

1 HOUSE BILL NO. 893
2 INTRODUCED BY E. STAFMAN

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT CREATING THE OFFICE OF THE PUBLIC RECORDS
5 OMBUDSMAN; REQUIRING THE PUBLIC RECORDS OMBUDSMAN TO PROVIDE PUBLIC RECORDS
6 FACILITATED DISPUTE RESOLUTION SERVICES; PROVIDING THAT FACILITATED DISPUTE
7 RESOLUTION RECORDS ARE CONFIDENTIAL; REQUIRING THE PUBLIC RECORDS OMBUDSMAN TO
8 PROVIDE TRAINING TO PUBLIC EMPLOYEES; CREATING THE PUBLIC RECORDS ADVISORY COUNCIL;
9 PROVIDING A PROCESS FOR THE SELECTION OF THE PUBLIC RECORDS OMBUDSMAN; PROVIDING
10 DUTIES FOR THE PUBLIC RECORDS ADVISORY COUNCIL; ESTABLISHING REPORTING
11 REQUIREMENTS; PROVIDING AN APPROPRIATION; AND PROVIDING AN EFFECTIVE DATE."

12
13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

14
15 NEW SECTION. Section 1. Public records ombudsman. (1) There is an office of the public records
16 ombudsman. The office is allocated to the department of administration for administrative purposes only as
17 provided in 2-15-121.

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

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

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

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

27

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

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

3
4 NEW SECTION. Section 4. Public information training. (1) The public records ombudsman shall
5 provide training to executive branch agencies and local governments on the requirements and best practices
6 for processing and responding to public information requests.

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

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

15
16 NEW SECTION. Section 5. Public records advisory council. (1) There is a public records advisory
17 council.

18 (2) The council consists of the following members:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

18
19 **NEW SECTION. Section 7. Public records advisory council -- duties.** The public records advisory
20 council shall perform the following duties:

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

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

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

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

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

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