

SENATE BILL NO. 101
INTRODUCED BY MAHLUM

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING THE MONTANA HERITAGE PRESERVATION AND DEVELOPMENT COMMISSION TO USE THE SERVICES OF VOLUNTEERS; REQUIRING WORKERS' COMPENSATION COVERAGE FOR THE VOLUNTEERS; AUTHORIZING REIMBURSEMENT OF CERTAIN EXPENSES OF THE VOLUNTEERS; AUTHORIZING THE COMMISSION TO SELL REAL AND PERSONAL PROPERTY; AUTHORIZING THE COMMISSION TO ESTABLISH TRUST FUNDS; AUTHORIZING THE COMMISSION TO OBTAIN FEDERAL MONEY AND REQUIRING THE DEPOSIT OF THE FEDERAL MONEY INTO THE MONTANA HERITAGE PRESERVATION AND DEVELOPMENT ACCOUNT; REQUIRING THE COMMISSION TO ESTABLISH A SUBCOMMITTEE OF COMMISSION MEMBERS AND MEMBERS OF THE MONTANA HISTORICAL SOCIETY BOARD; REQUIRING A MAJORITY VOTE OF THE SUBCOMMITTEE PRIOR TO SELLING PERSONAL PROPERTY FROM THE BOVEY ASSETS; REQUIRING THAT FUNDS RECEIVED FROM THE SALE OF PERSONAL PROPERTY FROM THE BOVEY ASSETS BE DEPOSITED IN A TRUST FUND; TRANSFERRING TITLE OF THE BOVEY ASSETS TO THE STATE OF MONTANA; AMENDING SECTIONS 17-2-102, 22-3-1003, AND 22-3-1004, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. Section 17-2-102, MCA, is amended to read:

"17-2-102. Fund structure. For the purpose of ensuring strict accountability for all revenue received and spent, there are in the state treasury only the following fund categories and types:

(1) the governmental fund category, which includes:

(a) the general fund, which accounts for all financial resources except those required to be accounted for in another fund;

(b) the special revenue fund type, which accounts for the proceeds of specific revenue sources (other than private purpose trusts or major capital projects) that are legally restricted to expenditure for specified purposes. The financial activities of the special revenue fund type are subdivided, for operational purposes, into the following funds to serve the purpose indicated:

(i) The state special revenue fund consists of money and other proceeds from state and other nonfederal sources deposited in the state treasury that is earmarked for the purposes of defraying particular costs of an

agency, program, or function of state government and money and other proceeds from other nonstate or nonfederal sources that is restricted by law or by the terms of an agreement, such as a contract, trust agreement, or donation.

(ii) ~~The~~ Except as provided in 22-3-1004(1), the federal special revenue fund consists of money deposited in the treasury from federal sources, including trust income, that is used for the operation of state government.

(c) the capital projects fund type, which accounts for financial resources to be used for the acquisition or construction of major capital facilities, other than those financed by proprietary funds or trust funds;

(d) the debt service fund type, which accounts for the accumulation of resources for and the payment of general long-term debt principal and interest; and

(e) the permanent fund type, which accounts for financial resources that are legally restricted to the extent that only earnings, but not principal, may be used;

(2) the proprietary fund category, which includes:

(a) the enterprise fund type, which accounts for operations:

(i) that are financed and operated in a manner similar to private business enterprises whenever the intent of the legislature is that costs (i.e., expenses, including depreciation) of providing goods or services to the general public on a continuing basis are to be financed or recovered primarily through user charges; or

(ii) whenever the legislature has decided that periodic determination of revenue earned, expenses incurred, or net income is appropriate for capital maintenance, public policy, management control, accountability, or other purposes; and

(b) the internal service fund type, which accounts for the financing of goods or services provided by one department or agency to other departments or agencies of state government or to other governmental entities on a cost-reimbursed basis;

(3) the fiduciary fund category, which includes trust and agency fund types used to account for assets held by state government in a trustee capacity or as an agent for individuals, private organizations, other governmental entities, or other funds. These include the:

(a) private purpose trust fund type;

(b) investment trust fund type;

(c) pension and other employee benefit trust fund type; and

(d) agency fund type.

