

HOUSE BILL NO. 310

INTRODUCED BY KITSELMAN, MAZUREK

IN THE HOUSE

JANUARY 20, 1987 INTRODUCED AND REFERRED TO COMMITTEE
ON BUSINESS & LABOR.

JANUARY 29, 1987 COMMITTEE RECOMMEND BILL
DO PASS AS AMENDED. REPORT ADOPTED.

JANUARY 30, 1987 PRINTING REPORT.

JANUARY 31, 1987 SECOND READING, DO PASS.

FEBRUARY 2, 1987 ENGROSSING REPORT.

 THIRD READING, PASSED.

 TRANSMITTED TO SENATE.

IN THE SENATE

FEBRUARY 3, 1987 INTRODUCED AND REFERRED TO COMMITTEE
ON BUSINESS & INDUSTRY.

FEBRUARY 12, 1987 COMMITTEE RECOMMEND BILL BE
CONCURRED IN. REPORT ADOPTED.

FEBRUARY 16, 1987 SECOND READING, CONCURRED IN.

FEBRUARY 18, 1987 THIRD READING, CONCURRED IN.
AYES, 50; NOES, 0.

 RETURNED TO HOUSE.

IN THE HOUSE

FEBRUARY 19, 1987 RECEIVED FROM SENATE.

 SENT TO ENROLLING.

1 House BILL NO. 310
 2 INTRODUCED BY Ritselmann / Reguok
 3

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO ESTABLISH A PUBLIC
 5 POLICY FOR SELECTION OF QUALIFIED APPLICANTS TO PROVIDE
 6 ARCHITECTURAL, ENGINEERING, LAND SURVEYING, AND LANDSCAPE
 7 ARCHITECTURAL SERVICES UNDER PUBLIC CONTRACT; AND PROVIDING
 8 AN IMMEDIATE EFFECTIVE DATE."
 9

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

11 Section 1. Statement of policy. The legislature hereby
 12 establishes a state policy that governmental agencies
 13 publicly announce requirements for architectural,
 14 engineering, land surveying, and landscape architectural
 15 services and negotiate contracts for such professional
 16 services on the basis of demonstrated competence and
 17 qualifications for the type of professional services
 18 required and at fair and reasonable prices.

19 Section 2. Definitions. Unless the context clearly
 20 indicates otherwise, the following definitions apply to
 21 [this act]:

22 (1) "Agency" means a state agency as defined in
 23 subsection (8), local agency as defined in subsection (5),
 24 or special district as defined in subsection (7).

25 (2) "Architectural, engineering, land surveying, and

1 landscape architectural services" or "professional services"
 2 means services rendered by a person, other than as an
 3 employee of an agency, contracting to perform activities
 4 within the scope of the general definition of professional
 5 practice and licensed for the respective practice as an
 6 architect pursuant to Title 37, chapter 65, a landscape
 7 architect pursuant to Title 37, chapter 66, or an engineer
 8 or land surveyor pursuant to Title 37, chapter 67.

9 (3) "Licensed professional" or "licensed architect,
 10 professional engineer, professional land surveyor" means a
 11 person providing professional services who is not an
 12 employee of the agency for which the services are provided
 13 and who is exempt under 18-8-103.

14 (4) "Local agency" means a city, town, county, special
 15 district, municipal corporation, agency, port district or
 16 authority, airport authority, political subdivision of any
 17 type, or any other entity or authority of local government,
 18 in corporate form or otherwise.

19 (5) "Person" means an individual, organization, group,
 20 association, partnership, firm, joint venture, or
 21 corporation.

22 (6) "Special district" means a unit of local
 23 government, other than a city, town, or county, authorized
 24 by law to perform a single function or a limited number of
 25 functions, including but not limited to water districts,



1 irrigation districts, fire districts, school districts,
2 community college districts, hospital districts, sewer
3 districts, and transportation districts.

4 (7) "State agency" means a department, agency,
5 commission, bureau, office, or other entity or authority of
6 state government.

7 Section 3. Public notice of agency requirements. Each
8 agency shall publish in advance its requirement for
9 professional services. The announcement must state concisely
10 the general scope and nature of the project or work for
11 which the services are required and the address of a
12 representative of the agency who can provide further
13 details. An agency may comply with this section by:

14 (1) publishing an announcement on each occasion when
15 professional services provided by a licensed professional
16 are required by the agency; or

17 (2) announcing generally to the public its projected
18 requirement for any category or type of professional
19 services.

