

HOUSE BILL NO. 223

INTRODUCED BY W. MCKAMEY

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A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS FOR USE OF GOVERNMENT EQUIPMENT;
PROHIBITING MISUSE OF GOVERNMENT EQUIPMENT BY A PUBLIC OFFICER OR PUBLIC EMPLOYEE
OF A LOCAL GOVERNMENT OR SPECIAL DISTRICT; DEFINING A TERM; PROVIDING FOR PROSECUTION;
AMENDING SECTIONS 2-2-105 AND 45-6-305, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

Section 1. Section 2-2-105, MCA, is amended to read:

"2-2-105. Ethical requirements for public officers and public employees. (1) The requirements in this section are intended as rules of conduct, and violations constitute a breach of the public trust and public duty of office or employment in state or local government.

(2) Except as provided in subsection (4), a public officer or public employee may not acquire an interest in any business or undertaking that the officer or employee has reason to believe may be directly and substantially affected to its economic benefit by official action to be taken by the officer's or employee's agency.

(3) A public officer or public employee may not, within 12 months following the voluntary termination of office or employment, obtain employment in which the officer or employee will take direct advantage, unavailable to others, of matters with which the officer or employee was directly involved during a term of office or during employment. These matters are rules, other than rules of general application, that the officer or employee actively helped to formulate and applications, claims, or contested cases in the consideration of which the officer or employee was an active participant.

(4) When a public employee who is a member of a quasi-judicial board or commission or of a board, commission, or committee with rulemaking authority is required to take official action on a matter as to which the public employee has a conflict created by a personal or private interest that would directly give rise to an appearance of impropriety as to the public employee's influence, benefit, or detriment in regard to the matter, the public employee shall disclose the interest creating the conflict prior to participating in the official action.

(5) A public officer or public employee may not perform an official act directly and substantially affecting a business or other undertaking to its economic detriment when the officer or employee has a substantial

1 personal interest in a competing firm or undertaking.

2 (6) (a) A public officer or public employee of a local government or special district may not use publicly
3 funded equipment or resources to obtain personal financial gain by direct or indirect compensation through
4 increased wages, benefits, or sale of services.

5 (b) Violation of this subsection (6) may be prosecuted under 45-6-305 or 45-6-317.

6 (c) As used in this subsection (6), "publicly funded equipment" includes partially publicly funded
7 equipment and donated equipment and resources that are under administrative management."

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9 **Section 2.** Section 45-6-305, MCA, is amended to read:

10 **"45-6-305. Theft of labor or services or use of property.** (1) A person commits the offense of theft
11 when the person:

12 (a) obtains the temporary use of property, labor, or services of another that are available only for hire,
13 by means of threat or deception or knowing that the use is without the consent of the person providing the
14 property, labor, or services; or

15 (b) is a public officer or public employee and misuses the equipment or resources of a local government
16 or special district in violation of 2-2-105.

17 (2) A person convicted of theft of labor or services or use of property shall be fined not to exceed \$500
18 or be imprisoned in the county jail for a term not to exceed 6 months, or both."

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20 NEW SECTION. **Section 3. Effective date.** [This act] is effective June 1, 2019.

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