

HOUSE BILL NO. 655

INTRODUCED BY HARPER, MAZUREK, O'KEEFE, GRADY, SIMON,
ELLISON, RANEY

IN THE HOUSE

FEBRUARY 11, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON FISH & GAME.
FEBRUARY 13, 1989	FIRST READING.
FEBRUARY 17, 1989	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
FEBRUARY 18, 1989	PRINTING REPORT.
FEBRUARY 20, 1989	SECOND READING, DO PASS.
FEBRUARY 21, 1989	ENGROSSING REPORT.
	THIRD READING, PASSED. AYES, 90; NOES, 8.
	TRANSMITTED TO SENATE.

IN THE SENATE

FEBRUARY 28, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON AGRICULTURE, LIVESTOCK & IRRIGATION.
	FIRST READING.
MARCH 21, 1989	COMMITTEE RECOMMEND BILL BE CONCURRED IN AS AMENDED. REPORT ADOPTED.
MARCH 22, 1989	SECOND READING, CONCURRED IN.
MARCH 27, 1989	THIRD READING, CONCURRED IN. AYES, 48; NOES, 1.
	RETURNED TO HOUSE WITH AMENDMENTS.

IN THE HOUSE

MARCH 31, 1989

RECEIVED FROM SENATE.

SECOND READING, AMENDMENTS
CONCURRED IN.

APRIL 1, 1989

THIRD READING, AMENDMENTS
CONCURRED IN.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 *House* BILL NO. *655*
 2 INTRODUCED BY *Hayden Mezger*
 3 *Reife Dumbly Simon* *the reg*
 4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR THE
 5 ADMINISTRATION AND REGULATION OF FLOATING, CAMPING, AND
 6 RECREATIONAL USE OF A PORTION OF THE SMITH RIVER WATERWAY;
 7 PROVIDING FOR A MANAGEMENT PLAN AND ADOPTION OF RULES
 8 REGULATING RECREATIONAL USE; ALLOWING FOR USER FEES BY RULE
 9 AND ALLOCATING THE FEES; PROVIDING A PENALTY FOR VIOLATION;
 10 AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."
 11

12 STATEMENT OF INTENT

13 A statement of intent is required for this bill because
 14 rulemaking authority is granted to the fish and game
 15 commission in [section 6] for the administration of the
 16 Smith River waterway. The grant of rulemaking authority is
 17 described in detail in [section 6]. The authority of the
 18 commission to regulate recreational use and minimize
 19 conflicts for the protection of the water and canyon
 20 resources of the Smith River is through the rulemaking
 21 process.

22 The legislature intends that the fish and game
 23 commission adopt rules regulating recreational use as the
 24 need for restrictions is created by increased recreational
 25 use. The commission will have time to carefully develop

1 rules balancing all interests after providing opportunity
 2 for public input and discussion.

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

5 NEW SECTION. **Section 1.** Short title. [This act] may be
 6 cited as the "Smith River Management Act".

7 NEW SECTION. **Section 2.** Purpose -- intent. (1) The
 8 purpose of [this act] is to:

9 (a) provide continued recreational use and enjoyment of
 10 the Smith River waterway, consistent with the river's
 11 capacity;

12 (b) seek ways to minimize conflicts between river users
 13 and private landowners; and

14 (c) protect the integrity of the river's water and
 15 canyon resources for future generations.

16 (2) The intent of [this act] is to interpret and
 17 implement [this act] in a manner consistent with the
 18 statement of purpose for the state park system in 23-1-101.

19 NEW SECTION. **Section 3.** Definitions. As used in [this
 20 act], the following definitions apply:

21 (1) "Commission" means the fish and game commission
 22 provided for in 2-15-3402.

23 (2) "Department" means the department of fish,
 24 wildlife, and parks provided for in 2-15-3401.

25 NEW SECTION. **Section 4.** Applicability. [This act]

1 applies to that portion of the Smith River waterway located
 2 in Meagher and Cascade Counties lying between the Fort Logan
 3 bridge on Meagher County route 360 and the confluence of the
 4 Smith River with the Missouri River. This description does
 5 not prevent the department from naming or renaming areas
 6 pursuant to 23-1-102.

7 **NEW SECTION. Section 5. Management responsibility and**
 8 **plan.** (1) The department has the primary management
 9 responsibility for the Smith River waterway described in
 10 [section 4], consistent with the purpose stated in 23-1-101
 11 and [section 2]. The Smith River waterway must be
 12 administered to:

13 (a) allow the continuation of compatible existing uses;
 14 (b) maintain the natural scenic beauty, solitude, and
 15 wilderness experience of the river; and

16 (c) conserve fish and wildlife and scientific and
 17 recreational values.

18 (2) The department shall develop, adopt, and update as
 19 needed a management plan to guide the administration of the
 20 Smith River waterway.

