

HOUSE BILL NO. 252
INTRODUCED BY K. PETERSON

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE LIMITATIONS ON SELF-GOVERNING POWERS FOR LOCAL GOVERNMENTS; AMENDING SECTIONS 7-1-111, 7-5-201, AND 7-6-1502, MCA; REPEALING SECTIONS 7-1-112, 7-1-113, 7-1-114, AND 7-1-115, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

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

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

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

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

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

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

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

~~(6)(b) any power that applies to or affects any determination of the department of environmental quality with regard to any mining plan, permit, or contract or to a certificate of compliance;~~

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

~~(8)(c) any power that defines as an offense conduct made criminal by state statute, that defines an offense as a felony, or that fixes the penalty or sentence for a misdemeanor in excess of a fine of ~~\$500~~ \$1,000, ~~6 months~~ imprisonment for 1 year, or both, except as specifically authorized by statute;~~

~~(9)(d) any power that applies to or affects the right to keep or bear arms, except that a local government~~

has the power to regulate the carrying of concealed weapons;

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

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

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

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

~~—— (14) subject to 7-32-4304, any power to enact ordinances prohibiting or penalizing vagrancy~~

~~(g) a power that is inconsistent with state law if it establishes standards or requirements that are lower or less stringent than those imposed by state law.~~

(2) A local government with self-government powers is prohibited from varying:

(a) Title 7, chapter 3, part 1;

(b) Title 70, chapters 30 and 31; and

(c) the provisions of 15-10-420, except as the number of mills may be authorized by charter or other authorizing document."

Section 2. Section 7-5-201, MCA, is amended to read:

"7-5-201. Operation of self-government consolidated units of local government. (1) Except as provided in 7-3-1105(2) and 7-3-1222(6), whenever existing law contains different provisions and procedures for the functioning of counties and municipalities, including but not limited to such areas as election procedures, issuance of bonds, adoption of budgets, creation of special districts, levying of taxes, and provision of services, the governing body of a self-government consolidated unit of local government ~~which~~ that contains at least one county and one municipality shall by ordinance adopt either the county or municipality provisions. The ordinance may provide for necessary changes in the statutes to accommodate the structure of the consolidated unit. This subsection applies to self-government consolidated units only in those areas where the units are subject to state

law under 7-1-111 through ~~7-1-114~~.

(2) A combination of county and municipal offices in a self-government consolidated unit may be accomplished by ordinance whenever a combination is necessary for carrying out a duty assigned by state law to the local government. Whenever state law imposes a duty upon a specific official or employee of a self-government consolidated unit of local government and the local government under its adopted alternative form of government does not have that official or employee, the governing body may by ordinance assign that duty to the appropriate official or employee of the local government. The governing body of any self-government consolidated unit of local government may by ordinance assign responsibility to carry out any function or provide any service required by state law to one or more departments, officers, or employees of the local government, notwithstanding the fact that the state law may assign the function or service to a specific office."

Section 3. Section 7-6-1502, MCA, is amended to read:

"7-6-1502. Resort community taxing authority -- specific delegation. ~~As required by 7-1-112,~~ Sections 7-6-1501 through 7-6-1507 specifically delegate to the electors of each respective resort community the power to authorize their municipality to impose a resort tax within the corporate boundary of the municipality as provided in 7-6-1501 through 7-6-1507."

NEW SECTION. **Section 4. Repealer.** Sections 7-1-112, 7-1-113, 7-1-114, and 7-1-115, MCA, are repealed.

NEW SECTION. **Section 5. Effective date.** [This act] is effective July 1, 2007.

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