20 Section 4. Procedures for selection. (1) In the
21 procurement of architectural, engineering, land surveying,
22 and landscape architectural services, the agency shall
23 encourage firms engaged in the lawful practice of their
24 profession to submit annually a statement of qualifications
25 and performance data. The agency shall evaluate current

1 statements of qualifications and performance data on file
2 with the agency, together with those that may be submitted
3 by other firms regarding the proposed project, and conduct
4 discussions with a minimum of three firms regarding
5 anticipated concepts and the relative utility of alternative
6 methods of approach for furnishing the required services.

7 (2) The agency shall then select, based on criteria
8 established under agency procedures and guidelines and the
9 law, the firm considered most qualified to provide the
10 services required for the proposed project. The agency
11 procedures and guidelines must be available to the public
12 and include at a minimum the following criteria as they
13 relate to each firm:

14 (a) the qualifications of professional personnel to be
15 assigned to the project;

16 (b) capability to meet time and project budget
17 requirements;

18 (c) location;

19 (d) present and projected workloads;

20 (e) related experience on similar projects; and

21 (f) recent and current work for the agency.

22 Section 5. Negotiation of contract for services. (1)
23 The agency shall negotiate a contract with the most
24 qualified firm for architectural, engineering, land
25 surveying, or landscape architectural services at a price

1 which the agency determines to be fair and reasonable. In
 2 making its determination, the agency shall take into account
 3 the estimated value of the services to be rendered, as well
 4 as the scope, complexity, and professional nature thereof.

5 (2) If the agency is unable to negotiate a
 6 satisfactory contract with the firm selected at a price the
 7 agency determines to be fair and reasonable, negotiations
 8 with that firm must be formally terminated and the agency
 9 shall select other firms in accordance with [section 4] and
 10 continue as directed in this section until an agreement is
 11 reached or the process is terminated.

12 Section 6. Coordination with other statutes.

13 (1) [This act] need not be complied with by an agency when
 14 the contracting authority makes a finding in accordance with
 15 this or any other applicable law that an emergency requires
 16 the immediate execution of the work involved. Nothing in
 17 [this act] relieves the contracting authority from complying
 18 with applicable law limiting emergency expenditures.

19 (2) The limitation on the preparation of working
 20 drawings contained in 18-2-111 applies to [this act].

21 (3) The procedure for appointment of architects and
 22 consulting engineers pursuant to 18-2-112 applies to [this
 23 act], except that agency shall select its proposed list of
 24 three architects or consulting engineers in accordance with
 25 [this act] prior to submission to the department of

1 administration.

2 (4) The exception for services estimated to cost less
 3 than \$5,000 in 18-8-105 applies to [this act].

4 Section 7. Extension of authority. Any existing
 5 authority of the department of administration to make rules
 6 on the subject of the provisions of this act is extended to
 7 the provisions of this act.

8 Section 8. Saving clause. This act does not affect
 9 rights and duties that matured, penalties that were
 10 incurred, or proceedings that were begun before the
 11 effective date of this act.

12 Section 9. Severability. If a part of this act is
 13 invalid, all valid parts that are severable from the invalid
 14 part remain in effect. If a part of this act is invalid in
 15 one or more of its applications, the part remains in effect
 16 in all valid applications that are severable from the
 17 invalid applications.

18 Section 10. Effective date. This act is effective on
 19 passage and approval.

-End-

APPROVED BY COMM. ON
BUSINESS AND LABOR

HOUSE BILL NO. 310

INTRODUCED BY KITSELMAN, MAZUREK

A BILL FOR AN ACT ENTITLED: "AN ACT TO ESTABLISH A PUBLIC POLICY FOR SELECTION OF QUALIFIED APPLICANTS TO PROVIDE ARCHITECTURAL, ENGINEERING, AND LAND SURVEYING, ~~AND LANDSCAPE--ARCHITECTURAL~~ SERVICES UNDER PUBLIC CONTRACT; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. Statement of policy. The legislature hereby establishes a state policy that governmental agencies publicly announce requirements for architectural, engineering, AND land surveying, ~~and landscape-architectural~~ services and negotiate contracts for such professional services on the basis of demonstrated competence and qualifications for the type of professional services required and at fair and reasonable prices.

