

SENATE BILL 31

IN THE SENATE

January 3, 1979

Introduced.

By motion and consent Senator
E. Smith added as co-sponsor.

Referred to Committee on Fish
and Game.

January 25, 1979

Fiscal note requested.

January 26, 197

Committee recommend bill, do
not pass, as amended.

February 1, 1979

Fiscal note returned.

1 SENATE BILL NO. 31
 2 INTRODUCED BY Towe
 3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR A
 5 SEVEN-MEMBER FISH AND GAME COMMISSION; TO PROVIDE FOR THE
 6 APPOINTMENT, TERM, QUALIFICATIONS, AND REMOVAL OF FISH AND
 7 GAME COMMISSIONERS; TO PROVIDE FOR THE APPOINTMENT OF THE
 8 DIRECTOR OF THE DEPARTMENT OF FISH AND GAME BY THE
 9 COMMISSION; AND TO RAISE THE MINIMUM EXPENDITURE REQUIRING
 10 COMMISSION APPROVAL IN 87-1-301(7) FROM \$1,000 TO \$2,500;
 11 AMENDING SECTIONS 2-15-111, 2-15-3401, 2-15-3402, AND
 12 87-1-301, MCA, AND PROVIDING AN EFFECTIVE DATE."
 13
 14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 15 Section 1. Section 2-15-3401, MCA, is amended to read:
 16 "2-15-3401. Department of fish and game -- head. There
 17 is a department of fish and game. The department head is the
 18 director of fish and game appointed by the governor and
 19 game commission in accordance with 2-15-111 [section 10 of
 20 this act]. ~~The director is the secretary of the commission.~~
 21 Section 2. Section 2-15-3402, MCA, is amended to read:
 22 "2-15-3402. Fish and game commission -- composition --
 23 qualifications----quasi-judicial. (1) There is a fish and
 24 game commission.
 25 (2) The commission consists of five seven members. At

1 ~~least one member shall be experienced in the breeding and~~
 2 ~~management of domestic livestock.~~ The governor shall appoint
 3 one member from each of the following ~~district~~ regions:
 4 (a) ~~District Region~~ Region No. 1, consisting of ~~Lincoln~~
 5 ~~Flathead, Sanders, Lake, Mineral, Missoula, Powell, Ravalli,~~
 6 ~~Granite, and Lewis and Clark~~ Flathead, Lake, Lincoln, and
 7 Sanders Counties;
 8 (b) ~~District Region~~ Region No. 2, consisting of ~~Deer, Lodge,~~
 9 ~~Silver, Bow, Beaverhead, Madison, Jefferson, Broadwater,~~
 10 ~~Gallatin, Park, and Sweet Grass~~ Deer, Lodge, Granite,
 11 Mineral, Missoula, Powell, and Ravalli Counties;
 12 (c) ~~District Region~~ Region No. 3, consisting of ~~Glacier,~~
 13 ~~Foot, Liberty, Hill, Pondera, Fenton, Chouteau, Cascade,~~
 14 ~~Judith, Basin, Fergus, Blaine, Meagher, and Wheatland~~
 15 Beaverhead, Broadwater, Gallatin, Jefferson, Madison, Park,
 16 and Silver Bow Counties;
 17 (d) ~~District Region~~ Region No. 4, consisting of ~~Phillips,~~
 18 ~~Valley, Bonanza, Sheridan, Roosevelt, Petroleum, Garfield,~~
 19 ~~McCone, Richland, Dawson, and Wibaux~~ Cascade, Chouteau,
 20 Fergus, Glacier, Judith Basin, Lewis and Clark, Liberty,
 21 Maunier, Petroleum, Pondera, Teton, and Toole Counties;
 22 (e) ~~District Region~~ Region No. 5, consisting of ~~Golden~~
 23 ~~Valley, Musselshell, Stillwater, Carbon, Yellowstone, Big~~
 24 ~~Horn, Treasure, Rosebud, Custer, Powder, River, Carter,~~
 25 ~~Fallon, and Prairie~~ Big Horn, Carbon, Golden, Valley,

1 ~~Musselshell, Stillwater, Sweet Grass, Wheatland, and~~
2 ~~Yellowstone Counties;~~

3 ~~(f) Region No. 6, consisting of Blaine, Daniels, Hill,~~
4 ~~McCone, Phillips, Roosevelt, Sheridan, and Valley Counties;~~

5 ~~(g) Region No. 7, consisting of Carter, Custer,~~
6 ~~Dawson, Fallon, Garfield, Powder River, Prairie, Richland,~~
7 ~~Rosebud, Treasure, and Wibaux Counties.~~

