

SENATE BILL NO. 408

INTRODUCED BY

Sprague

BY REQUEST OF THE GOVERNOR

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT THE STATE LOTTERY COMMISSION MAY ORDER THE STATE LOTTERY AND ITS DIRECTOR TO ENTER INTO CONTRACTS FOR MATERIALS, EQUIPMENT, SUPPLIES, AND SERVICES; EXEMPTING THE STATE LOTTERY FROM CERTAIN LAWS REGULATING CONTRACTS WITH THE STATE; AMENDING SECTIONS 23-7-211, 18-4-132, AND 18-8-103, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. Section 23-7-211, MCA, is amended to read:

"23-7-211. Powers and duties of director. (1) The director shall:

- (a) administer the operation of the state lottery in accordance with this chapter and the rules and other directives of the commission;
- (b) appoint an assistant director for security and employ and direct personnel necessary to the operation of the state lottery;
- (c) license lottery ticket or chance sales agents and suspend or revoke licenses pursuant to this chapter and commission rules; and
- (d) maintain, with the assistant director for security, the security of the state lottery.

(2) (a) ~~With~~ Under the concurrence ~~direction~~ of the commission or pursuant to commission rules, the director ~~may~~ shall enter into contracts for materials, equipment, and supplies to be used in the operation of the state lottery, for the design and installation of games, for consultant services, ~~and~~ for promotion of the lottery, for the sale of tickets and chances, and for other services. All contracts must be made in accordance with state law, except a law that specifically excepts one or more types of contracts. ~~A contract is not legal or enforceable that provides for the management of the state lottery or for the entire operation of its games by any private person or firm.~~

(b) When a contract is awarded, a performance bond satisfactory to and in an amount determined by the commission and executed by a surety company authorized to do business in this state or otherwise

1 secured in a manner satisfactory to the commission must be delivered to the commission. The requirements
2 for this bond must be at least as stringent as those stated in 18-4-312(4)."

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4 **Section 2.** Section 18-4-132, MCA, is amended to read:

5 **"18-4-132. Application.** (1) Except as provided in 18-4-313, which applies retroactively to
6 telecommunications equipment and systems and data processing equipment acquired under existing
7 contracts, leases, or rental agreements, and subject to the terms of such agreements, this chapter applies
8 only to contracts solicited or entered into after January 1, 1984, unless the parties agree to its application
9 to a contract solicited or entered into prior to January 1, 1984.

10 (2) This chapter applies to expenditure of public funds irrespective of their source, including federal
11 assistance money, by this state acting through a governmental body, as defined in 18-4-123, under any
12 contract; but this chapter does not apply to either grants or contracts between the state and its political
13 subdivisions or other governments, except as provided in part 4. This chapter also applies to the disposal
14 of state supplies. Nothing in this chapter or in rules adopted thereunder prevents any governmental body
15 or political subdivision from complying with the terms and conditions of any grant, gift, bequest, or
16 cooperative agreement.

17 (3) This chapter does not apply to construction contracts.

18 (4) This chapter does not apply to expenditures of or the authorized sale or disposal of equipment
19 purchased with money raised by student activity fees designated for use by the student associations of the
20 university system.

21 (5) This chapter does not apply to contracts entered into by the Montana state lottery."

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23 **Section 3.** Section 18-8-103, MCA, is amended to read:

24 **"18-8-103. Exemptions.** This part does not apply to employment of:

25 (1) registered professional engineers, surveyors, real estate appraisers, or registered architects;

26 (2) physicians, dentists, or other medical, dental, or health care providers;

27 (3) expert witnesses hired for use in litigation, hearings officers hired in rulemaking and contested
28 case proceedings under the Montana Administrative Procedure Act, or attorneys as specified by executive
29 order of the governor;

30 (4) consulting actuaries to the public retirement boards or the state compensation insurance fund;

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2 (5) private consultants employed by the student associations of the university system with money
3 raised from student activity fees designated for use by those student associations; or

4 (6) private consultants employed by the Montana state lottery."

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6 NEW SECTION. **Section 4. Effective date.** [This act] is effective on passage and approval.

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STATE OF MONTANA - FISCAL NOTE

Fiscal Note for SB0408, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

An act to allow the Montana Lottery Commission to contract directly for goods and services under \$250,000. Exempts Montana Lottery from having to use the services of the Purchasing Division and Publications and Graphics Division of the Department of Administration.

ASSUMPTIONS:

1. The Lottery Commission and the director will exercise the authority for goods and services only in cases where the Lottery will benefit through dollar savings and/or the quality or value of the good or service received far exceeds that which the Lottery could produce/perform itself.
2. The Lottery will have the ability to directly negotiate contracts it enters into for prize merchandise and other goods and services. It is assumed that the prices the Lottery will pay for these items will be lower. Additionally, the Lottery could take advantage of economies of scale where the opportunity exists.
3. By directly contracting and negotiating with printing companies, the Lottery will assume full responsibility for preparation work and quality control and thus eliminate administrative fees associated with performing these functions elsewhere.
4. It is assumed that staff hours currently spent completing contracting through other state agencies will be diverted to more productive tasks.
5. It is also assumed that this legislation will allow the Montana Lottery the flexibility to respond to its ever changing industry and market place. Often times, opportunities are missed or delayed as a result of having to follow state processes which work well for most other state agencies.

