



AN ACT PROVIDING AN EXCEPTION FROM THE MONTANA PROCUREMENT ACT FOR CONTRACTS CONCERNING CAPITAL IMPROVEMENTS AT STATE PARKS, STATE RECREATIONAL AREAS, STATE MONUMENTS, AND STATE HISTORIC SITES; AMENDING SECTIONS 18-4-313 AND 23-1-102, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

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

**Section 1.** Section 18-4-313, MCA, is amended to read:

**"18-4-313. Contracts -- terms, extensions, and time limits.** (1) Except as provided in subsection (2) or unless otherwise provided by law, a contract, lease, or rental agreement for supplies or services may not be made for a period of more than 7 years. A contract, lease, or rental agreement may be extended or renewed if the terms of the extension or renewal, if any, are included in the solicitation, if funds are available for the first fiscal period at the time of the agreement, and if the total contract period, including any extension or renewal, does not exceed 7 years. Payment and performance obligations for succeeding fiscal periods are subject to the availability and appropriation of funds for the fiscal periods.

(2) The contract term limit specified in subsection (1) does not apply to:

(a) a contract for hardware, software, or other information technology resources, which may be made for a period not to exceed 10 years;

(b) a department of revenue liquor store contract governed by the term specified in 16-2-101;

(c) a department of corrections contract governed by the term specified in 53-1-203, 53-30-505, or 53-30-608; and

(d) the department of administration state employee group benefit plans contracts governed by the term specified in 2-18-811, including group benefit plan contracts made in partnership with the Montana university system group benefit plan; and

(e) a contract for concessions or visitor services for a state park, state recreational area, state monument, or state historic site established under Title 23, chapter 1, part 1, that, with the consent of the state

parks and recreation board, may be made for a period of not more than 20 years if a capital improvement is made, subject to subsection (5).

(3) Prior to the issuance, extension, or renewal of a contract, it must be determined that:

- (a) estimated requirements cover the period of the contract and are reasonably firm and continuing; and
- (b) the contract will serve the best interests of the state by encouraging effective competition or otherwise promoting economies in state procurement.

(4) If funds are not appropriated or otherwise made available to support continuation of performance in a subsequent fiscal period, the contract must be canceled.

(5) A contract under subsection (2)(e) must require the concessionaire to provide a business plan offering a reasonable estimation that the cost of any capital improvement by the concessionaire will be repaid within the life of the contract, or that where a proprietary interest is held, the concessionaire's interest in any capital improvement may be sold at appraised value to a subsequent concessionaire when the contract concludes."

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

**"23-1-102. Powers and duties of department.** (1) The department shall make a study to determine the scenic, historic, archaeologic, scientific, and recreational resources of the state. The department may:

(a) by purchase, lease, agreement, or acceptance of donations acquire for the state any areas, sites, or objects that in its opinion should be held, improved, and maintained as state parks, state recreational areas, state monuments, or state historic sites;

(b) with the consent of the board, acquire by condemnation, pursuant to Title 70, chapter 30, lands or structures for the purposes provided in 87-1-209(2);

(c) with the consent of the board, enter into a contract pursuant to 18-4-313(2)(e).

~~(c)~~(d) accept in the name of the state, in fee or otherwise, any areas, sites, or objects conveyed, entrusted, donated, or devised to the state; and

~~(d)~~(e) lease those portions of designated lands that are necessary for the proper administration of the lands in keeping with the basic purposes of this part.

(2) The department may accept gifts, grants, bequests, or contributions of money or other property to be spent or used for any of the purposes of this part.

(3) A contract, for any of the purposes of this part, may not be entered into or another obligation incurred until money has been appropriated by the legislature or is otherwise available. If the contract or obligation pertains to acquisition of areas or sites in excess of either 100 acres or \$100,000 in value, the board of land commissioners shall specifically approve the acquisition.

(4) The department has jurisdiction, custody, and control of all state parks, recreational areas, public camping grounds, historic sites, and monuments, except wayside camps and other public conveniences acquired, improved, and maintained by the department of transportation and contiguous to the state highway system. The department may designate lands under its control as state parks, state historic sites, state monuments, or any other designation that it considers appropriate. The department may remove or change the designation of any area or portion of an area and may name or change the name of any area."

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

- END -

I hereby certify that the within bill,  
SB 0191, originated in the Senate.

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Secretary of the Senate

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President of the Senate

Signed this \_\_\_\_\_ day  
of \_\_\_\_\_, 2015.

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Speaker of the House

Signed this \_\_\_\_\_ day  
of \_\_\_\_\_, 2015.

SENATE BILL NO. 191  
INTRODUCED BY R. DRISCOLL

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