

STATE OF MONTANA

Office of the Governor

Executive Order No. 3-81

Executive Order continuing the authority of the legal services review committee established within the executive branch to review agency use of legal counsel, and establishing membership and review standards.

I, TED SCHWINDEN, in accordance with the authority vested in me by the laws and Constitution of the State of Montana, and in recognition of the need to evaluate and direct the Executive Branch's use of private legal counsel so as to insure the maximum effectiveness of all Executive Branch legal resources, hereby order all Executive Branch agencies to continue compliance with Executive Order No. 15-78 which reads in full as follows:

I. All Executive Branch agencies which under the Constitution and laws of Montana are directly accountable to the Governor shall effective the date of this Order, submit all requests to engage private legal counsel to the Legal Services Review Committee, created below. Such requests must be in the form and must contain the information requested by the Committee, which shall include the specific terms of the engagement including the legal services to be performed and the fees or maximum cost to the state. An agency may engage private legal counsel only if the agency obtains prior written approval for such engagement under Part II of this Order. This Order applies to all existing contracts, retainers, or other agreements existing on the date of this Order as well as those requested after such date, but shall not impair valid contracts entered into before such date.

II. There is hereby created a Legal Services Review Committee, as follows:

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(1) Composition. The Legal Services Review Committee has three members, including the Budget Director or his designated representative, who is chairman; the Attorney General or his designated representative; and the chief legal counsel to the Governor. Two members constitute a quorum.

(2) Responsibilities. The Committee shall review and approve or disapprove, in writing, each agency request to use private legal counsel, and shall approve only requests which meet one or more of the following criteria:

(a) The agency's legal staff lacks time or essential expertise to handle the matter;

(b) a substantial conflict of interest exists affecting all of the agency's legal staff or all but a number insufficient to handle the matter;

(c) the agency has a need for extensive legal work in a geographic area remote from the agency's home office; or

(d) other criteria determined by the Committee.

The Committee shall complete its review of each request in a timely manner, as agency need requires.

The Committee shall, in addition to reviewing requests to engage private counsel arising after the date of this Order systematically review, in a timely manner, all existing engagements of private legal counsel under the same criteria used for new requests, and shall periodically review all engagements approved by the Committee, according to methods established by the Committee.

The Committee shall not approve general retainer agreements unless the agency can show extraordinary circumstances justifying such an agreement.

(3) Nature of Review. The Committee's review is not a hearing, adversarial or otherwise, but is an internal administrative control to be handled informally and expedi-

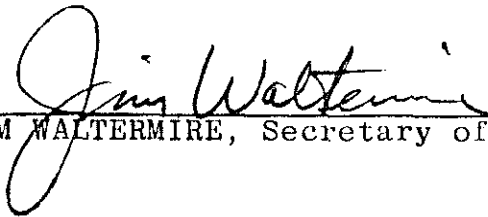
tiously.

GIVEN under my hand and the GREAT SEAL
of the State of Montana, this third
day of February in the year of our Lord
One Thousand, Nine Hundred Eighty-One.



TED SCHWINDEN, Governor

ATTEST:



JIM WALTERMIRE, Secretary of State