

1 SENATE BILL NO. 267

2 INTRODUCED BY G. HERTZ

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT EXEMPTING THE MONTANA STATE FUND FROM CERTAIN
5 LAWS PERTAINING TO GOVERNMENT AGENCIES; EXEMPTING THE MONTANA STATE FUND FROM
6 THE MONTANA INFORMATION TECHNOLOGY ACT; EXEMPTING THE MONTANA STATE FUND FROM
7 THE MONTANA PROCUREMENT ACT; AMENDING SECTIONS 2-17-516, 18-4-132, AND 39-71-2315, MCA;
8 AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

9
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11
12 **Section 1.** Section 2-17-516, MCA, is amended to read:
13 **"2-17-516. Exemptions -- department of justice -- secretary of state -- university system -- office**
14 **of public instruction -- national guard -- state compensation insurance fund.** (1) Unless the proposed
15 activities would detrimentally affect the operation of the central computer center or the statewide
16 telecommunications network, the office of public instruction and the secretary of state are exempt from 2-17-
17 512(1)(k) and (1)(l).

18 (2) Unless the proposed activities would detrimentally affect the operation of the central computer
19 center or the statewide telecommunications network, the department of justice, the state compensation
20 insurance fund, and the university system are exempt from:

- 21 (a) the enforcement provisions of 2-17-512(1)(d) and (1)(e) and 2-17-514;
22 (b) the approval provisions of 2-17-512(1)(f), 2-17-523, and 2-17-527;
23 (c) the budget approval provisions of 2-17-512(1)(g); and
24 (d) the provisions of 2-17-512(1)(k) and (1)(l).

25 (3) The department, upon notification of proposed activities by the department of justice, the state
26 compensation insurance fund, the secretary of state, the university system, or the office of public instruction,
27 shall determine if the central computer center or the statewide telecommunications network would be
28 detrimentally affected by the proposed activity.

1 (4) (a) For purposes of this section, a proposed activity affects the operation of the central
2 computer center or the statewide telecommunications network if it detrimentally affects the processing
3 workload, reliability, cost of providing service, or support service requirements of the central computer center or
4 the statewide telecommunications network or fails to meet the minimum security policies and standards set by
5 the department.

6 (b) Potential loss of revenue from fees paid by the department of justice, the state compensation
7 insurance fund, the secretary of state, the university system, or the office of public instruction for not utilizing
8 services offered by the department are not considered a detrimental effect to the statewide telecommunications
9 network or central computer center. If the department of justice, the state compensation insurance fund, the
10 secretary of state, the university system, or the office of public instruction does not utilize a service program
11 after the department's rate was set for the biennium, the agency shall continue to pay any fees associated with
12 the service or program for the remainder of the biennium.

13 (5) When reviewing proposed activities of the university system, the department shall consider and
14 make reasonable allowances for the unique educational needs and characteristics and the welfare of the
15 university system as determined by the board of regents.

16 (6) When reviewing proposed activities of the office of public instruction, the department shall
17 consider and make reasonable allowances for the unique educational needs and characteristics of the office of
18 public instruction to communicate and share data with school districts.

19 (7) When reviewing proposed activities of the department of justice, the department shall consider
20 and make reasonable allowances for the unique safety and security needs and characteristics of the
21 department of justice to communicate and share data with federal, state, and local law enforcement entities.

22 ~~(8)~~ When reviewing proposed activities of the state compensation insurance fund, the department
23 shall consider the unique insurance needs of the state compensation insurance fund and its customers.

24 ~~(9)~~(9) Section 2-17-512(1)(u) may not be construed to prohibit the university system from accepting
25 federal funds or gifts, grants, or donations related to information technology or telecommunications.

26 ~~(9)~~(10) The national guard, as defined in 10-1-101(3), is exempt from 2-17-512."

27

28 **Section 2.** Section 18-4-132, MCA, is amended to read:

1 **"18-4-132. Application.** (1) This chapter applies to:

2 (a) the expenditure of public funds irrespective of their source, including federal assistance money,
3 by this state acting through a governmental body under any contract, except a contract exempted from this
4 chapter by this section or by another statute;

5 (b) a procurement of supplies or services that is at no cost to the state and from which income may
6 be derived by the vendor and to a procurement of supplies or services from which income or a more
7 advantageous business position may be derived by the state; and

8 (c) the disposal of state supplies.

9 (2) This chapter or rules adopted pursuant to this chapter do not prevent any governmental body
10 or political subdivision from complying with the terms and conditions of any grant, gift, bequest, or cooperative
11 agreement.

