

1 *House* BILL NO. *376*
 2 INTRODUCED BY *Prigala* *Traylor* *Maske-John Johnson*
 3 *Denny* *Van Valkenburg*

4 A BILL FOR AN ACT ENTITLED: "AN ACT INCREASING PUBLIC INPUT INTO STATE AGENCY DECISIONS
 5 BY REQUIRING A PUBLIC HEARING HELD FOR AN ACTION THAT DIRECTLY IMPACTS A SPECIFIC
 6 COMMUNITY OR AREA TO BE HELD IN THE IMPACTED COMMUNITY OR AREA; AND AMENDING
 7 SECTIONS 2-3-111, 16-4-202, AND 75-10-924, MCA."

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

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 11 **Section 1.** Section 2-3-111, MCA, is amended to read:

12 "**2-3-111. Opportunity to submit views -- public hearings.** (1) Procedures for assisting public
 13 participation ~~shall~~ must include a method of affording interested persons reasonable opportunity to submit
 14 data, views, or arguments, orally or in written form, prior to making a final decision that is of significant
 15 interest to the public.

16 (2) When a state agency proposes to take an action that directly impacts a specific community or
 17 area and a public hearing is held, the hearing must be held in the impacted community or area."

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 19 **Section 2.** Section 16-4-202, MCA, is amended to read:

20 "**16-4-202. Resort licenses.** (1) It is the intent and purpose of this section to encourage the growth
 21 of quality recreational resort facilities in undeveloped areas of the state and to provide for the orderly
 22 growth of existing recreational sites by the establishment of resort areas within which retail all-beverages
 23 licenses may be issued by the department under the terms and as more particularly prescribed below. In
 24 addition to the licenses as otherwise set forth in this code, the department may issue resort retail
 25 all-beverages licenses in a resort area.

26 (2) For the purposes of this section, a resort area is defined as a recreational facility meeting the
 27 qualifications determined by the department as ~~hereinafter~~ provided in this section.

28 (3) The department shall determine that the area for which licenses are to be issued is a resort
 29 area, ~~such~~ The determination ~~to~~ must be made under and pursuant to rules ~~to be first promulgated on or~~
 30 ~~before December 31, 1975.~~

1 (4) In addition to the other requirements of this code, a resort area, for the purposes of qualification
 2 for the issuance of a resort retail all-beverages license, must have a current actual valuation of resort or
 3 recreational facilities, including land and improvements ~~thereon~~, of not less than \$500,000, at least half
 4 of which valuation must be for a structure or structures within the resort area, and must be under the sole
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8 (5) The resort area must be determined by the resort developer or landowner by a plat setting forth
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 13 resort retail all-beverages licenses ~~are to or~~ may be located. A master plan for the development of the area
 14 may be filed by the resort developer in satisfaction of this section.

15 (6) Upon ~~such~~ filing, the department shall ~~forthwith~~ schedule a public hearing to be held in ~~Helena,~~
 16 ~~Montana~~ the proposed area, to determine whether the facility proposed by the resort developer or
 17 landowner is a resort area within the meaning of the rules of the department. At least 30 days prior to the
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23 (7) Persons may present statements to the department at the hearing in person or in writing in
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25 (8) Within 30 days of the hearing, the department shall accept or reject the plat. If rejected, the
 26 department ~~must~~ shall state its reasons and set forth the conditions, if any, under which the plat will be
 27 accepted, ~~and the~~ The decision of the department may be reviewed pursuant to the review procedure set
 28 forth in 16-4-406.

29 (9) Once filed with the department, the boundaries of a resort may not be changed without ~~full~~
 30 hearing, ~~as above~~ provided in this section, and the prior approval of the department, ~~which~~ The approval

1 ~~shall~~ must be made according to public convenience and necessity.

2 (10) (a) When the department has accepted a plat and a given resort area has been determined,
3 applications may then be filed with the department ~~by persons~~ for the issuance of resort retail all-beverages
4 licenses within the resort area.

5 (b) Each applicant must submit plans showing the location, appearance, and floor plan of the
6 premises for which application for a license is made.

7 (c) If an applicant otherwise qualifies for a resort license but the premises to be licensed are still
8 in construction or are otherwise incomplete at the time of ~~such~~ application, the department shall issue a
9 letter stating that the license will be issued ~~at such time as~~ when the qualifications for a licensed premises
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11 department may establish.

