

HOUSE BILL NO. 166

INTRODUCED BY MILLER

IN THE HOUSE

January 11, 1983	Introduced and referred to Committee on Education and Cultural Resources.
January 22, 1983	Committee recommend bill do pass as amended. Report adopted.
January 24, 1983	Bill printed and placed on members' desks.
January 25, 1983	Second reading, do pass.
January 26, 1983	Considered correctly engrossed.
	On motion, previous action reconsidered.
	On motion, taken from engrossing and referred to second reading.
	Second reading, do pass as amended.
January 27, 1983	Considered correctly engrossed.
January 28, 1983	Third reading, passed. Transmitted to Senate.

IN THE SENATE

January 29, 1983	Introduced and referred to Committee on Education and Cultural Resources.
March 5, 1983	Committee recommend bill be concurred in as amended. Report adopted.

March 8, 1983

Second reading, concurred in.

March 10, 1983

Third reading, concurred in.
Ayes, 49; Noes, 0.

IN THE HOUSE

March 10, 1983

Returned to House with
amendments.

March 30, 1983

Second reading, amendments
concurred in.

March 31, 1983

Third reading, amendments
concurred in.

Sent to enrolling.

Reported correctly enrolled.

1 House BILL NO. 166
2 INTRODUCED BY Mills
3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO INCREASE THE LIMIT
5 ON THE AMOUNT THAT A SCHOOL DISTRICT CAN EXPEND WITHOUT
6 GOING THROUGH THE BID PROCESS; AMENDING SECTION 20-9-204,
7 MCA."

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

10 Section 1. Section 20-9-204, MCA, is amended to read:

11 "20-9-204. Conflicts of interests; letting contracts,
12 and calling for bids. (1) It is unlawful for any trustee to:

13 (a) have any pecuniary interest, either directly or
14 indirectly, in any contract made by him in his official
15 capacity or by the board of trustees of which he is a
16 member; or

17 (b) be employed in any capacity by the school district
18 of which he is trustee.

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

20 (a) "pecuniary interest" does not include holding an
21 interest of 10% or less in a corporation;

22 (b) "contract" does not include:

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

25 (ii) investments or deposits in financial institutions

1 which are in the business of loaning or receiving money when
2 such investments or deposits are made on a rotating or
3 ratable basis among financial institutions in the community
4 or when there is only one financial institution in the
5 community; or

6 (iii) contracts for professional services other than
7 salaried services or for maintenance or repair services or
8 supplies when the services or supplies are not reasonably
9 available from other sources if the interest of any board
10 member and a determination of such lack of availability are
11 entered in the minutes of the board meeting at which the
12 contract is considered.

13 (3) Whenever the estimated cost of any building,
14 furnishing, repairing, or other work for the benefit of the
15 district or purchasing of supplies for the district exceeds
16 the sum of ~~\$4,000~~ \$10,000, the work done or the purchase
17 made shall be by contract. Each such contract must be let to
18 the lowest responsible bidder after advertisement for bids.
19 Such advertisement shall be published in the newspaper which
20 will give notice to the largest number of people of the
21 district as determined by the trustees. Such advertisement
22 shall be made once each week for 2 consecutive weeks and the
23 second publication shall be made not less than 5 days or
24 more than 12 days before consideration of bids. A contract
25 not let pursuant to this section shall be void.

1 (4) Whenever bidding is required, the trustees shall
2 award the contract to the lowest responsible bidder, except
3 that the trustees may reject any or all bids."

-End-

App. by comm. on education
and cultural resources

HOUSE BILL NO. 166

INTRODUCED BY MILLER

A BILL FOR AN ACT ENTITLED: "AN ACT TO INCREASE THE LIMIT
ON THE AMOUNT THAT A SCHOOL DISTRICT CAN EXPEND WITHOUT
GOING THROUGH THE FORMAL BID PROCESS; CLARIFYING THE BIDDING
REQUIREMENTS; AND AMENDING SECTION 20-9-204, MCA."

