

HOUSE BILL NO. 893

INTRODUCED BY E. STAFMAN

A BILL FOR AN ACT ENTITLED: "AN ACT CREATING THE OFFICE OF THE PUBLIC RECORDS OMBUDSMAN; REQUIRING THE PUBLIC RECORDS OMBUDSMAN TO PROVIDE PUBLIC RECORDS FACILITATED DISPUTE RESOLUTION SERVICES; PROVIDING THAT FACILITATED DISPUTE RESOLUTION RECORDS ARE CONFIDENTIAL; REQUIRING THE PUBLIC RECORDS OMBUDSMAN TO PROVIDE TRAINING TO PUBLIC EMPLOYEES; CREATING THE PUBLIC RECORDS ADVISORY COUNCIL; PROVIDING A PROCESS FOR THE SELECTION OF THE PUBLIC RECORDS OMBUDSMAN; PROVIDING DUTIES FOR THE PUBLIC RECORDS ADVISORY COUNCIL; ESTABLISHING REPORTING REQUIREMENTS; PROVIDING AN APPROPRIATION; AND PROVIDING AN EFFECTIVE DATE."

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

NEW SECTION. Section 1. Public records ombudsman. (1) There is an office of the public records ombudsman. The office is allocated to the department of administration for administrative purposes only as provided in 2-15-121.

(2) The public records ombudsman must be appointed by the governor from a list of three qualified individuals nominated by the public records advisory council under [section 6]. The appointed ombudsman is subject to confirmation by the senate.

(3) The public records ombudsman must be a member in good standing of the state bar of Montana.

(4) The public records ombudsman shall serve for a term of 4 years, except that the ombudsman may be removed for cause by the governor or by motion of the public records advisory council with the consent of the governor.

(5) The public records ombudsman may be reappointed to consecutive terms.

NEW SECTION. Section 2. Facilitated dispute resolution services. (1) (a) The public records

ombudsman is exempt from disclosure under any exemption in Title 2, chapter 6, that may be asserted by an executive branch agency or local government.

NEW SECTION. Section 4. Public information training. (1) The public records ombudsman shall provide training to executive branch agencies and local governments on the requirements and best practices for processing and responding to public information requests.

(2) In developing, selecting, and providing training materials, the public records ombudsman shall coordinate with the secretary of state pursuant to 2-6-1101 and may coordinate with the state records committee provided for in 2-6-1107 and the local government records committee provided for in 2-6-1201.

(3) The public records ombudsman may provide guidance and advice to executive branch agencies and local governments regarding public information request processing, public information disclosure, and the applicability of exemptions from disclosure. Guidance and advice provided under this section is purely advisory. The public records ombudsman may not give advice related to a matter that is referred to a facilitated dispute resolution under [section 2].

NEW SECTION. Section 5. Public records advisory council. (1) There is a public records advisory council.

(2) The council consists of the following members:

~~(a) the secretary of state or a designee;~~

~~(b) the attorney general or a designee;~~

~~(c)~~(a) the director of the department of administration or a designee;

~~(d)~~(b) ~~three members~~ one member representing the news media who ~~are~~ is appointed by the governor;

~~(e)~~(c) one member representing cities or counties who is appointed by the governor;

~~(f) one member representing counties who is appointed by the governor;~~

~~(g)~~(d) one member representing the public sector workforce who is appointed by the governor; and

~~(h) one member of the public who is appointed by the governor; and~~

~~(i)~~(e) the public records ombudsman, who shall serve as the presiding officer of the council.

(3) Member of the council must be reimbursed and compensated in the same manner as members of quasi-judicial boards under 2-15-124(7).

(4) The council shall meet at least once every 6 months. The council may meet at other times and places specified by the call of the presiding officer or of a majority of the members of the council. A majority of the members of the council constitutes a quorum for the transaction of business.

NEW SECTION. Section 6. Selection of public records ombudsman. (1) When the position of the public records ombudsman is vacant, the secretary of state or a designee shall serve as the acting presiding officer of the public records advisory council.

(2) Within 30 days of the vacancy of the public records ombudsman position, the council shall convene at the time and place designated by the acting presiding officer.

(3) At the meeting convened pursuant to subsection (2), the council shall consider only the question of the nomination of three qualified individuals for the governor to consider for appointment as the public records ombudsman pursuant to [section 1].

(4) The person who vacated the public records ombudsman position may participate in the deliberations and vote on the slate of nominees to be presented to the governor unless the person was removed from the position for cause pursuant to [section 1(4)].

NEW SECTION. Section 7. Public records advisory council -- duties. The public records advisory council shall perform the following duties:

(1) survey the practices and procedures of executive branch agencies and other local government entities for:

(a) receiving public information requests, identifying the existence of public information responsive to the requests, and gathering and disclosing responsive information;

(b) determining and applying exemptions from required disclosure of public information; and

(c) determining fee estimates and imposing or waiving fees under 2-6-1006;

(2) examine similar practices and procedures under subsection (1) in other states;

(3) prepare a biennial report with findings and recommendations, including recommendations for