

\*\*\*\* Bill No. \*\*\*\*

Introduced By \*\*\*\*\*

By Request of the \*\*\*\*\*

A Bill for an Act entitled: "An Act REVISE APPOINTMENT OF BOARD OF PARDONS AND PAROLE MEMBERS FOR DISCUSSION AT THE JULY 16, 2018, MEETING OF THE LAW AND JUSTICE INTERIM COMMITTEE; amending Section 19, Chapter 392, Laws of 2017; amending sections 2-15-124, and 2-15-2305, MCA."

Be it enacted by the Legislature of the State of Montana:

**Section 1.** Section 2-15-124 , MCA, is amended to read:

**"2-15-124. Quasi-judicial boards.** If an agency is designated by law as a quasi-judicial board for the purposes of this section, the following requirements apply:

(1) The number of and qualifications of its members are as prescribed by law. In addition to those qualifications, unless otherwise provided by law, at least one member must be an attorney licensed to practice law in this state.

(2) (a) The Except as provided in subsection (2)(b), the governor shall appoint the members. A majority of the members must be appointed to serve for terms concurrent with the gubernatorial term and until their successors are appointed. The remaining members must be appointed to serve for terms ending on the first day of the third January of the succeeding gubernatorial term and until their

successors are appointed. It is the intent of this subsection (2)(a) that the governor appoint a majority of the members of each quasi-judicial board at the beginning of the governor's term and the remaining members in the middle of the governor's term. As used in this subsection (2)(a), "majority" means the next whole number greater than half.

(b) The provisions of subsection (2)(a) do not apply to the appointment of members of the board of pardons and parole established in 2-15-2305.

(3) (a) The appointment of each member is subject to the confirmation of the senate then meeting in regular session or next meeting in regular session following the appointment. A member so appointed has all the powers of the office upon assuming that office and is a de jure officer, notwithstanding the fact that the senate has not yet confirmed the appointment. ~~If~~ Except as provided in subsection (3)(b), if the senate does not confirm the appointment of a member, the governor shall appoint a new member to serve for the remainder the term.

(b) If the senate does not confirm the appointment of a member appointed by the president of the senate or the speaker of the house as required in 2-15-2305, the original appointing authority shall appoint a new member to serve for the remainder of the term.

(4) A vacancy must be filled in the same manner as regular appointments, and the member appointed to fill a vacancy shall serve for the unexpired term to which the member is appointed.

(5) The governor shall designate the presiding officer. The

presiding officer may make and second motions and vote.

(6) (a) ~~Members~~ Except as provided in subsection (6)(b), members may be removed by the governor only for cause.

(b) A member appointed by the president of the senate or the speaker of the house as required in 2-15-2305 may be removed by the appointing authority only for cause.

(7) Unless otherwise provided by law, each member is entitled to be paid \$50 for each day in which the member is actually and necessarily engaged in the performance of board duties and is also entitled to be reimbursed for travel expenses, as provided for in 2-18-501 through 2-18-503, incurred while in the performance of board duties. Members who are full-time salaried officers or employees of this state or of a political subdivision of this state are not entitled to be compensated for their service as members except when they perform their board duties outside their regular working hours or during time charged against their leave, but those members are entitled to be reimbursed for travel expenses as provided for in 2-18-501 through 2-18-503. Ex officio board members may not receive compensation but must receive travel expenses.

(8) A majority of the membership constitutes a quorum to do business. A favorable vote of at least a majority of all members of a board is required to adopt any resolution, motion, or other decision, unless otherwise provided by law."

{Internal References to 2-15-124:

2-15-1009	2-15-1019	2-15-1021	2-15-1512
2-15-1515	2-15-1704	2-15-1704	2-15-1704
2-15-1705	2-15-1706	2-15-1706	2-15-1808
2-15-1808	2-15-1808	2-15-1814	2-15-1814
2-15-1815	2-15-1815	2-15-1819	2-15-1821

