

HOUSE BILL NO. 667
INTRODUCED BY J. O'HARA

A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING A LEWIS AND CLARK HERITAGE TOURISM TRUST FUND; TRANSFERRING \$2 MILLION FROM THE GENERAL FUND TO THE LEWIS AND CLARK HERITAGE TOURISM TRUST FUND; ALLOWING EXPENDITURES OF INTEREST AND OTHER FUNDS IN EXCESS OF THE TRUST FUND PRINCIPAL TO PROMOTE THE HISTORICAL ASPECTS OF THE LEWIS AND CLARK EXPEDITION; REQUIRING EQUAL MATCHING FUNDS FOR GRANTS; AMENDING SECTION 22-3-1003, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

NEW SECTION. **Section 1. Fund transfer.** On July 1, 2007, there is a transfer of \$2 million from the general fund to the Lewis and Clark heritage tourism trust fund established in [section 2].

NEW SECTION. **Section 2. Lewis and Clark heritage tourism trust fund -- grants.** (1) There is established a Lewis and Clark heritage tourism trust fund of the permanent fund type.

(2) The fund is financed with:

- (a) a \$2 million transfer on July 1, 2007, from the general fund; and
- (b) any other funding.

(3) The fund must be invested by the board of investments pursuant to Title 17, chapter 6, part 2, and the earnings from the investment must be credited to the principal of the fund.

(4) The annual earnings on the fund and any other funds in excess of the \$2 million principal for each succeeding year may be appropriated for the purposes of subsection (5).

(5) The Montana heritage preservation and development commission shall accept applications and award grants from the fund to private, nonprofit organizations based in Montana that have as their sole purpose and mission the promotion of the historical aspects of the Lewis and Clark expedition and its connections to Montana.

(6) An organization that applies for a grant pursuant to subsection (5) shall show proof that the requested grant amount will be equally matched with funds provided by the organization.

Section 3. 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) The provisions of Title 18 may not be construed as prohibiting contracts under this section 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 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.

(8) The commission shall adopt rules establishing a policy for making acquisitions and sales of real and personal property. With respect to each acquisition 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;

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

(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

(i) other matters that the commission considers necessary or appropriate.

(9) Except as provided in subsection (11), the proceeds of any sale under subsection (8) must be placed in the account established in 22-3-1004.

(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 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.

(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.

(12) The commission shall adopt rules to implement the provisions of [section 2].

~~(12)~~(13) 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 or sale of any assets."

NEW SECTION. Section 4. Codification instruction. [Section 2] is intended to be codified as an integral part of Title 22, chapter 3, part 10, and the provisions of Title 22, chapter 3, part 10, apply to [section 2].

NEW SECTION. Section 5. Effective date. [This act] is effective July 1, 2007.

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