

HOUSE BILL NO. 641

2/02 Introduced  
2/02 Referred to State Administration  
2/04 Fiscal Note Requested  
2/11 Fiscal Note Received  
2/14 Hearing  
2/15 Committee Report-Bill Pass As Amended  
2/16 2nd Reading Do Not Pass  
2/16 Bill Killed

1 HOUSE BILL NO. 641  
 2 INTRODUCED BY John Ruan Mercer  
 3 ARLESTAN Comptroller  
 4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING STATE  
 5 COMPETITIVE BIDDING REQUIREMENTS BY ALLOWING STATE AGENCIES  
 6 TO PURCHASE SUPPLIES AND SERVICES USING ADVERTISED OR  
 7 CATALOG PRICES AS BIDS; AMENDING SECTIONS 18-4-301 AND  
 8 18-4-302, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

10 Section 1. Section 18-4-301, MCA, is amended to read:  
 11 "18-4-301. Definitions. As used in this part, the  
 12 following definitions apply:

13 (1) "Cost-reimbursement contract" means a contract  
 14 under which a contractor is reimbursed for costs which are  
 15 allowable and allocable in accordance with the contract  
 16 terms and the provisions of this chapter, and a fee, if any.

17 (2) "Established catalog price" means the price  
 18 included in a catalog, price list, schedule, or other form  
 19 that:

20 (a) is regularly maintained by a manufacturer or  
 21 contractor;

22 (b) is either published or otherwise available for  
 23 inspection by customers; and

24 (c) states prices at which sales are currently or were  
 25

1 last made to a significant number of any category of buyers  
 2 or buyers constituting the general buying public for the  
 3 supplies or services involved.

4 (3) "Invitation for bids" means all documents, whether  
 5 attached or incorporated by reference, utilized for  
 6 soliciting bids.

7 (4) "Purchase description" means the words used in a  
 8 solicitation to describe the supplies or services to be  
 9 purchased and includes specifications attached to or made a  
 10 part of the solicitation.

11 (5) "Request for proposals" means all documents,  
 12 whether attached or incorporated by reference, utilized for  
 13 soliciting proposals.

14 (6) "Responsible bidder or offeror" means a person who  
 15 has the capability in all respects to perform fully the  
 16 contract requirements and the integrity and reliability  
 17 which will assure good faith performance.

18 (7) "Responsive bidder" means a person who has  
 19 submitted a bid which conforms in all material respects to  
 20 the invitation for bids.

21 (8) "Term contract" means a contract in which supplies  
 22 or services are purchased at a predetermined unit price for  
 23 a specific period of time."

24 Section 2. Section 18-4-302, MCA, is amended to read:  
 25 "18-4-302. Methods of source selection. (1) Unless



INTRODUCED BILL  
 HB 641

1 ~~otherwise-authorized-by-law,--all~~ All state contracts for  
 2 supplies and services must be awarded by competitive sealed  
 3 bidding, pursuant to 18-4-303, except as provided in  
 4 18-4-133, 18-4-304 through 18-4-306, and chapters 5 and 8 of  
 5 this title, and subsections (2) and (3). Supplies or  
 6 services offered for sale, lease, or rental by public  
 7 utilities are exempt from this requirement if the prices of  
 8 the supplies or services are regulated by the public service  
 9 commission or other governmental authority.

10 (2) At the time the department or a purchasing agency  
 11 opens bids or proposals, if any supplier's current publicly  
 12 advertised or established catalog price is less than any bid  
 13 or proposal received, the department, purchasing agency, or  
 14 using agency for which the supply or service is being  
 15 procured may obtain the supply or service from that supplier  
 16 without meeting the requirements of 18-4-302 through  
 17 18-4-306.

18 (3) Any supply or service that was procured by the  
 19 department through a bulk-purchase program or contracted for  
 20 by means of a term contract may be purchased by a using  
 21 agency, without meeting the requirements of 18-4-302 through  
 22 18-4-306, from any supplier whose publicly advertised or  
 23 established catalog price, at the time of purchase, is less  
 24 than the price for which the supply or service is available  
 25 from the department or under the provisions of the term

1 contract. All state term contracts must include a provision  
 2 by which the contracting parties acknowledge and agree to  
 3 the provisions of this subsection."

4 NEW SECTION. Section 3. Extension of authority. Any  
 5 existing authority of the department of administration to  
 6 make rules on the subject of the provisions of this act is  
 7 extended to the provisions of this act.