Section 2. Definitions. Unless the context clearly indicates otherwise, the following definitions apply to [this act]:

(1) "Agency" means a state agency as defined in subsection (8) (7), local agency as defined in subsection (5) (4), or special district as defined in subsection (7) (6).

(2) "Architectural, engineering, AND land surveying, ~~and--landscape--architectural--services--or--~~"professional services" means services rendered by a person, other than as an employee of an agency, contracting to perform activities within the scope of the general definition of professional practice and licensed for the respective practice as an architect pursuant to Title 37, chapter 65, ~~a-landscape architect-pursuant-to-Title-377-chapter-667~~ or an engineer or land surveyor pursuant to Title 37, chapter 67.

(3) "Licensed professional" or "licensed architect, professional engineer, professional land surveyor" means a person providing professional services who is not an employee of the agency for which the services are provided and who is exempt under 18-8-103.

(4) "Local agency" means a city, town, county, special district, municipal corporation, agency, port district or authority, airport authority, political subdivision of any type, or any other entity or authority of local government, in corporate form or otherwise.

(5) "Person" means an individual, organization, group, association, partnership, firm, joint venture, or corporation.

(6) "Special district" means a unit of local government, other than a city, town, or county, authorized by law to perform a single function or a limited number of



1 functions, including but not limited to water districts,
 2 irrigation districts, fire districts, school districts,
 3 community college districts, hospital districts, sewer
 4 districts, and transportation districts.

5 (7) "State agency" means a department, agency,
 6 commission, bureau, office, or other entity or authority of
 7 state government.

8 Section 3. Public notice of agency requirements. Each
 9 agency shall publish in advance its requirement for
 10 professional services. The announcement must state concisely
 11 the general scope and nature of the project or work for
 12 which the services are required and the address of a
 13 representative of the agency who can provide further
 14 details. An agency may comply with this section by:

15 (1) publishing an announcement on each occasion when
 16 professional services provided by a licensed professional
 17 are required by the agency; or

18 (2) announcing generally to the public its projected
 19 requirement for any category or type of professional
 20 services.

21 Section 4. Procedures for selection. (1) In the
 22 procurement of architectural, engineering, AND land
 23 surveying, ~~and-landscape-architectural~~ services, the agency
 24 shall MAY encourage firms engaged in the lawful practice of
 25 their profession to submit annually a statement of

1 qualifications and performance data. The agency shall
 2 evaluate current statements of qualifications and
 3 performance data on file with the agency, together with
 4 those that may be submitted by other firms regarding the
 5 proposed project, and conduct discussions with ~~a minimum of~~
 6 three ONE OR MORE firms regarding anticipated concepts and
 7 the relative utility of alternative methods of approach for
 8 furnishing the required services.

9 (2) The agency shall then select, based on criteria
 10 established under agency procedures and guidelines and the
 11 law, the firm considered most qualified to provide the
 12 services required for the proposed project. The agency
 13 procedures and guidelines must be available to the public
 14 and include at a minimum the following criteria as they
 15 relate to each firm:

16 (a) the qualifications of professional personnel to be
 17 assigned to the project;

18 (b) capability to meet time and project budget
 19 requirements;

20 (c) location;

21 (d) present and projected workloads;

22 (e) related experience on similar projects; and

23 (f) recent and current work for the agency. THE AGENCY
 24 SHALL FOLLOW THE MINIMUM CRITERIA OF [THIS ACT] IF NO OTHER
 25 AGENCY PROCEDURES ARE SPECIFICALLY ADOPTED.

1 Section 5. Negotiation of contract for services. (1)
 2 The agency shall negotiate a contract with the most
 3 qualified firm for architectural, engineering, AND land
 4 surveying, ~~or landscape architectural~~ services at a price
 5 which the agency determines to be fair and reasonable. In
 6 making its determination, the agency shall take into account
 7 the estimated value of the services to be rendered, as well
 8 as the scope, complexity, and professional nature thereof.

9 (2) If the agency is unable to negotiate a
 10 satisfactory contract with the firm selected at a price the
 11 agency determines to be fair and reasonable, negotiations
 12 with that firm must be formally terminated and the agency
 13 shall select other firms in accordance with [section 4] and
 14 continue as directed in this section until an agreement is
 15 reached or the process is terminated.

16 Section 6. Coordination with other statutes.

17 (1) [This act] need not be complied with by an agency when
 18 the contracting authority makes a finding in accordance with
 19 this or any other applicable law that an emergency requires
 20 the immediate execution of the work involved. Nothing in
 21 [this act] relieves the contracting authority from complying
 22 with applicable law limiting emergency expenditures.

