HOUSE BILL NO. 314

INTRODUCED BY T. BROCKMAN

A BILL FOR AN ACT ENTITLED: "AN ACT INCREASING THE DAILY RATE OF COMPENSATION FOR BOARDS, COMMISSIONS, AND COUNCILS; STANDARDIZING COMPENSATION RATES FOR BOARDS, COMMISSIONS, AND COUNCILS; REMOVING DISCRETIONARY ADJUSTMENT OF COMPENSATION BASED ON THE PERSONAL CONSUMPTION EXPENDITURES PRICE INDEX; AMENDING SECTIONS 2-15-122, 2-15-124, 5-2-301, 19-20-202, 23-7-201, 37-43-201, 53-19-304, AND 87-1-251, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

Section 1. Section 2-15-122, MCA, is amended to read:

"**2-15-122. Creation of advisory councils.** (1) (a) A department head or the governor may create advisory councils.

(b) An agency or an official of the executive branch of state government other than a department head or the governor, including the superintendents of the state's institutions and the presidents of the units of the state's university system, may also create advisory councils but only if federal law or regulation requires that the official or agency create the advisory council as a condition to the receipt of federal funds.

(c) The board of public education, the board of regents of higher education, the state board of education, the attorney general, the state auditor, the secretary of state, and the superintendent of public instruction may create advisory councils, which shall serve at their pleasure, without the approval of the governor. The creating authority shall file a record of each council created by it in the office of the governor and the office of the secretary of state in accordance with subsection (9).

(2) Each advisory council created under this section must be known as the ".... advisory council".

(3) The creating authority shall:

(a) prescribe the composition and advisory functions of each advisory council created;

(b) appoint its members, who shall serve at the pleasure of the creating authority; and

(c) specify a date when the existence of each advisory council ends.

(4) Advisory councils may be created only for the purpose of acting in an advisory capacity, as defined in 2-15-102.

(5) (a) Unless an advisory council member is a full-time salaried officer or employee of this state or of any political subdivision of this state, the member is entitled to be paid in an amount to be determined by the department head, not to exceed ~~$50~~ $100 for each day in which the member is actually and necessarily engaged in the performance of council duties and to be reimbursed for travel expenses, as provided for in 2-18-501 through 2-18-503, incurred while in the performance of council duties. ~~The maximum daily pay rate must be adjusted for inflation annually by multiplying the base income of $50 by the ratio of the PCE for the second quarter of the previous year to the PCE for the second quarter of 1995 and rounding the product to the nearest whole dollar amount.~~

(b) Members who are full-time salaried officers or employees of this state or of any political subdivision of this state are not entitled to be compensated for their service as members but are entitled to be reimbursed for travel expenses, as provided for in 2-18-501 through 2-18-503.

(6) Unless otherwise specified by the creating authority, at its first meeting in each year, an advisory council shall elect a presiding officer and other officers that it considers necessary.

(7) Unless otherwise specified by the creating authority, an advisory council shall meet at least annually and shall also meet on the call of the creating authority or the governor and may meet at other times on the call of the presiding officer or a majority of its members. An advisory council may not meet outside the city of Helena without the express prior authorization of the creating authority.

(8) A majority of the membership of an advisory council constitutes a quorum to do business.

(9) Except as provided in subsection (1)(c), an advisory council may not be created or appointed by a department head or any other official without the approval of the governor. In order for the creation or approval of the creation of an advisory council to be effective, the governor shall file in the governor's office and in the office of the secretary of state a record of the council created showing:

(a) the council's name, in accordance with subsection (2);

(b) the council's composition;

(c) the appointed members, including names and addresses;

(d) the council's purpose; and

(e) the council's term of existence, in accordance with subsection (10).

(10) An advisory council may not be created to remain in existence longer than 2 years after the date of its creation or beyond the period required to receive federal or private funds, whichever occurs later, unless extended by the appointing authority in the manner set forth in subsection (1). If the existence of an advisory council is extended, the appointing authority shall specify a new date, not more than 2 years later, when the existence of the advisory council ends and file a record of the order in the office of the governor and the office of the secretary of state. The existence of any advisory council may be extended as many times as necessary.

~~(11) For the purposes of this section, "PCE" means the implicit price deflator for personal consumption expenditures as published quarterly in the survey of current business by the bureau of economic analysis of the U.S. department of commerce.~~"

Section 2. 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) 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 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, "majority" means the next whole number greater than half.

(3) 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 the senate does not confirm the appointment of a member, the governor 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) Members may be removed by the governor only for cause.