8 NEW SECTION. Section 4. Effective date. This act is  
 9 effective July 1, 1985.

-End-

APPROVED BY COMMITTEE  
ON STATE ADMINISTRATION

1 HOUSE BILL NO. 641  
 2 INTRODUCED BY FRITZ, REAM, MERCER, DONALDSON,  
 3 AKLESTAD, ZABROCKI, CAMPBELL, TVEIT  
 4  
 5 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING STATE  
 6 COMPETITIVE BIDDING REQUIREMENTS BY ALLOWING STATE AGENCIES  
 7 TO PURCHASE SUPPLIES AND--SERVICES USING ADVERTISED OR  
 8 CATALOG PRICES AS BIDS; ALLOWING SPECIAL PURCHASING  
 9 PROCEDURES FOR OFFICE SUPPLIES; AMENDING SECTIONS 18-4-301  
 10 AND 18-4-302, MCA; AND PROVIDING AN EFFECTIVE DATE."  
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 12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
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 19 terms and the provisions of this chapter, and a fee, if any.  
 20 (2) "Established catalog price" means the price  
 21 included in a catalog, price list, schedule, or other form  
 22 that:  
 23 (a) is regularly maintained by a manufacturer or  
 24 contractor;  
 25 (b) is either published or otherwise available for

1 inspection by customers; and  
 2 (c) states prices at which sales are currently or were  
 3 last made to a significant number of any category of buyers  
 4 or buyers constituting the general buying public for the  
 5 supplies or services involved.  
 6 (3) "Invitation for bids" means all documents, whether  
 7 attached or incorporated by reference, utilized for  
 8 soliciting bids.  
 9 (4) NOTWITHSTANDING 18-4-123(19), "OFFICE SUPPLY"  
 10 MEANS AN ITEM INCLUDED UNDER THE OFFICE SUPPLY COMMODITY  
 11 CLASS CODES MAINTAINED BY THE DEPARTMENT.  
 12 {4}{5} "Purchase description" means the words used in  
 13 a solicitation to describe the supplies or services to be  
 14 purchased and includes specifications attached to or made a  
 15 part of the solicitation.  
 16 {5}{6} "Request for proposals" means all documents,  
 17 whether attached or incorporated by reference, utilized for  
 18 soliciting proposals.  
 19 {6}{7} "Responsible bidder or offeror" means a person  
 20 who has the capability in all respects to perform fully the  
 21 contract requirements and the integrity and reliability  
 22 which will assure good faith performance.  
 23 {7}{8} "Responsive bidder" means a person who has  
 24 submitted a bid which conforms in all material respects to  
 25 the invitation for bids.



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 2 supplies or services are purchased at a predetermined unit  
 3 price for a specific period of time."

4 Section 2. Section 18-4-302, MCA, is amended to read:

5 "18-4-302. Methods of source selection. (1) Unless  
 6 ~~otherwise--authorized--by--law,--all~~ All state contracts for  
 7 supplies and services must be awarded by competitive sealed  
 8 bidding, pursuant to 18-4-303, except as provided in  
 9 18-4-133, 18-4-304 through 18-4-306, and chapters 5 and 8 of  
 10 this title, and subsections (2) and (3). Supplies or  
 11 services offered for sale, lease, or rental by public  
 12 utilities are exempt from this requirement if the prices of  
 13 the supplies or services are regulated by the public service  
 14 commission or other governmental authority.

15 (2) At the time the department or a purchasing agency  
 16 opens bids or proposals, if any supplier's current publicly  
 17 advertised or established catalog price is less than any bid  
 18 or proposal received, the department, OR purchasing agency,  
 19 ~~or-using-agency-for-which-the-supply--or--service--is--being~~  
 20 procured may obtain the supply or-service from that supplier  
 21 without meeting the requirements of 18-4-302 through  
 22 18-4-306.

23 (3) Any OFFICE supply or-service that was procured by  
 24 the department through a bulk-purchase program or contracted  
 25 for by means of a term contract may be purchased by a using

1 PURCHASING agency, without meeting the requirements of  
 2 18-4-302 through 18-4-306, from any supplier whose publicly  
 3 advertised or established catalog price, at the time of  
 4 purchase, is less than the price for which the OFFICE supply  
 5 ~~or--service is available from the department or under the~~  
 6 provisions of the term contract. All state OFFICE SUPPLY  
 7 term contracts must include a provision by which the  
 8 contracting parties acknowledge and agree to the provisions  
 9 of this subsection."

10 NEW SECTION. Section 3. Extension of authority. Any  
 11 existing authority of the department of administration to  
 12 make rules on the subject of the provisions of this act is  
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