

47 Op. Att'y Gen. No. 9

ELECTIONS - Application of term limit statute for public service commissioners;
ELECTIONS - Meaning of words "term" and "years" in term limit initiative;
ELECTIONS - Term limits for statewide elected officials and legislators;
INITIATIVE AND REFERENDUM - Rules of construction for constitutional initiatives;
LEGISLATURE - Term limits for legislators;
PUBLIC SERVICE COMMISSION - Term limits for public service commissioners;
MONTANA CODE ANNOTATED - Sections 1_1-301(5), 1_2-201(1)(a), 5_2-102, _103, _401(1), _402, _406, 13_27-202, _312, _401 to _410, 69_1-105, _105(4);
MONTANA CONSTITUTION - Article IV, section 8, 8(2); article V, section~3; article XIII, section 1(3);
MONTANA LAWS OF 1995 - Chapter 271.

HELD:

1. In situations in which application of article~IV, section~8(2), and section~3 of CI_64 could produce conflicting results, the latter provision controls. Applying this rule, for state senators serving a term of office beginning in January 1991, the term limit calculation did not begin until that officer was elected to (or otherwise began serving in) a term beginning during or after January 1993.
2. The reference in CI_64 to "terms of office" refers to the terms provided by the constitution and statutes for the offices covered by CI_64.
3. The reference in article~IV, section~8(1) to "years" of service ascribes two years of service for every complete term as a member of the house of representatives and four years of service for every complete term in the state senate and in the executive branch offices covered by CI_64, disregarding minor deviations from a 12_month calendar year caused by the differences in the initial dates of terms of office.
4. Article~IV, section~8(1) bars a candidate from the ballot if the candidate has served eight or more years in the office sought during the 16_year period ending at the conclusion of the term of office during which the candidate seeks election.
5. The conclusions expressed in this opinion apply to candidates for the public service commission under Mont. Code Ann. §~69_1-105.

November 6, 1997

The Honorable Mike Cooney
Secretary of State
State Capitol
P.O. Box 202801
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Dear Mr. Cooney:

You have requested my opinion on several questions surrounding the implementation of Constitutional Initiative 64 ("CI-64"), which amended the Montana Constitution to place limits on the years of service of certain elected officials. The Montana electorate passed CI-64 in November 1992. Generally, it limits legislators and certain statewide elected officials to no more than eight years in an office in any 16_year period.

A brief description of the terms of CI-64 would be helpful in understanding the questions you pose. The initiative added a new section~8 to article~IV of the Montana Constitution. With respect to certain statewide office holders and state legislators, section~8(1) prohibits the secretary of state from certifying a candidate's nomination or printing a ballot with a candidate's name if, "at the end of the current term of that office," the candidate will have served "8 or more years in any sixteen year period" in the office. Section 8(2) provides: "When computing time served for purposes of subsection (1), the provisions of

subsection (1) do not apply to time served in terms that end during or prior to January 1993." CI-64 also contained an applicability clause found in section~3 of the initiative, which stated: "Section 1 applies to terms that begin during or after January 1993." Finally, section~4 of the initiative provided that if approved it would become effective January 1, 1993.

CI-64 did not include public service commissioners among the officers subject to term limits. In 1995, the Montana legislature enacted statutory term limits for public service commissioners, using the language of CI-64 as a model. As amended by this legislation, Mont. Code Ann. §~69-1-105 now provides in pertinent part:

(3) The secretary of state or other authorized official may not certify a candidate's nomination or election to the public service commission or print or cause to be printed on any ballot the name of a candidate for the public service commission if, at the end of the current term of that office, the candidate will have served in that office or, had the candidate not resigned or been recalled, would have served in that office for 8 or more years in a 16-year period.

(4) When computing the time served for the purposes of subsection (3), the provisions of subsection (3) do not apply to time served in terms that ended during or prior to January 1995.

These amendments were adopted in 1995 Mont. Laws, ch. 271. The legislature did not include an applicability clause in the legislation similar to section~3 of CI-64, nor did it include an effective date.