23 (2) The limitation on the preparation of working
 24 drawings contained in 18-2-111 applies to [this act].

25 (3) The procedure for appointment of architects and

1 consulting engineers pursuant to 18-2-112 applies to [this
 2 act], except that agency shall select its proposed list of
 3 three architects or consulting engineers in accordance with
 4 [this act] prior to submission to the department of
 5 administration.

6 (4) The exception for services estimated to cost less
 7 than \$5,000 in 18-8-105 applies to [this act].

8 SECTION 7. EXCEPTION. (1) ALL AGENCIES SECURING
 9 ARCHITECTURAL, ENGINEERING, AND LAND SURVEYING SERVICES FOR
 10 PROJECTS FOR WHICH THE FEES ARE ESTIMATED NOT TO EXCEED
 11 \$5,000 MAY CONTRACT FOR THOSE PROFESSIONAL SERVICES BY
 12 DIRECT NEGOTIATION.

13 (2) NO AGENCY MAY SEPARATE SERVICE CONTRACTS OR SPLIT
 14 OR BREAK PROJECTS FOR THE PURPOSE OF CIRCUMVENTING THE
 15 PROVISIONS OF [THIS ACT].

16 Section 8. Extension of authority. Any existing
 17 authority of the department of administration to make rules
 18 on the subject of the provisions of this act is extended to
 19 the provisions of this act.

20 Section 9. Saving clause. This act does not affect
 21 rights and duties that matured, penalties that were
 22 incurred, or proceedings that were begun before the
 23 effective date of this act.

24 Section 10. Severability. If a part of this act is
 25 invalid, all valid parts that are severable from the invalid

1 part remain in effect. If a part of this act is invalid in
2 one or more of its applications, the part remains in effect
3 in all valid applications that are severable from the
4 invalid applications.

5 Section 11. Effective date. This act is effective on
6 passage and approval.

-End-

HOUSE BILL NO. 310

INTRODUCED BY KITSELMAN, MAZUREK

A BILL FOR AN ACT ENTITLED: "AN ACT TO ESTABLISH A PUBLIC POLICY FOR SELECTION OF QUALIFIED APPLICANTS TO PROVIDE ARCHITECTURAL, ENGINEERING, AND LAND SURVEYING, AND LANDSCAPE--ARCHITECTURAL SERVICES UNDER PUBLIC CONTRACT; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. Statement of policy. The legislature hereby establishes a state policy that governmental agencies publicly announce requirements for architectural, engineering, AND land surveying, and landscape architectural services and negotiate contracts for such professional services on the basis of demonstrated competence and qualifications for the type of professional services required and at fair and reasonable prices.

Section 2. Definitions. Unless the context clearly indicates otherwise, the following definitions apply to [this act]:

(1) "Agency" means a state agency as defined in subsection (7), local agency as defined in subsection (4), or special district as defined in subsection (6).

(2) "Architectural, engineering, AND land surveying, and landscape architectural services" or "professional services" means services rendered by a person, other than as an employee of an agency, contracting to perform activities within the scope of the general definition of professional practice and licensed for the respective practice as an architect pursuant to Title 37, chapter 65, a landscape architect pursuant to Title 37, chapter 66, or an engineer or land surveyor pursuant to Title 37, chapter 67.

(3) "Licensed professional" or "licensed architect, professional engineer, professional land surveyor" means a person providing professional services who is not an employee of the agency for which the services are provided and who is exempt under 18-8-103.

(4) "Local agency" means a city, town, county, special district, municipal corporation, agency, port district or authority, airport authority, political subdivision of any type, or any other entity or authority of local government, in corporate form or otherwise.

(5) "Person" means an individual, organization, group, association, partnership, firm, joint venture, or corporation.

(6) "Special district" means a unit of local government, other than a city, town, or county, authorized by law to perform a single function or a limited number of



1 functions, including but not limited to water districts,
 2 irrigation districts, fire districts, school districts,
 3 community college districts, hospital districts, sewer
 4 districts, and transportation districts.

5 (7) "State agency" means a department, agency,
 6 commission, bureau, office, or other entity or authority of
 7 state government.

8 Section 3. Public notice of agency requirements. Each
 9 agency shall publish in advance its requirement for
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 19 requirement for any category or type of professional
 20 services.