12 (11) In addition to the restrictions on sale or transfer of a license as provided in 16-4-204 and
13 16-4-404, ~~no~~ a resort retail all-beverages license may not be sold or transferred for operation at a location
14 outside of the boundaries of the resort area.

15 (12) A resort retail all-beverages license ~~shall not be~~ is subject to the quota limitations set forth in
16 16-4-201, and if the requirements of this section have been met, a resort retail all-beverages license ~~shall~~
17 must be issued by the department on the basis that the department has determined that ~~such~~ the license
18 is justified by public convenience and necessity, in accordance with the procedure required in 16-4-207."
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20 **Section 3.** Section 75-10-924, MCA, is amended to read:

21 "**75-10-924. Hearing date -- location -- department to act as staff.** (1) Upon receipt of the
22 department's report submitted under 75-10-922, the board shall set a date for a hearing to begin not more
23 than 120 days after receipt of the report. A certification hearing must be conducted by the board ~~in Helena~~
24 ~~or~~ in the county seat of the county in which the facility or the greatest portion of the facility is to be
25 located.

26 (2) Except as provided in 75-10-926, the department shall act as the staff for the board throughout
27 the decisionmaking process and the board may request that the department present testimony or
28 cross-examine witnesses as the board considers necessary and appropriate."
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STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0376, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

A bill increasing public input into state agency decisions by requiring a public hearing held for an action that directly impacts a specific community or area to be held in the impacted community or area.

ASSUMPTIONS:

1. Of the 30 agencies polled for a response for a fiscal note for this bill, 3 responded with a fiscal impact. They are: Crime Control Division, Department of Revenue, and Fish, Wildlife and Parks.

Crime Control Division:

2. Assume that the Board of Crime Control will act on 200 subgrant applications each year. Of those, 40 will be denied and they will impact a specific area.
3. The Board will give an option to the denied applications to have them presented on-site. Half, or 20 will accept.
4. Each presentation will require 3 staff members, and will cost \$500/meeting, or a total cost of \$10,000 (20 x \$500). The general fund will contribute \$2,500 (25%) of the cost, with federal funds the remaining, \$7,500.

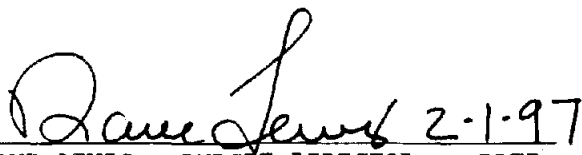
Department of Revenue (DOR):

5. The Liquor Division holds an average of 27 hearings per year, of which 24 are anticipated to be held outside Helena.
6. A licensing certification specialist (grade 10, DOR employee), and a hearings officer and an attorney must attend all hearings.
7. Per diem costs per trip, including transportation, meeting room rent, food and lodging, would be \$500 per trip, or \$12,000 (\$500 x 24).
8. Due to time current constraints of the hearings officer and the attorney, half the trips will utilize independent contractors, at a cost of \$10,000.

Fish, Wild and Parks:

9. This bill would only affect decisions made by the FWP commission and not of any advisory board.
10. When the commission meets in an impacted area, an average of 6 Helena based FWP employees will attend. Each meeting will cost approximately \$1,000.
11. Depending on the interpretation of this bill, the commission could be required to hold an additional 10-100 meetings/year. Assume 25 additional meetings, or additional costs of \$25,000 (\$1,000 x 25).

(continued)


DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

JOE TROPILA, PRIMARY SPONSOR DATE

Fiscal Note for HB0376, as introduced

HB 376

Fiscal Note Request, HB0376, as introduced
page 2
continued

<u>FISCAL IMPACT:</u>	<u>FY98</u>	<u>FY99</u>
	<u>Difference</u>	<u>Difference</u>
<u>Expenditures:</u>		
Crime Control Div.:		
Operating expense	\$10,000	\$10,000
<u>Funding:</u>		
General fund (01)	2,500	2,500
Federal special (03)	<u>7,500</u>	<u>7,500</u>
Total	\$10,000	\$10,000
DOR - Liquor Division:		
Operating expenses (06)	\$22,000	\$22,000
Fish, Wildlife and Parks:		
Operating expense (02)	\$25,000	\$25,000
<u>Net Impact on Fund Balance: (revenue minus expense)</u>		
Operating expense	(\$57,000)	(\$57,000)
<u>Funding:</u>		
General fund (01)	(\$ 2,500)	(\$ 2,500)
State special (02)	(25,000)	(25,000)
Federal special (03)	(7,500)	(7,500)
Proprietary (06)	<u>(22,000)</u>	<u>(22,000)</u>
Total	(\$57,000)	(\$57,000)

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 2 hearing, ~~as above provided in this section,~~ and the prior approval of the department, ~~which~~ The approval
 3 ~~shall~~ must be made according to public convenience and necessity.