(7) Unless otherwise provided by law, each member is entitled to be paid ~~$50~~ $100 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."

Section 3. Section 5-2-301, MCA, is amended to read:

"**5-2-301. Compensation and expenses for members while in session.** (1) Legislators are entitled to a salary commensurate to that of the daily rate for an employee earning $10.33 an hour when the regular session of the legislature in which they serve is convened under 5-2-103 for those days during which the legislature is in session. The hourly rate must be adjusted by any statutorily required pay increase. The president of the senate and the speaker of the house must receive an additional $5 a day in salary for those days during which the legislature is in session.

(2) Legislators may serve for no salary.

(3) Subject to subsection (4), legislators are entitled to a daily allowance, 7 days a week, during a legislative session, as reimbursement for expenses incurred in attending a session. Expense payments must stop when the legislature recesses for more than 3 days and resume when the legislature reconvenes.

(4) (a) After November 15, and prior to December 15 of each even-numbered year, the department of administration shall conduct a survey of the allowance for daily expenses of legislators for the states of North Dakota, South Dakota, Wyoming, and Idaho. The department shall include the average daily expense allowance for Montana legislators in determining the average daily rate for legislators. The department shall include only states with specific daily allowances in the calculation of the average. If the average daily rate is greater than the daily rate for legislators in Montana, legislators are entitled to a new daily rate for those days during which the legislature is in session. The new daily rate is the daily rate for the prior legislative session, increased by the percentage rate increase as determined by the survey, a cost-of-living increase to reflect inflation that is calculated pursuant to ~~2-15-122(5)(a),~~ subsection (4)(b), or 5%, whichever is less. The expense allowance is effective when the next regular session of the legislature in which the legislators serve is convened under 5-2-103.

(b) Inflation is calculated by multiplying the current daily rate by the ratio of the PCE for the second quarter of the previous year to the PCE for the second quarter of 1995 and rounding the product to the nearest whole dollar amount.

(5) Legislators are entitled to a mileage allowance as provided in 2-18-503 for each mile of travel to the place of the holding of the session and to return to their place of residence at the conclusion of the session.

(6) In addition to the mileage allowance provided for in subsection (5), legislators, upon submittal of an appropriate claim for mileage reimbursement to the legislative services division, are entitled to:

(a) three additional round trips to their place of residence during each regular session; and

(b) additional round trips as authorized by the legislature during special session.

(7) Legislators are not entitled to any additional mileage allowance under subsection (5) for a special session if it is convened within 7 days of a regular session.

(8) The department of administration shall work with the legislative services division to offer options to legislators to receive their session salary provided for in subsection (1) over the 2-year legislative

term or a portion of the term. The options must be offered to all legislators in order to assist legislators to manage their income over the term. The per diem allowance and mileage as provided in this section, salary during a special session as provided in 5-3-101, and the salary during the interim as provided for in 5-2-302 may not be affected."

(9) For the purposes of this section, "PCE" means the implicit price deflator for personal consumption expenditures as published quarterly in the survey of current business by the bureau of economic analysis of the U.S. department of commerce.

Section 4. Section 19-20-202, MCA, is amended to read:

"**19-20-202. Per diem and expenses of board members.** The members of the retirement board shall serve without direct or indirect compensation except that each appointed member shall receive ~~$50 per day~~ compensation as provided in 2-15-122 and travel expenses~~,~~ as provided ~~for~~ in 2-18-501 through 2-18-503~~,~~ for each day in attendance at the meetings of the board or in the execution of duties as a member of the retirement board. All per diem and expenses paid under the provisions of this section must be paid from the expense account of the retirement system."

Section 5. Section 23-7-201, MCA, is amended to read:

"**23-7-201. State lottery and sports wagering commission -- allocation -- composition -- compensation -- quorum.** (1) There is a state lottery and sports wagering commission.

(2) The commission consists of five members, who shall reside in Montana, appointed by the governor.

(3) At least one commissioner must have 5 years of experience as a law enforcement officer. At least one commissioner must be an attorney admitted to the practice of law in Montana. At least one commissioner must be a certified public accountant licensed in Montana.

(4) After initial appointments, each commissioner must be appointed to a 4-year term of office, and the terms must be staggered.

(5) A commissioner may be removed by the governor for good cause. An office that for any reason becomes vacant must be filled within 30 days by the governor, and the commissioner filling the vacancy shall

serve for the rest of the unexpired term.

(6) The commission shall elect one of its members as presiding officer.

(7) Three or more commissioners constitute a quorum to do business, and action may be taken by a majority of a quorum.

