

HB 498 INTRODUCED BY WINSLOW  
LIMIT PUBLIC OFFICIALS TO 12 YEARS

1/28 INTRODUCED  
1/28 REFERRED TO STATE ADMINISTRATION  
2/06 HEARING  
2/06 COMMITTEE REPORT--BILL NOT PASSED  
2/07 ADVERSE COMMITTEE REPORT ADOPTED

84 14

1 House BILL NO. 498  
 2 INTRODUCED BY Winkler  
 3  
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO LIMIT ELECTED PUBLIC  
 5 OFFICIALS TO 12 YEARS OF SERVICE IN ONE OFFICE AND SUPREME  
 6 COURT JUSTICES TO 16 YEARS IN OFFICE; AMENDING SECTIONS  
 7 3-2-101, 3-2-401, 3-5-203, 3-6-201, 3-10-205, 3-11-201,  
 8 5-2-102, 7-3-224, 7-3-318, 7-3-418, 7-3-517, 7-3-606,  
 9 7-3-612, 7-3-704, 7-3-705, 7-3-1216, 7-3-1342, 7-3-4216,  
 10 7-3-4316, 7-3-4462, 7-4-2105, 7-4-2205, 7-4-4302, 7-4-4602,  
 11 AND 7-4-4701, MCA; AND PROVIDING AN APPLICABILITY DATE."  
 12  
 13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
 14 Section 1. Section 3-2-101, MCA, is amended to read:  
 15 "3-2-101. (Temporary) Number, election, and term of  
 16 office. (1) The supreme court consists of a chief justice  
 17 and six associate justices who are elected by the qualified  
 18 electors of the state at large at the general state  
 19 elections next preceding the expiration of the terms of  
 20 office of their predecessors, respectively, and hold their  
 21 offices for the term of 8 years from and after the first  
 22 Monday of January next succeeding their election.  
 23 (2) No justice may serve more than two 8-year terms.  
 24 3-2-101. (Revived January 2, 1989) Number, election,  
 25 and term of office. (1) The supreme court consists of a

1 chief justice and four associate justices who are elected by  
 2 the qualified electors of the state at large at the general  
 3 state elections next preceding the expiration of the terms  
 4 of office of their predecessors, respectively, and hold  
 5 their offices for the term of 8 years from and after the  
 6 first Monday of January next succeeding their election.  
 7 (2) No justice may serve more than two 8-year terms."  
 8 Section 2. Section 3-2-401, MCA, is amended to read:  
 9 "3-2-401. Election and term of office. (1) There must  
 10 be a clerk of the supreme court who must be elected by the  
 11 electors at large of the state and hold his office for the  
 12 term of 6 years from the first Monday of January next  
 13 succeeding his election.  
 14 (2) No clerk may serve more than two 6-year terms."  
 15 Section 3. Section 3-5-203, MCA, is amended to read:  
 16 "3-5-203. Term of office. (1) The term of office of  
 17 judges of the district court is 6 years and begins on the  
 18 first Monday of January next succeeding their election.  
 19 (2) No judge may serve more than two 6-year terms."  
 20 Section 4. Section 3-6-201, MCA, is amended to read:  
 21 "3-6-201. Election -- term of office. (1) One judge  
 22 of each municipal court shall be elected at the general city  
 23 election. The judge's term shall commence on the first  
 24 Monday in January following the election. The judge shall  
 25 hold office for the term of 4 years and until his successor

1 is elected and qualified.

2 (2) No judge may serve more than three 4-year terms.

3 ~~(2)~~(3) All elections of municipal judges are governed  
4 by the laws applicable to the election of nonpartisan city  
5 officials."

6 Section 5. Section 3-10-205, MCA, is amended to read:

7 "3-10-205. Term of office. The term of office of  
8 justices of peace is 4 years from the first Monday in  
9 January next succeeding their election. No justice may serve  
10 more than three 4-year terms."

11 Section 6. Section 3-11-201, MCA, is amended to read:

12 "3-11-201. Term of office. (1) An elected or appointed  
13 city judge shall hold office for a term of 4 years and until  
14 the qualification of his successor.