4 (10) (a) When the department has accepted a plat and a given resort area has been determined,
 5 applications may then be filed with the department ~~by persons~~ for the issuance of resort retail all-beverages
 6 licenses within the resort area.

7 (b) Each applicant must submit plans showing the location, appearance, and floor plan of the
 8 premises for which application for a license is made.

9 (c) If an applicant otherwise qualifies for a resort license but the premises to be licensed are still
 10 in construction or are otherwise incomplete at the time of ~~such~~ application, the department shall issue a
 11 letter stating that the license will be issued ~~at such time as~~ when the qualifications for a licensed premises
 12 have been met, ~~setting~~ The letter must set forth ~~such~~ time limitations and requirements ~~as~~ that the
 13 department may establish.

14 (11) In addition to the restrictions on sale or transfer of a license as provided in 16-4-204 and
 15 16-4-404, ~~no~~ a resort retail all-beverages license may not be sold or transferred for operation at a location
 16 outside of the boundaries of the resort area.

17 (12) A resort retail all-beverages license ~~shall not be~~ is subject to the quota limitations set forth in
 18 16-4-201, and if the requirements of this section have been met, a resort retail all-beverages license ~~shall~~
 19 must be issued by the department on the basis that the department has determined that ~~such~~ the license
 20 is justified by public convenience and necessity, in accordance with the procedure required in 16-4-207."
 21

22 **Section 3. Section 75-10-924, MCA, is amended to read:**

23 **"75-10-924. Hearing date -- location -- department to act as staff.** (1) Upon receipt of the
 24 department's report submitted under 75-10-922, the board shall set a date for a hearing to begin not more
 25 than 120 days after receipt of the report. A certification hearing must be conducted by the board ~~in Helena~~
 26 ~~or~~ in the county seat of the county in which the facility or the greatest portion of the facility is to be
 27 located.

28 (2) Except as provided in 75-10-926, the department shall act as the staff for the board throughout
 29 the decisionmaking process and the board may request that the department present testimony or
 30 cross-examine witnesses as the board considers necessary and appropriate."

-END-

1 HOUSE BILL NO. 376

2 INTRODUCED BY TROPILA, FRANKLIN, MASOLO, J. JOHNSON, TUSS, VAN VALKENBURG,
3 MARSHALL, DENNY
4

5 A BILL FOR AN ACT ENTITLED: "AN ACT INCREASING PUBLIC INPUT INTO STATE AGENCY DECISIONS
6 BY REQUIRING A PUBLIC HEARING HELD FOR AN ACTION THAT DIRECTLY IMPACTS A SPECIFIC
7 COMMUNITY OR AREA TO BE HELD IN AN ACCESSIBLE FACILITY IN THE IMPACTED COMMUNITY OR
8 AREA; EXCEPTING THE BOARD OF REGENTS; AND AMENDING SECTIONS 2-3-111, 16-4-202, AND
9 75-10-924, MCA."

10
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
12

13 **Section 1.** Section 2-3-111, MCA, is amended to read:

14 "2-3-111. **Opportunity to submit views -- public hearings.** (1) Procedures for assisting public
15 participation ~~shall~~ must include a method of affording interested persons reasonable opportunity to submit
16 data, views, or arguments, orally or in written form, prior to making a final decision that is of significant
17 interest to the public.

18 (2) When a state agency OTHER THAN THE BOARD OF REGENTS proposes to take an action that
19 directly impacts a specific community or area and a public hearing is held, the hearing must be held IN AN
20 ACCESSIBLE FACILITY in the impacted community or area OR IN THE NEAREST COMMUNITY OR AREA
21 WITH AN ACCESSIBLE FACILITY."
22

23 **Section 2.** Section 16-4-202, MCA, is amended to read:

24 "16-4-202. **Resort licenses.** (1) It is the intent and purpose of this section to encourage the growth
25 of quality recreational resort facilities in undeveloped areas of the state and to provide for the orderly
26 growth of existing recreational sites by the establishment of resort areas within which retail all-beverages
27 licenses may be issued by the department under the terms and as more particularly prescribed below. In
28 addition to the licenses as otherwise set forth in this code, the department may issue resort retail
29 all-beverages licenses in a resort area.

