

1 HOUSE BILL NO. 655

2 INTRODUCED BY R. MAEDJE

3

4 A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING THE CREATION OF LOCAL COMMISSIONS TO
5 REVIEW ACTIONS OF THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS; DESCRIBING THE
6 APPOINTMENT, QUALIFICATIONS, AND COMPENSATION OF MEMBERS; ARTICULATING THE
7 COMMISSION'S DUTIES, PROHIBITED ACTIVITIES, AND JURISDICTION; AND AMENDING SECTIONS
8 7-1-111, 87-2-202, AND 87-2-711, MCA."

9

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

11

12 **Section 1.** Section 7-1-111, MCA, is amended to read:

13 **"7-1-111. Powers denied.** A local government unit with self-government powers is prohibited from
14 exercising the following:

15 (1) any power that applies to or affects any private or civil relationship, except as an incident to the
16 exercise of an independent self-government power;

17 (2) any power that applies to or affects the provisions of 7-33-4128 or Title 39 (labor, collective
18 bargaining for public employees, unemployment compensation, or workers' compensation), except that subject
19 to those provisions, it may exercise any power of a public employer with regard to its employees;

20 (3) any power that applies to or affects the public school system, except that a local unit may impose
21 an assessment reasonably related to the cost of any service or special benefit provided by the unit and shall
22 exercise any power that it is required by law to exercise regarding the public school system;

23 (4) any power that prohibits the grant or denial of a certificate of public convenience and necessity;

24 (5) any power that establishes a rate or price otherwise determined by a state agency;

25 (6) any power that applies to or affects any determination of the department of environmental quality
26 with regard to any mining plan, permit, or contract;

27 (7) any power that applies to or affects any determination by the department of environmental quality
28 with regard to a certificate of compliance;

29 (8) any power that defines as an offense conduct made criminal by state statute, that defines an offense
30 as a felony, or that fixes the penalty or sentence for a misdemeanor in excess of a fine of \$500, 6 months'

1 imprisonment, or both, except as specifically authorized by statute;

2 (9) any power that applies to or affects the right to keep or bear arms, except that a local government
3 has the power to regulate the carrying of concealed weapons;

4 (10) any power that applies to or affects a public employee's pension or retirement rights as established
5 by state law, except that a local government may establish additional pension or retirement systems;

6 (11) any power that applies to or affects the standards of professional or occupational competence
7 established pursuant to Title 37 (professions and occupations) as prerequisites to the carrying on of a profession
8 or occupation;

9 (12) except as provided in 7-3-1105, 7-3-1222, [section 2], or 7-31-4110, any power that applies to or
10 affects Title 75, chapter 7, part 1 (streambeds), or Title 87 (fish and wildlife);

11 (13) any power that applies to or affects landlords, as defined in 70-24-103, when that power is intended
12 to license landlords or to regulate their activities with regard to tenants beyond what is provided in Title 70,
13 chapters 24 and 25. This subsection is not intended to restrict a local government's ability to require landlords
14 to comply with ordinances or provisions that are applicable to all other businesses or residences within the local
15 government's jurisdiction.

16 (14) subject to 7-32-4304, any power to enact ordinances prohibiting or penalizing vagrancy."
17

18 **NEW SECTION. Section 2. Local fish, wildlife, and parks review commission -- appointment of**
19 **members -- qualifications -- composition -- compensation -- duties -- prohibited activities -- jurisdiction.**

20 (1) The board of county commissioners may appoint a local fish, wildlife, and parks review commission
21 consisting of three volunteer members from each county commissioner district established in 7-4-2102. In a
22 consolidated city-county government, the members of a local fish, wildlife, and parks review commission must
23 be appointed at large. Vacancies on a local fish, wildlife, and parks review commission must be advertised by
24 the county commissioners. A local fish, wildlife, and parks review commission shall meet once every 6 months
25 or upon majority vote of the members. The members shall serve staggered 4-year terms.