Your letter presents five questions which I have rephrased as follows:

1. In light of the applicability provision and the language of section~8(2) of article~IV, how are years of service prior to January 1993 considered in calculating the years of service which trigger the term limits?
2. Does the word "term" in article~IV, section~8 of the constitution have the same meaning as the word "term" in article~V, section~3, and Mont. Code Ann. §~5_2-102, delineating the terms of legislators, and article~VI, section~3, delineating the terms of executive branch officers?
3. Does the word "year" in article IV, section~8 refer to a calendar year period of twelve months, or may a "year" under article IV, section~8 refer to a period which may be slightly more or less than twelve months depending upon the dates on which a term of office actually begins or ends?
4. How does article IV, section~8 affect a potential candidate who has served eight years in office and then left office for a period of eight years?
5. With respect to questions 1, 2, 3, and 4, are the answers different for public service commission candidates subject to statutory term limits under Mont. Code Ann. §~69_1-105?

Since CI-64 is a voter initiative, there is very little in the way of historical material to shed light on the intentions of those who enacted the initiative. In such a case, my task is to attempt to determine from the language of the initiative and the scant available historical documents the intent of the voters, resolving ambiguities in the manner that seems best suited to effectuating the overall intent of the legislation.

I.

You suggest that a conflict exists between the effect of article~IV, section~8(2) and the applicability clause of CI_64, section~3 of the initiative (which has not been codified in article~IV, section~8 of the constitution but which was part of the text of the measure enacted). The perceived conflict arises from the provision of section~8(2) that "[w]hen computing time served~.~.~the provisions of subsection~(1) do not apply to time served in terms that end during or prior to January 1993". This language appears to conflict in some applications with the applicability clause of CI_64, which stated: "Section~1 applies to terms that begin during or after January 1993."

It should be noted that the language of the two provisions can be reconciled in many situations. For example, members of the state house of representatives serve a two_year term commencing in January of every odd-numbered year. For these officers, article~IV, section~8(2), and section~3 of CI_64 can both be given effect, since no single term of office for a member of the house of representatives can both end during or prior to January 1993 and begin during or after January 1993. Similarly, the conflict has no practical effect for the statewide elected officials covered by CI_64. All five statewide elected officials began terms in January 1993 and have been reelected once to subsequent terms beginning in January 1997. As to them, under the provisions of either article~IV, section~8(2), or section~3 of CI_64, article~IV, section~8(1) would prevent them from seeking election to a third term during the 16_year period beginning in January 1993. See part V, infra.

The perceived conflict with respect to CI_64 has practical significance only for state senators who served in four_year terms beginning in January 1991. The 1991-1995 senate term would not end "during or prior to January 1993," and accordingly a strict reading of article~IV, section~8(2) would provide no basis for concluding that the 1991-1995 senate term would not count against the eight-year term limit. However, the 1991-1995 senate term did not begin "during or after January 1993," and a strict reading of section~3 of CI_64 would suggest that the 1991 term cannot count against the eight-year term limit.

Several general rules of law bear on the interpretation of this language. Ordinary rules of statutory construction apply to measures adopted by initiative. State ex rel. Palmer v. Hart, 201 Mont. 526, 655 P.2d 965 (1982); State Bar of Montana v. Krivec, 193 Mont. 477, 632 P.2d 707 (1981). Constitutional language is interpreted by the same rules generally applied in the interpretation of statutes. State ex rel. Gould v. Cooney, 253 Mont. 90, 831 P.2d 593 (1992). The general rule where the language subject to interpretation is clear on its face is that its meaning must be determined solely from the plain import of the language used, and resort to extrinsic sources such as legislative history materials would not be appropriate. See, e.g., Associated Press v. Board of Pub. Educ., 246 Mont. 386, 804 P.2d 376 (1991). However, I find that CI_64 is ambiguous on this point, since its provisions may conflict with respect to the treatment of certain years of legislative service prior to January 1993.

In resolving the ambiguity of this language, first resort should be had to the terms of the initiative. Both article~IV, section~8(2), and section~3 of CI_64 seem clearly to be intended to exclude from the term limits computation time served by an officeholder prior to January 1993. This is further buttressed by the effective date provision, §~4 of CI-64, which states that the amendment, if approved, would be effective January 1, 1993. I find that a voter reading this language would naturally conclude that time served prior to January 1993 would not be counted in calculating time served for term limit purposes. While the implications of this language are not conclusive in light of the ambiguity discussed above, they do suggest that a strict application of article IV, section~8(2) would produce a result that is contrary to the common understanding of the language of the initiative.