30 (2) For the purposes of this section, a resort area is defined as a recreational facility meeting the

1 qualifications determined by the department as ~~hereinafter~~ provided in this section.

2 (3) The department shall determine that the area for which licenses are to be issued is a resort
3 area, ~~such~~ The determination to must be made under and pursuant to rules ~~to be first promulgated on or~~
4 ~~before December 31, 1975.~~

5 (4) In addition to the other requirements of this code, a resort area, for the purposes of qualification
6 for the issuance of a resort retail all-beverages license, must have a current actual valuation of resort or
7 recreational facilities, including land and improvements ~~thereon~~, of not less than \$500,000, at least half
8 of which valuation must be for a structure or structures within the resort area, and must be under the sole
9 ownership or control of one person or entity at the time of the filing of the resort area plat referred to in
10 subsection (5) ~~of this section~~. The word "control" ~~shall mean~~ means lands held under lease, option, or
11 permit.

12 (5) The resort area must be determined by the resort developer or landowner by a plat setting forth
13 the resort boundaries, and designating the ownership of the lands within the resort area, ~~which~~ The plat
14 must be verified by the resort developer or landowner and must be filed with the department prior to the
15 filing of any applications by individuals for licenses within the resort area. ~~Such~~ The plat must show the
16 location and general design of the buildings and other improvements to be built in ~~said~~ the area in which
17 resort retail all-beverages licenses ~~are to or~~ may be located. A master plan for the development of the area
18 may be filed by the resort developer in satisfaction of this section.

19 (6) Upon ~~such~~ filing, the department shall ~~forthwith~~ schedule a public hearing to be held in ~~Helena,~~
20 ~~Montana~~ the proposed area, to determine whether the facility proposed by the resort developer or
21 landowner is a resort area within the meaning of the rules of the department. At least 30 days prior to the
22 date of the hearing, the department shall publish notice ~~thereof~~ of the hearing, with a description of the
23 location of the proposed resort area, in a newspaper published in the county or counties in which the resort
24 is located, once a week for 4 consecutive weeks. Each resort developer or landowner shall, at the time
25 of filing ~~his~~ the application, pay to the department an amount sufficient to cover the costs of ~~said~~
26 publication.

27 (7) Persons may present statements to the department at the hearing in person or in writing in
28 opposition or support of the plat.

29 (8) Within 30 days of the hearing, the department shall accept or reject the plat. If rejected, the
30 department ~~must~~ shall state its reasons and set forth the conditions, if any, under which the plat will be

1 accepted~~7.~~ ~~and the~~ The decision of the department may be reviewed pursuant to the review procedure set
2 forth in 16-4-406.

3 (9) Once filed with the department, the boundaries of a resort may not be changed without full
4 hearing~~2~~, as ~~above~~ provided in this section, and the prior approval of the department~~7.~~ ~~which~~ The approval
5 shall must be made according to public convenience and necessity.

6 (10) (a) When the department has accepted a plat and a given resort area has been determined,
7 applications may then be filed with the department ~~by persons~~ for the issuance of resort retail all-beverages
8 licenses within the resort area.

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10 premises for which application for a license is made.

11 (c) If an applicant otherwise qualifies for a resort license but the premises to be licensed are still
12 in construction or are otherwise incomplete at the time of ~~such~~ application, the department shall issue a
13 letter stating that the license will be issued ~~at such time as~~ when the qualifications for a licensed premises
14 have been met~~7.~~ ~~setting~~ The letter must set forth ~~such~~ time limitations and requirements ~~as~~ that
15 the department may establish.

16 (11) In addition to the restrictions on sale or transfer of a license as provided in 16-4-204 and
17 16-4-404, ~~no~~ a resort retail all-beverages license may not be sold or transferred for operation at a location
18 outside of the boundaries of the resort area.

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21 must be issued by the department on the basis that the department has determined that ~~such~~ the license
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28 ~~or~~ in the county seat of the county in which the facility or the greatest portion of the facility is to be
29 located.

30 (2) Except as provided in 75-10-926, the department shall act as the staff for the board throughout

1 the decisionmaking process and the board may request that the department present testimony or
2 cross-examine witnesses as the board considers necessary and appropriate."

3 -END-