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

Section 1. Section 20-9-204, MCA, is amended to read:

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

(a) have any pecuniary interest, either directly or
indirectly, in any contract made by him in his official
capacity or by the board of trustees of which he is a
member; or

(b) be employed in any capacity by the school district
of which he is trustee.

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

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

(b) "contract" does not include:

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

(ii) investments or deposits in financial institutions

which are in the business of loaning or receiving money when
such investments or deposits are made on a rotating or
rotatable basis among financial institutions in the community
or when there is only one financial institution in the
community; or

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

~~(3) Whenever the estimated cost of any building
furnishing, repairing or other work for the benefit of the
district or purchasing of supplies for the district exceeds
the sum of \$4,000 ~~\$10,000~~, the work done or the purchase
made shall be by contract. Each such contract must be let to
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Such advertisement shall be published in the newspaper which
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shall be made once each week for 2 consecutive weeks and the
second publication shall be made not less than 5 days or
more than 12 days before consideration of bids. A contract
not let pursuant to this section shall be void.~~

~~(4) Whenever bidding is required, the trustees shall award the contract to the lowest responsible bidder, except that the trustees may reject any or all bids.~~

(3) THE BOARD OF TRUSTEES SHALL LET CONTRACTS FOR BUILDING, FURNISHING, REPAIRING, OR OTHER WORK OR SUPPLIES FOR THE BENEFIT OF THE DISTRICT ACCORDING TO THE FOLLOWING RULES AND PROCEDURES:

(A) THE BOARD OF TRUSTEES NEED NOT MEET REQUIREMENTS RELATING TO ADVERTISING OR BIDDING IF A PROPOSED CONTRACT FOR BUILDING, FURNISHING, REPAIRING, OR OTHER WORK OR SUPPLIES IS FOR LESS THAN \$5,000.

(B) WHENEVER THE PROPOSED CONTRACT COSTS ARE LESS THAN \$25,000 BUT MORE THAN \$5,000, THE BOARD OF TRUSTEES SHALL PROCURE AT LEAST THREE INFORMAL BIDS, IN WRITING, IF REASONABLY AVAILABLE FROM CONTRACTORS LICENSED IN MONTANA.

(C) WHENEVER THE PROPOSED CONTRACT COSTS ARE MORE THAN \$25,000, THE BOARD OF TRUSTEES SHALL SOLICIT FORMAL BIDS AND ADVERTISE ONCE EACH WEEK FOR AT LEAST 2 WEEKS IN A NEWSPAPER PUBLISHED IN EACH COUNTY WHEREIN THE AREA OF THE DISTRICT LIES, CALLING FOR BIDS TO PERFORM SUCH WORK OR FURNISH SUCH SUPPLIES. IF ADVERTISING IS REQUIRED, THE BOARD SHALL AWARD THE CONTRACT TO THE LOWEST RESPONSIBLE BIDDER. HOWEVER, THE BOARD OF TRUSTEES HAS THE RIGHT TO REJECT ANY AND ALL BIDS.

(D) NOTHING IN THIS SECTION SHALL REQUIRE THE BOARD OF TRUSTEES TO LET A CONTRACT FOR ANY PROJECT OR SERVICE WHICH

1 CAN BE ACCOMPLISHED BY DISTRICT STAFF.*

-End-

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 indirectly, in any contract made by him in his official
 capacity or by the board of trustees of which he is a
 member; or

(b) be employed in any capacity by the school district
 of which he is trustee.

