

1 HOUSE BILL NO. 151
2 INTRODUCED BY M. HOPKINS
3 BY REQUEST OF THE DEPARTMENT OF ADMINISTRATION
4
5 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING STATE BUILDING CONSTRUCTION
6 PROCUREMENT LAWS; RAISING THE COST THRESHOLD OF CONSTRUCTION ACTIVITIES THAT
7 REQUIRE LEGISLATIVE APPROVAL; RAISING CERTAIN COST THRESHOLDS FOR SUPERVISION
8 REQUIREMENTS OF BUILDING CONSTRUCTION; PROVIDING FOR INFLATIONARY ADJUSTMENT OF
9 CERTAIN COST THRESHOLDS THROUGH RULEMAKING; AUTHORIZING THE DEPARTMENT OF
10 ADMINISTRATION TO NEGOTIATE A CONTRACT WITHOUT COMPETITIVE BIDDING IF AN EMERGENCY
11 OR PUBLIC EXIGENCY EXISTS AND TO NEGOTIATE DEDUCTIVE CHANGES OF A GREATER
12 PERCENTAGE OF THE TOTAL COST OF THE PROJECT WHEN BIDS RECEIVED EXCEED THE
13 APPROPRIATION; RAISING THE COST THRESHOLD UNDER WHICH THE DEPARTMENT OF
14 ADMINISTRATION MAY PREPARE WORKING DRAWINGS FOR BUILDING CONSTRUCTION; RAISING
15 THE COST THRESHOLD FOR WAIVING CERTAIN SECURITY REQUIREMENTS; ALLOWING FOR PUBLIC
16 NOTICE THROUGH ELECTRONIC MEANS FOR COMPETITIVE BIDDING ON CERTAIN PROJECTS;
17 ALLOWING BUILDING CONSTRUCTION BIDS TO BE SECURED BY AN IRREVOCABLE LETTER OF
18 CREDIT; PROVIDING RULEMAKING AUTHORITY; ESTABLISHING REPORTING REQUIREMENTS;
19 AMENDING SECTIONS 18-2-102, 18-2-103, 18-2-105, 18-2-111, 18-2-201, 18-2-301, 18-2-302, AND 18-2-
20 501, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

21
22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

23
24 **Section 1.** Section 18-2-102, MCA, is amended to read:

25 **"18-2-102. Authority to construct buildings -- reporting requirement.** (1) Except as provided in
26 22-3-1003 and subsection (2) of this section, ~~a building costing more than \$150,000 may not be constructed~~
27 ~~without~~ construction activities costing more than \$300,000 require the consent of the legislature. Legislative
28 approval of repair and maintenance costs as part of an agency's operating budget constitutes the legislature's

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68th Legislature

Drafter: Julie Johnson, 406-444-4024

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1 consent. When a building costing more than \$150,000 \$300,000 is to be financed in a manner that does not
2 require legislative appropriation of money, the consent may be in the form of a joint resolution.

3 (2) (a) The governor may authorize the emergency repair or alteration of a building and is
4 authorized to transfer funds and authority as necessary to accomplish the project. Transfers may not be made
5 from the funds for an uncompleted capital project unless the project is under the supervision of the same
6 agency.

7 (b) The regents of the Montana university system may authorize the construction of revenue-
8 producing facilities referred to in 20-25-302 if they are to be financed wholly from the revenue from the facility.

9 (c) The regents of the Montana university system, with the consent of the governor, may authorize
10 the construction of a building that is financed wholly with federal or private money if the construction of the
11 building will not result in any new programs.

12 (d) The regents of the Montana university system may authorize the construction of facilities as
13 provided in 20-25-309.

14 (e) The department of military affairs, with the consent of the governor, may authorize the
15 construction of a building that is financed wholly with federal or private money on federal land for the use or
16 benefit of the state.

17 (f) Each year by August 1, the department of administration shall report, in accordance with 5-11-
18 210, to the long-range planning budget committee provided for in 5-12-501 on all buildings constructed without
19 legislative approval that cost between \$150,000 and \$300,000 during the previous fiscal year."

20
21 **Section 2.** Section 18-2-103, MCA, is amended to read:

22 **"18-2-103. Supervision of construction of buildings.** (1) For the construction of a building activities
23 costing more than \$150,000 \$300,000, the department shall:

24 (a) review and accept all plans, specifications, and cost estimates prepared by architects or
25 consulting engineers;

26 (b) approve all bond issues or other financial arrangements and supervise and approve the
27 expenditure of all money;

28 (c) solicit, accept, and reject bids and, except as provided in Title 18, chapter 2, part 5, award all

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1 (c) the trustees of a fire district established pursuant to Title 7, chapter 33, or the county
2 commissioners or trustees of a fire service area established pursuant to 7-33-2401.

3 (7) "Project" means any construction or any improvement of the land, a building, or another
4 improvement that is suitable for use as a state or local governmental facility.

5 (8) "Publish" means publication of notice as provided for in 7-1-2121, 7-1-4127, ~~18-2-301~~, and 20-
6 9-204 or the provision of public notice pursuant to 18-2-301.

7 (9) "State agency" has the meaning provided in 2-2-102, except that the department of
8 transportation, provided for in 2-15-2501, is not considered a state agency."

9
10 **COORDINATION SECTION. Section 9. Coordination instruction.** If House Bill No. 110 is not
11 passed and approved, then the reference to the long-range planning budget committee in [section 1(2)(f) of this
12 act], amending 18-2-102, must be changed to refer to the legislative finance committee.

13
14 **NEW SECTION. Section 10. Effective date.** [This act] is effective on passage and approval.

15 - END -