(4) the higher education funds, which include:

(a) the current fund, which accounts for money deposited in the state treasury that is used to pay current

operating costs relating to instruction, research, public service, and allied support operations and programs conducted within the Montana university system. The financial activities of the current fund are subdivided, for operational purposes, into the four following subfunds to serve the purpose indicated:

(i) The unrestricted subfund segregates that portion of the current fund's financial resources that can be expended for general operations and is free of externally imposed restrictions, except those imposed by the legislature.

(ii) The restricted subfund segregates that portion of the current fund's financial resources that can be expended for general operations but only for purposes imposed by sources external to the board of regents and the legislature.

(iii) The designated subfund segregates that portion of the current fund's financial resources that is associated with general operations but is separately classified in order to accumulate costs that are to be recharged as allocated to other funds or subfunds, identifies financial activities related to special organized activities of educational departments in which the activity is fully supported by supplemental assessments, and identifies special supply and facility fees that are approved for collections beyond normal course fees and their disposition.

(iv) The auxiliary subfund segregates that portion of the current fund's financial resources that is devoted to providing essential on-campus services primarily to students, faculty, or staff in which a fee that is directly related to but does not necessarily equal the cost of the service provided is charged to the consumer.

(b) the student loan fund, which accounts for money deposited in the state treasury that may be loaned to students, faculty, or staff for purposes related to education, organized research, or public services by the Montana university system;

(c) the endowment fund, which accounts for money deposited in the state treasury by the Montana university system in which the principal portion of the amount received is nonexpendable but is available for investment. Expendable earnings on endowment funds are to be transferred to appropriate operating funds pursuant to prevailing administrative requirements.

(d) the annuity and life income fund, which accounts for money deposited in the state treasury by the Montana university system under an agreement by which the money is made available on the condition that the receiving unit of the Montana university system binds itself to pay stipulated amounts periodically to the donor or others designated by the donor over a specified period of time;

(e) the plant fund, which accounts for those financial resources allocated to or received by the Montana university system for capital outlay purposes or to retire long-term debts associated with construction or

acquisition of fixed assets and the net accumulative results of these activities; and

(f) the agency fund, which accounts for money deposited in the state treasury for which the Montana university system acts in the capacity of a custodian or fiscal agent for individual students, faculty, staff, and qualified organizations."

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

"22-3-1003. Powers of commission -- contracts -- rules. (1) (a) The Montana heritage preservation and development commission may contract with private organizations to assist in carrying out the purpose of 22-3-1001. The term of a contract may not exceed 20 years.

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

(c) Architectural and engineering review and approval do not apply to the historic renovation projects.

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

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

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

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

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

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

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

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

aesthetic trust.

(ii) Once the balance in the cultural and aesthetic trust reaches \$7,750,000, the commission shall deposit the portion of profits not used for administrative costs and restoration of the properties in the general fund.

~~—— (c) It is the intent of the 57th legislature that no general fund money be provided for the operation and maintenance of Virginia City and Nevada City beyond what has been appropriated by the 55th legislature. IT IS THE INTENT OF THE 58TH LEGISLATURE THAT NO GENERAL FUND MONEY BE PROVIDED FOR THE OPERATIONS AND MAINTENANCE OF VIRGINIA CITY AND NEVADA CITY BEYOND WHAT HAS BEEN APPROPRIATED BY THE 55TH LEGISLATURE.~~

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

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

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

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

(7) THE COMMISSION SHALL ESTABLISH A SUBCOMMITTEE COMPOSED OF AN EQUAL NUMBER OF MEMBERS OF THE MONTANA HISTORICAL SOCIETY BOARD OF TRUSTEES AND COMMISSION MEMBERS TO REVIEW AND RECOMMEND THE SALE OF PERSONAL PROPERTY FROM THE FORMER BOVEY ASSETS ACQUIRED BY THE 55TH LEGISLATURE. A RECOMMENDATION TO SELL MAY BE PRESENTED TO THE COMMISSION ONLY IF THE RECOMMENDATION IS SUPPORTED BY A MAJORITY OF THE MEMBERS OF THE SUBCOMMITTEE.

