~~affidavit that no cause, motion, or other proceeding in his~~
 24 ~~court remains pending and undecided for a period of 90 days~~
 25 ~~after the same shall have been submitted for decision unless~~

1 ~~casualty or sickness shall have intervened.~~
 2 (2) IF ANY CAUSE, MOTION, OR OTHER PROCEEDING REMAINS
 3 PENDING AND UNDECIDED FOR A PERIOD OF 90 DAYS AFTER
 4 SUBMISSION FOR DECISION, THE JUSTICE OF THE SUPREME COURT
 5 WHO HAS BEEN ASSIGNED TO WRITE THE OPINION, ORDER, OR
 6 DECISION OF THE COURT SHALL SUBMIT AN AFFIDAVIT ON OR BEFORE
 7 THE 90TH DAY TO THE CHIEF JUSTICE SETTING FORTH THE CASE
 8 NAME, CAUSE NUMBER, AND THE REASON THE MATTER HAS NOT BEEN
 9 DECIDED. COPIES OF THE AFFIDAVIT MUST BE FURNISHED TO ALL
 10 PARTIES TO THE MATTER PENDING. A CAUSE, MOTION, OR OTHER
 11 PROCEEDING IS CONSIDERED SUBMITTED FOR DECISION WHEN ALL
 12 HEARINGS HAVE BEEN HELD AND FINAL BRIEFS HAVE BEEN SUBMITTED
 13 BY ALL PARTIES TO THE MATTER PENDING. UPON THE FILING OF THE
 14 AFFIDAVIT, THE JUSTICE SHALL HAVE AN ADDITIONAL 30 DAYS TO
 15 DECIDE THE MATTER WHICH HAS BEEN SUBMITTED. NO CAUSE,
 16 MOTION, OR OTHER PROCEEDING MAY REMAIN UNDECIDED FOR MORE
 17 THAN 120 DAYS AFTER SUBMISSION FOR DECISION WITHOUT THE
 18 APPROVAL OF A MAJORITY OF THE OTHER MEMBERS OF THE SUPREME
 19 COURT FOR GOOD CAUSE SHOWN IN AN AFFIDAVIT REQUESTING
 20 ADDITIONAL TIME. IF A JUSTICE OF THE SUPREME COURT VIOLATES
 21 THE PROVISIONS OF THIS SECTION, ANY PARTY TO A MATTER
 22 PENDING IN VIOLATION OF THIS SECTION OR, BY A MAJORITY VOTE,
 23 THE OTHER MEMBERS OF THE SUPREME COURT MAY REFER THE MATTER
 24 TO THE JUDICIAL STANDARDS COMMISSION. IF THE COURT, ACTING
 25 UPON THE RECOMMENDATION OF THE COMMISSION, DETERMINES THE

1 JUSTICE IS NOT IN COMPLIANCE WITH THIS SECTION, IT SHALL
 2 ORDER THAT THE STATE AUDITOR NOT ISSUE A WARRANT FOR PAYMENT
 3 OF SERVICES FOR 1 MONTH, WHICH PAY IS FORFEITED BY THE
 4 JUSTICE.

5 ~~3-12-13~~ Actual and necessary travel expenses of the
 6 justices of the supreme court shall be the travel expenses,
 7 as defined and provided in 2-18-501 through 2-18-503,
 8 incurred in the performance of their official duties."

9 ~~Section 2- Repeater- Section 3-5-212, MCA, is~~
 10 ~~repeated.~~

11 SECTION 2. SECTION 3-5-212, MCA, IS AMENDED TO READ:

12 ~~"3-5-212. Salaries not to be paid until affidavit~~
 13 ~~filed- The state auditor shall not draw a warrant in~~
 14 ~~payment of the services of any judge of the district court~~
 15 ~~until such judge shall have filed with the auditor an~~
 16 ~~affidavit that no cause, motion, or other proceeding in his~~
 17 ~~court remains pending and undecided for a period of 90 days~~
 18 ~~after the same shall have been submitted for decision unless~~
 19 ~~casualty or sickness shall have intervened. If any cause,~~
 20 ~~motion, or other proceeding remains pending and undecided~~
 21 ~~for a period of 90 days after submission for decision, the~~
 22 ~~district court judge before whom the matter is pending shall~~
 23 ~~submit an affidavit on or before the 90th day to the chief~~
 24 ~~justice of the supreme court setting forth the case name,~~
 25 ~~cause number and the reason the matter has not been decided.~~

