

HOUSE BILL NO. 347
INTRODUCED BY S. BOGGIO

A BILL FOR AN ACT ENTITLED: "AN ACT INCREASING THE AMOUNTS FOR WHICH A CONTRACT IS NOT REQUIRED FOR BUILDING, FURNISHING, REPAIRING, OR OTHER WORK FOR THE BENEFIT OF A SCHOOL DISTRICT OR PURCHASING OF SUPPLIES FOR A SCHOOL DISTRICT; AND AMENDING SECTION 20-9-204, MCA."

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

Section 1. Section 20-9-204, MCA, is amended to read:

"20-9-204. Conflicts of interests, letting contracts, and calling for bids. (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.

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

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

(b) "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.

(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 (7) of this section, whenever ~~the estimated cost of any building, furnishing, repairing, or other work for the benefit of the district or purchasing of supplies for the district exceeds the sum of \$25,000~~ is necessary, the work done or the purchase made must be by contract if the sum exceeds:

- (i) \$50,000 for a third-class district;
- (ii) \$75,000 for a second-class district; or
- (iii) \$100,000 for a first-class district.

(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 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:

- ~~(a)~~(i) a registered professional engineer, surveyor, real estate appraiser, or registered architect;
- ~~(b)~~(ii) a physician, dentist, pharmacist, or other medical, dental, or health care provider;
- ~~(c)~~(iii) an attorney;
- ~~(d)~~(iv) a consulting actuary;
- ~~(e)~~(v) a private investigator licensed by any jurisdiction;
- ~~(f)~~(vi) a claims adjuster;
- ~~(g)~~(vii) an accountant licensed under Title 37, chapter 50; or
- ~~(h)~~(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. The award of a contract to a successful bidder must comply with the requirements of subsection (5). The request for bids must be advertised in a daily newspaper of general circulation in each county in which a district participating in the cooperative purchasing contract is located. 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.

(5) Except as provided in Title 18, chapter 2, part 5, whenever bidding is required, the contract must be awarded to the lowest responsible bidder, except that any or all bids may be rejected.

(6) 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.

(7) 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."

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