

1 SENATE BILL NO. 77
2 INTRODUCED BY G. LAMMERS
3 BY REQUEST OF THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
4
5 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING CONSERVATION DISTRICTS TO COMPLY WITH
6 STATE PROCUREMENT LAWS; AND ~~REPEALING AMENDING~~ SECTIONS 76-15-1004, 76-15-1005, 76-15-
7 1006, 76-15-1011, AND 76-15-1012, 76-15-1013, AND 76-15-1014, MCA; AND REPEALING SECTION 76-15-
8 1004, MCA."

9
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11
12 (Refer to Introduced Bill)

13 Strike everything after the enacting clause and insert:

14
15 **NEW SECTION. Section 1. Restriction on use of funds.** A conservation district shall comply with
16 state procurement laws when expending state-funded grants and loans.

17
18 **NEW SECTION. Section 2. Services contracts.** Contracts for architectural, engineering, and land
19 surveying services as defined in 18-8-202 must comply with the state public procurement requirements of Title
20 18, chapter 8, part 2.

21
22 **Section 3.** Section 76-15-1005, MCA, is amended to read:

23 "76-15-1005. Requirements for purchases or construction contracts. For contracts for the
24 purchase of vehicles, machinery, equipment, materials, or supplies or for construction, repair, restoration, or
25 maintenance under this chapter in excess of the limit provided in 7-5-2301, supervisors shall comply with the
26 provisions of 76-15-1006 and ~~may~~:

27 (1) ~~award the contract to the lowest responsible bidder;~~
28 (2) ~~postpone awarding a contract;~~

1 (3) ~~reject any or all bids; or~~
2 (4) ~~readvertise the contract award a contract according to the selection criteria for proposals and~~
3 ~~bidding as described in 18-4-303 and 18-4-304."~~

4

5 **Section 4.** Section 76-15-1006, MCA, is amended to read:

6 **"76-15-1006. Advertisements.** (1) The advertisement for requests for bids, proposals, or
7 qualifications must:

8 (a) ~~set forth the evaluation criteria to be used; and~~
9 (b) ~~be published in a newspaper of general circulation that includes the conservation district.~~

10 (2) A second publication may not be made less than 5 days or more than 12 days before the
11 opening of bids.

12 (3) A second publication may not be made less than 5 days or more than 12 days before the
13 deadline for the submission of a request for proposals or a request for qualifications."

14

15 **Section 5.** Section 76-15-1011, MCA, is amended to read:

16 **"76-15-1011. Exemptions from advertising and bidding.** (1) When immediate delivery of supplies,
17 equipment, or services is required in an emergency, including but not limited to fire, flood, explosion, storm,
18 earthquake, riot, or insurrection, the provisions of 76-15-1005 and 76-15-1006 do not apply if:

19 (a) the supervisors act, by majority vote in an open meeting, in a manner that best meets the
20 emergency and serves the public interest; and

21 (b) the emergency is declared and recorded in the minutes of the board of supervisors meeting.

22 (2) Supplies or services may be purchased without bid from government agencies if purchased at
23 a substantial savings.

24 (3) (a) ~~Contracts may be entered into by direct negotiations for the purchase of vehicles,~~
25 ~~machinery, equipment, materials, or supplies or for construction, repair, restoration, or maintenance under Title~~
26 ~~76, chapter 15, for which the cost is less than the limit provided in 7-5-2301~~ ~~may be entered into by direct~~
27 ~~negotiation.~~

28 (b) ~~A contract for architectural, engineering, and land surveying services may be entered into by~~

1 direct negotiation subject to the limits of 18-8-212.

2 (c) For other contracts, if the total contract value is estimated to be:

3 (i) less than \$10,000, a purchase technique may be used to meet conservation district needs;

4 (ii) more than \$10,000 but not to exceed \$100,000, a limited solicitation procedure may be used.

5 This procedure requires a minimum of three viable written or oral quotations, if available, with an award based
6 on the lowest responsible bid price that meets all criteria and specifications. A conservation district shall
7 document the basis for an award under a limited solicitation procedure.

8 (iii) more than \$100,000, a conservation district shall advertise for bids, proposals, or qualifications
9 pursuant to 76-15-1006 and award a contract using a request for proposal or an invitation to bid pursuant to 76-
10 15-1012.

11 (4) Vehicles, machinery, equipment, materials, or supplies may be rented if the rental results in a
12 substantial savings over purchase."

14 **Section 6.** Section 76-15-1012, MCA, is amended to read:

15 **"76-15-1012. Terms and extensions.** (1) Prior Except as provided in 76-15-1011, prior to the
16 issuance, extension, or renewal of a contract, it must be determined that:

17 (a) ~~estimated requirements cover the period of the contract and are reasonably firm and~~
18 ~~continuing; and~~

19 (b) ~~the contract will serve the best interests of the conservation district by encouraging effective~~
20 ~~competition or otherwise promoting economies in conservation district procurement the contract meets the~~
21 ~~selection criteria for proposals and bidding as described in 18-4-303 and 18-4-304.~~

22 (2) A contract may not be made for a period of more than 7 years.

23 (3) A contract may be extended or renewed if:

24 (a) the terms of the extension or renewal, if any, are included in the solicitation;

25 (b) funds are available for the first fiscal period at the time of the agreement; and

26 (c) the total contract period, including any extension or renewal, does not exceed 7 years.

27 (4) Payment and performance obligations for succeeding fiscal periods are subject to the
28 availability and appropriation of funds for the fiscal periods.

1 (5) If funds are not available to support continuation of performance in a subsequent fiscal period,
2 the contract must be canceled."

3

4 **NEW SECTION. Section 7. Repealer.** The following section of the Montana Code Annotated is
5 repealed:

6 76-15-1004. Service contracts.

7

8 **NEW SECTION. Section 8. Codification instruction.** [Sections 1 and 2] are intended to be codified
9 as an integral part of Title 76, chapter 15, part 10, and the provisions of Title 76, chapter 15, part 10, apply to
10 [sections 1 and 2].

11 - END -