21 Section 4. Procedures for selection. (1) In the
 22 procurement of architectural, engineering, AND land
 23 surveying, ~~and landscape architectural~~ services, the agency
 24 shall MAY encourage firms engaged in the lawful practice of
 25 their profession to submit annually a statement of

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 2 evaluate current statements of qualifications and
 3 performance data on file with the agency, together with
 4 those that may be submitted by other firms regarding the
 5 proposed project, and conduct discussions with ~~a minimum of~~
 6 three ONE OR MORE firms regarding anticipated concepts and
 7 the relative utility of alternative methods of approach for
 8 furnishing the required services.

9 (2) The agency shall then select, based on criteria
 10 established under agency procedures and guidelines and the
 11 law, the firm considered most qualified to provide the
 12 services required for the proposed project. The agency
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 14 and include at a minimum the following criteria as they
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 17 assigned to the project;

18 (b) capability to meet time and project budget
 19 requirements;

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 5 which the agency determines to be fair and reasonable. In
 6 making its determination, the agency shall take into account
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 11 agency determines to be fair and reasonable, negotiations
 12 with that firm must be formally terminated and the agency
 13 shall select other firms in accordance with [section 4] and
 14 continue as directed in this section until an agreement is
 15 reached or the process is terminated.

16 Section 6. Coordination with other statutes.

17 (1) [This act] need not be complied with by an agency when
 18 the contracting authority makes a finding in accordance with
 19 this or any other applicable law that an emergency requires
 20 the immediate execution of the work involved. Nothing in
 21 [this act] relieves the contracting authority from complying
 22 with applicable law limiting emergency expenditures.

23 (2) The limitation on the preparation of working
 24 drawings contained in 18-2-111 applies to [this act].

25 (3) The procedure for appointment of architects and

1 consulting engineers pursuant to 18-2-112 applies to [this
 2 act], except that agency shall select its proposed list of
 3 three architects or consulting engineers in accordance with
 4 [this act] prior to submission to the department of
 5 administration.

6 (4) The exception for services estimated to cost less
 7 than \$5,000 in 18-8-105 applies to [this act].

8 SECTION 7. EXCEPTION. (1) ALL AGENCIES SECURING
 9 ARCHITECTURAL, ENGINEERING, AND LAND SURVEYING SERVICES FOR
 10 PROJECTS FOR WHICH THE FEES ARE ESTIMATED NOT TO EXCEED
 11 \$5,000 MAY CONTRACT FOR THOSE PROFESSIONAL SERVICES BY
 12 DIRECT NEGOTIATION.

13 (2) NO AGENCY MAY SEPARATE SERVICE CONTRACTS OR SPLIT
 14 OR BREAK PROJECTS FOR THE PURPOSE OF CIRCUMVENTING THE
 15 PROVISIONS OF [THIS ACT].

16 Section 8. Extension of authority. Any existing
 17 authority of the department of administration to make rules
 18 on the subject of the provisions of this act is extended to
 19 the provisions of this act.

20 Section 9. Saving clause. This act does not affect
 21 rights and duties that matured, penalties that were
 22 incurred, or proceedings that were begun before the
 23 effective date of this act.

24 Section 10. Severability. If a part of this act is
 25 invalid, all valid parts that are severable from the invalid

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2 one or more of its applications, the part remains in effect
3 in all valid applications that are severable from the
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5 Section 11. Effective date. This act is effective on
6 passage and approval.

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2 INTRODUCED BY KITSELMAN, MAZUREK

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5 POLICY FOR SELECTION OF QUALIFIED APPLICANTS TO PROVIDE
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7 ~~LANDSCAPE--ARCHITECTURAL~~ SERVICES UNDER PUBLIC CONTRACT; AND
8 PROVIDING AN IMMEDIATE EFFECTIVE DATE."
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5 within the scope of the general definition of professional
6 practice and licensed for the respective practice as an
7 architect pursuant to Title 37, chapter 65, ~~a-landscape~~
8 ~~architect-pursuant-to-Title-37--chapter-66~~, or an engineer
9 or land surveyor pursuant to Title 37, chapter 67.

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 25 invalid, all valid parts that are severable from the invalid

1 part remain in effect. If a part of this act is invalid in
2 one or more of its applications, the part remains in effect
3 in all valid applications that are severable from the
4 invalid applications.

5 Section 11. Effective date. This act is effective on
6 passage and approval.

-End-