



IN THE SENATE

FEBRUARY 11, 1991

RECEIVED FROM HOUSE.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 SENATE BILL NO. 11

2 INTRODUCED BY THAYER

3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR  
5 RECIPROCAL BID PREFERENCE ON PUBLIC CONTRACTS FOR  
6 CONSTRUCTION, REPAIR, OR PUBLIC WORKS; AND AMENDING SECTION  
7 18-1-102, MCA."

8  
9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

10 **Section 1.** Section 18-1-102, MCA, is amended to read:

11 **"18-1-102. State contracts to lowest resident bidder.**

12 (1) (a) In order to provide for an orderly administration of  
13 the business of the state of Montana in awarding public  
14 contracts for the purchase of goods and for construction,  
15 repair, and public works of all kinds, a public agency shall  
16 award:

17 (i) a public contract for construction, repair, or  
18 public works to the lowest responsible resident bidder whose  
19 ~~bid--does-not-exceed-the-applicable-percentage-when-compared~~  
20 ~~to-the-lowest-responsible-nonresident-bidder--The-applicable~~  
21 ~~percentage-is-the-greater-of:~~

22 (A) ~~--3%--or~~

23 (B) ~~--the-percentage-that-applies-to-a-resident-bidder-in~~  
24 ~~the-award-of-a-public-contract-for-construction,--repair,--or~~  
25 ~~public-works-in-the-nonresident-bidder's-state-of-residence;~~

1 without regard to residency. However, a resident bidder must  
2 be allowed a preference on a contract against the bid of any  
3 nonresident bidder from any state or country that enforces a  
4 preference for resident bidders. The preference given to  
5 resident bidders of this state must be equal to the  
6 preference given in the other state or country.

7 (ii) a public contract for the purchase of goods, if the  
8 goods are comparable in quality and performance, to the  
9 lowest responsible resident bidder whose:

10 (A) bid is not more than 3% higher than that of the  
11 lowest responsible nonresident bidder;

12 (B) offered goods are Montana-made and whose bid is not  
13 more than 5% higher than that of the lowest responsible  
14 nonresident bidder; or

15 (C) offered goods are Montana-made and whose bid is not  
16 more than 3% higher than that of the lowest responsible  
17 resident bidder whose offered goods are not Montana-made.

18 (b) (i) If both subsections (1)(a)(ii)(B) and  
19 (1)(a)(ii)(C) are applicable to bids for a contract, the  
20 contract must be awarded to the resident bidder whose  
21 offered goods are Montana-made if the bid is:

22 (A) not more than 3% higher than that of a resident  
23 bidder whose offered goods are not Montana-made; and

24 (B) not more than 5% higher than that of the  
25 nonresident bidder.

INTRODUCED BILL  
SB 11



SB 0011/01

1 (ii) However, no combination of preferences under this  
2 subsection may exceed 5%.

3 (2) The preferences in this section apply:

4 (a) whether the law requires advertisement for bids or  
5 does not require advertisement for bids; and

6 (b) to contracts involving funds obtained from the  
7 federal government unless expressly prohibited by the laws  
8 of the United States or regulations adopted pursuant  
9 thereto."

-End-

APPROVED BY COMM. ON  
BUSINESS & INDUSTRY

SENATE BILL NO. 11

INTRODUCED BY THAYER

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR  
RECIPROCAL BID PREFERENCE ON PUBLIC CONTRACTS FOR  
CONSTRUCTION, REPAIR, OR PUBLIC WORKS; AND AMENDING SECTION  
18-1-102, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. Section 18-1-102, MCA, is amended to read:

"18-1-102. State contracts to lowest resident bidder.