15 (2) A justice of the peace designated to act as city  
16 judge for a town under 3-11-205 shall serve as city judge  
17 for the duration of his term as justice of the peace unless  
18 the council terminates the designation.

19 (3) No judge may serve more than three 4-year terms."

20 Section 7. Section 5-2-102, MCA, is amended to read:

21 "5-2-102. Term of office. (1) The term of office of a  
22 senator is 4 years or until his successor is elected and  
23 qualified and of a representative 2 years or until his  
24 successor is elected and qualified. The term of service  
25 shall begin on the first Monday of January next succeeding

1 his election. If a senator is elected to fill a vacancy,  
2 his term of service shall begin on the next day after his  
3 election.

4 (2) No senator or representative may serve more than  
5 12 years in one office."

6 Section 8. Section 7-3-224, MCA, is amended to read:

7 "7-3-224. Terms of elected officials. (1) The term of  
8 office of elected officials may not exceed 4 years and shall  
9 be established when the form is adopted by the voters.

10 (2) No elected official may serve more than 12 years  
11 in one office."

12 Section 9. Section 7-3-318, MCA, is amended to read:

13 "7-3-318. Terms of elected officials. (1) The term of  
14 office of elected officials may not exceed 4 years and shall  
15 be established when the form is adopted by the voters.

16 (2) No elected official may serve more than 12 years  
17 in one office."

18 Section 10. Section 7-3-418, MCA, is amended to read:

19 "7-3-418. Terms of elected officials. (1) The term of  
20 office of elected officials may not exceed 4 years, except  
21 the term of office for commissioners in counties adopting  
22 the form authorized by Article XI, section 3(2), of the  
23 Montana constitution may not exceed 6 years. Terms of office  
24 shall be established when the form is adopted by the voters.

25 (2) No elected official may serve more than 12 years

1 in one office."

2 Section 11. Section 7-3-517, MCA, is amended to read:

3 "7-3-517. Terms of elected officials. (1) The term of  
4 office of elected officials may not exceed 4 years and shall  
5 be established when the form is adopted by the voters.

6 (2) No elected official may serve more than 12 years  
7 in one office."

8 Section 12. Section 7-3-704, MCA, is amended to read:

9 "7-3-704. Legislative body. (1) The charter shall  
10 provide for an elected legislative body (called a commission  
11 or council) or shall provide for a legislative body  
12 comprised of all qualified electors. For elected legislative  
13 bodies, the charter shall specify the number of members  
14 thereof, their term of office, election on a partisan or  
15 nonpartisan basis, the grounds for their removal, and the  
16 method for filling vacancies.

17 (2) No commission or council member may serve more  
18 than 12 years in that office.

19 ~~(2)~~(3) The charter shall provide for the nomination  
20 and election of commissions:

21 (a) at large;

22 (b) by districts in which candidates must reside and  
23 which are apportioned by population;

24 (c) by a combination of districts, in which candidates  
25 must reside and which are apportioned by population, and at

1 large; or

2 (d) elected at large and nominated by a plan of  
3 nomination that may not preclude the possibility of the  
4 majority of the electors nominating candidates for the  
5 majority of the seats on the commission from persons  
6 residing in the district or districts where the majority of  
7 the electors reside."

8 Section 13. Section 7-3-705, MCA, is amended to read:

9 "7-3-705. Officials and personnel. (1) The charter  
10 shall specify which official of the local government will be  
11 the chief administrative and executive officer, the method  
12 of his selection, his term of office (except that it may be  
13 at the pleasure of the selecting authority if such officer  
14 is not elected by popular vote), the grounds for his  
15 removal, and his powers and duties. Notwithstanding the  
16 foregoing, the charter may allocate the chief executive and  
17 the chief administrative functions among two or more  
18 officials specified as above or the charter may provide that  
19 chief executive and administrative functions of the local  
20 government will be performed by one or more members of the  
21 legislative body.

22 (2) No officer may serve more than 12 years in one  
23 office.

24 ~~(2)~~(3) A charter form of government shall have such  
25 officers, departments, boards, commissions, and agencies as

1 are established in the charter, by local ordinance, or  
2 required by state law."

