

HOUSE BILL NO. 284

INTRODUCED BY R. BITNEY

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A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR ONGOING LEGISLATIVE MONITORING OF AGENCY-PROVIDED GOODS AND SERVICES; REQUIRING THAT CERTAIN ENTITIES PREPARE A COMMERCIAL SERVICES INVENTORY; AMENDING SECTION 5-5-223, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

NEW SECTION. **Section 1. Policy.** It is the policy of this state to:

- (1) establish a formal and ongoing review process that objectively examines the delivery of public services to ensure that the public receives the highest quality of services at the most reasonable cost;
- (2) encourage and promote agency service delivery innovations that increase productivity, efficiency, and effectiveness and that meet and strengthen the core missions of agencies; and
- (3) use, to the maximum extent possible when it is in the public's interest, the private sector for the delivery of goods and services to the public and to agencies.

NEW SECTION. **Section 2. Definitions.** As used in [sections 1 through 5], the following definitions apply:

- (1) (a) "Agency" means an office, position, commission, committee, board, department, council, division, bureau, section, or any other entity or instrumentality of the executive branch of state government.
- (b) The term does not include the state fund.
- (2) "Board of regents" means the board of regents of higher education provided for in 2-15-1505.
- (3) "Committee" means the business and labor interim committee provided for in 5-5-223.
- (4) "Executive branch" means the executive branch of state government referred to in Article III, section 1, and Article VI of the Montana constitution.
- (5) "Goods" means goods, as defined in 18-1-101, provided by an agency or a unit to the public, other agencies, or itself.

1 (6) "Private sector" means an entity or individual not principally a part of or associated with an
2 agency that is associated with or involved in a commercial activity.

3 (7) "Services" means the furnishing of labor, time, or effort by an agency to the public, another
4 agency or unit, or itself.

5 (8) "Unit" means a unit of the Montana university system.
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7 **NEW SECTION. Section 3. Commercial services inventory.** (1) (a) Beginning July 1, 2001, each
8 agency and unit shall prepare an annual commercial services inventory that contains the following
9 information:

10 (i) a description of goods and services that could be obtained from the private sector; and

11 (ii) a description of goods and services that are provided or have in the past been provided by the
12 private sector under a contract.

13 (b) In preparing the commercial services inventory, an agency shall solicit information from public
14 employees responsible for providing goods or services in an effort to identify goods or services that, if
15 obtained from the private sector, may allow an agency to better focus on meeting the agency's core
16 mission through a reallocation of existing resources.

17 (c) When describing goods and services as required in subsection (1)(a)(ii), the agency shall
18 provide the rationale for entering into a contract with the private sector or, if the contract was
19 discontinued or not renewed, the reasons for discontinuing or not renewing the contract.

20 (2) (a) Each agency shall provide the commercial services inventory no later than June 30 of each
21 year to the office of the governor, the office of budget and program planning, and the committee.

22 (b) The office of the governor, upon receipt of the commercial services inventory, may direct an
23 agency to discontinue providing goods or services to the public, other agencies, or itself when, following
24 a thorough review of fiscal and program considerations completed by the office of budget and program
25 planning, the fiscal and program review has demonstrated that the private sector is capable of offering
26 goods and services of comparable quality and cost.

27 (3) (a) Each unit shall provide the commercial services inventory no later than June 30 of each
28 year to the board of regents and the committee.

29 (b) The board of regents, upon receipt of the commercial services inventory, may direct a unit to
30 discontinue providing goods or services to the public, other agencies or units, or itself when, in the opinion

1 of the board of regents, the private sector is capable of offering goods and services of comparable quality
2 and cost.