FISCAL IMPACT:

Because of the assumptions made above, it is impossible to assess the full fiscal impact of the proposed legislation. However, the Lottery anticipates reducing the price it pays for many goods and services thus increasing the effectiveness and efficiency of the operation to maximize revenue transferred to the state.

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

The proposed legislation will allow the Lottery greater flexibility in operating and allow for negotiating better terms in contracts. This will save staff time since the Lottery will be able to contract with vendors directly rather than through a third party.

David Lewis 2-23-95
DAVID LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

Mike Sprague 2/27/95
MIKE SPRAGUE, PRIMARY SPONSOR DATE

Fiscal Note for SB0408, as introduced

SB 408

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18 operation of the state lottery;

19 (c) license lottery ticket or chance sales agents and suspend or revoke licenses pursuant to this
20 chapter and commission rules; and

21 (d) maintain, with the assistant director for security, the security of the state lottery.

22 (2) (a) ~~With Under~~ WITH the ~~concurrence~~ CONCURRENCE of the commission or pursuant
23 to commission rules, the director ~~may shall~~ MAY enter into contracts for materials, equipment, and supplies
24 to be used in the operation of the state lottery, for the design and installation of games, for consultant
25 services, ~~and~~ for promotion of the lottery, for the sale of tickets and chances, and for other services. ~~All~~
26 ~~contracts must be made in accordance with state law, except a law that specifically excepts one or more~~
27 ~~types of contracts~~ THE STATE SHALL PROVIDE FOR MANAGEMENT, SECURITY, AND INTERNAL AUDIT
28 CONTROL. ~~A contract is not legal or enforceable that provides for the management of the state lottery or~~
29 ~~for the entire operation of its games by any private person or firm.~~

30 (b) When a contract is awarded, a performance bond satisfactory to and in an amount determined

1 by the commission and executed by a surety company authorized to do business in this state or otherwise
2 secured in a manner satisfactory to the commission must be delivered to the commission. The requirements
3 for this bond must be at least as stringent as those stated in 18-4-312(4)."

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5 **Section 2.** Section 18-4-132, MCA, is amended to read:

6 **"18-4-132. Application.** (1) Except as provided in 18-4-313, which applies retroactively to
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11 (2) This chapter applies to expenditure of public funds irrespective of their source, including federal
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20 purchased with money raised by student activity fees designated for use by the student associations of the
21 university system.

22 (5) This chapter does not apply to contracts entered into by the Montana state lottery THAT HAVE
23 AN AGGREGATE VALUE OF MORE THAN \$250,000."

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25 **Section 3.** Section 18-8-103, MCA, is amended to read:

26 **"18-8-103. Exemptions.** This part does not apply to employment of:

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30 case proceedings under the Montana Administrative Procedure Act, or attorneys as specified by executive

1 order of the governor;

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18 (b) appoint an assistant director for security and employ and direct personnel necessary to the
 19 operation of the state lottery;

20 (c) license lottery ticket or chance sales agents and suspend or revoke licenses pursuant to this
 21 chapter and commission rules; and

22 (d) maintain, with the assistant director for security, the security of the state lottery.

23 (2) (a) ~~With Under WITH the concurrence direction CONCURRENCE~~ of the commission or pursuant
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 25 to be used in the operation of the state lottery, for the design and installation of games, for consultant
 26 services, ~~and for promotion of the lottery, for the sale of tickets and chances, and for other services.~~ All
 27 contracts must be made in accordance with state law, except a law that specifically excepts one or more
 28 types of contracts **THE STATE SHALL PROVIDE FOR MANAGEMENT, SECURITY, AND INTERNAL AUDIT**
 29 **CONTROL.** ~~A contract is not legal or enforceable that provides for the management of the state lottery or~~
 30 ~~for the entire operation of its games by any private person or firm.~~

1 (b) When a contract is awarded, a performance bond satisfactory to and in an amount determined
2 by the commission and executed by a surety company authorized to do business in this state or otherwise
3 secured in a manner satisfactory to the commission must be delivered to the commission. The requirements
4 for this bond must be at least as stringent as those stated in 18-4-312(4)."

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6 **Section 2.** Section 18-4-132, MCA, is amended to read:

7 **"18-4-132. Application.** (1) Except as provided in 18-4-313, which applies retroactively to
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15 subdivisions or other governments, except as provided in part 4. This chapter also applies to the disposal
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26 **Section 3.** Section 18-8-103, MCA, is amended to read:

27 **"18-8-103. Exemptions.** This part does not apply to employment of:

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-END-



HOUSE STANDING COMMITTEE REPORT

March 16, 1995

Page 1 of 1

Mr. Speaker: We, the committee on **Business and Labor** report that **Senate Bill 408** (third reading copy -- blue) **be concurred in as amended.**

Signed: 
Bruce Simon, Chair

Carried by: Rep. Rehbein

And, that such amendments read:

1. Page 2, line 24.
Strike: "MORE"
Insert: "less"

-END-

Committee Vote:
Yes 16, No 2

SB 408
HOUSE
611108SC.Hbk

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