# HOUSE BILL 31

Introduced by Raney, et al.

7/08	Introduced
7/08	Referred to Appropriations
7/08	Fiscal Note Requested
7/09	First Reading
7/10-	Hearing
7/10	Fiscal Note Received
7/10	Tabled in Committee
7/11	Fiscal Note Printed

52nd Legislature Special Session 7/92 LC 0073/01

House, BILL NO. 31 .... 1 INTRODUCED BY 2 3

4 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THE ATTORNEY 5 GENERAL TO REVIEW PROPOSED EXECUTIVE BRANCH AGENCY LEGAL 6 SERVICES CONTRACTS AND TO ENSURE THAT THEY ARE ENTERED ONLY 7 WHEN NECESSARY AND ARE FINANCIALLY ADVANTAGEOUS TO THE 8 STATE; AMENDING SECTION 2-15-501, MCA; AND PROVIDING AN 9 IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

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#### STATEMENT OF INTENT

12 A statement of intent is required for this bill because 13 it requires the attorney general to adopt rules relating to executive branch agency legal services contracts. The rules 14 15 must ensure that costs for legal services contracts are 16 contained to the maximum extent possible. The rules must 17 provide for the review of contract proposals by agency 18 personnel as well as by the attorney general's office. An 19 agency may enter into legal services contracts with private 20 attorneys only when state attorneys are unable to provide 21 the services.

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BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
Section 1. Section 2-15-501, MCA, is amended to read:
"2-15-501. General duties. It is the duty of the



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### 1 attorney general:

2 (1) to prosecute or defend all causes in the supreme 3 court in which the state or any officer of the state in his 4 official capacity is a party or in which the state has an 5 interest;

6 (2) after judgment in any of the causes referred to in
7 subsection (1), to direct the issuing of a process as may be
8 necessary to carry the judgment into execution;

9 (3) to keep a register of all cases prosecuted or 10 defended by him, which must during business hours be open to 11 the inspection of the public. The attorney general must 12 deliver the register to his successor in office.

13 (4) to exercise supervisory powers over county attorneys in all matters pertaining to the duties of their 14 15 offices and from time to time require of them reports as to 16 the condition of public business entrusted to their charge. 17 The supervisory powers granted to the attorney general by 18 this subsection include the power to order and direct county 19 attorneys in all matters pertaining to the duties of their 20 office. The county attorney shall, when ordered or directed 21 by the attorney general, promptly institute and diligently 22 prosecute in the proper court and in the name of the state 23 of Montana any criminal or civil action or special 24 proceeding.

25 (5) when required by the public service or directed by

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the governor, to assist the county attorney of any county in the discharge of his duties or to prosecute or defend appropriate cases in which the state or any officer of the state in his official capacity is a party or in which the state has an interest;

6 (6) to give his opinion in writing, without fee, to the 7 legislature or either house of the legislature, to any state 8 officer, board, or commission, to any county attorney, to 9 the city attorney of any city or town, and to the board of 10 county commissioners of any county of the state when 11 required upon any question of law relating to their 12 respective offices. He shall give any such opinion within 3 13 months following the date it is requested unless he 14 certifies in writing to the requesting party that the 15 question is of sufficient complexity to require additional time. If an opinion issued by the attorney general conflicts 16 with an opinion issued by a city attorney, county attorney, 17 18 or an attorney employed or retained by any state officer, 19 board, commission, or department, the attorney general's 20 opinion is controlling unless overruled by a state district 21 court or the supreme court.

(7) to discharge the duties of a member of the board ofexaminers and state board of land commissioners;

24 (8) to review all proposed contracts by any executive
 25 branch agency for legal services to be performed by private

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attorneys. The attorney general shall implement a procedure 1 that will ensure that contracts are entered only when state 2 attorneys are unable to perform the services and that 3 contracts are cost-effective and financially advantageous to 4 the state. The attorney general shall adopt rules to 5 implement this subsection. 6 (9) to perform all other duties as required by law." 7 NEW SECTION. Section 2. Effective date я applicability. [This act] is effective on passage and 9 approval and applies to contracts entered after [the 10 effective date of this act]. 11

-End-

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## STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0031, as introduced.

## DESCRIPTION OF PROPOSED LEGISLATION:

An act requiring the attorney general to review proposed executive branch legal services contracts and to ensure that they are entered only when necessary and are financially advantageous to the state; and providing an immediate effective date and an applicability date.

## FISCAL IMPACT:

The fiscal impact to the Department of Justice should be insignificant.

DATE

STEVE YEAKEL, BUDGET DIRECTOR Office of Budget and Program Planning

ROBERT H. RANEY, PRIMARY SPONSOR

Fiscal Note for HB0031, as introduced

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