I also note that while the applicability clause, section~3 of CI_64, is quite direct in stating that the term limits in article~IV, section~8(1) apply "to terms that begin during or after January 1993," the provision of article~IV, section~8(2) conflicts only by implication. The latter section says directly that the term limits calculation does not include "time served in terms that end during or prior to January 1993," but only by implication can one conclude that the contrary proposition__that time served in all terms ending after January 1993 **does** count__is also true. Where one provision is direct and another conflicts only by implication in this way, the direct provision should be preferred.

Since CI-64 is ambiguous, resort to extrinsic aids to construction is also appropriate. Keller v. Smith, 170 Mont. 399, 406, 553 P.2d 1002 (1976); School District # 12 v. Hughes, 170 Mont. 267, 272, 552 P.2d 328 (1976). The legislative history of CI-64 consists primarily of certain pre-enactment documents: the original draft of the proposed initiative submitted by the drafter to the Legislative Council (now known as the Legislative Services Division) and the correspondence between the Legislative Council and the drafter pursuant to the Council's statutory review, see Mont. Code Ann. §~13-27-202; the Attorney General's review of the initiative and drafts of the statement of implication and ballot language, see Mont. Code Ann. §~13-27-312; and the information submitted to the voters in the voter information pamphlet, Mont. Code Ann. §§~13-27-401 to ~410. Of these, the Legislative Council review documents are the most revealing.

The original draft of what was to become CI-64 was submitted to the Legislative Council by State Representative Fred Thomas on October 7, 1991. It was substantially different in structure from the initiative that the voters ultimately approved. Most significantly for present purposes, it set forth in separate sections the term limits for state executive branch officials, members of the state house of representatives, members of the state senate, members of the United States senate, and members of the United States house of representatives. In stating in each separate section the amount of time a person was allowed to serve, the drafter included the following language: "[E]xcept that any time served in the office . . . prior to January 1, 1993, shall not count for purposes of this term limit."

On October 21, 1991, the Legislative Council provided a written review of the draft with suggested changes. Among the changes suggested was the consolidation of the exceptions in one single subsection in order to eliminate "redundancy . . ." by inserting in the section a single subsection that applies to all offices for which terms are limited." There is no indication in the written review that any substantive change in the effect of the language submitted in the original draft was intended. To the contrary, the Council's written review stated that its review was "for clarity, consistency, and other factors generally considered when drafting proposed legislation." The drafter apparently accepted the Council's suggestion, as shown by the form of the revised initiative submitted to the Secretary of State and Attorney General in December 1991, which removed the individual exception provisions from each separate term limit and substituted the overall language now found in article IV, section 8(2).

The initial draft of the initiative also did not include an applicability clause similar to the provision found in section 3 of CI_64 or an effective date provision similar to section 4 of CI-64. The Legislative Council review suggested the addition of these clauses, stating:

Since you wish the amendment to apply to terms beginning in January 1993, you need a January 1, 1993, effective date. The desire to have the amendment apply to terms beginning in January of 1993 also dictates the necessity for the applicability section.

It is apparent from this history that the language now found in article IV, section 8(2) was not inserted to change the original intention of the drafter of CI_64 that "time served in the office . . . prior to January 1993 not be counted" in the term limit calculation. Rather, the language was only inserted to effectuate the drafter's intent to have the amendment "apply to terms beginning in January 1993." This evidence supports what I have suggested above is the most natural understanding of the language, and the one that the voters most likely held when they passed the initiative—that time served prior to January 1993 would not be counted in determining whether an officeholder had served the maximum amount of time.

This view is also most consistent with the Attorney General's explanatory note on CI_64. Since this explanation appears in the voter information pamphlet and on the ballot, it provides insight into the way a voter likely interpreted the provision. In explaining the treatment of years served prior to January 1993, the Attorney General stated: "The measure would apply only to terms of office that begin during or after January 1993." This language is obviously drawn from section 3 of CI_64, and does not mention the potentially conflicting language now found in article IV, section 8(2).

Finally, a preference for the applicability clause is most consistent with the rule that constitutional amendments operate only prospectively unless a contrary intention is clearly indicated. Mont. Const. art. XIV, § 9(3) (constitutional amendment adopted by initiative becomes "a part of the constitution effective the first day of July following its approval, unless the amendment provides otherwise."); see United States Term Limits v. Hill, 872 S.W.2d 349, 361 (1994), aff'd, United States Term Limits, Inc. v. Thornton, 514 U.S. 779 (1995). A law operates retroactively if it grants privileges or attaches liabilities based on past transactions. See, e.g., O'Shaughnessy v. Wolfe, 212 Mont. 12, 685 P.2d 361 (1984). A construction of CI_64 which would include in the term limits computation years of service accrued before the amendment became effective would clearly be retroactive under this test.

