

SENATE BILL NO. 270

INTRODUCED BY D. KARY

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS RELATED TO THE LEASE OR CONSTRUCTION OF BUILDINGS FOR THE STATE; REVISING THE TYPES OF LEASES AND BUILDING CONSTRUCTION THAT MUST BE APPROVED BY THE LEGISLATURE; REQUIRING THE DEPARTMENT OF ADMINISTRATION TO SEEK ADVICE FROM THE LEGISLATIVE COUNCIL CONCERNING CERTAIN LEASES; PROHIBITING CERTAIN PROVISIONS IN LEASES; AMENDING SECTIONS 2-17-101 AND 18-2-102, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

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

Section 1. Section 2-17-101, MCA, is amended to read:

"2-17-101. Allocation of space -- leasing -- definition. (1) The department of administration shall determine the space required by state agencies other than the university system and shall allocate space in buildings owned or leased by the state, based on each agency's need. To efficiently and effectively allocate space, the department shall identify the amount, location, and nature of space used by each agency, including summary information on average cost per square foot for each municipality, and report this to the office of budget and program planning and to the legislative fiscal analyst by September 1 of each even-numbered year. The report must be provided in an electronic format.

(2) An agency requiring additional space shall notify the department. The department, in consultation with the agency, shall determine the amount and nature of the space needed and locate space within a building owned or leased by the state, including buildings in Helena and in other areas, to meet the agency's requirements. If space is not available in a building owned or leased by the state, the department shall locate space to be leased in an appropriate existing building or a build-to-lease building, including buildings in Helena and in other areas, or recommend alternatives to leasing, such as remodeling or exchanging space with another agency. A state agency may not lease, rent, or purchase real property without prior approval of the department.

(3) (a) The location of the chambers for the house of representatives must be determined in the sole discretion of the house of representatives. The location of the chambers for the senate must be determined in the sole discretion of the senate.

(b) Subject to 2-17-108, the department, with the advice of the legislative council, shall allocate other space for the use of the legislature, including but not limited to space for committee rooms and legislative offices.

(4) The department shall consolidate the offices of state agencies in a single, central location within a municipality whenever the consolidation would result in a cost savings to the state while permitting sufficient space and facilities for the agencies. The department may purchase, lease, or acquire, by exchange or otherwise, land and buildings in a municipality to achieve consolidation. Offices of the law enforcement services division and motor vehicle division of the department of justice are exempted from consolidation.

(5) Any initial lease for more than ~~40,000~~ 10,000 square feet, the renewal of a lease for more than 30,000 square feet, or a lease for a term of more than ~~20~~ 10 years must be submitted as part of the long-range building program and approved by the legislature before the department of administration may proceed with the lease. The department of administration shall seek the advice of the legislative council 60 or more days before the renewal of a lease that is for 30,000 square feet or less and that is not otherwise submitted as part of the long-range building program for legislative approval. Multiple leases in the same building entered into within any ~~60-day~~ 180-day period are to be aggregated for purposes of this threshold calculation. When immediate relocation of agency employees is required due to a public exigency, the requirements of this subsection do not apply, but the new lease must be reported as required by subsection (1).

(6) Any triple net lease that contains a provision allowing an automatic increase to the base amount of rent must be submitted as part of the long-range building program and approved by the legislature before the department of administration may proceed with the lease.

~~(6)(7)~~ The department shall include language in every lease providing that if funds are not appropriated or otherwise made available to support continued performance of the lease in subsequent fiscal periods, the lease must be canceled.

~~(7)(8)~~ For the purposes of this section, the following definitions apply:

(a) "Public exigency" means that due to unforeseen circumstances a facility occupied by state employees is uninhabitable due to immediate conditions that adversely impact the health or safety of the occupants of the facility.

(b) "Triple net lease" means a lease that requires the person leasing the property to pay for the property's real estate taxes, building insurance, and property maintenance in addition to rent."

Section 2. Section 18-2-102, MCA, is amended to read:

1 **"18-2-102. Authority to construct buildings.** (1) Except as provided in ~~22-3-1003~~ and subsection (2)
2 ~~of this section~~, a building costing more than ~~\$150,000~~ \$300,000 may not be constructed without the consent of
3 the legislature. Legislative approval of repair and maintenance costs as part of an agency's operating budget
4 constitutes the legislature's consent. When a building costing more than ~~\$150,000~~ \$300,000 is to be financed in
5 a manner that does not require legislative appropriation of money, the consent may be in the form of a joint
6 resolution.

7 (2) (a) The governor may authorize the emergency repair or alteration of a building and is authorized
8 to transfer funds and authority as necessary to accomplish the project. Transfers may not be made from the funds
9 for an uncompleted capital project unless the project is under the supervision of the same agency.

10 (b) The regents of the Montana university system may authorize the construction of revenue-producing
11 facilities referred to in 20-25-302 if they are to be financed wholly from the revenue from the facility.

12 (c) The regents of the Montana university system, with the consent of the governor, may authorize the
13 construction of a building that is financed wholly with federal or private money if the construction of the building
14 will not result in any new programs.

15 (d) The regents of the Montana university system may authorize the construction of facilities as provided
16 in 20-25-309.

17 (e) The department of military affairs, with the consent of the governor, may authorize the construction
18 of a building that is financed wholly with federal or private money on federal land for the use or benefit of the
19 state."

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21 NEW SECTION. **Section 3. Prohibition of certain services in leases.** A lease of space for state
22 agency purposes may not include any services related to the provision of food or laundry. Services for the
23 provision of food or laundry must be procured under a separate contract pursuant to the provision of Title 18,
24 chapter 4.

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26 NEW SECTION. **Section 4. Codification instruction.** [Section 3] is intended to be codified as an
27 integral part of Title 2, chapter 17, part 1, and the provisions of Title 2, chapter 17, part 1, apply to [section 3].

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29 NEW SECTION. **Section 5. Effective date.** [This act] is effective on passage and approval.
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1 NEW SECTION. **Section 6. Applicability.** [This act] applies to leases and contracts entered into on
2 or after [the effective date of this act].

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