

1 SENATE BILL NO. 52

2 INTRODUCED BY T. MCGILLVRAY

3 BY REQUEST OF THE SENATE SELECT COMMITTEE ON JUDICIAL OVERSIGHT AND REFORM

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT CREATING THE MONTANA COURT OF CHANCERY;
6 PROVIDING JURISDICTIONAL TERMS, INCLUDING A REMOVAL PROCESS, PROCEDURE, USE OF
7 ALTERNATIVE DISPUTE RESOLUTION, ADMINISTRATION, HEARINGS, AN APPLICATION PROCESS,
8 AND COMPENSATION; AND PROVIDING AN EFFECTIVE DATE AND A TERMINATION DATE."

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10 WHEREAS, the Legislature seeks to improve the quality and timeliness of justice afforded by the state
11 judicial system and improve Montana's economic competitiveness; and

12 WHEREAS, the need to do so is particularly pressing in the areas of business law, land use law, and
13 constitutional law; and

14 WHEREAS, experience, both inside and outside of Montana, has demonstrated that the improved
15 quality of justice from courts with special expertise benefits the citizens of a state and improves a state's
16 economic competitiveness.

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

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20 NEW SECTION. Section 1. Chancery court -- creation. Under the provisions of Article VII, section
21 1, of the Montana constitution, there is created the Montana court of chancery.

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23 NEW SECTION. Section 2. Jurisdiction. (1) The chancery court has the following power:

24 (a) to hear and resolve suits for equitable or declaratory relief based on the alleged
25 unconstitutionality or other illegality of a legislative enactment or a proposed or adopted legislative referendum
26 or a proposed or adopted citizen initiative;

27 (b) to hear and resolve suits for equitable or declaratory relief pertaining to the use of land and for
28 the grant or denial of permits pertaining to the use of land other than suits challenging or based on local zoning

1 regulations; and

2 (c) to hear and resolve suits for equitable or declaratory relief as well as for claims for money
3 damages or for restitution at law when the amount in controversy exceeds \$80,000, exclusive of claims for
4 punitive or exemplary damages, prejudgment or postjudgment interest, costs, and attorney fees for cases
5 arising out of the following:

6 (i) an alleged breach of contract other than a claim arising principally from alleged discriminatory
7 practices, but including an agreement creating, amending, restructuring, or terminating a partnership,
8 corporation, joint venture, or other business enterprise;

9 (ii) the restructuring, merger, consolidation, dissolution, or sale of substantially all of the assets of
10 a partnership, corporation, joint venture, or other business enterprise;

11 (iii) the sale, underwriting, or other transfer of securities;

12 (iv) a trade secret;

13 (v) a transaction governed by the Uniform Commercial Code;

14 (vi) a shareholder derivative action;

15 (vii) a commercial class action;

16 (viii) a business transaction with one or more commercial banks or other financial institutions;

17 (ix) a dispute concerning the internal affairs of business organizations;

18 (x) a dispute concerning commercial or environmental insurance coverage;

19 (xi) a transaction involving a business trust; and

20 (xii) an application to stay or compel arbitration or to affirm or disaffirm an arbitration award
21 involving any of the cases described in subsections (1)(c)(i) through (1)(c)(xi).

22 (2) This section may not be construed to extend chancery court jurisdiction to criminal
23 prosecutions or to provide an independent ground for an award of punitive or exemplary damages, prejudgment
24 or postjudgment interest, costs, or attorney fees not otherwise provided by applicable law or contract.

25
26 **NEW SECTION. Section 3. Removal of action to chancery court.** An action brought in district court
27 over which the district court and the chancery court have concurrent jurisdiction must, on motion of any party
28 made before the filing of that party's initial pleading, be transferred to the chancery court.

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2 NEW SECTION. Section 4. Arbitration and mediation. A chancery court judge may submit to
3 arbitration a matter pending in chancery court, either on agreement of the parties or on application of either
4 party showing an arbitration agreement and the refusal of the opposing party to arbitrate, providing that all
5 parties agree to the arbitration of any question of constitutional law. A chancery court judge may order
6 mediation in any matter pending in chancery court.

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8 NEW SECTION. Section 5. Chancery court proceedings. (1) At the earliest practicable date, the
9 chancery court shall promulgate its own rules and procedures, subject to the approval or disapproval of the
10 Montana supreme court.

11 (2) The chancery court shall adopt rules and procedures that further the just and timely resolution
12 of the constitutional, land use, business, and ballot issue cases entrusted to the court. To these ends, the court
13 shall utilize, as appropriate, alternative dispute resolution, electronic filing, and streamlined motion and
14 discovery practice.

15 (3) (a) Except as provided in subsection (3)(b), the chancery court shall resolve each case within
16 150 days of the filing date of the case.

17 (b) On motion of a party or by the court of its own accord, the chancery court may place a case on
18 an extended calendar when the complexity and magnitude of the factual and legal issues justifies a longer time
19 period for resolution.