For the foregoing reasons, I hold that in situations in which application of article IV, section 8(2), and section 3 of CI_64 could produce conflicting results, the latter provision controls. Applying this rule, for a state senator serving in a term of office beginning in January 1991, the term limit calculation did not begin until that officer was elected to (or otherwise began serving in) a term that began during or after January

1993. For state senators who have served continuously since January 1991, this means that the first term counted for purposes of the term limits found in article~IV, section~8(1) is the term that began in January 1995.

II.

You also raise the question of the status of state senators appointed upon the death or resignation of the incumbent to fill the unexpired portion of a term of office that began in 1991. Montana Code Annotated §§~5_2-402 and ~406 provide a two-stage process for filling such vacancies in the state senate. The vacancy is initially filled by appointment by the county commissioners of the counties in which any portion of the senate district is located. Mont. Code Ann. §~5_2-402. If the vacancy arises more than 85 days before the general election in the second year of the term, Mont. Code Ann. §~5_2-406 requires an election to fill the remaining two years of the term.

Resolution of this question requires an interpretation of the word "terms" found in article~IV, section~8(2), and in section~3 of CI_64. Does "terms" relate only to the portion of the term actually served by the person appointed or elected, or does it refer to the statutory or constitutional term of the office as defined by article V, section~3 of the constitution and Mont. Code Ann. §~5_2-102? If the latter interpretation is correct, none of the time served in any term which began prior to January 1993 would be counted in the term limit calculation.

In my opinion the answer to this question is evident from the structure of CI_64. The language refers to "time served in terms" beginning or ending before or after January 1993. It does not refer to a particular date and simply include or exclude years prior to the date (as the initial draft of the initiative would have provided), but rather includes time by reference to the beginning or ending date of a term of office. The provisions of CI_64 and those of article~V, section~3; article~VI, section~1(2); and Mont. Code Ann. §~5_2-102 are in pari materia, and words used in common in them should be given the same meaning if that can reasonably be done. For this reason, I hold that the reference in CI_64 to "terms of office" refers to the terms provided by the constitution and statutes.

A "term" of office for a state senator is four years beginning on the first Monday in January in the year following the general election. Mont. Code Ann. §~5_2-102. If a state senator accedes to office by appointment or election, he or she serves to complete the term of the person originally elected. Mont. Const. art.~V, §~7 ("A vacancy in the legislature shall be filled by special election for the unexpired term unless otherwise provided by law"); Mont. Code Ann. §§~5_2-401(1) ("term" means the four-year term to which a senator is normally elected), ~406 ("an individual shall be elected to complete the term"). If a state senator takes office by appointment or election in the middle of a term, that senator serves in a term that began when the original incumbent took office. Thus, for a senator continually serving from the date of appointment or election to fill the unexpired portion of a term that began when the original incumbent took office in January 1991, the first term of office counted toward the term limit, consistent with part I of this opinion, is the term beginning in January 1995.

III.

Article~IV, section~8(1) calculates the amount of time which a person may serve in "years." By statute, "[u]nless the context requires otherwise," a "year" means a calendar year. Mont. Code Ann. §~1_1-301(5). Legislative terms of office are measured in years. Mont. Code Ann. §~5_2-102. This statute distinguishes, however, between terms "of office," which are measured in blocks of two or four years, and terms "of service," which begin when the incumbent actually takes office. It provides:

The **term of office** of a senator is 4 years or until his successor is elected and qualified and of a representative 2~years or until his successor is elected and qualified. The **term of service** shall begin on the first Monday of January next succeeding his election. If a senator is elected to fill a vacancy, his **term of service** shall begin on the next day after his election.

Mont. Code Ann. §~5_2-102 (emphasis added). It is thus clear that in the context of legislative terms of office a "year" need not consist of a calendar year of twelve months. This is so because a term may begin

as early as January 1 or as late as January 7, depending upon the falling of the first Monday of the new year. Mont. Code Ann. § 5-2-102.