21 **NEW SECTION. Section 6. Rulemaking authority.** The
 22 commission has authority to provide for the administration
 23 of the Smith River waterway. The commission may adopt rules
 24 to:

25 (1) regulate and allocate recreational floating and

1 camping to preserve the biological and social benefits of
 2 recreational use of the Smith River waterway in its natural
 3 state. Recreational use may be restricted to preserve the
 4 experience of floating, fishing, and camping in a natural
 5 environment and to protect the river's fish, wildlife,
 6 water, and canyon resources. The restrictions must:

7 (a) consider the tolerance of adjacent landowners to
 8 recreational use;

9 (b) consider the capability of the river and adjoining
 10 lands to accommodate floating and camping use; and

11 (c) ensure an acceptable level of user satisfaction,
 12 including minimizing user conflicts and providing for a
 13 level of solitude.

14 (2) restrict access, if necessary, through the use of a
 15 permit system. An allocation of a portion of the permits may
 16 be made to licensed outfitters to preserve the availability
 17 of outfitting services to the public.

18 (3) regulate the activities of recreational users of
 19 the water and land in the Smith River waterway that are
 20 legally accessible to the public and regulate the land in
 21 the river corridor that is under the control of the
 22 department and commission:

23 (a) for the purposes of safety, health, and protection
 24 of property;

25 (b) to preserve the experience of floating, fishing,

1 and camping in a natural environment;

2 (c) to protect the river's fish, wildlife, water, and
3 canyon resources; and

4 (d) to minimize conflicts between recreationists and
5 private landowners; and

6 (4) establish recreational user fees for floating and
7 camping on the Smith River waterway.

8 NEW SECTION. **Section 7. Allocation of user fees.** All
9 money collected as recreational user fees for floating and
10 camping on the Smith River waterway pursuant to [section 6]
11 must be deposited in the state treasury in a state revenue
12 fund to the credit of the department.

13 NEW SECTION. **Section 8. Penalty.** A person who violates
14 a rule of the commission adopted pursuant to [this act] is
15 guilty of a misdemeanor punishable by a fine of not less
16 than \$50 or more than \$500, by imprisonment in a county jail
17 for not more than 6 months, or by both fine and
18 imprisonment.

19 NEW SECTION. **Section 9. Extension of authority.** Any
20 existing authority to make rules on the subject of the
21 provisions of [this act] is extended to the provisions of
22 [this act].

23 NEW SECTION. **Section 10. Severability.** If a part of
24 [this act] is invalid, all valid parts that are severable
25 from the invalid part remain in effect. If a part of [this

1 act] is invalid in one or more of its applications, the part
2 remains in effect in all valid applications that are
3 severable from the invalid applications.

4 NEW SECTION. **Section 11. Effective date.** [This act] is
5 effective on passage and approval.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB655, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

HB655 would provide for the administration and regulation of floating, camping and recreational use of a portion of the Smith River waterway, providing for a management plan, adoption of rules regulating recreational use and user fees.

ASSUMPTIONS:

1. The average use for a floating season is 1,600 persons and user fees will average \$5 per person, generating \$8,000 per year.
2. Implementation will begin with the 1990 floating season, so revenue collected in FY90 will represent half of a floating season or \$4,000.
3. Start-up costs will be \$600 for signs and self-pay stations; ongoing administrative costs will be \$1,467 per year for printing, including registration permits at \$80, floating logs at \$930 and boat identification tags at \$457.
4. There will be five public meetings using existing staff.
5. In addition to the above assumptions, the 1991 biennium current level budget includes 0.50 FTE and \$32,995 in FY90 and \$30,806 in FY91 for implementation of the Smith River management plan which the department has included as a priority redirection of activities. These program costs have been approved for inclusion in HB100 and, therefore, are not part of this fiscal note.

FISCAL IMPACT:

Dept. of Fish, Wildlife & Parks

Expenditures:

	Current Law	FY90 Proposed Law	Difference	Current Law	FY91 Proposed Law	Difference
Operating Expenses	\$ -0-	\$2,067	\$2,067	\$ -0-	\$1,467	\$1,467

Funding:

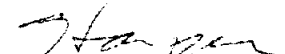
State Special Revenue	\$ -0-	\$2,067	\$2,067	\$ -0-	\$1,467	\$1,467
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Revenue:

State Special Revenue						
User Fees	\$ -0-	\$4,000	\$4,000	\$ -0-	\$8,000	\$8,000


DATE 2/20/89

RAY SHACKLEFORD, BUDGET DIRECTOR
OFFICE OF BUDGET AND PROGRAM PLANNING


DATE 2/21/89

HAL HARPER, PRIMARY SPONSOR

Fiscal Note for HB655, as introduced

HB 655

APPROVED BY COMM.
ON FISH AND GAME

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INTRODUCED BY HARPER, MAZUREK, O'KEEFE, GRADY, SIMON,
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A statement of intent is required for this bill because
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commission in [section 6] for the administration of the
Smith River waterway. The grant of rulemaking authority is
described in detail in [section 6]. The authority of the
commission to regulate recreational AND COMMERCIAL use and
minimize conflicts for the protection of the water and
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rulemaking process.

The legislature intends that the fish and game

commission adopt rules regulating ~~recreational~~ use as the
need for restrictions is created by increased recreational
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and enjoyment of the Smith River waterway, consistent with
the river's capacity;

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users and private landowners; and

(c) protect the integrity of the river's water and
canyon resources for future generations.

