

1 SENATE BILL NO. 64

2 INTRODUCED BY J. KEANE

3 BY REQUEST OF THE ENVIRONMENTAL QUALITY COUNCIL

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS GOVERNING THE MONTANA HERITAGE
6 PRESERVATION AND DEVELOPMENT COMMISSION; REMOVING CERTAIN REFERENCES TO THE
7 COMMISSION ACQUIRING AND PURCHASING PROPERTY; REMOVING THE REQUIREMENT THAT
8 PROPERTIES BECOME SELF-SUPPORTING; REVISING HOW COMMISSION MEMBERS MAY BE
9 APPOINTED; REMOVING THE REQUIREMENT THAT CERTAIN FUNDS BE DEPOSITED IN THE CULTURAL
10 AND AESTHETIC TRUST; REMOVING LANGUAGE EXPRESSING THE INTENT OF A PREVIOUS
11 LEGISLATURE THAT NO GENERAL FUND MONEY BE USED TO FUND OPERATIONS; REMOVING THE
12 REQUIREMENT THAT CERTAIN SALE PROCEEDS BE PLACED IN A TRUST FUND; AND AMENDING
13 SECTIONS 22-3-1001, 22-3-1002, 22-3-1003, AND 22-3-1004, MCA."
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15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
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17 **Section 1.** Section 22-3-1001, MCA, is amended to read:

18 **"22-3-1001. Purpose.** The purpose of this part is to ~~acquire and~~ manage, on behalf of the state,
19 properties that possess outstanding historical value, display exceptional qualities worth preserving, and are
20 genuinely representative of the state's culture and history, ~~and demonstrate the ability to become economically~~
21 ~~self-supporting~~. The Montana heritage preservation and development commission shall achieve this purpose by
22 ~~purchasing fee title interests in real and personal property and by managing those~~ the properties for which it is
23 responsible in a manner that protects the properties and encourages economic ~~independence~~ stability."
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25 **Section 2.** Section 22-3-1002, MCA, is amended to read:

26 **"22-3-1002. Montana heritage preservation and development commission.** (1) There is a Montana
27 heritage preservation and development commission. The commission is attached to the department of commerce
28 for administrative purposes only, pursuant to 2-15-121. The commission and the department shall negotiate a
29 specific indirect administrative rate annually, with biennial review by a designated, appropriate legislative interim
30 committee.

1 (2) (a) The commission consists of 14 members. The members shall broadly represent the state. Nine
2 members must be appointed by the governor, one member must be appointed by the president of the senate,
3 and one member must be appointed by the speaker of the house.

4 (b) If the president of the senate and the speaker of the house do not appoint the members for which
5 they are responsible within 6 months of a vacancy having occurred in those positions, the members must be
6 appointed by the governor.

7 (c) The director of the Montana historical society, the director of the department of fish, wildlife, and
8 parks, and the director of the department of commerce shall serve as members. Of the members appointed by
9 the governor under subsection (2)(a):

10 ~~(a)~~(i) one member must have extensive experience in managing facilities that cater to the needs of
11 tourists;

12 ~~(b)~~(ii) one member must have experience in community planning;

13 ~~(c)~~(iii) one member must have experience in historic preservation;

14 ~~(d)~~(iv) two members must have broad experience in business;

15 ~~(e)~~(v) one member must be a member of the tourism advisory council established in 2-15-1816;

16 ~~(f)~~(vi) one member must be a Montana historian; and

17 ~~(g)~~(vii) two members must be from the public at large.

18 (3) Except for the initial appointments, members appointed by the governor under subsection (2)(a) shall
19 serve 3-year terms. ~~Legislative appointees~~ Members appointed by the president of the senate and the speaker
20 of the house or by the governor under subsection (2)(b) shall serve 2-year terms. If a vacancy occurs, the
21 appointing authority shall make an appointment for the unexpired portion of the term.

22 (4) (a) The commission may employ:

23 (i) an executive director who has general responsibility for the selection and management of commission
24 staff, developing recommendations for the purchase of property, and overseeing the management of acquired
25 property;

26 (ii) a curator who is responsible for the display and preservation of the acquired property; and

27 (iii) other staff that the commission and the executive director determine are necessary to manage and
28 operate commission properties.

29 (b) The commission shall prescribe the duties and annual salary of the executive director, the curator,
30 and other commission staff."

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Section 3. Section 22-3-1003, MCA, is amended to read:

"22-3-1003. Powers of commission -- contracts -- rules. (1) (a) The Montana heritage preservation and development commission may contract with private organizations to assist in carrying out the purpose of 22-3-1001. The term of a contract may not exceed 20 years.

(b) The provisions of Title 18 may not be construed as prohibiting contracts under this section from being let by direct negotiation. The contracts may be entered into directly with a vendor and are not subject to state procurement laws.

(c) Architectural and engineering review and approval do not apply to the historic renovation projects or projects at historic sites unless stated in specific state appropriations for construction permitted under the commission's jurisdiction.

(d) The contracts must provide for the payment of prevailing wages.

(e) A contract for supplies or services, or both, may be negotiated in accordance with commission rules.

(f) Management activities must be undertaken to encourage the ~~profitable~~ operation of properties in a manner that results in economic stability.

(g) Contracts may include the lease of property managed by the commission. Provisions for the renewal of a contract must be contained in the contract.

