

## SENATE BILL NO. 184

INTRODUCED BY B. HAWKS

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE LAW GOVERNING CONSTRUCTION PROJECTS BY THE MONTANA HERITAGE PRESERVATION AND DEVELOPMENT COMMISSION; CLARIFYING PROJECTS THAT DO NOT NEED ARCHITECTURAL AND ENGINEERING REVIEW; INCREASING THE AMOUNT OF CONSTRUCTION PROJECTS THAT DO NOT REQUIRE LEGISLATIVE CONSENT; AMENDING ~~SECTION~~ SECTIONS 18-2-102 AND 22-3-1003, 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 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 building costing more than \$150,000 is to be financed in a manner that does not require legislative appropriation of money, the consent may be in the form of a joint resolution.

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

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

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

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

**Section 2. Section 22-3-1003, MCA, is amended to read:**

1           **"22-3-1003. Powers of commission -- contracts -- rules.** (1) (a) The Montana heritage preservation

2 and development commission may contract with private organizations to assist in carrying out the purpose of  
3 22-3-1001. The term of a contract may not exceed 20 years.

4           (b) The provisions of Title 18 may not be construed as prohibiting contracts under this section from being  
5 let by direct negotiation. The contracts may be entered into directly with a vendor and are not subject to state  
6 procurement laws.

7           (c) Architectural and engineering review and approval do not apply to the historic renovation projects  
8 or projects at historic sites unless stated in specific state appropriations for construction permitted under the  
9 commission's jurisdiction.

10          (d) The contracts must provide for the payment of prevailing wages.

11          (e) A contract for supplies or services, or both, may be negotiated in accordance with commission rules.

12          (f) Management activities must be undertaken to encourage the profitable operation of properties.

13          (g) Contracts may include the lease of property managed by the commission. Provisions for the renewal  
14 of a contract must be contained in the contract.

15          (2) (a) Except as provided in subsection (2)(b), the commission may not contract for the construction of  
16 a building, as defined in 18-2-101, in excess of ~~\$200,000~~ \$300,000 without the consent of the legislature. Building  
17 construction must be in conformity with applicable guidelines developed by the national park service of the U.S.  
18 department of the interior, the Montana historical society, and the Montana department of fish, wildlife, and parks.  
19 Funding for these projects must pass through directly to the commission.

20          (b) The commission may contract for the preservation, stabilization, or maintenance of existing structures  
21 or buildings for an amount that exceeds ~~\$200,000~~ \$300,000 without legislative consent if the commission  
22 determines that waiting for legislative consent would cause unnecessary damage to the structures or buildings  
23 or would result in a significant increase in cost to conduct those activities in the future.

24          (3) (a) Subject to subsection (3)(b), the commission, as part of a contract, shall require that a portion of  
25 any profit be reinvested in the property and that a portion be used to pay the administrative costs of the property  
26 and the commission.

27          (b) (i) Until the balance in the cultural and aesthetic trust reaches \$7,750,000, the commission shall  
28 deposit the portion of profits not used for administrative costs and restoration of the properties in the cultural and  
29 aesthetic trust.

30          (ii) Once the balance in the cultural and aesthetic trust reaches \$7,750,000, the commission shall deposit

1 the portion of profits not used for administrative costs and restoration of the properties in the general fund.

2 (c) It is the intent of the 58th legislature that no general fund money be provided for the operations and  
3 maintenance of Virginia City and Nevada City beyond what has been appropriated by the 55th legislature.

4 (4) The commission may solicit funds from other sources, including the federal government, for the  
5 purchase, management, and operation of properties.

6 (5) (a) The commission may use volunteers to further the purposes of this part.

7 (b) The commission and volunteers stand in the relationship of employer and employee for purposes  
8 of and as those terms are defined in Title 39, chapter 71. The commission shall provide each volunteer with  
9 workers' compensation coverage, as provided in Title 39, chapter 71, during the course of the volunteer's  
10 assistance.

11 (6) Volunteers are not salaried employees and are not entitled to wages and benefits. The commission  
12 may, in its discretion, reimburse volunteers for their otherwise uncompensated out-of-pocket expenses, including  
13 but not limited to their expenditures for transportation, food, and lodging.

14 (7) The commission shall establish a subcommittee composed of an equal number of members of the  
15 Montana historical society board of trustees and commission members to review and recommend the sale of  
16 personal property from the former Bovey assets acquired by the 55th legislature. A recommendation to sell may  
17 be presented to the commission only if the recommendation is supported by a majority of the members of the  
18 subcommittee.

19 (8) The commission shall adopt rules establishing a policy for making acquisitions and sales of real and  
20 personal property. With respect to each acquisition or sale, the policy must give consideration to:

21 (a) whether the property represents the state's culture and history;

22 (b) whether the property can become self-supporting;

23 (c) whether the property can contribute to the economic and social enrichment of the state;

24 (d) whether the property lends itself to programs to interpret Montana history;

25 (e) whether the acquisition or sale will create significant social and economic impacts to affected local  
26 governments and the state;

27 (f) whether the sale is supported by the director of the Montana historical society;

28 (g) whether the commission should include any preservation covenants in a proposed sale agreement  
29 for real property;

30 (h) whether the commission should incorporate any design review ordinances established by Virginia

1 City into a proposed sale agreement for real property; and

2 (i) other matters that the commission considers necessary or appropriate.

3 (9) Except as provided in subsection (11), the proceeds of any sale under subsection (8) must be placed  
4 in the account established in 22-3-1004.

5 (10) Public notice and the opportunity for a hearing must be given in the geographical area of a proposed  
6 acquisition or sale of real property before a final decision to acquire or sell the property is made. The commission  
7 shall approve proposals for acquisition or sale of real property and recommend the approved proposal to the  
8 board of land commissioners.

9 (11) The commission, working with the board of investments, may establish trust funds to benefit historic  
10 properties. Interest from any trust fund established under this subsection must be used to preserve and manage  
11 assets owned by the commission. Funds from the sale of personal property from the Bovey assets must be  
12 placed in a trust fund, and interest from the trust fund must be used to manage and protect the remaining  
13 personal property.

14 (12) Prior to the convening of each regular session, the commission shall report to the governor and the  
15 legislature, as provided in 5-11-210, concerning financial activities during the prior biennium, including the  
16 acquisition or sale of any assets."

17  
18 NEW SECTION. **Section 3. Effective date.** [This act] is effective on passage and approval.

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