(2) The intent of [this act] is to interpret and
implement [this act] in a manner consistent with the
statement of purpose for the state park system in 23-1-101.

(3) NOTHING IN [THIS ACT] MAY BE CONSTRUED IN ANY WAY
TO RESTRICT A LANDOWNER'S ACCESS TO OR USE OF HIS LAND,
IMPROVEMENTS, WATER RIGHTS, OR ADJACENT WATERWAYS.

NEW SECTION. **Section 3.** Definitions. As used in [this

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4 waterway that are legally accessible to the public and
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-End-

SENATE STANDING COMMITTEE REPORT

March 20, 1989

MR. PRESIDENT:

We, your committee on Agriculture, Livestock, and Irrigation, having had under consideration HB 655 (third reading copy -- blue), respectfully report that HB 655 be amended and as so amended be concurred in:

Sponsor: Harper (Mazurek)

1. Title, line 8.

Following: "FOR"

Strike: "A MANAGEMENT PLAN AND"

2. Page 3, lines 8 and 9.

Following: "the" on line 8

Strike: "Fort Logan bridge on Meagher County route 360"

Insert: "Camp Baker state fishing access site in Meagher County"

3. Page 3, line 14.

Strike: "(1)"

Following: "primary"

Insert: "recreational"

4. Page 3, line 19.

Strike: "(a)"

Insert: "(1)"

Following: "existing"

Insert: "recreational and public land"

5. Page 3, line 21.

Strike: "(b)"

Insert: "(2)"

Following: "maintain"

Insert: "the opportunity to enjoy"

6. Page 3, line 23.

Strike: "(c)"

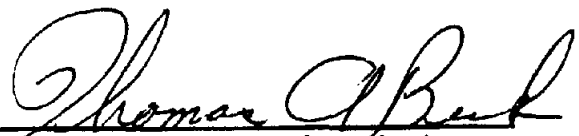
Insert: "(3)"

7. Page 3, line 25 through page 4, line 2.

Strike: subsection (2) in its entirety

AND AS AMENDED BE CONCURRED IN

Signed:


Thomas A. Beck, Chairman

**SENATE
HB 655**

HOUSE BILL NO. 655

INTRODUCED BY HARPER, MAZUREK, O'KEEFE, GRADY, SIMON,
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8 in Meagher and Cascade Counties lying between the Port-Bogan
9 bridge--on-Meagher-County-route-360 CAMP BAKER STATE FISHING
10 ACCESS SITE IN MEAGHER COUNTY and the confluence of the
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23 scenic beauty, AND solitude, ~~and--wilderness--experience--of~~
24 ~~the-river;~~ and

25 {c}{3} conserve fish and wildlife and scientific and

1 recreational values.

2 ~~{2}--The-department-shall-develop,adopt,-and-update-as~~
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19 (b) consider the capability of the river and adjoining
20 lands to accommodate floating and camping use; and

21 (c) ensure an acceptable level of user satisfaction,
22 including minimizing user conflicts and providing for a
23 level of solitude.

24 (2) restrict access RECREATIONAL USE, if necessary,
25 through the use IMPLEMENTATION of a permit system. An

1 allocation of a portion of the permits may be made to
2 licensed outfitters to preserve the availability of
3 outfitting services to the public.

4 (3) regulate the activities of recreational AND
5 COMMERCIAL users of the water and land in the Smith River
6 waterway that are legally accessible to the public and
7 regulate the land in the river corridor that is under the
8 control of the department and commission:

9 (a) for the purposes of safety, health, and protection
10 of property;

11 (b) to preserve the experience of floating, fishing,
12 and camping in a natural environment;

13 (c) to protect the river's fish, wildlife, water, and
14 canyon resources; and

15 (d) to minimize conflicts between recreationists and
16 private landowners; and

17 (4) establish recreational AND COMMERCIAL user fees
18 for floating and camping on the Smith River waterway.

19 NEW SECTION. Section 7. Allocation of user fees. All
20 money collected as recreational AND COMMERCIAL user fees for
21 floating and camping on the Smith River waterway pursuant to
22 [section 6] must be deposited in the state treasury in a
23 state revenue fund to the credit of the department.

24 NEW SECTION. Section 8. Penalty. A person who
25 violates a rule of the commission adopted pursuant to [this

1 act] is guilty of a misdemeanor punishable by a fine of not
2 less than \$50 or more than \$500, by imprisonment in a county
3 jail for not more than 6 months, or by both fine and
4 imprisonment.

5 NEW SECTION. Section 9. Extension of authority. Any
6 existing authority to make rules on the subject of the
7 provisions of [this act] is extended to the provisions of
8 [this act].

9 NEW SECTION. Section 10. Severability. If a part of
10 [this act] is invalid, all valid parts that are severable
11 from the invalid part remain in effect. If a part of [this
12 act] is invalid in one or more of its applications, the part
13 remains in effect in all valid applications that are
14 severable from the invalid applications.

15 NEW SECTION. Section 11. Effective date. [This act]
16 is effective on passage and approval.

-End-