8 (3) Appointments shall be made without regard to
9 political affiliation, ~~except that no more than four members~~
10 ~~may be from the same political party,~~ and shall be made
11 solely for the welfare of the fish, game, and wildlife of
12 this state. ~~A person may not be appointed to the commission~~
13 ~~unless he is informed or interested and experienced in the~~
14 ~~subject of wildlife, fish, and game and the requirements for~~
15 ~~the conservation and protection of fish, game, and game~~
16 ~~birds and animals.~~

17 ~~(4) A vacancy occurring on the commission shall be~~
18 ~~filled by the governor in the same manner and from the~~
19 ~~district in which the vacancy occurs.~~

20 ~~(5) The fish and game commission is designated as a~~
21 ~~quasi-judicial board for purposes of 2-15-124.~~

22 **NEW SECTION.** Section 3. Qualifications of fish and
23 game commissioners. A person may not be appointed to the
24 commission unless:

25 (1) he has shown a strong interest in the avocation of

1 hunting and fishing for most of his adult life; and

2 (2) (a) he has been active in an organization that is
3 directly concerned with the sports of hunting and fishing or
4 the habitat of all wild game, fish, and fowl and has
5 maintained this interest for a period of at least 10 years;
6 or

7 (b) he is well versed in farming or the raising of
8 domestic livestock and has engaged in such activities for a
9 period of at least 10 years.

10 **NEW SECTION.** Section 4. Representation of
11 agriculturalists, sportsmen, and guides and outfitters. (1)
12 In making appointments to the commission, the governor shall
13 insure that the following requirements are met:

14 (a) Two of the commissioners shall receive a major
15 portion of their livelihood from farming or ranching
16 operations and shall have significant support from
17 agricultural groups.

18 (b) Four of the commissioners shall be members of rod
19 and gun clubs, sportsmen's clubs, or wildlife groups and
20 shall have significant support from such clubs and groups in
21 their respective regions.

22 (c) One of the commissioners shall be a member of an
23 organization representing Montana guides and outfitters and
24 shall have full support from this organization.

25 (2) In meeting the provisions of subsection (1), any

1 commissioner possessing the required attributes may be
2 counted toward fulfilling one or more of the requirements
3 listed in subsections (1)(a) through (1)(c).

4 NEW SECTION. Section 5. Selection committee --
5 appointment procedure. (1) The governor shall appoint a
6 selection committee of seven members, with one member from
7 each of the seven regions listed in 2-15-3402. These
8 committee members shall have a term of office of 4 years, to
9 run concurrently with that of the governor. Appointments to
10 the selection committee shall be made after consultation
11 with agricultural groups, sportsmen's groups, and guide and
12 outfitter's groups. Vacancies shall be filled by the
13 governor.

14 (2) The selection committee shall recommend to the
15 governor three persons for each appointment to the fish and
16 game commission. In making its recommendations, the
17 committee shall take into account the requirements of
18 2-15-3402, [section 3 of this act], and [section 4 of this
19 act]. These recommendations may not be made in such a
20 fashion as to require the appointment of a particular
21 individual.

22 (3) The governor shall appoint each commissioner from
23 the list of three individuals submitted by the selection
24 committee.

25 (4) The members of the committee are not entitled to

1 compensation for their services, but they are entitled to
2 travel expenses, as provided for in 2-18-501 through
3 2-18-503, while actually engaged in the discharge of their
4 official duties.

5 NEW SECTION. Section 6. Term of office and time of
6 appointment. (1) Each commissioner shall serve a term of
7 office of 4 years and until his successor is appointed and
8 qualified.

9 (2) The governor shall appoint three members of the
10 commission on or before February 1 of the first year of the
11 governor's term of office, two members on January 1 of the
12 second year of his term, and two members on January 1 of the
13 third year of his term.

14 NEW SECTION. Section 7. Removal of commissioner. (1)
15 A commissioner may be removed from office only for cause,
16 including inefficiency, neglect of duty, and official
17 misconduct. The commissioner must be notified, in writing,
18 of the reason for the removal within 15 days from the date
19 of suspension.

20 (2) A removal of a commissioner shall be treated as a
21 contested case under the Montana Administrative Procedure
22 Act, with the term "agency" taken to mean the governor. If
23 the commissioner wishes to appeal the removal, the governor
24 shall appoint an impartial hearing examiner to consider the
25 case and the commissioner shall have all legal fees

1 resulting from legal representation at the hearing paid by
2 the department of fish and game.

3 NEW SECTION. Section 8. Quasi-judicial nature of
4 commission. The fish and game commission is designated as a
5 quasi-judicial board for purposes of 2-15-124, except that:

6 (1) the provisions of 2-15-124(1) requiring that at
7 least one member be an attorney does not apply; and

8 (2) the provisions of 2-15-124(2) and (5) do not
9 apply.

