SENATE LOCAL GOVERNMENT
EXHIBIT NO. 4
DATE 1-25-13
BILL NO. SB 77

Amendments to Senate Bill No. 77
1st Reading Copy

Requested by Senator Alan Olson

For the Senate Local Government Committee

Prepared by Leanne Kurtz
January 25, 2013 (1:38pm)

1. Title, line 4.
Strike: "$100,000"
Insert: "$80,000"

2. Title, line 5.
Strike: "MUNICIPAL"
Insert: "LOCAL GOVERNMENT AND SCHOOL"

3. Title, line 6.
Strike: "SECTION"
Insert: "SECTIONS 7-5-2301,"
Following: "7-5-4302,"
Insert: "AND 20-9-204,"

4. Page 1.
Following: line 9
Insert: "**Section 1.** Section 7-5-2301, MCA, is amended to read:

"**7-5-2301. Competitive, advertised bidding required for certain large purchases or construction contracts.** (1) Except as provided in 7-5-2304 and Title 18, chapter 2, part 5, a contract for the purchase of any vehicle, road machinery or other machinery, apparatus, appliances, equipment, or materials or supplies or for construction, repair, or maintenance in excess of ~~$50,000~~ $80,000 may not be entered into by a county governing body without first publishing a notice calling for bids.

(2) The notice must be published as provided in 7-1-2121.

(3) Subject to 7-5-2309 and except as provided in Title 18, chapter 2, part 5, every contract subject to bidding must be let to the lowest responsible bidder."

{*Internal References to 7-5-2301:*
x7-5-2303 *x7-5-2304* *x7-8-2211* }"

Renumber: subsequent section

5. Page 1, line 15.
Strike: "$100,000"
Insert: "$80,000"

6. Page 1.
Following: line 25
Insert: "**Section 3.** Section 20-9-204, MCA, is amended to read:

"**20-9-204. Conflicts of interests, letting contracts, and calling for bids -- exceptions.** (1) It is unlawful for a trustee to:

(a) have any pecuniary interest, either directly or indirectly, in any contract made by the trustee while acting in that official capacity or by the board of trustees of which the trustee is a member; or

(b) be employed in any capacity by the trustee's own school district, with the exception of officiating at athletic competitions under the auspices of the Montana officials association.

(2) For the purposes of subsection (1):

(a) "contract" does not include:

(i) merchandise sold to the highest bidder at public auctions;

(ii) investments or deposits in financial institutions that are in the business of loaning or receiving money when the investments or deposits are made on a rotating or ratable basis among financial institutions in the community or when there is only one financial institution in the community; or

(iii) contracts for professional services, other than salaried services, or for maintenance or repair services or supplies when the services or supplies are not reasonably available from other sources if the interest of any board member and a determination of the lack of availability are entered in the minutes of the board meeting at which the contract is considered; and

(b) "pecuniary interest" does not include holding an interest of 10% or less in a corporation.

(3) (a) Except for district needs that must be met because of an unforeseen emergency, as defined in 20-3-322(5), or as provided in subsections (4) and (6) of this section, whenever any building, furnishing, repairing, or other work for the benefit of the district or purchasing of supplies for the district is necessary, the work done or the purchase made must be by contract if the sum exceeds ~~$50,000~~ $80,000.

(b) Except as provided in Title 18, chapter 2, part 5, each contract must be let to the lowest responsible bidder after advertisement for bids. The advertisement for bids under this subsection (3)(b) must be published in the newspaper that will give notice to the largest number of people of the district as determined by the trustees. The advertisement must be made once each week for 2 consecutive weeks, and the second publication must be made not less than 5 days or more than 12 days before consideration of bids. A contract not let pursuant to this section is void. The bidding requirements applicable to services performed for the benefit of the district under this section do not apply to:

(i) a registered professional engineer, surveyor, real estate appraiser, or registered architect;

(ii) a physician, dentist, pharmacist, or other medical,

dental, or health care provider;

(iii) an attorney;

(iv) a consulting actuary;

(v) a private investigator licensed by any jurisdiction;

(vi) a claims adjuster;

(vii) an accountant licensed under Title 37, chapter 50; or

(viii) a project, as defined in 18-2-501, for which a governing body, as defined in 18-2-501, enters into an alternative project delivery contract pursuant to Title 18, chapter 2, part 5.

(4) A district may enter into a cooperative purchasing contract for the procurement of supplies or services with one or more districts. A district participating in a cooperative purchasing group may purchase supplies and services through the group without complying with the provisions of subsection (3) if the cooperative purchasing group has a publicly available master list of items available with pricing included and provides an opportunity at least twice yearly for any vendor, including a Montana vendor, to compete, based on a lowest responsible bidder standard, for inclusion of the vendor's supplies and services on the cooperative purchasing group's master list.

(5) This section may not require the board of trustees to let a contract for any routine and regularly performed maintenance or repair project or service that can be accomplished by district staff whose regular employment with the school district is related to the routine performance of maintenance for the district.

(6) Subsection (3) does not apply to the solicitation or award of a contract for an investment grade energy audit or an energy performance contract pursuant to Title 90, chapter 4, part 11, including construction and installation of conservation measures pursuant to the energy performance contract."

{*Internal References to 20-9-204:*

x18-2-501 *x20-6-606* *x20-10-110* *x20-10-125* }"

- END -