An example illustrates the point. The first Monday in January 1993 was January 4. A house of representatives member elected to a two-year term beginning on that date would, however, serve two days less than two full calendar years in that term, because the next two-year term began on the first Monday of January 1995, which was January 2. More pertinent for present purposes is the fact that the same representative, elected for the term beginning in January 1993 (the first term considered for calculating term limits) would, after having served four terms, not have served eight full calendar years, since the term beginning in January 1999 (the representative's fourth) would end on January 1, 2001, three days less than eight calendar years from the date the representative first took office in a term counted for term limit purposes.

You inquire whether in this circumstance the representative is precluded from seeking a fifth term by the provisions of article IV, section 8(1). A reading of the constitutional provision in which a "year" means a calendar year of 12 months would lead to the conclusion that the hypothetical representative would not be precluded. Article IV, section 8(1) states that the secretary of state may not certify a candidate's nomination or print a ballot bearing the candidate's name if "at the end of the current term...the candidate will have served in that office...8 or more years in any 16-year period." In the hypothetical given above, the representative would not have served eight calendar years but three days less than eight full calendar years.

In my opinion, this strict reading produces an absurd result which the voters clearly did not contemplate when they approved CI_64. Such results are to be avoided if a reasonable construction is available. Grossman v. Department of Natural Resources, 209 Mont. 427, 451, 682 P.2d 1319 (1984). If an incumbent must serve a full calendar year to be credited with a "year" of service, the actual term limit under the constitutional provision would be four terms in the house of representatives and two terms in the state senate and the executive branch offices affected by CI_64 **unless the first day of the first term falls later in the calendar year than the first day of the fourth house term or second senate or executive branch office term**, in which case the term limit would be five terms for house members and three terms for state senators and executive branch officers. There is no indication in CI_64 or any of its legislative history materials that this serendipitous result is what the drafters, or presumably the voters, intended.

The term limit provisions make specific reference to time served in "terms." It again appears clear that the average voter would have understood that the limit of eight years in any 16-year period amounted to two senate or executive office terms or to four terms in the house of representatives. The most natural reading of the provision, therefore, leads to the conclusion that the reference in article IV, section 8(1) to "years" of service would ascribe two years of service for every complete term as a member of the house of representatives and four years of service for every complete term in the state senate and in the executive branch offices covered by CI_64, and would disregard minor deviations from a 12-month calendar year caused by the differences in the initial dates of terms of office.

You inquire how this language would then be interpreted in the case of an officeholder who took office in the middle of a term as a result of the death or resignation of the incumbent. Given the structure of CI_64 this question need not be answered. CI_64 bars a candidate from office only if, "at the end of the current term," the candidate will have served "eight or more years in any sixteen year period." In no reasonably foreseeable case could a partial term of service, as a practical matter, push a senator over the eight-year limit before he or she would reach it by virtue of full four-year terms to which the senator was elected. If, for example, a senator took office on January 7, 1996, by appointment due to a resignation from office, that senator would serve four days less than three years if elected to complete the term (the term ending on January 3, 1999). The senator could then seek reelection in 1998, because at the end of the current term (i.e., the 1995-1998 term) the senator would have served fewer than eight years, and again in 2002, because at the end of the then current term (i.e., the 1999-2002 term) the senator would have served a total of seven years (the 2003 term beginning on January 7, seven years after the date the senator originally took office). Thus, consistent with the structure of CI_64, officeholders who take office by appointment can, in some cases, serve more than eight consecutive years in office.

IV.

You also inquire how CI_64 affects an officeholder who serves two four-year terms in the state senate or an executive branch office covered by CI_64 and then sits out two terms before seeking to run again. You pose the example of a statewide elected official taking office in January 1993, and serving two four-year terms. The official then leaves office in January 2001, having served eight years under the analysis in part III of this opinion. In 2008 the former officeholder seeks to run again for the same office formerly held. Your question is whether CI_64 bars the officeholder from doing so in that year.

The plain meaning of article~IV, section~8(1) indicates the candidate would be barred from running. The provision effectively bars the candidate from running if, at the end of the "current term," the candidate has served eight or more years in a 16_year period. The "current term" for purposes of applying the term limit in this case would be the term during which the former officeholder seeks to file for office, i.e., the 2005-2009 term. The "16_year period" clearly would be the period ending at the end of the "current term," or the period from January 1993 through January 2009. Since the former officeholder would have served eight years during that period, i.e., from January 1993 through January 2001, the plain language of CI_64 would bar the candidate from the ballot.

