

HOUSE BILL NO. 380
INTRODUCED BY K. FUREY

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING A STATE AGENCY TO PROCURE ~~BY OPEN PURCHASE OR BY CONTRACT~~ FRUIT, VEGETABLES, MEAT, POULTRY, FISH, MILK AND ITS BYPRODUCTS, OR EGGS PRODUCED IN MONTANA BY DIRECT NEGOTIATION; AMENDING SECTION 18-4-133, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

Section 1. Section 18-4-133, MCA, is amended to read:

"18-4-133. Purchases exempt from general requirements. (1) When immediate delivery of articles or performance of service is required by the public exigencies, the articles or service required may be procured by open purchase or contract at the place and in the manner in which the articles are usually bought and sold or the services engaged between individuals but under the direction of the department.

(2) Fruit, vegetables, meat, poultry, fish, milk and its byproducts, or eggs produced in Montana may be procured by open purchase or contract at the place and in the manner in which fresh fruit or vegetables are usually bought and sold. If the fruit, vegetables, meat, poultry, fish, milk or its byproducts, or eggs are procured by contract, the provisions of 18-1-102 apply DIRECT NEGOTIATION.

~~(2)~~(3) (a) The department may exempt the department of corrections and the department of public health and human services from the provisions of this chapter for the purchase of suitable clothing by the department of corrections and the department of public health and human services for residents of its institutions and community-based programs.

(b) As used in this section, "suitable clothing" means styled, seasonable clothing, which will allow the resident to make a normal appearance in the community.

~~(3)~~(4) When none of the bids or proposals received in response to a valid solicitation are from a responsible bidder or offeror or responsive bidder or offeror, as defined in 18-4-301, the procurement officer may:

(a) cancel and reissue the solicitation. If the procurement officer reissues the solicitation, the procurement officer shall attempt to increase the number of potential vendors and may modify any specification in the original solicitation.

(b) directly negotiate with a vendor if the procurement officer determines that a second or subsequent

solicitation would also be unsuccessful.

~~(4)~~(5) The department shall adopt rules describing the conditions under which a procurement officer may negotiate directly with a vendor. The rules must reflect the purposes described in 18-4-122.

~~(5)~~(6) When a state department, agency, or official administers a grant of public funds and contracts with a landowner to carry out a recreational or environmental remediation, reclamation, or conservation project that benefits the state, the department may exempt the landowner from the provisions of chapter 1 and this chapter if the landowner conducts the work or conducts a form of competitive procurement allowed by the terms of the contract."

NEW SECTION. **Section 2. Effective date.** [This act] is effective July 1, 2007.

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