

HOUSE BILL NO. 151

INTRODUCED BY M. HOPKINS

BY REQUEST OF THE DEPARTMENT OF ADMINISTRATION

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING STATE BUILDING CONSTRUCTION PROCUREMENT LAWS; RAISING THE COST THRESHOLD OF CONSTRUCTION ACTIVITIES THAT REQUIRE LEGISLATIVE APPROVAL; RAISING CERTAIN COST THRESHOLDS FOR SUPERVISION REQUIREMENTS OF BUILDING CONSTRUCTION; PROVIDING FOR INFLATIONARY ADJUSTMENT OF CERTAIN COST THRESHOLDS THROUGH RULEMAKING; AUTHORIZING THE DEPARTMENT OF ADMINISTRATION TO NEGOTIATE A CONTRACT WITHOUT COMPETITIVE BIDDING IF AN EMERGENCY OR PUBLIC EXIGENCY EXISTS AND TO NEGOTIATE DEDUCTIVE CHANGES OF A GREATER PERCENTAGE OF THE TOTAL COST OF THE PROJECT WHEN BIDS RECEIVED EXCEED THE APPROPRIATION; RAISING THE COST THRESHOLD UNDER WHICH THE DEPARTMENT OF ADMINISTRATION MAY PREPARE WORKING DRAWINGS FOR BUILDING CONSTRUCTION; RAISING THE COST THRESHOLD FOR WAIVING CERTAIN SECURITY REQUIREMENTS; ALLOWING FOR PUBLIC NOTICE THROUGH ELECTRONIC MEANS FOR COMPETITIVE BIDDING ON CERTAIN PROJECTS; ALLOWING BUILDING CONSTRUCTION BIDS TO BE SECURED BY AN IRREVOCABLE LETTER OF CREDIT; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 18-2-102, 18-2-103, 18-2-105, 18-2-111, 18-2-201, 18-2-301, 18-2-302, AND 18-2-501, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

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

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

1 laborers, suppliers, material suppliers, mechanics, and subcontractors:

2 (a) lawful money of the United States; or

3 (b) a cashier's check, certified check, bank money order, certificate of deposit, money market
4 certificate, bank draft, or irrevocable letter of credit, drawn or issued by:

5 (i) any federally or state-chartered bank or savings and loan association that is insured by or for
6 which insurance is administered by the federal deposit insurance corporation; or

7 (ii) a credit union insured by the national credit union share insurance fund.

8 (3) Any board, council, commission, trustee, or body acting for any county, municipality, or public
9 body other than the state may, subject to the provisions of subsection (1)(b), in lieu of a bond from a licensed
10 surety company, accept good and sufficient bond with two or more sureties acceptable to the governmental
11 entity.

12 (4) Except as provided in subsection (5), the state or other governmental entity may waive the
13 requirements contained in subsections (1) through (3) for building or construction projects, as defined in 18-2-
14 101, that cost less than ~~\$50,000~~ \$150,000.

15 (5) A school district may waive the requirements contained in subsections (1) through (3) for
16 building or construction projects, as defined in 18-2-101, that cost less than \$7,500."

17

18 **Section 6.** Section 18-2-301, MCA, is amended to read:

19 **"18-2-301. Bids required -- advertising public notice.** (1) ~~(a) It is unlawful for any offices~~ Offices,
20 departments, or institutions, or any agent of the state of Montana acting for or in on behalf of the state, to may
21 not do, to cause to be done, or to let any contract for the construction of buildings or the alteration and
22 improvement of buildings and adjacent grounds on behalf of and for the benefit of the state when the amount
23 involved is \$75,000 \$150,000 or more without first advertising in at least one issue each week providing public
24 notice for 3 consecutive weeks in two newspapers published in the state, one of which must be published at the
25 seat of government and the other in the county where the work is to be performed, in two newspapers
26 published in the state, one of which must be published at the seat of government and the other in the county
27 nearest to where the work is to be performed, calling for sealed bids to perform the work and stating the time
28 and place bids will be considered. Notice may include electronic notification, publication in newspapers of

1 general circulation, or other appropriate means.

2 (b) Starting July 1, 2028, and every 5 years after that, the department shall adjust the limits in
3 subsection (1)(a) for inflation. The inflation adjustment is determined by dividing the consumer price index for
4 June of the previous tax year by the consumer price index for June 2023. The newly adjusted limits must be
5 rounded to the nearest \$1,000 and adopted by rule.

6 (2) All work may be done, caused to be done, or contracted for only after competitive bidding.

7 (3) If responsible bids are not received after two attempts, the department or agency may contract
8 for the work in a manner determined to be cost-effective for the state.

9 (4) This section does not apply to work done by inmates at an institution in the department of
10 corrections.

11 (5) (a) The provisions of Montana law governing advertising and competitive bidding do not apply
12 when the department of fish, wildlife, and parks is preserving or restoring the historic buildings and resources
13 that it owns at Bannack if:

14 (i) the options listed in subsection (5)(b) are determined to be more cost-effective for the state;
15 and

16 (ii) the implementation of the options listed in subsection (5)(b) is necessary to save historic
17 buildings and resources from degradation and loss.

18 (b) For the preservation or restoration of historic buildings and resources at Bannack when the
19 conditions listed in subsection (5)(a) are met, the department of fish, wildlife, and parks may accomplish the
20 preservation or restoration through:

21 (i) a memorandum of understanding with a local, state, or federal entity or nonprofit organization
22 when the entity or organization demonstrates the competence, knowledge, and qualifications to preserve or
23 restore historic resources;

24 (ii) the use of qualified and trained department of fish, wildlife, and parks employees and
25 volunteers;

26 (iii) a training program in historic preservation and restoration conducted by a qualified local, state,
27 or federal entity or a qualified nonprofit organization; or

28 (iv) any combination of the options described in subsection (5)(b)."