A voter reading CI_64 might not readily conclude that this is the result of the language used. A reading of CI_64 could produce the conclusion that the intention is to limit a former officeholder to eight years of service in any 16_year period, and that at the conclusion of the eight-year period the former officeholder would be free to serve in the office again. But this reading would overlook the structure of CI_64. The initiative applied term limits by limiting access to the ballot for persons who have served for a specified period. By its terms it does not prevent a person from serving more than eight years__rather, it operates to prevent a person from **becoming a candidate** for an office if, at the conclusion of the term of the office in which the person seeks to become a candidate, the person has served eight years in the previous 16_year period. Since the bar of CI_64 prevents a candidate from seeking a place on the ballot if the person has served eight or more years in a 16_year period, it effectively prevents the barred candidate's election for a period longer than 16~years.

V.

Your final question is whether the same rules would apply to public service commission candidates governed by the statutory term limits found in Mont. Code Ann. §~69_1-105. The language of the statutory term limits is identical to that of CI_64 for purposes of parts~II, III, and IV of this opinion. The statute and the constitutional provision are in pari materia and it is therefore appropriate to construe them in a similar manner if the language allows. City of Billings v. Smith, 158 Mont. 197, 490 P.2d 221 (1971). I therefore hold that parts II, III, and IV of this opinion apply to candidates for the public service commission.

The application of part I is not so clear. Mont. Code Ann. §~69_1-105(4) contains identical language to that found in article~IV, section~8(2). However, the bill that enacted the statutory provision, 1995 Mont. Laws, ch.~271, contained no applicability clause similar to section~3 of CI_64. The question then is whether, in the absence of an applicability clause stating that the law applies to terms beginning during or after January 1995, the result reached in part I of this opinion would also be reached here.

In my opinion, the answer is affirmative. As noted in part I, the language of article~IV, section~2 is hardly a crystal-clear indication that terms beginning before the effective date of the law should be included. The provision says the converse, that time served in terms ending during or prior to January 1995 is not counted, but it does not clearly state that time served in any other term specifically **is** counted.

As noted further in part~I, inclusion of time served prior to the effective date of the statute would constitute a retroactive application of the statute. No statutory law may be applied retroactively unless the intent to do so is clearly stated. Mont. Const. art.~XIII, §~1(3); Mont. Code Ann. §~1_2-109. The amendments to Mont. Code Ann. §~69_1-105 which added term limits do not clearly state an intention to apply the limits retroactively. To the contrary, in the absence of an effective date provision in the statute, it became effective October~1, 1995. Mont. Code Ann. §~1_2-201(1)(a).

To the extent that Mont. Code Ann. §~69_1-105 is ambiguous, its legislative history may be considered in divining the intent of the legislature. The bill was passed in the 1995 legislative session, after the provisions of CI_64 had been in effect for two years. While the legislative history is scant, the proceedings before the committees that considered the bill make it clear that the sponsor's intent was to apply to public service commission candidates the same rules applied to other executive branch officials under CI_64. This also seems logical given the obvious textual similarity between the two enactments.

For the foregoing reasons, I hold that the conclusions expressed in part~I of this opinion apply to public service commission candidates. In effect, this means that the term limit calculation begins with the first full term to which a candidate is elected after the effective date of the statute. For public service commissioners serving in January 1995, this would be the term beginning in January 1997.

THEREFORE, IT IS MY OPINION:

1. In situations in which application of article~IV, section~8(2), and section~3 of CI_64 could produce conflicting results, the latter provision controls. Applying this rule, for state senators serving a term of office beginning in January 1991, the term limit calculation did not begin until that officer was elected to (or otherwise began serving in) a term beginning during or after January 1993.
2. The reference in CI_64 to "terms of office" refers to the terms provided by the constitution and statutes for the offices covered by CI_64.
3. The reference in article~IV, section~8(1) to "years" of service ascribes two years of service for every complete term as a member of the house of representatives and four years of service for every complete term in the state senate and in the executive branch offices covered by CI_64, disregarding minor deviations from a 12_month calendar year caused by the differences in the initial dates of terms of office.
4. Article~IV, section~8(1) bars a candidate from the ballot if the candidate has served eight or more years in the office sought during the 16_year period ending at the conclusion of the term of office during which the candidate seeks election.
5. The conclusions expressed in this opinion apply to candidates for the public service commission under Mont. Code Ann. §~69_1-105.

Sincerely,

JOSEPH P. MAZUREK

Attorney General

jpm/cdt/dm