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

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

(b) "contract" does not include:

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

(ii) investments or deposits in financial institutions

which are in the business of loaning or receiving money when
 such investments or deposits are made on a rotating or
 ratable basis among financial institutions in the community
 or when there is only one financial institution in the
 community; or

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

~~(3) Whenever the estimated cost of any building
 furnishing, repairing, or other work for the benefit of the
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 the sum of \$4,000 ~~\$10,000~~, the work done or the purchase
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 shall be made once each week for 2 consecutive weeks and the
 second publication shall be made not less than 5 days or
 more than 12 days before consideration of bids. A contract
 not let pursuant to this section shall be void.~~

~~(4) Whenever bidding is required, the trustees shall award the contract to the lowest responsible bidder, except that the trustees may reject any or all bids.~~

(3) THE BOARD OF TRUSTEES SHALL LET CONTRACTS FOR BUILDING, FURNISHING, REPAIRING, OR OTHER WORK OR SUPPLIES FOR THE BENEFIT OF THE DISTRICT ACCORDING TO THE FOLLOWING RULES AND PROCEDURES:

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(B) WHENEVER THE PROPOSED CONTRACT COSTS ARE LESS THAN \$25,000 BUT MORE THAN \$5,000, THE BOARD OF TRUSTEES SHALL PROCURE AT LEAST THREE INFORMAL BIDS, IN WRITING, IF REASONABLY AVAILABLE FROM CONTRACTORS LICENSED IN MONTANA.

(C) WHENEVER THE PROPOSED CONTRACT COSTS ARE MORE THAN \$25,000, THE BOARD OF TRUSTEES SHALL SOLICIT FORMAL BIDS AND ADVERTISE ONCE EACH WEEK FOR AT LEAST 2 WEEKS IN A NEWSPAPER PUBLISHED IN EACH COUNTY WHEREIN THE AREA OF THE DISTRICT LIES, CALLING FOR BIDS TO PERFORM SUCH WORK OR FURNISH SUCH SUPPLIES. IF ADVERTISING IS REQUIRED, THE BOARD SHALL AWARD THE CONTRACT TO THE LOWEST RESPONSIBLE BIDDER. HOWEVER, THE BOARD OF TRUSTEES HAS THE RIGHT TO REJECT ANY AND ALL BIDS.

(D) NOTHING IN THIS SECTION SHALL REQUIRE THE BOARD OF TRUSTEES TO LET A CONTRACT FOR ANY PROJECT OR SERVICE WHICH

1 CAN BE ACCOMPLISHED BY DISTRICT STAFF."

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(b) be employed in any capacity by the school district of which he is trustee.

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

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

(b) "contract" does not include:

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

(ii) investments or deposits in financial institutions

which are in the business of loaning or receiving money when such investments or deposits are made on a rotating or ratable basis among financial institutions in the community or when there is only one financial institution in the community; or

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

~~(3) Whenever the estimated cost of any building, furnishing, repairing, or other work for the benefit of the district or purchasing of supplies for the district exceeds the sum of \$4,000 or \$10,000, the work done or the purchase made shall be by contract. Each such contract must be let to the lowest responsible bidder after advertisement for bids. Such advertisement shall be published in the newspaper which will give notice to the largest number of people of the district as determined by the trustees. Such advertisement shall be made once each week for 2 consecutive weeks and the second publication shall be made not less than 5 days or more than 12 days before consideration of bids. A contract not let pursuant to this section shall be void.~~

THIRD READING

-2- SECOND PRINTING HB 166

Amended 1/26/83

~~(4) Whenever bidding is required, the trustees shall award the contract to the lowest responsible bidder, except that the trustees may reject any or all bids.~~

(3) THE BOARD OF TRUSTEES SHALL LET CONTRACTS FOR BUILDING, FURNISHING, REPAIRING, OR OTHER WORK OR SUPPLIES FOR THE BENEFIT OF THE DISTRICT ACCORDING TO THE FOLLOWING RULES AND PROCEDURES:

(A) THE BOARD OF TRUSTEES NEED NOT MEET REQUIREMENTS RELATING TO ADVERTISING OR BIDDING IF A PROPOSED CONTRACT FOR BUILDING, FURNISHING, REPAIRING, OR OTHER WORK OR SUPPLIES IS FOR LESS THAN \$5,000.

(B) WHENEVER THE PROPOSED CONTRACT COSTS ARE LESS THAN \$25,000 BUT MORE THAN \$5,000, THE BOARD OF TRUSTEES SHALL PROCURE AT LEAST THREE INFORMAL BIDS, IN WRITING, IF REASONABLY AVAILABLE FROM CONTRACTORS LICENSED IN MONTANA.