12 (3) This chapter does not apply to:

13 (a) either grants or contracts between the state and its political subdivisions or other governments,
14 except as provided in part 4;

15 (b) construction contracts;

16 (c) expenditures of or the authorized sale or disposal of equipment purchased with money raised
17 by student activity fees designated for use by the student associations of the university system;

18 (d) contracts entered into by the state compensation insurance fund or the Montana state lottery
19 that have an aggregate value of less than \$250,000;

20 (e) contracts entered into by the state compensation insurance fund to procure insurance-related
21 goods and services;

22 (f) employment of:

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

24 (ii) a physician, dentist, pharmacist, or other medical, dental, or health care provider;

25 (iii) an expert witness hired for use in litigation, a hearings officer hired in rulemaking and contested
26 case proceedings under the Montana Administrative Procedure Act, or an attorney as specified by executive
27 order of the governor;

28 (iv) consulting actuaries;

- 1 (v) a private consultant employed by the student associations of the university system with money
2 raised from student activity fees designated for use by those student associations;
- 3 (vi) a private consultant employed by the Montana state lottery;
- 4 (vii) a private investigator licensed by any jurisdiction;
- 5 (viii) a claims adjuster; or
- 6 (ix) a court reporter appointed as an independent contractor under 3-5-601;
- 7 (g) electrical energy purchase contracts by the university of Montana or Montana state university,
8 as defined in 20-25-201. Any savings accrued by the university of Montana or Montana state university in the
9 purchase or acquisition of energy must be retained by the board of regents of higher education for university
10 allocation and expenditure.
- 11 (h) the purchase or commission of art for a museum or public display;
- 12 (i) contracting under 47-1-121 of the Montana Public Defender Act;
- 13 (j) contracting under Title 90, chapter 4, part 11; or
- 14 (k) contracting under Title 90, chapter 14, part 1, when the total contract value is \$12,501 or less.
- 15 (4) (a) Food products produced in Montana may be procured by either standard procurement
16 procedures or by direct purchase. Montana-produced food products may be procured by direct purchase when:
- 17 (i) the quality of available Montana-produced food products is substantially equivalent to the
18 quality of similar food products produced outside the state;
- 19 (ii) a vendor is able to supply Montana-produced food products in sufficient quantity; and
- 20 (iii) a bid for Montana-produced food products either does not exceed or reasonably exceeds the
21 lowest bid or price quoted for similar food products produced outside the state. A bid reasonably exceeds the
22 lowest bid or price quoted when, in the discretion of the person charged by law with the duty to purchase food
23 products for a governmental body, the higher bid is reasonable and capable of being paid out of that
24 governmental body's existing budget without any further supplemental or additional appropriation.
- 25 (b) The department shall adopt any rules necessary to administer the optional procurement
26 exception established in this subsection (4).
- 27 (5) As used in this section, the following definitions apply:
- 28 (a) "Food" means articles normally used by humans as food or drink, including articles used for

1 components of articles normally used by humans as food or drink.

2 (b) "Goods" has the same meaning as provided in 18-1-101.

3 ~~(b)(c)~~ "Produced" means planted, cultivated, grown, harvested, raised, collected, processed, or
4 manufactured."

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6 **Section 3.** Section 39-71-2315, MCA, is amended to read:

7 **"39-71-2315. Management of state fund -- powers and duties of board -- business plan**

8 **required.** (1) The management and control of the state fund is vested in the board, subject to the statutory
9 limitations imposed by this part.

10 (2) The board is vested with full power, authority, and jurisdiction over the state fund except that
11 the board may not dissolve or liquidate the state fund. To fulfill the objectives and intent of this part, the board
12 may perform all acts necessary or convenient in the exercise of any power, authority, or jurisdiction over the
13 administration of the state fund or in connection with the insurance business to be carried on under the
14 provisions of this part, as fully and completely as the governing body of a private mutual insurance carrier and
15 subject to the regulatory authority of the insurance commissioner in Title 33, except as provided in 33-1-115
16 and 39-71-2375.

17 (3) Neither the board, the state fund, nor the executive director may issue bonds on behalf of the
18 state fund.

19 (4) (a) The board shall adopt a business plan no later than December 31 for the next fiscal year.

20 (b) At a minimum, the plan must include:

21 (i) specific goals for the fiscal year for financial performance. The standard for measurement of
22 financial performances must include an evaluation of premium to surplus.

23 (ii) specific goals for the fiscal year for operating performance. Goals must include but not be
24 limited to specific performance standards for staff in the area of senior management, underwriting, and claims
25 administration. Goals must, in general, maximize efficiency, economy, and equity as allowed by law.

26 (5) The business plan must be available upon request to the general public for a fee not to exceed
27 the actual cost of publication. However, performance goals relating to a specific employment position are
28 confidential and not available to the public.

1 (6) No sooner than January 1 or later than March 31, the board shall convene a public meeting to
2 review the performance of the state fund, using the business plan for comparison of all the established goals
3 and targets. The board shall publish, by May 30 of each year, a report of the state fund's actual performance as
4 compared to the business plan.

5 (7) The state fund board of directors shall establish in-house guidelines for procurement of
6 insurance-related goods and services and shall include guidelines for the solicitation of submissions of
7 information regarding insurance-related goods and services from more than one vendor. The board may
8 include guidelines for the circumstances when business necessity or expedience may preclude the solicitation
9 of submissions from more than one vendor. The board may also include in the guidelines the exemptions to the
10 procurement process in 18-4-132."

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12 NEW SECTION. **Section 4. Effective date.** [This act] is effective on passage and approval.

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