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21 NEW SECTION. Section 6. Supervision and administration. (1) The Montana supreme court shall
22 supervise the activities of the chancery court judges and associated personnel, but the governor shall pay the
23 expenses of the chancery court judges and the salaries and expenses of the judges' staff from appropriations
24 made for that purpose.

25 (2) As used in this section, the term "salaries and expenses" includes but is not limited to the
26 salaries and expenses of personnel, the cost of office equipment, court room space, and office space, and
27 other necessary expenses that may be incurred in the administration of [sections 1 through 11].

28

1 **NEW SECTION. Section 7. Number of chancery court judges -- selection -- term of office --**

2 **qualifications.** (1) (a) The chancery court consists of three judges nominated by the governor and confirmed
3 by the senate. An appointment made while the senate is not in session is effective until the end of the next
4 regular legislative session. If an appointment subject to senate confirmation is not confirmed, the office is
5 vacant and another appointment must be made.

6 (b) The initial three judges must be selected within 90 days of [the effective date of this act], and a
7 replacement judge must be selected within 90 days of a vacancy.

8 (c) Each judge is appointed for a term of 6 years[, except as provided in [section 11]].

9 (d) The judges shall serve staggered terms.

10 (2) A chancery court judge must have the qualifications for supreme court judges specified by
11 Article VII, section 9, of the Montana constitution.

12 (3) The judges of the chancery court shall designate one of their number to serve as chief judge. In
13 the event a majority of the judges certify to the governor that they cannot agree on a chief judge, the governor
14 shall designate one judge as the chief judge.

15
16 **NEW SECTION. Section 8. Hearings -- location -- staff.** (1) (a) Matters before the chancery court
17 must be heard initially by one judge without a jury, except that a judge:

18 (i) may empanel an advisory jury to assist with fact-finding; and

19 (ii) shall empanel a trial jury if demanded by a party entitled to a jury trial under the Montana
20 constitution.

21 (b) Any party dissatisfied with a final or interlocutory determination by the trial judge may appeal to
22 the chancery court in full.

23 (c) Any party dissatisfied with a final determination by the chancery court en banc may appeal to
24 the Montana supreme court.

25 (2) The chancery court must have its central offices in Helena, and one judge shall hold trials in
26 Billings, one judge shall hold trials in Great Falls, and one judge shall hold trials in Missoula. The initial trial
27 location must be determined by the party initiating the action or by a successful motion for removal to the
28 chancery court, but the trial location is subject to changes of venue as the needs of justice may require. On

1 request of the parties, the court may permit proceedings to be held remotely.

2 (3) The court may hire a clerk of court, law clerks, and administrative staff as needed.

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4 **NEW SECTION. Section 9. Applications -- investigation -- public comment.** (1) An eligible
5 attorney may apply for the position of chancery court judge by completing and submitting to the governor an
6 original signed paper application and an electronic copy of the original application by the deadline date
7 designated by the governor. The application must state specifically that the applicant has expertise in
8 constitutional law, land use law, or business law, and detail at length the reasons for the claimed expertise.

9 (2) The governor shall advertise and solicit applications as soon as is practicable after [the
10 effective date of this act].

11 (3) The application period must close within 30 days of [the effective date of this act].

12 (4) Within the remaining 60 days, as provided in [section 7], the governor may authorize
13 investigations concerning the qualifications of applicants.

14 (5) Following the application deadline, the governor shall establish a reasonable period for
15 reviewing applications and interviewing applicants that provides at least 30 days for public comment concerning
16 applicants.

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18 **NEW SECTION. Section 10. Compensation -- expenses.** Chancery court judges must be paid a
19 salary that is 20% greater than the current salary for an associate justice of the Montana supreme court as
20 provided in 2-16-403. The salary of a judge of the chancery court may not be reduced.

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22 **NEW SECTION. Section 11. Initial appointments.** (1) The initial three judges of the chancery court
23 shall serve terms of office as follows:

24 (a) one judge shall serve a term that ends on January 1, 2031, and until the judge's successor is
25 appointed;

26 (b) one judge shall serve a term that ends on January 1, 2029, and until the judge's successor is
27 appointed; and

28 (c) one judge shall serve a term that ends on January 1, 2027, and until the judge's successor is

1 appointed.

2 (2) The governor nominating each judge shall designate which of the three is to serve each of
3 these three terms.

4 (3) After the expiration of a term provided for in subsection (1), the governor shall appoint a person
5 to serve a full 6-year term as provided in [section 7]. A member who previously served an abbreviated term may
6 be reappointed for a full 6-year term.

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8 NEW SECTION. Section 12. Codification instruction. [Sections 1 through 11] are intended to be
9 codified as an integral part of Title 3, and the provisions of Title 3 apply to [sections 1 through 11].

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11 NEW SECTION. Section 13. Severability. If a part of [this act] is invalid, all valid parts that are
12 severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications,
13 the part remains in effect in all valid applications that are severable from the invalid applications.

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15 NEW SECTION. Section 14. Effective date. [This act] is effective July 1, 2025.

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17 NEW SECTION. Section 15. Termination. [Section 11] and the bracketed language in [section
18 7(1)(c)] terminate June 30, 2031.

19 - END -