26 (2) A local fish, wildlife, and parks review commission must be composed of Montana residents who
27 have lived in the county commission district for at least 15 years and have held a conservation license for at least
28 3 of any of those 15 years. The members of a local fish, wildlife, and parks review commission must include:

29 (a) a hunter or angler;

30 (b) a person whose primary business is either farming, ranching, logging, mining, oil and gas exploration

1 or production, or a combination of these businesses; and

2 (c) a member of the Montana snowmobile association, Montanans for multiple use, or another similar
3 organization that promotes public access to public lands or a member of an organization that seeks to protect
4 private property rights and public access to public lands.

5 (3) A member of a local fish, wildlife, and parks review commission may not be an employee of the local,
6 state, or federal government.

7 (4) A member of a local fish, wildlife, and parks review commission who serves at least 1 full year is
8 entitled to a free wildlife conservation license and may receive one Class AAA combination sports license without
9 charge in each subsequent year of the member's service. The licenses may be used for the full hunting or fishing
10 season in any district where they are valid. The licenses may not be transferred by gift or sale.

11 (5) Duties of a local fish, wildlife, and parks review commission include but are not limited to providing
12 approval to the department of fish, wildlife, and parks before the department can recommend the closing or
13 restriction of the use of roads, trails, or activities to any local, state, or federal entity, pending a local fish, wildlife,
14 and parks review commission's determination that the recommendations do not limit private property rights or
15 public access to public lands.

16 (6) A local fish, wildlife, and parks review commission is prohibited from imposing any restriction or
17 limitation on an agreement proposed by the department of fish, wildlife, and parks that would limit private
18 property rights or public access more than the proposed agreement.

19 (7) A local fish, wildlife, and parks review commission has jurisdiction only within the borders of the
20 county in which it is established.

21

22 **Section 3.** Section 87-2-202, MCA, is amended to read:

23 **"87-2-202. Application -- fee -- expiration.** (1) ~~A~~ Except for those licenses issued as compensation
24 pursuant to [section 2], a wildlife conservation license must be sold upon written application. The application
25 must contain the applicant's name, age, [social security number,] occupation, street address of permanent
26 residence, mailing address, qualifying length of time as a resident in the state of Montana, and status as a citizen
27 of the United States or as an alien and must be signed by the applicant. The applicant shall present a valid
28 Montana driver's license, a Montana driver's examiner's identification card, or other identification specified by
29 the department to substantiate the required information when applying for a wildlife conservation license. It is
30 the applicant's burden to provide documentation establishing the applicant's identity and qualifications to

1 purchase a wildlife conservation license. It is unlawful and a misdemeanor for a license agent to sell a wildlife
2 conservation license to an applicant who fails to produce the required identification at the time of application for
3 licensure.

4 (2) Hunting, fishing, or trapping licenses issued in a form determined by the department must be
5 recorded according to rules that the department may prescribe.

6 (3) (a) Resident wildlife conservation licenses may be purchased for a fee of \$6.25, of which 25 cents
7 is a search and rescue surcharge.

8 (b) Nonresident wildlife conservation licenses may be purchased for a fee of \$9.25, of which 25 cents
9 is a search and rescue surcharge.

10 (c) In addition to the fee in subsection (3)(a), the first time in any license year that a resident uses the
11 wildlife conservation license as a prerequisite to purchase a hunting license, an additional hunting access
12 enhancement fee of \$2 is assessed. The additional fee may be used by the department only to encourage
13 enhanced hunting access through the hunter management and hunting access enhancement programs
14 established in 87-1-265 through 87-1-267. The wildlife conservation license must be marked appropriately when
15 the hunting access enhancement fee is paid. The resident hunting access enhancement fee is chargeable only
16 once during any license year.

