

1 SENATE BILL NO. 564

2 INTRODUCED BY K. BOGNER

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4 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THE DEPARTMENT OF ADMINISTRATION TO
5 CREATE AND MANAGE A WEBSITE TO INCREASE PUBLIC ACCESS TO AND TRANSPARENCY OF
6 STATE PROCUREMENT TRANSACTIONS; PROVIDING REQUIREMENTS FOR THE INFORMATION TO BE
7 POSTED ON THE WEBSITE; REQUIRING VENDORS TO PAY AN APPLICATION FEE WHEN SUBMITTING
8 A BID OR PROPOSAL TO OFFSET THE COSTS OF THE WEBSITE; AND AMENDING SECTIONS 18-4-126
9 AND 18-4-302, MCA."

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

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13 **Section 1.** Section 18-4-126, MCA, is amended to read:

14 **"18-4-126. Public access to procurement information -- records -- retention.** (1) Procurement
15 information is a public record and must be available to the public as provided in 2-6-1003, 18-4-303, and 18-4-
16 304.

17 (2) All procurement records must be retained, managed, and disposed of in accordance with the
18 provisions of Title 2, chapter 6, parts 10 and 11.

19 (3) Written determinations required by this chapter must be retained in the appropriate official
20 contract file of the department or the purchasing agency administering the procurement in accordance with Title
21 2, chapter 6, parts 10 and 11.

22 (4) The department shall manage a website to improve the public's access to procurement
23 information and to increase the transparency of the financial transactions and payments made by a purchasing
24 agency. The department shall include information about each payment made by the department or a
25 purchasing agency, including the name of the contractor, the purpose for which the payment was made, and
26 the amount of the payment."

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28 **Section 2.** Section 18-4-302, MCA, is amended to read:

1 **"18-4-302. Methods of source selection -- authorization for alternative procurement methods.**

2 (1) (a) Unless otherwise authorized by law, all state contracts for supplies and services must be awarded by a
3 source selection method provided for in this title. Supplies or services offered for sale, lease, or rental by public
4 utilities are exempt from this requirement if the prices of the supplies or services are regulated by the public
5 service commission or other governmental authority.

6 (b) When a vendor submits a bid or proposal for the provision of supplies or services, the bid or
7 proposal must include payment of an application fee of \$1 to the department. The department shall use the fees
8 collected under this subsection (1)(b) to offset costs of administering the department's transparency website
9 pursuant to 18-4-126(4).

10 (2) When the department or another agency opens bids or proposals, if a supplier's current
11 publicly advertised or established catalog price is received at or before the time that the bids or proposals are
12 opened and is less than the bid of the lowest responsible and responsive bidder or offeror or improves upon the
13 conditions for the best proposal received using the same factors and weights included in the proposal, the
14 department or agency may reject all bids and purchase the supply from that supplier without meeting the
15 requirements of 18-4-303 through 18-4-306.

16 (3) An office supply procured by the department may be purchased by an agency, without meeting
17 the requirements of 18-4-303 through 18-4-306, from a supplier whose publicly advertised price, established
18 catalog price, or discount price offered to the agency is less than the price offered by the department if the
19 office supply conforms in all material respects to the terms, conditions, and quality offered by the department. A
20 state office supply term contract must include a provision by which the contracting parties acknowledge and
21 agree to the provisions of this subsection.

22 (4) (a) Under rules adopted by the department, an agency may request from the department
23 authorization for an alternative procurement method.

24 (b) A request for authorization must specify:

25 (i) the problem to be solved;

26 (ii) the proposed alternative procurement method;

27 (iii) the reasons why the alternative procurement method may be more appropriate than a method
28 authorized by law; and

1 (iv) how competition and fairness will be achieved by the alternative procurement method.

2 (c) Within 30 days after receiving the request, the department shall:

3 (i) evaluate the request;

4 (ii) approve or deny the request; and

5 (iii) issue a written statement providing the reasons for its decision.

6 (d) Whenever the department approves a request submitted under this section, the department:

7 (i) may authorize the alternative procurement method on a trial basis; and

8 (ii) if the alternative procurement method is employed, shall make a written determination as to the
9 success of the method.

(e) If the department determines that the alternative procurement method is successful and should be an alternative that is generally available, it shall promulgate rules that establish the use of the alternative procurement method as an additional source selection method. The rules promulgated by the department under this subsection must reflect the purposes described in 18-4-122."

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