~~(5)(7)(8)~~ (8) The commission shall adopt rules establishing a policy for making acquisitions and sales of real and personal property. With respect to each acquisition ~~and~~ OR sale, the policy must give consideration to:

- (a) whether the property represents the state's culture and history;
- (b) whether the property can become self-supporting;
- (c) whether the property can contribute to the economic and social enrichment of the state;
- (d) whether the property lends itself to programs to interpret Montana history;
- (e) whether the acquisition or sale will create significant social and economic impacts to affected local governments and the state; ~~and~~

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

(G) WHETHER THE COMMISSION SHOULD INCLUDE ANY PRESERVATION COVENANTS IN A PROPOSED SALE AGREEMENT FOR REAL PROPERTY;

(H) WHETHER THE COMMISSION SHOULD INCORPORATE ANY DESIGN REVIEW ORDINANCES ESTABLISHED BY VIRGINIA CITY INTO A PROPOSED SALE AGREEMENT FOR REAL PROPERTY; AND

(f)(g)(l) other matters that the commission considers necessary or appropriate.

(8)(9) The EXCEPT AS PROVIDED IN SUBSECTION (11), THE proceeds of any sale under subsection (7) (8) must be placed in the account established in 22-3-1004.

(6)(9)(10) Public notice and the opportunity for a hearing must be given in the geographical area of a proposed acquisition or sale of real property before a final decision to acquire or sell a the property is made. The commission shall approve proposals for acquisition or sale of real property and recommend the approved proposal to the board of land commissioners.

(10)(11) The commission, working with the board of investments, may establish trust funds to benefit historic properties. Interest from any trust fund established under this subsection must be used to preserve and manage assets owned by the commission. FUNDS FROM THE SALE OF PERSONAL PROPERTY FROM THE BOVEY ASSETS MUST BE PLACED IN A TRUST FUND, AND INTEREST FROM THE TRUST FUND MUST BE USED TO MANAGE AND PROTECT THE REMAINING PERSONAL PROPERTY.

(7)(11)(12) Prior to the convening of each regular session, the commission shall report to the governor and the legislature, as provided in 5-11-210, concerning financial activities during the prior biennium, including the acquisition and OR sale of any assets."

Section 3. Section 22-3-1004, MCA, is amended to read:

"22-3-1004. Montana heritage preservation and development account. (1) (a) There is a Montana heritage preservation and development account in the state special revenue fund.

(b) Unless otherwise prohibited by federal law or agreement, the Montana heritage preservation and development commission shall deposit any federal money that the commission obtains into the account provided for in this section.

(2) Money deposited in the account must be used for:

(a) the purchase of properties in Virginia City and Nevada City;

(b) restoration, maintenance, and operation of historic properties in Virginia City and Nevada City; and

(c) purchasing, restoring, and maintaining historically significant properties in Montana that are in need of preservation.

(3) The account is statutorily appropriated, as provided in 17-7-502, to the ~~Montana heritage preservation and development~~ commission to be used as provided in this section.

(4) ~~All~~ Unless otherwise prohibited by law or agreement, all interest earned on money in the account must be deposited in the state special revenue fund to the credit of the commission."

NEW SECTION. SECTION 4. TRANSFER OF TITLE. TITLE TO THE REAL AND PERSONAL PROPERTY ACQUIRED BY THE 55TH LEGISLATURE AND COMMONLY REFERRED TO AS THE "BOVEY ASSETS" IS TRANSFERRED FROM THE MONTANA HISTORICAL SOCIETY TO THE STATE OF MONTANA.

NEW SECTION. Section 5. Effective date. [This act] is effective on passage and approval.

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