

1 *Power*
 2 INTRODUCED BY *Ernstfeld* ^{Senate} BILL NO. 295 *Ever* *M. C. B. Barchak*
 3 *Carly Haysan Raney Huddle Haysan Thomas*

4 A BILL FOR AN ACT ENTITLED: "AN ACT INCREASING PUBLIC INVOLVEMENT IN ISSUING GAMBLING
 5 LICENSES AND PERMITS; REQUIRING A PUBLIC HEARING IN THE AFFECTED JURISDICTION; REQUIRING
 6 A DETERMINATION OF PUBLIC CONVENIENCE AND NECESSITY; AND AMENDING SECTIONS 23-5-115
 7 AND 23-5-611, MCA."

8
 9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

10
 11 **Section 1.** Section 23-5-115, MCA, is amended to read:

12 **"23-5-115. Powers and duties of department -- licensing.** (1) The department shall administer the
 13 provisions of parts 1 through 8 of this chapter.

14 (2) The department shall adopt rules to administer and implement parts 1 through 8 of this chapter.

15 (3) The department shall provide licensing procedures, prescribe necessary application forms,
 16 and grant or deny license applications. The original issuance of a license or the transfer of a license may
 17 be approved only if the department has determined, upon a hearing held in the affected local jurisdiction,
 18 pursuant to the Montana Administrative Procedure Act, that the issuance or transfer of the license is
 19 justified by public convenience and necessity. The burden of showing public convenience and necessity
 20 is on the applicant. The lack of objection at the hearing is not an indication of public convenience or
 21 necessity. In determining public convenience and necessity, the department shall consider whether the
 22 issuance of the license will materially promote the public's ability to engage in the licensed activity and the
 23 department shall evaluate:

24 (a) the business abilities and character of the applicant;

25 (b) the demand for services in the area to be served;

26 (c) the impact on existing licensees; and

27 (d) any adverse impact on the area to be served.

28 (4) The department shall prescribe recordkeeping requirements for licensees, provide a procedure
 29 for inspection of records, provide a method for collection of taxes, and establish penalties for the delinquent
 30 reporting and payment of required taxes.

1 (5) The department may suspend, revoke, deny, or place a condition on a license issued under
2 parts 1 through 8 of this chapter.

3 (6) The department may not make public or otherwise disclose information obtained in the
4 application or tax reporting processes, except for general statistical reporting or studies or as provided in
5 23-5-116.

6 (7) The department shall assess, collect, and disburse any fees, taxes, or charges authorized under
7 parts 1 through 8 of this chapter."
8

9 **Section 2.** Section 23-5-611, MCA, is amended to read:

10 "**23-5-611. Machine permit qualifications -- limitations.** (1) (a) A person who has been granted an
11 operator's license under 23-5-177 and a license to sell alcoholic beverages for consumption on the premises
12 may be granted a permit for the placement of video gambling machines in ~~the~~ the premises. The original
13 issuance of a license or a permit may be approved only if the department has determined, upon a hearing
14 held in the affected local jurisdiction, pursuant to the Montana Administrative Procedure Act, that the
15 issuance of the permit is justified by public convenience and necessity. The burden of showing public
16 convenience and necessity is on the applicant. The lack of objection at the hearing is not an indication of
17 public convenience or necessity. In determining public convenience and necessity, the department shall
18 consider whether the issuance of the license will materially promote the public's ability to engage in the
19 licensed activity and the department shall evaluate:

20 (i) the business abilities and character of the applicant;

21 (ii) the demand for services in the area to be served;

22 (iii) the impact on existing licensees; and

23 (iv) any adverse impact on the area to be served.

24 (b) If video keno or bingo gambling machines were legally operated on a premises on January 15,
25 1989, and the premises were not on that date licensed to sell alcoholic beverages for consumption on the
26 premises or operated for the principal purpose of gaming and there is an operator's license for the premises
27 under 23-5-177, a permit for the same number of video keno or bingo gambling machines as were operated
28 on the premises on that date may be granted to the person who held the permit for ~~such~~ the machines on
29 those premises on that date.

30 (c) A person who legally operated an establishment on January 15, 1989, for the principal purpose

1 of gaming and who has been granted an operator's license under 23-5-177 may be granted a permit for
2 the placement of bingo and keno machines in ~~his~~ the premises.

3 (2) An applicant for a permit shall disclose on the application form to the department any
4 information required by the department consistent with the provisions of 23-5-176.

5 (3) A licensee may not have on the premises or make available for play on the premises more than
6 20 machines of any combination."

7 -END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for SB0295, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

An act increasing public involvement in issuing gambling licenses and permits; requiring a public hearing in the affected jurisdiction; requiring a determination of public convenience and necessity.

ASSUMPTIONS:

1. The number of license transfers requiring a public hearing would be between 300 and 350 per year.
2. To conduct a hearing would require the services of one hearings officer and one administrative assistant.
3. Public hearings would take, on average, 1.5 days for the hearing, travel and writeup. Therefore, two hearings officers (grade 16) and two administrative assistants (grade 10) would be required to handle the additional workload.
4. A significant number of hearing decisions would be contested such that one additional attorney (grade 17) would be necessary to handle the appeals.
5. A total of five additional FTEs would be necessary to perform the duties required under this bill.
6. As many as 18% of the total number of hearings would be held within a distance from the hearings officer/administrative assistant's home base so as not to require overnight travel.
7. Operating expenses are estimated at \$58,630 per year. This includes \$38,130 for travel expenses; \$10,500 for publication of hearing dates and times to allow interested parties the opportunity to attend and comment; and \$10,000 for office expenses which include rent and supplies.
8. Equipment costs would include two vehicles for \$26,000 and office and computer equipment for \$25,000 for the five new FTEs in fiscal 1998.
9. Because a portion of the Gambling Control Division is funded with general fund in lieu of liquor enterprise funds, it is assumed the same funding split applies to the proposed bill.

FISCAL IMPACT:

	<u>FY98</u>	<u>FY99</u>
<u>Expenditures:</u>	<u>Difference</u>	<u>Difference</u>
FTE	5.00	5.00
Personal Services	162,450	162,450
Operating Expenses	58,630	58,630
Equipment	<u>51,000</u>	
Total	272,080	<u>221,080</u>
 <u>Funding:</u>		
General Fund(01)	57,137	46,427
Gambling SSR(02)	<u>214,943</u>	<u>174,653</u>
Total	272,080	221,080
 <u>Net Impact:</u>		
General Fund(01)	(57,137)	(46,427)
Gambling SSR(02)	(214,943)	(174,653)

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

There is no effect on county or other local revenues or expenditures.

David Lewis 2-12-97
 DAVID LEWIS, BUDGET DIRECTOR DATE
 Office of Budget and Program Planning

LORENTS GROSFIELD, PRIMARY SPONSOR DATE
 Fiscal Note for SB0295, as introduced

SB295