

SB BILL NO. 200

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INTRODUCED BY Donna
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A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING CONTRACTS FOR PRIVATIZATION OF STATE PROGRAMS, FUNCTIONS, OR SERVICES TO CONTAIN PROVISIONS PROTECTING THE PUBLIC RIGHT TO KNOW; AMENDING SECTIONS 2-8-303, 18-1-118, 18-4-126, AND 18-8-112, MCA; PROVIDING AN APPLICABILITY DATE; AND PROVIDING AN EFFECTIVE DATE."

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

Section 1. Section 2-8-303, MCA, is amended to read:

"2-8-303. Privatization plan -- contents. (1) An agency proposing to privatize a program shall prepare a privatization plan that includes the following:

(a) a description of the program to be privatized, including references to the legal authority under which the program was created;

(b) detailed budget information that includes a list of expenditures for the 2 most recent fiscal years and the sources of revenue for the program;

(c) a list of all personnel currently employed in the program and the estimated effect of the proposed privatization on their employment status;

(d) a listing of the assets of the program and their proposed disposition if the plan is implemented;

(e) an estimate of the cost savings or any additional costs resulting from privatizing the program, compared to the costs of the existing, nonprivatized program. Additional costs must include the estimated cost to the state of inspection, supervision, and monitoring of the proposed privatization and the costs incurred in the discontinuation of such a contract.

(f) the estimated current and future economic impacts of the implementation of the plan on other state programs, including public assistance programs, unemployment insurance programs, retirement programs, and agency personal services budgets used to pay out accrued vacation and sick leave benefits;

(g) the estimated increases or decreases in costs and quality of goods or services to the public if the plan is implemented;

(h) the estimated changes in individual wages and benefits resulting from the proposed



1 privatization;

2 (i) a narrative explanation and justification for the proposed privatization.

3 (2) To implement the privatization plan, an agency may transfer funds between budget categories.

4 (3) A contract entered into to implement a privatization plan must include a provision authorizing
5 the public to examine documents relating to the privatized program to the same extent that was available
6 while the program was being performed by the state agency."

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8 **Section 2.** Section 18-1-118, MCA, is amended to read:

9 **"18-1-118. Access to records of contracting entities.** Money may not be spent by a state agency
10 under a contract with a nonstate entity unless the contract contains a provision that allows the legislative
11 auditor sufficient access to the records of the nonstate entity to determine whether the parties have
12 complied with the terms of the contract. The access to records is necessary to carry out the functions
13 provided for in Title 5, chapter 13. A state agency may terminate a contract, without incurring liability, for
14 the refusal of a nonstate entity to allow access to records as required by this section. A contract entered
15 into to perform a function or service that was formerly performed by a state agency must include a
16 provision authorizing the public to examine documents relating to the function or service to the same extent
17 that was available while the function or service was being performed by the state agency."

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19 **Section 3.** Section 18-4-126, MCA, is amended to read:

20 **"18-4-126. Public access to procurement information -- records -- retention.** (1) Procurement
21 information is a public writing and must be available to the public as provided in 2-6-102.

22 (2) All procurement records must be retained, managed, and disposed of in accordance with the
23 state records management program, Title 2, chapter 6.

24 (3) Written determinations required by this chapter must be retained in the appropriate official
25 contract file of the department or the purchasing agency administering the procurement in accordance with
26 the state records management program.

27 (4) A contract entered into to perform a function or service that was formerly performed by a state
28 agency must include a provision authorizing the public to examine documents relating to the function or
29 service to the same extent that was available while the function or service was being performed by the
30 state agency."

