

SENATE BILL NO. 213

1/22 Introduced
1/24 Referred to State Administration
2/11 Hearing
2/15 Adverse Committee Report
2/15 Bill Killed

1 *Senate* BILL NO. *213*
 2 INTRODUCED BY *Ed J. Hammond*
 3

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO MAKE MANDATORY THE
 5 DISCLOSURE OF CONFLICTS OF INTEREST OF PUBLIC OFFICERS OR
 6 EMPLOYEES AND TO EXTEND THE DISCLOSURE REQUIREMENTS TO
 7 LEGISLATORS; AMENDING SECTIONS 2-2-121, 2-2-125, AND
 8 2-2-131, MCA."
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10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 Section 1. Section 2-2-121, MCA, is amended to read:
 12 "2-2-121. Rules of conduct for state officers and
 13 state employees. (1) Proof of commission of any act
 14 enumerated in this section is proof that the actor has
 15 breached his fiduciary duty.

16 (2) A state officer or a state employee may not:
 17 (a) use state time, facilities, or equipment for his
 18 private business purposes;

19 (b) engage in a substantial financial transaction for
 20 his private business purposes with a person whom he inspects
 21 or supervises in the course of his official duties;

22 (c) assist any person for a fee or other compensation
 23 in obtaining a contract, claim, license, or other economic
 24 benefit from his agency;

25 (d) assist any person for a contingent fee in

1 obtaining a contract, claim, license, or other economic
 2 benefit from any state agency; or

3 (e) perform an official act directly and substantially
 4 affecting to its economic benefit a business or other
 5 undertaking in which he either has a substantial financial
 6 interest or is engaged as counsel, consultant,
 7 representative, or agent.

8 (3) A department head or a member of a quasi-judicial
 9 or rulemaking board may perform an official act
 10 notwithstanding subsection (2)(e) if his participation is
 11 necessary to the administration of a statute and if he
 12 complies with the voluntary disclosure procedures under
 13 2-2-131.

14 (4) Subsection (2)(d) does not apply to a member of a
 15 board, commission, council, or committee unless he is also a
 16 full-time state employee."

17 Section 2. Section 2-2-125, MCA, is amended to read:

18 "2-2-125. Rules of conduct for local government
 19 officers and employees. (1) Proof of commission of any act
 20 enumerated in this section is proof that the actor has
 21 breached his fiduciary duty.

22 (2) An officer or employee of local government may
 23 not:

24 (a) engage in a substantial financial transaction for
 25 his private business purposes with a person whom he inspects



1 or supervises in the course of his official duties; or

2 (b) perform an official act directly and substantially
3 affecting to its economic benefit a business or other
4 undertaking in which he either has a substantial financial
5 interest or is engaged as counsel, consultant,
6 representative, or agent.

7 (3) A member of the governing body of a local
8 government may perform an official act notwithstanding this
9 section when his participation is necessary to obtain a
10 quorum or otherwise enable the body to act, if he complies
11 with the ~~voluntary~~ disclosure procedures under 2-2-131."

12 Section 3. Section 2-2-131, MCA, is amended to read:

13 "2-2-131. ~~Voluntary-disclosure~~ Disclosure of conflict.

14 (1) A public officer or employee ~~may~~ shall, prior to acting
15 in a manner which may impinge on his fiduciary duty,
16 disclose the nature of his private interest which creates
17 the conflict. He shall make the disclosure in writing to the
18 secretary of state, listing the amount of his financial
19 interest, if any, the purpose and duration of his services
20 rendered, if any, and the compensation received for the
21 services or such other information as is necessary to
22 describe his interest. If he then performs the official act
23 involved, he shall state for the record the fact and summary
24 nature of the interest disclosed at the time of performing
25 the act.

1 (2) A legislator is subject to the provisions of
2 subsection (1), with respect to his duties as a legislator,
3 whether or not fiduciary in nature, and shall make the
4 disclosure required therein in writing to the leadership of
5 the house in which he serves."

6 NEW SECTION. Section 4. Extension of authority. Any
7 existing authority of the secretary of state to make rules
8 on the subject of the provisions of this act is extended to
9 the provisions of this act.

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