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2-15-1822	2-15-2029	2-15-2203	2-15-2203
2-15-2305	2-15-2305	2-15-2305	2-15-2305
2-15-2306	2-15-2502	2-15-2502	2-15-2506
2-15-3102	2-15-3105	2-15-3110	2-15-3110
2-15-3110	2-15-3110	2-15-3303	2-15-3402
2-15-3402	2-15-3406	2-15-3406	2-15-3502
19-2-402	20-2-113	20-25-901	22-1-101
22-2-103	22-3-105	44-4-402	53-25-105
90-1-405	90-6-204		

**Section 2.** Section 2-15-2305 , MCA, is amended to read:

**"2-15-2305. Montana board of pardons and parole -- composition and qualifications -- allocation -- quasi-judicial.** (1) There is a board of pardons and parole consisting of five members. Three board members are appointed by the governor, one is appointed by the president of the senate, and one is appointed by the speaker of the house.

(2) Board members must possess at least one of the following qualifications:

(a) a college degree in criminology, corrections, or a related social science;

(b) at least 5 years of extensive work experience in corrections, the criminal justice system, or criminal law; or

(c) a law degree.

(3) Consideration should be given to balancing members' expertise or knowledge of:

(a) American Indian culture;

(b) serious mental illness and recovery from serious mental illness; and

(c) victim awareness.

(4) Board members shall serve staggered 6-year terms. The terms of board members run with the position, ~~and if a vacancy occurs, the governor shall appoint a person to fill the unexpired portion of the term.~~ A vacancy on the board must be filled in the same manner as the original appointment and only for the unexpired portion of the term.

(5) The governor shall designate the presiding officer, as provided in 2-15-124. The governor may designate a different presiding officer at any time. If the governor designates a different presiding officer, the former presiding officer still serves as a board member unless removed for cause pursuant to 2-15-124(6).

(6) The board is allocated to the department of corrections for administrative purposes only as prescribed in 2-15-121. However, the board may hire its own personnel, and 2-15-121(2)(d) does not apply.

(7) The board is designated as a quasi-judicial board for purposes of 2-15-124, except that board members must be compensated as provided in 46-23-111, the terms of board members must be staggered as provided in subsection (4), ~~and~~ the provisions of 2-15-124(1) do not apply to the board, and the president of the senate and the speaker of the house each appoint one board member.

(8) A favorable vote of a majority of the members of the board is required to implement a policy, procedure, or administrative rule. A favorable vote of the majority of the members of a hearing panel, as defined in 46-23-103, is required to make decisions regarding parole and executive clemency."

{*Internal References to 2-15-2305:*

46-23-103 46-23-1001}

**Section 3.** Section 19, Chapter 392, Laws of 2017, is amended to read:

**Section 19. Transition.** (1) The seven-member board of pardons and parole, established in 2-15-2302, must become the five-member board of pardons and parole, established in [section 1], on [the effective date of this section].

(2) Within 60 days of [the effective date of this section], the governor shall appoint five full-time board members who fulfill the requirements of [section 1] and according to the following schedule:

(a) one member who shall serve a term that ends on the first day of January 2023 and until the member's successor is appointed;

(b) two members who shall each serve a term that ends on the first day of January 2021 and until the member's successor is appointed; and

(c) two members who shall each serve a term that ends on the first day of January 2019 and until the member's successor is appointed.

(3) The governor may appoint an individual who previously served as a board member before [the effective date of this section] to a term provided for in subsection (2) or (4).

(4) After the expiration of a term provided for in subsection (2)(a) or (2)(c), the governor shall appoint a person to serve a full 6-year term as provided in [section 1]. After the expiration of a term provided for in subsection (2)(b), the president of the senate and the speaker of the house will each appoint one member to serve a full 6-year term. If a vacancy occurs in one of the positions appointed

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pursuant to subsection (2)(b) before January 2021, the president of the senate shall appoint an individual to serve the remainder of the term. If a second vacancy occurs, the speaker of the house shall appoint an individual to serve the remainder of the term. A member who previously served an abbreviated term may be reappointed for a full 6-year term.

(5) As required by 2-15-124, all board members, including the members appointed pursuant to subsection (2) of this section, must be confirmed by the senate.

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{Name : Rachel J. Weiss  
Title : Research Analyst  
Agency : Legislative Services Division  
Phone : 406-444-5367  
E-Mail : rweiss@mt.gov}