

SENATE BILL NO. 425

INTRODUCED BY B. BROWN, DOHERTY, RYE, BLAYLOCK, CRIPPEN,
GROSFIELD, YELLOWTAIL, BARTLETT, HALLIGAN
BY REQUEST OF THE SECRETARY OF STATE

IN THE SENATE

FEBRUARY 19, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.
	FIRST READING.
FEBRUARY 22, 1993	COMMITTEE RECOMMEND BILL DO PASS. REPORT ADOPTED.
	PRINTING REPORT.
FEBRUARY 23, 1993	SECOND READING, DO PASS.
FEBRUARY 24, 1993	ENGROSSING REPORT.
	THIRD READING, PASSED. AYES, 48; NOES, 0.
	TRANSMITTED TO HOUSE.

IN THE HOUSE

MARCH 1, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.
	FIRST READING.
MARCH 25, 1993	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
MARCH 30, 1993	SECOND READING, CONCURRED IN.
APRIL 1, 1993	THIRD READING, CONCURRED IN. AYES, 92; NOES, 7.
	RETURNED TO SENATE.

IN THE SENATE

APRIL 2, 1993	RECEIVED FROM HOUSE.
	SENT TO ENROLLING.
	REPORTED CORRECTLY ENROLLED.

1 Senate BILL NO. 425
 2 INTRODUCED BY Rep. Brown Doherty By Black
 3 BY REQUEST OF THE SECRETARY OF STATE Carl
 4 Gorsell Yellowtail Walt H Phillips
 5 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING JUDICIAL
 6 SELECTION PROCEDURES TO CONFORM TO RECENT CONSTITUTIONAL
 7 AMENDMENTS; PROVIDING FOR SENATE CONFIRMATION OF
 8 APPOINTMENTS EXCEPT IN CERTAIN CASES; REQUIRING AN APPOINTED
 9 JUDGE OR JUSTICE TO STAND FOR ELECTION AT THE FIRST GENERAL
 10 ELECTION FOLLOWING APPOINTMENT, EXCEPT IN CASES IN WHICH THE
 11 APPOINTMENT IS MADE AFTER THE CANDIDATE FILING DEADLINE FOR
 12 THE OFFICE; PROVIDING FOR RETENTION ELECTIONS IN CASES IN
 13 WHICH AN INCUMBENT DOES NOT FACE AN ELECTION CHALLENGER;
 14 AMENDING SECTIONS 3-1-1013 AND 3-1-1014, MCA; AND PROVIDING
 15 AN IMMEDIATE EFFECTIVE DATE."
 16
 17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

18 **Section 1.** Section 3-1-1013, MCA, is amended to read:
 19 "3-1-1013. Senate confirmation -- exception --
 20 nomination in the interim -- appointment contingent on
 21 vacancy. (1) (a) Each--nomination Except as provided in
 22 subsection (2):
 23 (i) each appointment must be confirmed as--an
 24 appointment by the senate;--but-a-nomination; and
 25 (ii) an appointment made while the senate is not in

1 session is effective as-an-appointment until the end of the
 2 next special or regular legislative session.
 3 (b) If the nomination appointment is subject to senate
 4 confirmation under subsection (1)(a) and is not confirmed,
 5 the office shall-be is vacant and another selection of
 6 nominees and nomination appointment shall must be made.
 7 (2) The following appointments are not subject to
 8 senate confirmation, and there must be an election for the
 9 office at the general election immediately preceding the
 10 scheduled expiration of the term or following the
 11 appointment, as applicable:
 12 (a) an appointment made while the senate is not in
 13 session if the term to which the appointee is appointed
 14 expires prior to the next legislative session, regardless of
 15 the time of the appointment in relation to the candidate
 16 filing deadlines for the office; and
 17 (b) an appointment made while the senate is not in
 18 session if a general election will be held prior to the next
 19 legislative session and the appointment is made prior to the
 20 candidate filing deadline for primary elections held
 21 pursuant to 13-1-107, in which case the position is subject
 22 to election at the next primary and general elections.
 23 (2)(3) No A nomination is not effective unless a
 24 vacancy in office occurs."