3 Section 14. Section 7-3-606, MCA, is amended to read:

4 "7-3-606. Selection, role, and duties of town  
5 chairman. (1) The town meeting shall elect a town chairman  
6 for a term of not less than 1 year or more than 2 years. An  
7 unexpired term of a town chairman shall be filled at the  
8 next annual or special town meeting.

9 (2) No town chairman may serve more than 12 years.

10 ~~(2)~~(3) The town chairman shall be the chief executive  
11 officer of the town, and he shall:

12 (a) enforce laws, ordinances, and resolutions;

13 (b) perform duties required of him by law, ordinance,  
14 or resolution;

15 (c) administer the affairs of the town;

16 (d) prepare the town meeting agenda;

17 (e) attend all annual and special town meetings;

18 (f) recommend measures to the town meeting;

19 (g) report to the town on the affairs and financial  
20 condition of the town;

21 (h) execute bonds, notes, contracts, and written  
22 obligations of the town, subject to the approval of the  
23 town;

24 (i) appoint, with the consent of the town meeting,  
25 members of all boards and appoint and remove all employees

1 of the town;

2 (j) prepare the budget and present it to the town  
3 meeting for adoption;

4 (k) exercise control and supervision of the  
5 administration of all departments and boards;

6 (l) carry out policies established by the town  
7 meeting.

8 ~~(3)~~(4) Compensation of the town chairman shall be  
9 established by ordinance but shall not be reduced during the  
10 current term of the town chairman."

11 Section 15. Section 7-3-612, MCA, is amended to read:

12 "7-3-612. Town meeting moderator. The town meeting  
13 shall:

14 (1) elect a town meeting moderator for a term of 1  
15 year, who shall be the presiding officer of all annual and  
16 special town meetings but who shall have no other  
17 governmental powers; or

18 (2) No town meeting moderator may serve more than 12  
19 years.

20 ~~(2)~~(3) designate the town chairman as presiding  
21 officer of all annual and special town meetings."

22 Section 16. Section 7-3-1216, MCA, is amended to read:

23 "7-3-1216. Term of office of commission members. (1)  
24 Except as provided in subsection (2), the term of office of  
25 members of the commission shall be 4 years and shall

1 commence on the first Monday of January following their  
2 election.

3 (2) The terms of office of the members first elected  
4 at such special election shall commence on the first day of  
5 the third month following their election, and the terms of  
6 office of a majority of such members first elected, to be  
7 determined by lot, shall expire when their successors are  
8 elected and qualified in the first year following their  
9 election, and the terms of the remaining members first  
10 elected shall expire when their successors are elected and  
11 qualified in the third year following their election.

12 (3) No commission member may serve more than three  
13 4-year terms."

14 Section 17. Section 7-3-1342, MCA, is amended to read:  
15 "7-3-1342. City court. (1) A city court is established  
16 in and for each municipality, with the jurisdiction, powers,  
17 and duties within the municipality provided by general law  
18 for city courts in cities and towns and for justices of the  
19 peace.

20 (2) The commission shall by ordinance determine the  
21 number of judges required for operation of the city court.  
22 City court judges are to be elected every 4 years in a  
23 nonpartisan election held in conjunction with the regularly  
24 scheduled general election. The term of office for city  
25 judge is 4 years, and no city judge may serve more than

1 three 4-year terms.

2 (3) The qualifications to hold the office of city  
3 judge shall be set by ordinance by the commission. The  
4 ordinance shall be consistent with any rules adopted by the  
5 Montana supreme court on city judge qualifications.

6 (4) Whenever a vacancy occurs in the office of city  
7 judge, the commission shall appoint a qualified individual  
8 to serve for the remainder of the term. The compensation of  
9 the city judge or judges shall be fixed by the commission."

10 Section 18. Section 7-3-4216, MCA, is amended to read:

11 "7-3-4216. General term of office. (1) The terms of  
12 office of the mayor and all councilmen elected after the  
13 first term shall be 2 years.

