

RULES OF PROCEDURE
MONTANA LEGISLATIVE COUNCIL
Last Revised September 15, 2011
Excerpt on Land Transfer Duties

B-8. Sections 77-2-302 and 77-2-351, MCA, authorize the Board of Land Commissioners to dispose of, sell, or exchange certain state lands after consultation with the appropriate legislative committee. The Legislative Council has assumed the role of the appropriate legislative committee. The process provided in this rule will be followed in fulfilling this consultative role.

(1) The presiding officer shall set a consultation on the agenda when the Board presents a timely request with documentation meeting the adopted criteria. In cases in which the presiding officer determines that it is important that the consultation be completed before the next regularly scheduled meeting of the Legislative Council, the presiding officer may provide for consultation by conference telephone call or by mail. Following the consultation, the Legislative Council shall notify the Board that consultation, as required by 77-2-302 or 77-2-351, MCA, has occurred. If the Legislative Council has recommendations or concerns for the Board to consider, they may be added.

(2) The Board shall provide the Legislative Council with at least the following information with respect to potential land transfers:

(a) For a transfer proposed under 77-2-302, MCA -- disposition of former institutions and certain federal grant lands:

1. Are the lands, including buildings, in fact properties formerly used as or by a state institution and no longer used for institutional purposes?

a. Provide an accurate written description of the properties involved, including a legal description and the acreage involved.

b. Provide a general location map showing graphically the same information as required in the written description of the properties.

c. Provide an affidavit indicating the qualifying state institutional use and verifying the lack of current use.

2. Are there legal restrictions on the proposed transfer?

Provide a legal assessment of restrictions or limitations on the transfer or the lack of restrictions or limitations that may exist under The Enabling Act, the Montana Constitution, or other restriction under law.

3. Are the terms of the proposed transfer in the best interest of the state?

Document the proposed terms of the transfer and any alternative terms that may have been considered.

4. Is the manner of the transfer in accordance with public policy?

Document the proposed manner of the transfer, including plans for the required 60-day notice period.

(b) For a transfer proposed under 77-2-351, MCA -- sale to or exchange of property with public entity.

1. What lands are involved?

a. Provide an accurate written description of the properties involved, including a legal description and the acreage involved.

b. Provide a general location map showing graphically the same information as required in the written description of the properties.

2. Are there restrictions on the transfer?

a. Provide an affidavit documenting whether the land is or is not granted to or held by the state in trust for the support of the common schools, for a state institution, or for another specific purpose.

b. Provide an affidavit indicating any known restrictions on the transfer or stating that there are none.

3. Are the terms of the proposed transfer in the best interest of the state?

a. Document the proposed terms of the transfer and any alternative terms that may have been considered.

b. If the transfer involves a binding commitment to use the property to provide a community service or a benefit that fulfills a public purpose, provide documentation showing the details of the commitment.

c. Document that the transferee is a "public entity" as that term is used in 77-2-351, MCA.

4. Is the manner of the transfer in accordance with public policy?

Document the proposed manner of the transfer, including plans for the required 60-day notice period. (Adopted 05/15/98; amended 05/17/99; amended 9/22/03)