25 **Section 2.** Section 3-1-1014, MCA, is amended to read:

1 "3-1-1014. Duration of appointment -- election for
2 remainder of term. (1) An If an appointment subject to
3 3-1-1013(1) is confirmed by the senate, the appointee
4 confirmed--by--the--senate--serves shall serve until the next
5 succeeding appointee or another person elected at the first
6 general election after confirmation is elected and
7 qualified. The candidate elected at that election holds the
8 office for the remainder of the unexpired term.

9 (2) If an appointment is subject to 3-1-1013(2), the
10 appointee shall serve until the day before the first Monday
11 of January following the first general election after
12 appointment. The candidate elected at that election holds
13 the office for the full term to which elected or for the
14 remainder of the unexpired term, as applicable.

15 (3) If an incumbent judge or justice files for election
16 to the office to which the judge or justice was elected or
17 appointed and no other candidate files for election to that
18 office, the name of the incumbent must nevertheless be
19 placed on the general election ballot to allow voters of the
20 district or state to approve or reject the incumbent. If an
21 incumbent is rejected at an election for approval or
22 rejection, the incumbent shall serve until the day before
23 the first Monday of January following the election, at which
24 time the office is vacant and another selection and
25 appointment must be made."

1 NEW SECTION. Section 3. Effective date. [This act] is
2 effective on passage and approval.

-End-

APPROVED BY COMMITTEE
ON JUDICIARY

1 Senate BILL NO. 425
2 INTRODUCED BY Bob Brown, Dorothy G. Blaylock
3 BY REQUEST OF THE SECRETARY OF STATE Conrad Yellowtail
4
5 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING JUDICIAL
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7 AMENDMENTS; PROVIDING FOR SENATE CONFIRMATION OF
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2 remainder of term. (1) An If an appointment subject to
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10 appointee shall serve until the day before the first Monday
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BY REQUEST OF THE SECRETARY OF STATE

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(ii) an appointment made while the senate is not in session is effective as-an-appointment until the end of the next special or regular legislative session.

(b) If the nomination appointment is subject to senate confirmation under subsection (1)(a) and is not confirmed, the office ~~shall-be~~ is vacant and another selection of nominees and nomination appointment ~~shall~~ must be made.

(2) The following appointments are not subject to senate confirmation, and there must be an election for the office at the general election immediately preceding the scheduled expiration of the term or following the appointment, as applicable:

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(b) an appointment made while the senate is not in session if a general election will be held prior to the next legislative session and the appointment is made prior to the candidate filing deadline for primary elections held pursuant to 13-1-107, in which case the position is subject to election at the next primary and general elections.

~~(2)(3)~~ No A nomination is not effective unless a vacancy in office occurs."

Section 2. Section 3-1-1014, MCA, is amended to read:

"3-1-1014. Duration of appointment -- election for remainder of term. (1) An If an appointment subject to 3-1-1013(1) is confirmed by the senate, the appointee confirmed--by--the--senate--serves shall serve until the next succeeding appointee or another person elected at the first general election after confirmation is elected and qualified. The candidate elected at that election holds the office for the remainder of the unexpired term.

(2) If an appointment is subject to 3-1-1013(2), the appointee shall serve until the day before the first Monday of January following the first general election after appointment. The candidate elected at that election holds the office for the full term to which elected or for the remainder of the unexpired term, as applicable.

(3) If an incumbent judge or justice files for election to the office to which the judge or justice was elected or appointed and no other candidate files for election to that office, the name of the incumbent must nevertheless be placed on the general election ballot to allow voters of the district or state to approve or reject the incumbent. If an incumbent is rejected at an election for approval or rejection, the incumbent shall serve until the day before the first Monday of January following the election, at which time the office is vacant and another selection and

appointment must be made."

NEW SECTION. Section 3. Effective date. [This act] is effective on passage and approval.

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