(2) (a) Except as provided in subsection (2)(b), the commission may not contract for the construction of a building, as defined in 18-2-101, in excess of \$300,000 without the consent of the legislature. Building construction must be in conformity with applicable guidelines developed by the national park service of the U.S. department of the interior, the Montana historical society, and the Montana department of fish, wildlife, and parks. Funding for these projects must pass through directly to the commission.

(b) The commission may contract for the preservation, stabilization, or maintenance of existing structures or buildings for an amount that exceeds \$300,000 without legislative consent if the commission determines that waiting for legislative consent would cause unnecessary damage to the structures or buildings or would result in a significant increase in cost to conduct those activities in the future.

(3) (a) Subject to subsection (3)(b), the commission, as part of a contract, shall require that a portion of any profit be reinvested in the property and that a portion be used to pay the administrative costs of the property and the commission.

(b) ~~(i) Until the balance in the cultural and aesthetic trust reaches \$7,750,000, the commission shall~~

1 deposit the portion of profits not used for administrative costs and restoration of the properties in the cultural and
2 aesthetic trust.

3 ~~—— (ii) Once the balance in the cultural and aesthetic trust reaches \$7,750,000, the The commission shall~~
4 deposit the portion of profits not used for administrative costs and restoration of the properties in the general fund.

5 ~~(c) It is the intent of the 58th legislature that no general fund money be provided for the operations and~~
6 ~~maintenance of Virginia City and Nevada City beyond what has been appropriated by the 55th legislature.~~

7 (4) The commission may solicit funds from other sources, including the federal government, for the
8 purchase, management, and operation of properties.

9 (5) (a) The commission may use volunteers to further the purposes of this part.

10 (b) The commission and volunteers stand in the relationship of employer and employee for purposes
11 of and as those terms are defined in Title 39, chapter 71. The commission shall provide each volunteer with
12 workers' compensation coverage, as provided in Title 39, chapter 71, during the course of the volunteer's
13 assistance.

14 (6) Volunteers are not salaried employees and are not entitled to wages and benefits. The commission
15 may, in its discretion, reimburse volunteers for their otherwise uncompensated out-of-pocket expenses, including
16 but not limited to their expenditures for transportation, food, and lodging.

17 (7) The commission shall establish a subcommittee composed of an equal number of members of the
18 Montana historical society board of trustees and commission members to review and recommend the sale of
19 personal property from the former Bovey assets acquired by the 55th legislature. A recommendation to sell may
20 be presented to the commission only if the recommendation is supported by a majority of the members of the
21 subcommittee.

22 (8) The commission shall adopt rules establishing a policy for making acquisitions and sales of real and
23 personal property. With respect to each acquisition or sale, the policy must give consideration to:

24 (a) whether the property represents the state's culture and history;

25 (b) whether the property can become ~~self-supporting~~ economically stable;

26 (c) whether the property can contribute to the economic and social enrichment of the state;

27 (d) whether the property lends itself to programs to interpret Montana history;

28 (e) whether the acquisition or sale will create significant social and economic impacts to affected local
29 governments and the state;

30 (f) whether the sale is supported by the director of the Montana historical society;

1 (g) whether the commission should include any preservation covenants in a proposed sale agreement
2 for real property;

3 (h) whether the commission should incorporate any design review ordinances established by Virginia
4 City into a proposed sale agreement for real property; and

5 (i) other matters that the commission considers necessary or appropriate.

6 (9) Except as provided in subsection (11), the proceeds of any sale under subsection (8) must be placed
7 in the account established in 22-3-1004.

8 (10) Public notice and the opportunity for a hearing must be given in the geographical area of a proposed
9 acquisition or sale of real property before a final decision to acquire or sell the property is made. The commission
10 shall approve proposals for acquisition or sale of real property and recommend the approved proposal to the
11 board of land commissioners.

12 (11) The commission, working with the board of investments, may establish trust funds to benefit historic
13 properties. Interest from any trust fund established under this subsection must be used to preserve and manage
14 assets owned by the commission. ~~Funds from the sale of personal property from the Bovey assets must be~~
15 ~~placed in a trust fund, and interest from the trust fund must be used to manage and protect the remaining~~
16 ~~personal property.~~

17 (12) Prior to the convening of each regular session, the commission shall report to the governor and the
18 legislature, as provided in 5-11-210, concerning financial activities during the prior biennium, including the
19 acquisition or sale of any assets."

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21 **Section 4.** Section 22-3-1004, MCA, is amended to read:

22 **"22-3-1004. Montana heritage preservation and development account.** (1) (a) There is a Montana
23 heritage preservation and development account in the state special revenue fund and in the federal special
24 revenue fund.

25 (b) The Montana heritage preservation and development commission shall deposit any federal money
26 that the commission obtains into the appropriate account provided for in this section.

27 (2) Money deposited in the accounts must be used for:

28 ~~(a) the purchase of properties in Virginia City and Nevada City;~~

29 ~~(b)(a)~~ restoration, maintenance, and operation of historic properties in Virginia City and Nevada City; and

30 ~~(c)(b)~~ purchasing, restoring, and maintaining historically significant properties in Montana that are in need

1 of preservation.

2 (3) The accounts are statutorily appropriated, as provided in 17-7-502, to the commission to be used as
3 provided in this section.

4 (4) Unless otherwise prohibited by law or agreement, all interest earned on money in the accounts must
5 be deposited in the state special revenue fund to the credit of the commission."

6 - END -