3 (4) Following a decision by the office of the governor or the board of regents to discontinue
4 providing goods or services, the office of budget and program planning shall prepare a report to the
5 committee outlining:

6 (a) whether the agency or unit intends to contract with the private sector for the provision of a
7 good or service;

8 (b) the cost savings, if any, of the decision;

9 (c) if intending to contract with the private sector for the provision of goods or services:

10 (i) information describing whether the quality of the good or service is equal to or greater than the
11 quality of the good or service provided by an agency or unit; and

12 (ii) an estimate of taxes or fees to be paid by the private sector if awarded a contract;

13 (d) if the decision displaces public employees, the impact on public employees, including
14 unemployment insurance, public assistance programs, other agency programs, or agency-provided goods
15 and services; and

16 (e) legislative recommendations, if necessary, to implement the decision.

17 (5) The office of the governor and the board of regents shall prepare a joint biennial report to the
18 legislature that provides a detailed narrative of the findings, conclusions, and recommendations made
19 during the review of the commercial services inventories.

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21 **NEW SECTION. Section 4. Legislative monitoring -- public and private competition.** (1) The
22 committee shall provide an opportunity for the public to provide testimony related to:

23 (a) the commercial services inventories provided for in [section 3];

24 (b) specific examples in which an agency or unit is providing goods and services in competition
25 with a private vendor;

26 (c) increasing or decreasing the level of agency or unit involvement in providing goods and
27 services; and

28 (d) recommendations for legislation that authorizes the private sector to provide goods and
29 services currently provided by an agency.

30 (2) After considering testimony presented pursuant to subsection (1), the committee may

1 recommend:

2 (a) that the executive branch implement management practices that improve program delivery
3 efficiency and effectiveness;

4 (b) that the executive branch initiate actions to suspend or discontinue the provision of goods and
5 services by an agency that are available from the private sector;

6 (c) that an agency provide an invitation for bids or a request for proposals for the provision of
7 goods and services;

8 (d) that an agency prepare a privatization plan according to the provisions of Title 2, chapter 8,
9 part 3; or

10 (e) legislation that, in the committee's opinion, would:

11 (i) improve the quality and reduce the cost of providing in-house goods and services;

12 (ii) suspend an agency's authority to provide certain goods and services; or

13 (iii) authorize the privatization of goods and services provided by an agency by requiring that the
14 goods and services be contracted to the private sector.

15 (3) For public testimony related exclusively to units, the committee may recommend to the board
16 of regents the suspension or discontinuation of the provision of goods and services that are available from
17 the private sector.

18 (4) The committee shall provide a biennial report of its activities and the commercial services
19 inventories to the legislature.

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21 NEW SECTION. **Section 5. Cooperation of agencies and units.** All agencies and units shall
22 cooperate with the committee and, upon request, gather and provide information that would assist the
23 committee in performing its duties and responsibilities under [section 4].

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25 **Section 6.** Section 5-5-223, MCA, is amended to read:

26 **"5-5-223. Business and labor interim committee.** (1) The business and labor interim committee
27 has administrative rule review, program evaluation, and monitoring functions for the following executive
28 branch agencies and the entities attached to agencies for administrative purposes:

29 ~~(1)~~(a) department of agriculture;

30 ~~(2)~~(b) department of commerce;

- 1 ~~(3)~~(c) department of labor and industry;
- 2 ~~(4)~~(d) department of livestock;
- 3 ~~(5)~~(e) department of public service regulation; and
- 4 ~~(6)~~(f) office of the state auditor and insurance commissioner.
- 5 (2) The committee shall:
- 6 (a) review the commercial services inventories provided for in [section 3]; and
- 7 (b) conduct regular hearings to study and recommend policies that would increase the efficiency
- 8 and effectiveness of an agency's service delivery processes."

9

10 NEW SECTION. Section 7. Codification instruction. [Sections 1 through 5] are intended to be

11 codified as an integral part of Title 2, chapter 8, and the provisions of Title 2, chapter 8, apply to [sections

12 1 through 5].

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14 NEW SECTION. Section 8. Saving clause. [This act] does not affect rights and duties that

15 matured, penalties that were incurred, or proceedings that were begun before [the effective date of this

16 act].

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18 NEW SECTION. Section 9. Severability. If a part of [this act] is invalid, all valid parts that are

19 severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its

20 applications, the part remains in effect in all valid applications that are severable from the invalid

21 applications.

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

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