

SENATE BILL NO. 77

INTRODUCED BY J. BRENDEN

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A BILL FOR AN ACT ENTITLED: "AN ACT RAISING FROM \$50,000 TO ~~\$100,000~~ \$80,000 THE CONTRACT AMOUNT ON CERTAIN ~~MUNICIPAL~~ LOCAL GOVERNMENT AND SCHOOL PURCHASE AND CONSTRUCTION CONTRACTS THAT REQUIRE USE OF THE COMPETITIVE, ADVERTISED BIDDING PROCESS; AMENDING ~~SECTION~~ SECTIONS 7-5-2301, 7-5-4302, AND 20-9-204, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

SECTION 1. SECTION 7-5-2301, MCA, IS AMENDED TO READ:

"7-5-2301. Competitive, advertised bidding required for certain large purchases or construction contracts. (1) Except as provided in 7-5-2304 and Title 18, chapter 2, part 5, a contract for the purchase of any vehicle, road machinery or other machinery, apparatus, appliances, equipment, or materials or supplies or for construction, repair, or maintenance in excess of ~~\$50,000~~ \$80,000 may not be entered into by a county governing body without first publishing a notice calling for bids.

(2) The notice must be published as provided in 7-1-2121.

(3) Subject to 7-5-2309 and except as provided in Title 18, chapter 2, part 5, every contract subject to bidding must be let to the lowest responsible bidder."

Section 2. Section 7-5-4302, MCA, is amended to read:

"7-5-4302. Competitive, advertised bidding required for certain purchase and construction contracts. (1) Except as provided in 7-5-4303, 7-5-4310, or Title 18, chapter 2, part 5, a contract for the purchase of any automobile, truck, other vehicle, road machinery, other machinery, apparatus, appliances, equipment, or materials or supplies or for construction, repair, or maintenance in excess of ~~\$50,000~~ ~~\$100,000~~ \$80,000 must be let to the lowest responsible bidder after advertisement for bids.

(2) The advertisement must be published as provided in 7-1-4127, and the second publication must be made not less than 5 days or more than 12 days before the consideration of bids. If the advertisement is made by posting, 15 days must elapse, including the day of posting, between the time of the posting of the

1 advertisement and the day set for considering bids.

2 (3) The council may:

3 (a) postpone awarding a contract until the next regular meeting after bids are received in response to
4 the advertisement;

5 (b) reject any or all bids; and

6 (c) readvertise as provided in this section."
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8 **SECTION 3. SECTION 20-9-204, MCA, IS AMENDED TO READ:**

9 **"20-9-204. Conflicts of interests, letting contracts, and calling for bids -- exceptions.** (1) It is
10 unlawful for a trustee to:

11 (a) have any pecuniary interest, either directly or indirectly, in any contract made by the trustee while
12 acting in that official capacity or by the board of trustees of which the trustee is a member; or

13 (b) be employed in any capacity by the trustee's own school district, with the exception of officiating at
14 athletic competitions under the auspices of the Montana officials association.

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

16 (a) "contract" does not include:

17 (i) merchandise sold to the highest bidder at public auctions;

18 (ii) investments or deposits in financial institutions that are in the business of loaning or receiving money
19 when the investments or deposits are made on a rotating or ratable basis among financial institutions in the
20 community or when there is only one financial institution in the community; or

21 (iii) contracts for professional services, other than salaried services, or for maintenance or repair services
22 or supplies when the services or supplies are not reasonably available from other sources if the interest of any
23 board member and a determination of the lack of availability are entered in the minutes of the board meeting at
24 which the contract is considered; and

25 (b) "pecuniary interest" does not include holding an interest of 10% or less in a corporation.

26 (3) (a) Except for district needs that must be met because of an unforeseen emergency, as defined in
27 20-3-322(5), or as provided in subsections (4) and (6) of this section, whenever any building, furnishing, repairing,
28 or other work for the benefit of the district or purchasing of supplies for the district is necessary, the work done
29 or the purchase made must be by contract if the sum exceeds ~~\$50,000~~ \$80,000.

30 (b) Except as provided in Title 18, chapter 2, part 5, each contract must be let to the lowest responsible

1 bidder after advertisement for bids. The advertisement for bids under this subsection (3)(b) must be published
 2 in the newspaper that will give notice to the largest number of people of the district as determined by the trustees.
 3 The advertisement must be made once each week for 2 consecutive weeks, and the second publication must
 4 be made not less than 5 days or more than 12 days before consideration of bids. A contract not let pursuant to
 5 this section is void. The bidding requirements applicable to services performed for the benefit of the district under
 6 this section do not apply to:

- 7 (i) a registered professional engineer, surveyor, real estate appraiser, or registered architect;
- 8 (ii) a physician, dentist, pharmacist, or other medical, dental, or health care provider;
- 9 (iii) an attorney;
- 10 (iv) a consulting actuary;
- 11 (v) a private investigator licensed by any jurisdiction;
- 12 (vi) a claims adjuster;
- 13 (vii) an accountant licensed under Title 37, chapter 50; or
- 14 (viii) a project, as defined in 18-2-501, for which a governing body, as defined in 18-2-501, enters into
 15 an alternative project delivery contract pursuant to Title 18, chapter 2, part 5.

16 (4) A district may enter into a cooperative purchasing contract for the procurement of supplies or services
 17 with one or more districts. A district participating in a cooperative purchasing group may purchase supplies and
 18 services through the group without complying with the provisions of subsection (3) if the cooperative purchasing
 19 group has a publicly available master list of items available with pricing included and provides an opportunity at
 20 least twice yearly for any vendor, including a Montana vendor, to compete, based on a lowest responsible bidder
 21 standard, for inclusion of the vendor's supplies and services on the cooperative purchasing group's master list.

22 (5) This section may not require the board of trustees to let a contract for any routine and regularly
 23 performed maintenance or repair project or service that can be accomplished by district staff whose regular
 24 employment with the school district is related to the routine performance of maintenance for the district.

25 (6) Subsection (3) does not apply to the solicitation or award of a contract for an investment grade energy
 26 audit or an energy performance contract pursuant to Title 90, chapter 4, part 11, including construction and
 27 installation of conservation measures pursuant to the energy performance contract."
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29 **NEW SECTION. Section 4. Effective date.** [This act] is effective on passage and approval.

30 - END -