14 (2) Neither the mayor nor a councilman may serve more  
15 than 12 years in that office."

16 Section 19. Section 7-3-4316, MCA, is amended to read:

17 "7-3-4316. Term of office for commissioners. (1) The  
18 commissioners elected at the first election shall qualify  
19 and their terms of office shall begin on the first Monday  
20 after their election, and the terms of office of the mayor  
21 and councilmen or aldermen in such city or town in office at  
22 the beginning of the term of office of the commissioners  
23 first elected under the provisions of this part and part 44  
24 shall cease and terminate and the terms of office of all  
25 their appointed officers and of all of the employees of such

1 city or town shall cease and terminate as soon as the  
2 commissioners shall by resolution declare.

3 (2) All commissioners shall serve for a term of 4  
4 years and until their successors are elected and have  
5 qualified, except that at the first election the two  
6 candidates having the highest number of votes shall hold  
7 office for a period of 4 years less the time elapsed since  
8 December 31 of the odd-numbered year last preceding. The  
9 terms of office of all other candidates shall expire on  
10 December 31 in any odd-numbered year following the special  
11 election provided for in this part at which the first  
12 commissioners are elected.

13 (3) No commissioner may serve more than three 4-year  
14 terms."

15 Section 20. Section 7-3-4462, MCA, is amended to read:  
16 "7-3-4462. Office of city judge. (1) In each  
17 municipality having a commission-manager form of government,  
18 a city judge shall be elected every 4 years in a nonpartisan  
19 election held in conjunction with the regularly scheduled  
20 municipal election. The city judge shall hold office for a  
21 term of 4 years, and no city judge may serve more than three  
22 4-year terms.

23 (2) The qualifications to hold the office of city  
24 judge shall be set by ordinance by the commission. The  
25 ordinance shall be consistent with any rules adopted by the

1 Montana supreme court on city judge qualifications.

2 (3) If a vacancy occurs in the office of city judge,  
3 the commission shall appoint a qualified individual to serve  
4 for the remainder of the term."

5 Section 21. Section 7-4-2105, MCA, is amended to read:  
6 "7-4-2105. Term of office. (1) The term of office of  
7 county commissioners is 6 years. A county commissioner  
8 takes office on the first Monday of January succeeding the  
9 date of the election at which the county commissioner was  
10 elected.

11 (2) No county commissioner may serve more than two  
12 6-year terms."

13 Section 22. Section 7-4-2205, MCA, is amended to read:  
14 "7-4-2205. Term of office. (1) Persons elected to the  
15 different offices named in 7-4-2203 shall hold their  
16 respective offices for the term of 4 years and until their  
17 successors are elected and qualified.

18 (2) No person elected to an office named in 7-4-2203  
19 may serve more than three 4-year terms in that office.

20 ~~(2)~~(3) Persons appointed to the different offices  
21 serve at the pleasure of the commissioners.

22 ~~(3)~~(4) The officers mentioned in this part must take  
23 office on the first Monday of January succeeding their  
24 election."

25 Section 23. Section 7-4-4302, MCA, is amended to read:

1 "7-4-4302. Term of office. (1) The mayor shall hold  
2 office for a term of 4 years and until the qualification of  
3 his successor.

4 (2) No mayor may serve more than three 4-year terms."

5 Section 24. Section 7-4-4602, MCA, is amended to read:

6 "7-4-4602. Appointment -- term of office. (1) The  
7 city attorney must be appointed by the mayor, subject to  
8 approval by the city council.

9 (2) The city attorney shall hold his office for 2  
10 years unless suspended or removed as provided by law.

11 (3) No person may serve as city attorney for more than  
12 12 years."

13 Section 25. Section 7-4-4701, MCA, is amended to read:

14 "7-4-4701. Term of office for city treasurer. (1) In  
15 cities of the first, second, and third classes, a city  
16 treasurer shall hold office for a term of 4 years and until  
17 the qualification of his successor.

18 (2) No city treasurer may serve more than three 4-year  
19 terms."

20 NEW SECTION. Section 26. Applicability date. This act  
21 applies to elections occurring after September 1, 1989.

-End-