

HOUSE BILL NO. 683

INTRODUCED BY S. GIST

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING CONFLICT OF INTEREST LAWS FOR CERTAIN LOCAL GOVERNMENT CONTRACTS; PROHIBITING CONTRACTS WITH A PERSON OR ENTITY THAT WAS INVOLVED IN THE DESIGN OR ENGINEERING OF A PRIMARY PROJECT; REQUIRING THE DISCLOSURE OF CONFLICTS; PROVIDING A DEFINITION; AND AMENDING SECTIONS 7-3-1323, 7-5-2301, 7-5-4301, AND 7-14-2404, MCA."

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

NEW SECTION. Section 1. County contracts -- conflict of interest. (1) (a) Except as provided in Title 18, chapter 2, part 5, regarding use of an alternative project delivery contract, the governing body of a county or consolidated city-county government may not award a construction contract to a contractor if the entity has ~~an ownership or a~~ financial interest, directly or indirectly, with a person, employee, contractor, subcontractor, or entity that has participated in the design or engineering of the project as a consultant or otherwise, or that represents the owner in the oversight or management of the contracted project, without disclosure of the conflict.

(b) A contractor who fails to disclose a conflict with the submission of a bid must be determined to be nonresponsive to the bid. The governing body shall, at the time of bid opening, announce the disclosure of any conflicts for all bidders. Subsequent to bid opening and prior to formal award, the governing body shall, in a public meeting, receive public comment on disclosed conflicts. The governing body may determine and stipulate appropriate remedies, if any, in the formal award of the contract.

(2) For the purpose of this section, "financial interest" means ownership of a legal or equitable interest, ~~however small,~~ of 24% or more or a relationship as director, advisor, or other active participant in the affairs of a party, except that:

(a) ownership in a mutual or common investment fund that holds securities is not a financial

**Amendment - 1st Reading/2nd House-blue - Requested by: Barry Usher - (S) Natural Resources**

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Drafter: Toni Henneman,

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- 1 interest in the securities unless the entity participates in the management of the fund;
- 2 (b) an office in an educational, religious, charitable, fraternal, or civic organization is not a financial
- 3 interest in securities held by the entity;
- 4 (c) the proprietary interest of a policyholder in a mutual insurance company or a depositor in a
- 5 mutual savings association or a similar proprietary interest is a financial interest in the organization only if the
- 6 entity could substantially affect the value of the interest; and
- 7 (d) ownership of government securities is a financial interest in the issuer only if the contractor
- 8 could substantially affect the value of the securities.

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10 **NEW SECTION. Section 2. Municipal contracts -- conflict of interest.** (1) (a) Except as provided in

11 Title 18, chapter 2, part 5, regarding use of an alternative project delivery contract, the governing body of a city

12 or town or other local government legislative body may not award a construction contract to a contractor if the

13 entity has ~~an ownership or a~~ financial interest, directly or indirectly, with a person, employee, contractor,

14 subcontractor, or entity that has participated in the design or engineering of the project as a consultant or

15 otherwise, or that represents the owner in the oversight or management of the contracted project, without

16 disclosure of the conflict.

17 (b) A contractor who fails to disclose a conflict with the submission of a bid must be determined to

18 be nonresponsive to the bid. The governing body shall, at the time of bid opening, announce the disclosure of

19 any conflicts for all bidders. Subsequent to bid opening and prior to formal award, the governing body shall, in a

20 public meeting, receive public comment on disclosed conflicts. The governing body may determine and

21 stipulate appropriate remedies, if any, in the formal award of the contract.

22 (2) For the purposes of this section, "financial interest" has the same meaning as provided in

23 [section 1].

24

25 **Section 3.** Section 7-3-1323, MCA, is amended to read:

26 **"7-3-1323. Competitive, advertised bidding required for certain contracts.** All contracts entered

27 into by the municipality for supplies or materials, for any public work, or for the construction, reconstruction,