

SENATE BILL NO. 299

INTRODUCED BY MOSS, HAWKS, TASH, RICE, BRANAE

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATING TO HERITAGE PRESERVATION AND CULTURAL TOURISM; PROVIDING FOR THE LEASE OR EXCHANGE OF HISTORIC PROPERTY; PROVIDING FOR HERITAGE PRESERVATION AND CULTURAL TOURISM COMMISSIONS; PROVIDING FOR THE DESIGNATION, ADMINISTRATION, AND PROMOTION OF HERITAGE AND CULTURAL TOURISM RESOURCES; PROVIDING FUNDING; AMENDING SECTIONS 7-16-2201, 7-16-2205, AND 18-2-105, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

NEW SECTION. Section 1. Lease or exchange of historic property. (1) A state agency, after consultation with the state historic preservation officer, shall, to the extent practicable, establish and implement alternatives for historic properties, including adaptive uses, that are not needed for current or projected agency purposes. A state agency may lease a historic property owned by the state agency to any person or organization or exchange any property owned by the state agency for comparable historic property if the state agency head determines that the lease or exchange will adequately ensure the preservation of the historic property. If the consent of the board of land commissioners is required for a property exchange, the state agency must receive approval from the board prior to completing an exchange.

(2) The proceeds of any lease under subsection (1) may be retained by the state agency entering into the lease and used to defray the costs of administration, maintenance, repair, and related expenses incurred by the state agency with respect to the property or other historic properties that are owned by, or are under the jurisdiction or control of, the state agency. Any surplus proceeds from the leases must be deposited into the appropriate fund at the end of the fiscal year in which the proceeds were received.

(3) The head of a state agency with responsibility for the management of a historic property may, after consultation with the state historic preservation officer, enter into contracts for the management of the property. A contract must contain terms and conditions that the head of the state agency considers necessary or appropriate to protect the interests of the state and ensure adequate preservation of the historic property.

(4) As used in this section, "state agency" means a department, board, commission, office, bureau, or other public authority of state government.

Section 2. Section 7-16-2201, MCA, is amended to read:

"7-16-2201. ~~Definition of museums~~ Definitions. For the purposes of this part, the ~~word~~ following definitions apply:

(1) "Heritage and cultural tourism resources" has the meaning provided in [section 5].

(2) "Heritage preservation and cultural tourism commission" means an entity organized pursuant to [section 6].

(3) ~~"museums"~~ "Museums" means buildings or parts of buildings of which a principal purpose is the exhibition, display, or performance of matters of historical, artistic, cultural, or scientific interest."

Section 3. Section 7-16-2205, MCA, is amended to read:

"7-16-2205. Authorization for mill levy. (1) The board of county commissioners of any county ~~owning, acquiring, contributing, or making a grant to any museum, facility for the arts and the humanities, or collection of exhibits as set forth in 7-16-2202:~~

(a) ~~(i)~~ may make an appropriation in its annual budget for:

(i) the upkeep, care, maintenance, operation, and support of ~~the~~ a museum, facility for the arts and the humanities, or collection of exhibits as set forth in 7-16-2202;

(ii) the support of a heritage preservation and cultural tourism commission and for heritage and cultural tourism resources;

~~(ii)(iii) may make an appropriation in its annual budget for a grant program for private, nonprofit museums and private, nonprofit facilities for the arts and the humanities, including a heritage preservation and cultural tourism commission;~~ and

(b) ~~in order to fund the appropriation or grant program,~~ may, subject to 15-10-420, annually levy a tax on the taxable valuation of the property subject to taxation in the county for the purposes described in subsection (1)(a) of this section.

(2) The levy must be made at the same time as other levies are made for county and school purposes.

(3) The proceeds from the collection of the levy must be kept in a special fund by the county treasurer and used, at the discretion of the board of county commissioners, solely for the purpose for which the levy was made."

NEW SECTION. Section 4. Purpose. The purposes of [sections 4 through 11] are to:

(1) assist the state and local governments in identifying, protecting, and promoting heritage and cultural

tourism resources;

(2) further support local preservation programs and encourage participation in the Montana historical society Montana-certified local government program, provided for in [section 10];

(3) enhance the ability of localities and agencies to exhibit and advertise the heritage and cultural tourism resources of the state;

(4) stimulate business investment, assist in retaining existing small businesses, and promote new businesses related to heritage and cultural tourism;

(5) strengthen the local tax base;

(6) create employment opportunities for the people of the state; and

(7) generally enhance the economic viability of communities and regions of the state.

NEW SECTION. Section 5. Definitions. As used in [sections 4 through 11], the following definitions apply:

(1) "Heritage and cultural tourism resources" means sites, districts, routes of travel, objects, artifacts, or collections with demonstrable cultural, artistic, architectural, folkway, historic, prehistoric, or traditional qualities.

(2) "Montana historical society" means the entity established pursuant to 22-3-101.

NEW SECTION. Section 6. Heritage preservation and cultural tourism commissions. (1) Counties, consolidated governments, and municipalities may create heritage preservation and cultural tourism commissions or authorize existing historic preservation commissions to conduct heritage preservation and cultural tourism programs according to the provisions of [sections 4 through 11].

(2) A heritage preservation and cultural tourism commission must have at least five members. Commission members must have professional backgrounds and be trained in or have a demonstrated interest in historic preservation, the arts or culture of the locality, and the tourism and economic development interests of the locality.