(C) WHENEVER THE PROPOSED CONTRACT COSTS ARE MORE THAN \$25,000, THE BOARD OF TRUSTEES SHALL SOLICIT FORMAL BIDS AND ADVERTISE ONCE EACH WEEK FOR AT LEAST 2 WEEKS IN A NEWSPAPER PUBLISHED IN EACH COUNTY WHEREIN THE AREA OF THE DISTRICT LIES, CALLING FOR BIDS TO PERFORM SUCH WORK OR FURNISH SUCH SUPPLIES. IF ADVERTISING IS REQUIRED, THE BOARD SHALL AWARD THE CONTRACT TO THE LOWEST RESPONSIBLE BIDDER, HOWEVER, THE BOARD OF TRUSTEES HAS THE RIGHT TO REJECT ANY AND ALL BIDS.

(D) NOTHING IN THIS SECTION SHALL REQUIRE THE BOARD OF TRUSTEES TO LET A CONTRACT FOR ANY ROUTINE AND REGULARLY

PERFORMED MAINTENANCE OR REPAIR PROJECT OR SERVICE WHICH CAN BE ACCOMPLISHED BY DISTRICT STAFF WHOSE REGULAR EMPLOYMENT WITH SUCH SCHOOL DISTRICT IS RELATED TO THE ROUTINE PERFORMANCE OF MAINTENANCE FOR SUCH DISTRICT."

-End-

March 4, 1983

SENATE STANDING COMMITTEE REPORT
(Education & Cultural Resources)

That House Bill No. 166 be amended as follows:

1. Title, line 6.

Strike: "FORMAL"

Strike: "CLARIFYING THE BIDDING"

2. Title, line 7.

Strike: "REQUIREMENTS; AND"

3. Page 3.

Following: line 3

Strike: lines 4 through 23

Insert: "(3) Whenever the estimated cost of any building, furnishing, repairing, or other work for the benefit of the district or purchasing of supplies for the district exceeds the sum of \$7,500, the work done or the purchase made shall be by contract. Each such contract must be let to the lowest responsible bidder after advertisement for bids. Such advertisement shall be published in the newspaper which will give notice to the largest number of people of the district as determined by the trustees. Such advertisement shall be made once each week for 2 consecutive weeks and the second publication shall be made not less than 5 days or more than 12 days before consideration of bids. A contract not let pursuant to this section shall be void.

(4) Whenever bidding is required, the trustees shall award the contract to the lowest responsible bidder, except that the trustees may reject any or all bids."

4. Page 3, line 24.

Following: line 23

Strike: "(D)"

Insert: "(5)"

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(b) be employed in any capacity by the school district of which he is trustee.

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

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

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which are in the business of loaning or receiving money when such investments or deposits are made on a rotating or ratable basis among financial institutions in the community or when there is only one financial institution in the community; or

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

~~(3) Whenever the estimated cost of any building, furnishing, repairing, or other work for the benefit of the district or purchasing of supplies for the district exceeds the sum of \$4,000, the work done or the purchase made shall be by contract. Each such contract must be let to the lowest responsible bidder after advertisement for bids. Such advertisement shall be published in the newspaper which will give notice to the largest number of people of the district as determined by the trustees. Such advertisement shall be made once each week for 2 consecutive weeks and the second publication shall be made not less than 5 days or more than 12 days before consideration of bids. A contract not let pursuant to this section shall be void.~~

1 (4)--Whenever bidding is required, the trustees shall
2 award the contract to the lowest responsible bidder, except
3 that the trustees may reject any or all bids.