1 Copies of the affidavit must be furnished to all parties to
 2 the matter pending. A cause, motion, or other proceeding is
 3 considered submitted for decision when all hearings have
 4 been held and final briefs have been submitted by all
 5 parties to the matter pending. Upon the filing of the
 6 affidavit, the district judge shall have an additional 30
 7 days to decide the matter which has been submitted. No
 8 cause, motion, or other proceeding may remain undecided for
 9 more than 120 days after submission for decision without the
 10 approval of a majority of the supreme court for good cause
 11 shown in an affidavit requesting additional time. If a
 12 district judge violates the provisions of this section, any
 13 party to a matter pending in violation of this section or,
 14 by a majority vote, the supreme court may refer the matter
 15 to the judicial standards commission. If the supreme court,
 16 acting upon the recommendation of the commission, determines
 17 that the judge is not in compliance with this section it
 18 shall order that the state auditor not issue a warrant for
 19 payment of services for 1 month, which pay is forfeited by
 20 the judge."

21 Section 3. Effective date. This act is effective on
 22 passage and approval.

-End-

BE AMENDED AS FOLLOWS:

JUDICIARY COMMITTEE
Senate Bill 216 - 3/17/81

1. Title, line 8.

Following: "DAYS;"

Insert: "REQUIRING AN AFFIDAVIT FOR MATTERS PENDING OVER 90 DAYS;
PROVIDING FOR REFERRAL TO THE JUDICIAL STANDARDS COMMISSION AND FOR
THE WITHHOLDING OF SALARY;"

2. Title, line 9.

Following: "3-2-104"

Insert: "AND 3-5-212"

Following: "MCA;"

Strike: "REPEALING SECTION 3-5-212, MCA;"

3. Page 1.

Following: line 23

Insert: "(2) If any cause, motion, or other proceeding remains pending and undecided for a period of 90 days after submission for decision, the justice of the supreme court who has been assigned to write the opinion, order, or decision of the court shall submit an affidavit on or before the 90th day to the chief justice setting forth the case name, cause number, and the reason the matter has not been decided. Copies of the affidavit must be furnished to all parties to the matter pending. A cause, motion, or other proceeding is considered submitted for decision when all hearings have been held and final briefs have been submitted by all parties to the matter pending. Upon the filing of the affidavit, the justice shall have an additional 30 days to decide the matter which has been submitted. No cause, motion, or other proceeding may remain undecided for more than 120 days after submission for decision without the approval of a majority of the other members of the supreme court for good cause shown in an affidavit requesting additional time. If a justice of the supreme court violates the provisions of this section, any party to a matter pending in violation of this section or, by a majority vote, the other members of the supreme court may refer the matter to the judicial standards commission. If the court, acting upon the recommendation of the commission, determines the justice is not in compliance with this section, it shall order that the state auditor not issue a warrant for payment of services for 1 month, which pay is forfeited by the justice."

Renumber: subsequent subsection

4. Page 2, lines 3 and 4.

Strike: Section 2 in its entirety

5. Page 2.

Following: line 3

Insert: "Section 2. Section 3-5-212, MCA, is amended to read:

"3-5-212. Salaries-not-to-be-paid-until-affidavit-filed. The state auditor shall not draw a warrant in payment of the services of any judge of the district court until such judge shall have filed with the auditor an affidavit that no cause, motion, or other proceeding in his court remains pending and undecided for a period of 90 days after the same shall have been submitted for decision unless casualty or sickness have intervened. If any cause, motion, or other proceeding remains pending and undecided for a period of 90 days after submission for decision, the district court judge before whom the matter is pending shall submit an affidavit on or before the 90th day to the chief justice of the supreme court setting forth the case name, cause number and the

reason the matter has not been decided. Copies of the affidavit must be furnished to all parties to the matter pending. A cause, motion, or other proceeding is considered submitted for decision when all hearings have been held and final briefs have been submitted by all parties to the matter pending. Upon the filing of the affidavit the district judge shall have an additional 30 days to decide the matter which has been submitted. No cause, motion, or other proceeding may remain undecided for more than 120 days after submission for decision without the approval of a majority of the supreme court for good cause shown in an affidavit requesting additional time. If a district judge violates the provisions of this section, any party to a matter pending in violation of this section or, by a majority vote, the supreme court may refer the matter to the judicial standards commission. If the supreme court, acting upon the recommendation of the commission, determines that the judge is not in compliance with this section it shall order that the state auditor not issue a warrant for payment of services for 1 month, which pay is forfeited by the judge."