NEW SECTION. Section 7. Commission duties. (1) A heritage preservation and cultural tourism commission:

(a) may prepare a heritage and cultural tourism promotion and development plan, as provided in [section 8], and shall operate according to the provisions of that plan;

(b) must be operated in a manner that allows the county, consolidated government, or municipality to

obtain support through grants and other funding assistance available for heritage and cultural tourism promotion and development programs and may solicit, request, and apply for funds;

(c) may own and lease property in its own name and may acquire property through bequest, purchase, lease, or other means except eminent domain;

(d) may hire and supervise staff consistent with the personnel regulations of the county, consolidated government, or municipality;

(e) may solicit, request, and apply for funds in the name of the commission; and

(f) shall identify, record, register, preserve, protect, develop, and promote heritage and cultural tourism resources.

(2) Funds may be budgeted and expended, including by contract, by the heritage preservation and cultural tourism commission in a manner consistent with the laws, rules, and regulations of the county, consolidated government, or municipality.

(3) A heritage preservation and cultural tourism commission shall prepare an annual report describing its activities and file the report with the appropriate county, consolidated government, or municipality.

(4) Upon the dissolution of a heritage preservation and cultural tourism commission, the property of the commission becomes the property of the county, consolidated government, or municipality.

NEW SECTION. Section 8. Heritage and cultural tourism promotion and development plan. (1)

A heritage preservation and cultural tourism commission may prepare a heritage and cultural tourism promotion and development plan and shall operate according to the provisions of that plan.

(2) A heritage and cultural tourism promotion and development plan must be created in consultation with the tourism advisory council, the Montana historical society, the Montana arts council, and interested stakeholders, including businesses and institutions that have a demonstrable interest in cultural tourism, historic preservation, economic development, the arts, and cultural affairs.

(3) A heritage and cultural tourism promotion and development plan:

(a) may include but is not limited to:

(i) inventories of public displays and interpretations of heritage and cultural tourism resources;

(ii) mapping of and guidance to heritage and cultural tourism resources; and

(iii) advertising and promoting heritage and cultural tourism resources, economic development, heritage protection, and heritage incentives; and

(b) may recommend ordinances or resolutions to counties, consolidated governments, and municipalities

to assist and protect the qualities of heritage and cultural tourism resources as long as those ordinances are based on uniform standards and procedures.

NEW SECTION. Section 9. Cultural treasures -- coordination. (1) A heritage preservation and cultural tourism commission may designate individuals possessing the highest quality artistic, traditional, or folkway skills, talents, and knowledge as Montana cultural treasures and may conduct programs to honor and promote the individuals with the individuals' express consent and in a manner consistent with administrative rule.

(2) This section may be administered in conjunction with the treasure state living cultural treasures program provided for in 2-15-236 through 2-15-238.

NEW SECTION. Section 10. Certified local governments. (1) Counties, consolidated governments, and municipalities may participate in the Montana-certified local government program administered by the Montana historical society pursuant to the National Historic Preservation Act of 1966, 16 U.S.C. 470 through 470w-6.

(2) A county, consolidated government, or municipality that became a certified local government, as described in subsection (1), prior to [the effective date of this act] may participate in the program.

NEW SECTION. Section 11. Highway signs. Upon receipt of a petition from a heritage preservation and cultural tourism commission, the department of transportation shall erect and maintain signs designating heritage and cultural tourism resources along highways in the vicinity of the heritage and cultural tourism resources. The department of transportation shall accomplish the signing changes in accordance with the department's normal sign maintenance and replacement schedule.

Section 12. Section 18-2-105, MCA, is amended to read:

"18-2-105. General powers and duties of department of administration. In carrying out powers relating to the construction of buildings, the department of administration may:

- (1) inspect buildings not under construction;
- (2) contract with the federal government for advance planning funds;
- (3) transfer funds and authority to agencies and accept funds and authority from agencies;
- (4) subject to [section 1], purchase, lease, and acquire by exchange or otherwise, land and buildings in

Lewis and Clark County and equipment and furnishings for the buildings;

(5) issue and sell bonds and other securities;

(6) maintain an inventory of all buildings;

(7) appoint a project representative to supervise architects' and consulting engineers' inspection of construction of buildings to ensure that all construction is in accordance with the contracts, plans, and specifications. The cost of supervision may be charged against money available for construction.

(8) negotiate deductive changes, not to exceed 7% of the total cost of a project, with the lowest responsible bidder when the lowest responsible bid causes the project cost to exceed the appropriation or with the lowest responsible bidders, if multiple contracts will be awarded on the project, when the total of the lowest responsible bids causes the project cost to exceed the appropriation. A bidder is not required to negotiate a bid but is required to honor the bid for the time specified in the bidding documents. The department may terminate negotiations at any time."

NEW SECTION. Section 13. Codification instructions. (1) [Section 1] is intended to be codified as an integral part of Title 2, chapter 17, part 1, and the provisions of Title 2, chapter 17, part 1, apply to [section 1].

(2) [Sections 4 through 11] are intended to be codified as an integral part of Title 90, chapter 1, part 1, and the provisions of Title 90, chapter 1, part 1, apply to [sections 4 through 11].

NEW SECTION. Section 14. Notification to tribal governments. The secretary of state shall send a copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell band of Chippewa.

NEW SECTION. Section 15. Effective date. [This act] is effective July 1, 2007.

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