

House BILL NO. 332

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INTRODUCED BY *Robt Bohling, Rose Walters, Matt Keenan, Denny Smith, Bookout, Wayne Banker, Phil Rose, Hill*

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING PUBLIC CONTRACTS FOR ARCHITECTURAL ENGINEERING, AND LAND SURVEYING SERVICES TO INCLUDE A PROVISION REQUIRING PROFESSIONAL LIABILITY INSURANCE TO BE OBTAINED BY THE ARCHITECT, ENGINEER, LAND SURVEYOR, OR FIRM PROVIDING THE SERVICES AND TO ESTABLISH IN THE PROVISION THE AMOUNT OF COVERAGE AND TERMS OF THE PROFESSIONAL LIABILITY INSURANCE; AND AMENDING SECTION 18-8-205, MCA."

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

Section 1. Section 18-8-205, MCA, is amended to read:

"18-8-205. **Negotiation of contract for services -- professional liability insurance.** (1) (a) The An agency shall negotiate a contract with the most qualified architect, engineer, land surveyor, or firm for architectural, engineering, and land surveying services at a price ~~which~~ that the agency determines to be fair and reasonable. In making its determination, the agency shall take into account the estimated value of the services to be rendered, as well as the scope, and complexity, of the project and the professional nature thereof of the services to be rendered.

(b) A contract negotiated by an agency pursuant to subsection (1)(a) must include a provision requiring professional liability insurance coverage for professional liability or malpractice arising by reason of error, omission, or negligent act by the architect, engineer, land surveyor, or firm or any subcontractor performing professional services for the architect, engineer, land surveyor, or firm in connection with the project that is the subject of the contract.

(c) In determining the amount of coverage for each claim and the risks to be covered by a professional liability insurance policy, the agency shall take into account the estimated total cost, scope, and complexity of the project and the professional nature of the services to be rendered.

(d) The professional liability insurance required by this section must provide coverage commencing with the design phase of the project and continuing in force throughout construction and for a minimum period of 3 years after the project is finally accepted by the agency.

(2) If the agency is unable to negotiate a satisfactory contract with the architect, engineer, land



1 surveyor, or firm selected at a price the agency determines to be fair and reasonable and in compliance with
2 the requirements of subsection (1), negotiations with that architect, engineer, land surveyor, or firm must
3 be formally terminated and the agency shall select ~~either~~ another architect, engineer, land surveyor, or firm
4 firm in accordance with 18-8-204 and continue as directed in this section until an agreement is reached or
5 the process is terminated."

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