

HOUSE JOINT RESOLUTION NO. 28
INTRODUCED BY M. LANGE

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA ENCOURAGING THE DEPARTMENT OF ADMINISTRATION TO INITIATE A COLLABORATIVE STUDY CONCERNING THE PROCESS AND CRITERIA FOR STATE AND LOCAL GOVERNMENT ENTITIES TO USE IN AWARDING PUBLIC WORKS CONSTRUCTION CONTRACTS.

WHEREAS, awarding public works construction contracts to the "lowest responsible bidder" has been standard practice for local governments and the State of Montana for decades; and

WHEREAS, various public entities have, in recent years, attempted to award contracts for construction using various alternative project delivery systems, such as "design-build", "construction manager at risk", and other derivatives of these methods, leading to conflicts among the construction industry, the architecture and engineering professions, and local governments; and

WHEREAS, governing statutes relating to the award of public works construction contracts have been interpreted in widely divergent ways by various stakeholders and by the courts; and

WHEREAS, public owners, including the Department of Administration, have proposed at various times to amend the law to allow construction contracts to be awarded on a "best value" basis, but stakeholders have not been able to reconcile differences on the approach.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Department of Administration is encouraged to initiate a collaborative study that should result in recommendations to the 2005 Legislature concerning the applicability, procedures, and criteria for state and local government entities to use in awarding public works construction contracts. The recommendations should:

- (1) state how a decision is reached to award a contract on the basis of "best value";
- (2) establish criteria for ensuring a fair, equitable, and objective selection process;
- (3) determine qualifications for members of selection panels used to award contracts; and
- (4) establish a process ensuring that taxpayers receive the most cost-effective project possible.

BE IT FURTHER RESOLVED, that the collaborative study should involve representatives of county and municipal governments, school districts, the Department of Administration, the construction industry, the

architecture and engineering professions, the surety industry, and any other stakeholders that the Department determines necessary.

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