

HOUSE BILL NO. 79

INTRODUCED BY T. BERRY

BY REQUEST OF THE STATE AUDITOR

A BILL FOR AN ACT ENTITLED: "AN ACT SUBMITTING TO THE QUALIFIED ELECTORS OF MONTANA AN AMENDMENT TO ARTICLE IV, SECTION 8, ARTICLE VI, SECTIONS 1, 2, 3, 4, 6, AND 7, AND ARTICLE X, SECTION 4, OF THE MONTANA CONSTITUTION TO CHANGE THE NAME OF THE STATE AUDITOR TO THE COMMISSIONER OF SECURITIES AND INSURANCE."

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

Section 1. Article IV, section 8, of The Constitution of the State of Montana is amended to read:

"Section 8. Limitation on terms of office. (1) The secretary of state or other authorized official shall not certify a candidate's nomination or election to, or print or cause to be printed on any ballot the name of a candidate for, one of the following offices if, at the end of the current term of that office, the candidate will have served in that office or had he not resigned or been recalled would have served in that office:

(a) 8 or more years in any 16-year period as governor, lieutenant governor, secretary of state, ~~state auditor~~ commissioner of securities and insurance, attorney general, or superintendent of public instruction;

(b) 8 or more years in any 16-year period as a state representative;

(c) 8 or more years in any 16-year period as a state senator;

(d) 6 or more years in any 12-year period as a member of the U.S. house of representatives; and

(e) 12 or more years in any 24-year period as a member of the U.S. senate.

(2) When computing time served for purposes of subsection (1), the provisions of subsection (1) do not apply to time served in terms that end during or prior to January 1993.

(3) Nothing contained herein shall preclude an otherwise qualified candidate from being certified as nominated or elected by virtue of write-in votes cast for said candidate."

Section 2. Article VI, section 1, of The Constitution of the State of Montana is amended to read:

"Section 1. Officers. (1) The executive branch includes a governor, lieutenant governor, secretary of state, attorney general, superintendent of public instruction, and ~~auditor~~ commissioner of securities and



1 insurance.

2 (2) Each holds office for a term of four years which begins on the first Monday of January next
3 succeeding election, and until a successor is elected and qualified.

4 (3) Each shall reside at the seat of government, there keep the public records of his office, and perform
5 such other duties as are provided in this constitution and by law."

6

7 **Section 3.** Article VI, section 2, of The Constitution of the State of Montana is amended to read:

8 **"Section 2. Election.** (1) The governor, lieutenant governor, secretary of state, attorney general,
9 superintendent of public instruction, and ~~auditor~~ commissioner of securities and insurance shall be elected by the
10 qualified electors at a general election provided by law.

11 (2) Each candidate for governor shall file jointly with a candidate for lieutenant governor in primary
12 elections, or so otherwise comply with nomination procedures provided by law that the offices of governor and
13 lieutenant governor are voted upon together in primary and general elections."

14

15 **Section 4.** Article VI, section 3, of The Constitution of the State of Montana is amended to read:

16 **"Section 3. Qualifications.** (1) No person shall be eligible to the office of governor, lieutenant governor,
17 secretary of state, attorney general, superintendent of public instruction, or ~~auditor~~ commissioner of securities
18 and insurance unless he is 25 years of age or older at the time of his election. In addition, each shall be a citizen
19 of the United States who has resided within the state two years next preceding his election.

20 (2) Any person with the foregoing qualifications is eligible to the office of attorney general if an attorney
21 in good standing admitted to practice law in Montana who has engaged in the active practice thereof for at least
22 five years before election.

23 (3) The superintendent of public instruction shall have such educational qualifications as are provided
24 by law."

25

26 **Section 5.** Article VI, section 4, of The Constitution of the State of Montana is amended to read:

27 **"Section 4. Duties.** (1) The executive power is vested in the governor who shall see that the laws are
28 faithfully executed. He shall have such other duties as are provided in this constitution and by law.

29 (2) The lieutenant governor shall perform the duties provided by law and those delegated to him by the
30 governor. No power specifically vested in the governor by this constitution may be delegated to the lieutenant

1 governor.

2 (3) The secretary of state shall maintain official records of the executive branch and of the acts of the
3 legislature, as provided by law. He shall keep the great seal of the state of Montana and perform any other duties
4 provided by law.

5 (4) The attorney general is the legal officer of the state and shall have the duties and powers provided
6 by law.

7 (5) The superintendent of public instruction and the ~~auditor~~ commissioner of securities and insurance
8 shall have such duties as are provided by law."
9

10 **Section 6.** Article VI, section 6, of The Constitution of the State of Montana is amended to read:

11 **"Section 6. Vacancy in office.** (1) If the office of lieutenant governor becomes vacant by his succession
12 to the office of governor, or by his death, resignation, or disability as determined by law, the governor shall appoint
13 a qualified person to serve in that office for the remainder of the term. If both the elected governor and the elected
14 lieutenant governor become unable to serve in the office of governor, succession to the respective offices shall
15 be as provided by law for the period until the next general election. Then, a governor and lieutenant governor
16 shall be elected to fill the remainder of the original term.

17 (2) If the office of secretary of state, attorney general, ~~auditor~~ commissioner of securities and insurance,
18 or superintendent of public instruction becomes vacant by death, resignation, or disability as determined by law,
19 the governor shall appoint a qualified person to serve in that office until the next general election and until a
20 successor is elected and qualified. The person elected to fill a vacancy shall hold the office until the expiration
21 of the term for which his predecessor was elected."
22

23 **Section 7.** Article VI, section 7, of The Constitution of the State of Montana is amended to read:

24 **"Section 7. 20 departments.** All executive and administrative offices, boards, bureaus, commissions,
25 agencies and instrumentalities of the executive branch (except for the office of governor, lieutenant governor,
26 secretary of state, attorney general, superintendent of public instruction, and ~~auditor~~ commissioner of securities
27 and insurance) and their respective functions, powers, and duties, shall be allocated by law among not more than
28 20 principal departments so as to provide an orderly arrangement in the administrative organization of state
29 government. Temporary commissions may be established by law and need not be allocated within a department."
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