



Montana Legislative Services Division
Legal Services Office

January 23, 2012

To: Susan Fox

Fr: Todd Everts

Re: Jurisdictional Authority over Actions and Activities of the Commissioner of Political Practices

Per your request, this memorandum addresses the following question:

Question: What entities have jurisdictional authority over the actions and activities of the Commissioner of Political Practices?

Short Answer: There are several entities that may have jurisdiction with respect to the Commissioner of Political Practices that are summarized as follows:

Legislature -

The Legislature may impeach the Commissioner pursuant to 13-37-105 and Title 5, chapter 5, part 4, MCA. If the Commissioner was appointed by the Governor outside the Legislative Session, the Legislature may, during the next regular session or via the convening of a special session, confirm or not confirm the Commissioner (13-37-102). The Legislature's State Administration and Veterans' Affairs Interim Committee has statutory administrative rule review, draft legislation review, program evaluation, monitoring, and policy development functions for the Commissioner of Political Practices (5-5-215 and 5-5-228). Pursuant to statutory auditing functions, the Legislative Auditor may report public offenses of a state agency to the Attorney General for prosecution (5-13-310).

Governor -

Subject to Senate confirmation, the Governor appoints the Commissioner of Political Practices (13-37-102(1)). The individual selected to serve as the Commissioner of Political Practices may be removed by the Governor for incompetence, malfeasance, or neglect of duty. (13-37-102(2)).

Attorney General -

Pursuant to statutory auditing functions, the Legislative Auditor may report public offenses of a state agency to the Attorney General for prosecution (5-13-310). When required by the public service or directed by the Governor, the Attorney General assists in

the discharge of the county attorney's duties (2-15-501(6)).

County Attorney -

The Commissioner of Political Practices may be prosecuted by the appropriate county attorney for official misconduct as specified in 45-7-401 (13-37-105).

Commission on Practice of the Montana Supreme Court -

If the individual selected as Commissioner of Political Practices is also an attorney, that individual is subject to the jurisdiction of the Commission on Practice of the Montana Supreme Court with regard to a violation of the Rules of Professional Conduct, the disciplinary rules adopted by the Montana Supreme Court, or the provisions of Title 37, chapter 61, parts 3 and 4.

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