(1) (a) In order to provide for an orderly administration of  
the business of the state of Montana in awarding public  
contracts for the purchase of goods and for construction,  
repair, and public works of all kinds, a public agency shall  
award:

(i) a public contract for construction, repair, or  
public works to the lowest responsible resident bidder whose  
bid--does-not-exceed-the-applicable-percentage-when-compared  
to-the-lowest-responsible-nonresident-bidder.-The-applicable  
percentage-is-the-greater-of:

(A)--3%,--or

(B)--the-percentage-that-applies-to-a-resident-bidder-in  
the-award-of-a-public-contract-for-construction,-repair,-or  
public-works-in-the-nonresident-bidder's-state-of-residence-

without regard to residency. However, a resident bidder must  
be allowed a preference on a contract against the bid of any  
nonresident bidder from any state or country that enforces a  
preference for resident bidders. The preference given to  
resident bidders of this state must be equal to the  
preference given in the other state or country.

(ii) a public contract for the purchase of goods, if the  
goods are comparable in quality and performance, to the  
lowest responsible resident bidder whose:

(A) bid is not more than 3% higher than that of the  
lowest responsible nonresident bidder;

(B) offered goods are Montana-made and whose bid is not  
more than 5% higher than that of the lowest responsible  
nonresident bidder; or

(C) offered goods are Montana-made and whose bid is not  
more than 3% higher than that of the lowest responsible  
resident bidder whose offered goods are not Montana-made.

(b) (i) If both subsections (1)(a)(ii)(B) and  
(1)(a)(ii)(C) are applicable to bids for a contract, the  
contract must be awarded to the resident bidder whose  
offered goods are Montana-made if the bid is:

(A) not more than 3% higher than that of a resident  
bidder whose offered goods are not Montana-made; and

(B) not more than 5% higher than that of the  
nonresident bidder.

SECOND READING



SB 0011/02

1 (ii) However, no combination of preferences under this  
2 subsection may exceed 5%.

3 (2) The preferences in this section apply:

4 (a) whether the law requires advertisement for bids or  
5 does not require advertisement for bids; and

6 (b) to contracts involving funds obtained from the  
7 federal government unless expressly prohibited by the laws  
8 of the United States or regulations adopted pursuant  
9 thereto."

10 NEW SECTION. SECTION 2. EFFECTIVE DATE. [THIS ACT] IS  
11 EFFECTIVE ON PASSAGE AND APPROVAL.

-End-

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(i) a public contract for construction, repair, or public works to the lowest responsible resident bidder whose bid--does-not-exceed-the-applicable-percentage-when-compared-to-the-lowest-responsible-nonresident-bidder--The-applicable percentage-is-the-greater-of:

(A)--3%--or

(B)--the-percentage-that-applies-to-a-resident-bidder-in the-award-of-a-public-contract-for-construction, repair,--or public-works-in-the-nonresident-bidder's-state-of-residence--

without regard to residency. However, a resident bidder must be allowed a preference on a contract against the bid of any nonresident bidder from any state or country that enforces a preference for resident bidders. The preference given to resident bidders of this state must be equal to the preference given in the other state or country.

(ii) a public contract for the purchase of goods, if the goods are comparable in quality and performance, to the lowest responsible resident bidder whose:

(A) bid is not more than 3% higher than that of the lowest responsible nonresident bidder;

(B) offered goods are Montana-made and whose bid is not more than 5% higher than that of the lowest responsible nonresident bidder; or

(C) offered goods are Montana-made and whose bid is not more than 3% higher than that of the lowest responsible resident bidder whose offered goods are not Montana-made.

(b) (i) If both subsections (1)(a)(ii)(B) and (1)(a)(ii)(C) are applicable to bids for a contract, the contract must be awarded to the resident bidder whose offered goods are Montana-made if the bid is:

(A) not more than 3% higher than that of a resident bidder whose offered goods are not Montana-made; and

(B) not more than 5% higher than that of the nonresident bidder.

THIRD READING



SB 0011/02

1 (ii) However, no combination of preferences under this  
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3 (2) The preferences in this section apply:

4 (a) whether the law requires advertisement for bids or  
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bidder whose offered goods are not Montana-made; and

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nonresident bidder.

REFERENCE BIL



SB 0011/02

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