

## SENATE BILL NO. 332

INTRODUCED BY W. CURDY, J. ELLIS, D. FERN, L. SMITH, E. BOLDMAN, J. COHENOUR, S. MORIGEAU,  
M. MARLER

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING APPOINTMENT OF THE CLERK OF THE SUPREME COURT; PROVIDING THAT A MAJORITY OF THE SUPREME COURT JUSTICES APPOINT THE CLERK OF THE SUPREME COURT; PROVIDING THAT THE CLERK OF THE SUPREME COURT SERVES AT THE PLEASURE OF THE COURT; ELIMINATING THE ABILITY OF THE CLERK OF THE SUPREME COURT TO APPOINT A DEPUTY CLERK; AMENDING SECTIONS 2-16-111, 2-16-405, 2-16-505, 3-2-401, 13-12-207, AND 13-16-504, MCA; REPEALING SECTION 3-2-406, MCA; AND PROVIDING EFFECTIVE DATES AND AN APPLICABILITY DATE."

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

**Section 1.** Section 2-16-111, MCA, is amended to read:

**"2-16-111. Residence of officers.** (1) The following officers ~~must~~shall reside and keep their offices at the seat of government: the governor, secretary of state, state auditor, attorney general, superintendent of public instruction, and justices of the supreme court, ~~and clerk of the supreme court.~~

(2) Restrictions ~~upon~~on the residence of other officers are contained in the chapter or part relating to the respective officers."

**Section 2.** Section 2-16-405, MCA, is amended to read:

**"2-16-405. Salaries of certain elected state officials.** (1) The salaries paid to the following elected officials are determined as provided in subsection (2):

- (a) governor;
- (b) lieutenant governor;
- (c) attorney general;
- (d) state auditor;

- 1 (e) superintendent of public instruction;  
2 (f) public service commission presiding officer;  
3 (g) public service commissioners, other than presiding officer;  
4 (h) secretary of state;  
5 (i) ~~clerk of the supreme court.~~

6 (2) Before June 30 of each even-numbered year, the department of administration shall conduct a  
7 salary survey of executive branch officials with similar titles to the Montana officials listed in subsection (1) for  
8 the states of North Dakota, South Dakota, Wyoming, and Idaho. The department shall include the salary for the  
9 Montana official in determining the average salary for the officials with similar titles. If the average salary is  
10 greater than the salary for the official in Montana, then beginning July 1 of the year following the year in which  
11 the survey is conducted, the average salary is the new salary for the official."  
12

13 **Section 3.** Section 2-16-505, MCA, is amended to read:

14 **"2-16-505. Filling vacancies in certain elective offices.** A vacancy in the office of the secretary of  
15 state, state auditor, attorney general, ~~clerk of the supreme court,~~ or superintendent of public instruction must be  
16 filled by a person appointed by the governor. The appointee holds office until the first Monday in January after  
17 the next general election. At that election, the office must be filled by election for the unexpired term."  
18

19 **Section 4.** Section 3-2-401, MCA, is amended to read:

20 **"3-2-401. ~~Election and term of office~~ Office of clerk of supreme court -- appointment and term**  
21 **of office.** (1) ~~There must be~~ is a clerk of the supreme court who must be ~~elected by the electors at large of the~~  
22 ~~state and hold office for the term of 6 years from the first Monday of January following the clerk's~~  
23 ~~election~~ appointed by a majority vote of the supreme court justices.

24 (2) The clerk of the supreme court holds the position at the pleasure of the court."  
25

26 **Section 5.** Section 13-12-207, MCA, is amended to read:

27 **"13-12-207. Order of placement.** (1) The order on the ballot for state and federal offices must be as  
28 follows:

1 (a) If the election is in a year in which a president of the United States is to be elected, in spaces  
2 separated from the balance of the party tickets by a line must be the names and spaces for voting for  
3 candidates for president and vice president. The names of candidates for president and vice president for each  
4 political party must be grouped together.

5 (b) United States senator;

6 (c) United States representative;

7 (d) governor and lieutenant governor;

8 (e) secretary of state;

9 (f) attorney general;

10 (g) state auditor;

11 (h) state superintendent of public instruction;

12 (i) public service commissioners;

13 (j) ~~clerk of the supreme court;~~

14 ~~(k)~~(j) chief justice of the supreme court;

15 ~~(l)~~(k) justices of the supreme court;

16 ~~(m)~~(l) district court judges;

17 ~~(n)~~(m) state senators;

18 ~~(o)~~(n) members of the Montana house of representatives.

19 (2) The following order of placement must be observed for county offices:

20 (a) clerk of the district court;

21 (b) county commissioner;

22 (c) county clerk and recorder;

23 (d) sheriff;

24 (e) coroner;

25 (f) county attorney;

26 (g) county superintendent of schools;

27 (h) county auditor;

28 (i) public administrator;

- 1 (j) county assessor;  
2 (k) county treasurer;  
3 (l) surveyor;  
4 (m) justice of the peace.

5 (3) The secretary of state shall designate the order for placement on the ballot of any offices not  
6 on the above lists, except that the election administrator shall designate the order of placement for municipal,  
7 charter, or consolidated local government offices and district offices when the district is part of only one county.

8 (4) Constitutional amendments must be placed before statewide referendum and initiative  
9 measures. Ballot issues for a county, municipality, school district, or other political subdivision must follow  
10 statewide measures in the order designated by the election administrator.

11 (5) If any offices are not to be elected they may not be listed, but the order of the offices to be filled  
12 must be maintained.

13 (6) If there is a short-term and a long-term election for the same office, the long-term office must  
14 precede the short-term."

15

16 **Section 6.** Section 13-16-504, MCA, is amended to read:

17 **"13-16-504. Tie vote in election for state executive officers.** If there is a tie vote for governor and  
18 lieutenant governor, secretary of state, attorney general, state auditor, ~~clerk of the supreme court,~~  
19 superintendent of public instruction, or any other state executive officer, the secretary of state shall transmit a  
20 certified copy of the statement to the legislature showing the votes cast for the two or more candidates having  
21 an equal and the highest number of votes. The legislature, at its next regular session, shall elect one of these  
22 candidates to fill the office by joint ballot of the two houses."

23

24 NEW SECTION. **Section 7. Repealer.** The following section of the Montana Code Annotated is  
25 repealed:

26 3-2-406. Deputy clerk.

27

28 NEW SECTION. **Section 8. Saving clause.** [This act] does not affect rights and duties that matured,

1 penalties that were incurred, or proceedings that were begun before [the effective date of this section].

2

3 NEW SECTION. Section 9. Effective dates. (1) Except as provided in subsection (2), [this act] is

4 effective January 1, 2031.

5 (2) [Sections 1 through 4 and 7] are effective January 6, 2031.

6

7 NEW SECTION. Section 10. Applicability. [This act] applies to vacancies in the office of the clerk of

8 the supreme court after the current officeholder's term ends on January 6, 2031.

9 - END -