17 (d) In addition to the fee in subsection (3)(b), the first time in any license year that a nonresident uses
18 the wildlife conservation license as a prerequisite to purchase a hunting license, except a variably priced
19 outfitter-sponsored Class B-10 or Class B-11 license issued under 87-1-268, an additional hunting access
20 enhancement fee of \$10 is assessed. The additional fee may be used by the department only to encourage
21 enhanced hunting access through the hunter management and hunting access enhancement programs
22 established in 87-1-265 through 87-1-267. The wildlife conservation license must be marked appropriately when
23 the hunting access enhancement fee is paid. The nonresident hunting access enhancement fee is chargeable
24 only once during any license year.

25 (4) Licenses issued are void after the last day of February next succeeding their issuance.

26 [(5) The department shall keep the applicant's social security number confidential, except that the
27 number may be provided to the department of public health and human services for use in administering Title
28 IV-D of the Social Security Act.]

29 (6) The department shall delete the applicant's social security number in any electronic database [5
30 years after the date that application is made for the most recent license]. (Subsections (3)(c) and (3)(d) terminate

1 March 1, 2006--sec. 9, Ch. 216, L. 2001; bracketed language terminates or is amended on occurrence of
 2 contingency--sec. 3, Ch. 321, L. 2001; the \$2 wildlife conservation license fee increases in subsections (3)(a)
 3 and (3)(b) void on occurrence of contingency--sec. 8, Ch. 596, L. 2003.)"

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5 **Section 4.** Section 87-2-711, MCA, is amended to read:

6 **"87-2-711. (Temporary) Class AAA--combination sports license.** (1) A resident, as defined by
 7 87-2-102, who is 12 years of age or older or who will turn 12 years old before or during the season for which the
 8 license is issued is entitled to:

9 ~~(a) upon payment of the sum of \$54, plus the resident hunting access enhancement fee in~~
 10 ~~87-2-202(3)(e); a combination sports license that permits a holder who is 12 years of age or older to exercise~~
 11 ~~all rights granted to holders of Class A, A-1, A-3, and A-5; and resident conservation licenses as prescribed in~~
 12 ~~87-2-202 upon payment of the sum of \$54, plus the resident hunting access enhancement fee provided for in~~
 13 ~~87-2-202(3)(c), unless the resident is a member of a local fish, wildlife, and parks review commission established~~
 14 ~~pursuant to [section 2], in which case the combination sports license must be provided free of charge; or~~

15 ~~(b) upon payment of the sum of \$64, plus the resident hunting access enhancement fee in~~
 16 ~~87-2-202(3)(e); a combination sports license that permits a holder who is 12 years of age or older to exercise~~
 17 ~~all rights granted in subsection (1)(a) and the additional rights granted to holders of a Class A-6 license upon~~
 18 ~~payment of the sum of \$64, plus the resident hunting access enhancement fee provided for in 87-2-202(3)(c),~~
 19 ~~unless the resident is a member of a local fish, wildlife, and parks review commission established pursuant to~~
 20 ~~[section 2], in which case the combination sports license must be provided free of charge.~~

21 (2) The department may furnish each holder of a combination sports license an appropriate decal.
 22 (Terminates March 1, 2006--sec. 9, Ch. 216, L. 2001.)

23 **87-2-711. (Effective March 1, 2006) Class AAA--combination sports license.** (1) A resident, as
 24 defined by 87-2-102, who is 12 years of age or older or who will turn 12 years old before or during the season
 25 for which the license is issued is entitled to:

26 ~~(a) upon payment of the sum of \$54, a combination sports license that permits a holder who is 12 years~~
 27 ~~of age or older to exercise all rights granted to holders of Class A, A-1, A-3, and A-5; and resident conservation~~
 28 ~~licenses as prescribed in 87-2-202 upon payment of the sum of \$54, unless the resident is a member of a local~~
 29 ~~fish, wildlife, and parks review commission established pursuant to [section 2], in which case the combination~~
 30 ~~sports license must be provided free of charge; or~~