4 (3)--THE BOARD OF TRUSTEES SHALL LET CONTRACTS FOR
5 BUILDINGS, FURNISHING, REPAIRING, OR OTHER WORK OR SUPPLIES
6 FOR THE BENEFIT OF THE DISTRICT ACCORDING TO THE FOLLOWING
7 RULES AND PROCEDURES:

8 (1)--THE BOARD OF TRUSTEES NEED NOT MEET REQUIREMENTS
9 RELATING TO ADVERTISING OR BIDDING IF A PROPOSED CONTRACT
10 FOR BUILDING, FURNISHING, REPAIRING, OR OTHER WORK OR
11 SUPPLIES IS FOR LESS THAN \$5,000.

12 (2)--WHENEVER THE PROPOSED CONTRACT COSTS ARE LESS THAN
13 \$25,000 BUT MORE THAN \$5,000, THE BOARD OF TRUSTEES SHALL
14 PREPARE AT LEAST THREE INFORMAL BIDS IN WRITING IF
15 REASONABLY AVAILABLE FROM CONTRACTORS LICENSED IN MONTANA.

16 (3)--WHENEVER THE PROPOSED CONTRACT COSTS ARE MORE THAN
17 \$25,000, THE BOARD OF TRUSTEES SHALL SOLICIT FORMAL BIDS AND
18 ADVERTISE ONCE EACH WEEK FOR AT LEAST 2 WEEKS IN A NEWSPAPER
19 PUBLISHED IN EACH COUNTY WHEREIN THE AREA OF THE DISTRICT
20 LIES, CALLING FOR BIDS TO PERFORM SUCH WORK OR FURNISH SUCH
21 SUPPLIES. IF ADVERTISING IS REQUIRED, THE BOARD SHALL AWARD
22 THE CONTRACT TO THE LOWEST RESPONSIBLE BIDDER, HOWEVER, THE
23 BOARD OF TRUSTEES HAS THE RIGHT TO REJECT ANY AND ALL BIDS.

24 (3) WHENEVER THE ESTIMATED COST OF ANY BUILDING,
25 FURNISHING, REPAIRING, OR OTHER WORK FOR THE BENEFIT OF THE

1 DISTRICT OR PURCHASING OF SUPPLIES FOR THE DISTRICT EXCEEDS
2 THE SUM OF \$7,500, THE WORK DONE OR THE PURCHASE MADE SHALL
3 BE BY CONTRACT. EACH SUCH CONTRACT MUST BE LET TO THE LOWEST
4 RESPONSIBLE BIDDER AFTER ADVERTISEMENT FOR BIDS. SUCH
5 ADVERTISEMENT SHALL BE PUBLISHED IN THE NEWSPAPER WHICH WILL
6 GIVE NOTICE TO THE LARGEST NUMBER OF PEOPLE OF THE DISTRICT
7 AS DETERMINED BY THE TRUSTEES. SUCH ADVERTISEMENT SHALL BE
8 MADE ONCE EACH WEEK FOR 2 CONSECUTIVE WEEKS AND THE SECOND
9 PUBLICATION SHALL BE MADE NOT LESS THAN 5 DAYS OR MORE THAN
10 12 DAYS BEFORE CONSIDERATION OF BIDS. A CONTRACT NOT LET
11 PURSUANT TO THIS SECTION SHALL BE VOID.

12 (4) WHENEVER BIDDING IS REQUIRED, THE TRUSTEES SHALL
13 AWARD THE CONTRACT TO THE LOWEST RESPONSIBLE BIDDER, EXCEPT
14 THAT THE TRUSTEES MAY REJECT ANY OR ALL BIDS.

15 (4)(5) NOTHING IN THIS SECTION SHALL REQUIRE THE BOARD
16 OF TRUSTEES TO LET A CONTRACT FOR ANY ROUTINE AND REGULARLY
17 PERFORMED MAINTENANCE OR REPAIR PROJECT OR SERVICE WHICH CAN
18 BE ACCOMPLISHED BY DISTRICT STAFF WHOSE REGULAR EMPLOYMENT
19 WITH SUCH SCHOOL DISTRICT IS RELATED TO THE ROUTINE
20 PERFORMANCE OF MAINTENANCE FOR SUCH DISTRICT.

-End-