(8) Commissioners are entitled to compensation, to be paid out of the state lottery fund, ~~at the rate of $50~~ as provided in 2-15-122 for each day in which they are engaged in the performance of their duties and are entitled to travel, meals, and lodging expenses, to be paid out of the state lottery fund, as provided for in Title 2, chapter 18, part 5.

(9) The commission is allocated to the department of administration for administrative purposes only as prescribed in 2-15-121."

Section 6. Section 37-43-201, MCA, is amended to read:

"**37-43-201. Organization -- seal -- compensation of members.** (1) The board shall annually elect a presiding officer and vice presiding officer.

(2) The board must have a seal with the words "Board of Water Well Contractors" engraved on the seal, and the seal must be affixed to all writs, authentication of records, and other official proceedings of the board. The courts of this state shall take judicial notice of the seal.

(3) Each appointed member of the board who is not a government employee must receive as compensation for the member's services ~~$50 a day~~ an amount as provided in 2-15-122 for each day actually engaged in the performance of the duties of the office, including time of travel between the member's home and the places at which the member performs duties, together with mileage and per diem expenses as provided for in 2-18-501 through 2-18-503. The members who are employees of the state of Montana may not receive extra compensation for their services as members of the board."

Section 7. Section 53-19-304, MCA, is amended to read:

"**53-19-304. Officers -- meetings -- quorum -- compensation.** (1) The committee shall choose a presiding officer from its members.

(2) The committee shall meet at least four times a year and at other times as determined by the

presiding officer or by a majority of the committee.

(3) Seven members of the committee constitute a quorum for the transaction of business.

(4) All members of the committee are entitled to reimbursement of expenses as provided in 2-18-501 through 2-18-503. Members of the committee who are not state employees are also entitled to receive compensation ~~of $50~~ as provided in 2-15-122 for each day that they are engaged in official business of the committee."

Section 8. Section 87-1-251, MCA, is amended to read:

"**87-1-251. Upland game bird enhancement program -- advisory council.** (1) There is an upland game bird citizens' advisory council consisting of 12 members appointed by the director and serving staggered 4-year terms. The 12 members must include a public member representing each of the department's administrative regions. Council membership must include:

(a) an upland game bird hunter;

(b) a local chamber of commerce representative;

(c) a conservationist;

(d) an upland game bird biologist;

(e) at least two landowners, one of whom must be enrolled in the block management program; and

(f) a senator and a representative from different political parties.

(2) The council shall meet at least once each year but not more than once each month as necessary to:

(a) advise the department on the development and maintenance of a 10-year strategic plan that at a minimum:

(i) defines quantifiable goals, objectives, and performance measurements for the upland game bird enhancement program based on need by administrative region, taking into consideration any biological, recreational, or economic benefit, including the prioritization of at-risk upland game bird species and their associated habitats;

(ii) establishes regional and statewide priorities for the development of upland game bird habitat based on land management needs, sustaining upland game bird populations, and landowner input;

(iii) prioritizes resource allocation, including funding and personnel, in accordance with objectives and goals established pursuant to this subsection (2)(a);

(iv) promotes landowner outreach and relations with both private and public landowners;

(v) provides for the ongoing monitoring of, access to, and signage for upland game bird enhancement projects, as well as the renewal or replacement of expiring projects; and

(vi) develops strategies to ensure the effective release of upland game birds and use of funding for upland game bird releases; and

(b) provide ongoing monitoring of upland game bird enhancement program activities, including but not limited to receipt from the department of an annual:

(i) activity report to evaluate whether objectives, goals, and performance measurements established pursuant to subsection (2)(a) are being met or are expected to be met;

(ii) financial report, providing a summary of revenue and expenditures for the upland game bird enhancement program and any unreserved balance remaining at the end of the fiscal year from fees collected pursuant to 87-1-246; and

(iii) report reviewing whether upland game bird enhancement project contracts are in compliance with 87-1-248 and rules adopted pursuant to 87-1-249.

(3) The council may recommend rules for adoption by the department.

(4) Each member of the council is entitled to receive ~~$50 in~~ compensation as provided in 2-15-122 and travel expenses~~,~~ as provided ~~for~~ in 2-18-501 through 2-18-503~~,~~ for each day spent on official council business. Council members who conduct official council business in their city of residence are entitled to receive a midday meal allowance as provided ~~for~~ in 2-18-502.

(5) The department shall provide administrative support as necessary to assist the advisory council in its duties pursuant to this section."

NEW SECTION. **Section 9. Effective date.** [This act] is effective July 1, 2023.

- END -