10 NEW SECTION. Section 9. Organization of commission.

11 (1) The commission shall annually elect one of its members
12 as chairman. The chairman may make and second motions and
13 may vote.

14 (2) The director of the fish and game department is
15 the secretary of the commission.

16 NEW SECTION. Section 10. Director of fish and game.

17 (1) The fish and game commission shall appoint, subject to
18 confirmation by the senate, the director of fish and game,
19 who shall serve as head of the department of fish and game.
20 The director reports to and is responsible to the
21 commission.

22 (2) The director serves at the pleasure of the
23 commission.

24 (3) If a vacancy occurs in the office of director, the
25 commission shall appoint a successor.

1 (4) The provisions of 2-15-112 apply to the director
2 of fish and game.

3 Section 11. Section 2-15-111, MCA, is amended to read:

4 "2-15-111. Appointment and qualifications of
5 department heads. (1) The governor shall appoint, at the
6 beginning of each gubernatorial term, each department head
7 who is a director in this chapter.

8 (2) An appointment of a director by the governor is
9 subject to the confirmation of the senate, except that the
10 governor may appoint a director to assume office before the
11 senate meets in its next regular session to consider the
12 appointment. A director so appointed is vested with all the
13 functions of the office upon assuming the office and is a de
14 jure officer, notwithstanding the fact that the senate has
15 not yet confirmed the appointment. If the senate does not
16 confirm the appointment of a director, the governor shall
17 make a new appointment.

18 (3) A director serves at the pleasure of the governor.
19 The governor may remove a director at any time and appoint a
20 new director to the office.

21 (4) The governor shall select a director on the basis
22 of his professional and administrative knowledge and
23 experience and such additional qualifications as are
24 provided by law.

25 (5) If a vacancy occurs in the office of a director,

1 the governor shall appoint a new director to serve at the
2 pleasure of the governor.

3 (6) Heads of departments who are not directors shall
4 be elected or appointed and serve, and their vacancies
5 filled, as provided by law.

6 ~~(7) This section does not apply to the department of
7 fish and game.~~

8 Section 12. Section 87-1-301, MCA, is amended to read:

9 "87-1-301. Powers of the commission. The commission
10 shall:

11 (1) set the policies for the protection, preservation,
12 and propagation of the wildlife, fish, game, furbearers,
13 waterfowl, nongame species, and endangered species of the
14 state and for the fulfillment of all other responsibilities
15 of the department as provided by law;

16 (2) establish the hunting, fishing, and trapping rules
17 of the department;

18 (3) establish the rules of the department governing
19 the use of lands owned or controlled by the department and
20 waters under the jurisdiction of the department;

21 (4) have the power within the department to establish
22 wildlife refuges and bird and game preserves;

23 (5) approve all acquisitions or transfers by the
24 department of interests in land or water;

25 (6) review and approve the budget of the department

1 prior to its transmittal to the budget office; and

2 (7) review and approve construction projects whose
3 estimated cost is more than \$4,500 but less than
4 \$5,000."

5 NEW SECTION. Section 13. Transition period. (1) Any
6 commissioner holding office on January 1, 1981, shall
7 continue to hold office until the expiration of his term of
8 office.

9 (2) The requirement of a seven-member commission and
10 the conditions of 2-15-3402(2) and [section 4 of this act]
11 are not effective until January 1, 1983.

12 Section 14. Effective date. Except as provided in
13 section 13 this act is effective January 1, 1981.

-End-

STATE OF MONTANA

REQUEST NO. 123-79

FISCAL NOTE

Form BD-15

In compliance with a written request received January 25, 19 79, there is hereby submitted a Fiscal Note for Senate Bill 31 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly.

Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

Senate Bill 31 creates a seven-member Fish and Game Commission to replace the existing five-member body; provides for appointment of the Fish and Game director by the commission as opposed to the appointment by the Governor; and increases the size of construction projects that must be reviewed and approved by the commission (\$1000 to \$2500).

ASSUMPTIONS:

The only fiscal impact of this bill will be from the increase in the size of the commission.

FISCAL IMPACT:

	<u>FY80</u>	<u>FY81</u>
Proposed law		
Personal Services	\$ 8,400	\$ 8,400
Operating Expenses	<u>47,940</u>	<u>50,337</u>
Total expenses under proposed law	56,340	58,737
Expenditures under current law	<u>48,300</u>	<u>50,415</u>
Increased expenditures under proposed law	<u>\$ 8,040</u>	<u>\$ 8,322</u>

Carolyn Haering for
BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 1/31/79