

**Amendment - 1st Reading-white - Requested by: Theresa Manzella - (S) Highways and Transportation**

68th Legislature

Drafter: Joe Carroll, 406-444-3804

SB0057.001.001

1 SENATE BILL NO. 57  
2 INTRODUCED BY T. MANZELLA  
3 BY REQUEST OF THE DEPARTMENT OF TRANSPORTATION  
4

5 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING DEPARTMENT OF TRANSPORTATION  
6 CONTRACTING; PROVIDING FOR ALTERNATIVE PROJECT DELIVERY METHODS; REVISING  
7 TERMINATION DATES REGARDING ALTERNATIVE PROJECT DELIVERY; AMENDING SECTIONS 18-8-  
8 204, 18-8-205, 60-2-111, 60-2-112, AND 60-2-134, MCA; AMENDING SECTION 6, CHAPTER 54, LAWS OF  
9 2017, AND SECTION 9, CHAPTER 111, LAWS OF 2021; AND PROVIDING AN IMMEDIATE EFFECTIVE  
10 DATE."

11  
12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
13

14 NEW SECTION. **Section 1. Alternative project delivery.** (1) The commission may use alternative  
15 project delivery methods for letting contracts.

16 (2) Once the commission, acting on a recommendation of the department, identifies a project for  
17 which an alternative project delivery method will be used and approves selection criteria proposed by the  
18 department, the department shall prepare and advertise a request for qualifications.

19 (3) From the responders, the department shall prepare a short list of the highest scoring  
20 responders, not to exceed five responders on any single project.

21 (4) The department shall announce the short list and issue a request for proposals inviting each  
22 responder on the short list to submit a technical and price proposal to the department.

23 (5) The department shall evaluate the technical and price proposals and present to the  
24 commission the department's written recommendation to award the contract.  
25

26 **Section 2.** Section 18-8-204, MCA, is amended to read:

27 **"18-8-204. Procedures for selection.** (1) In the procurement of architectural, engineering, and land

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1 surveying services, the agency may encourage firms engaged in the lawful practice of their profession to submit  
2 annually or biennially a statement of qualifications and performance data. The agency shall evaluate current  
3 statements of qualifications and performance data on file with the agency, together with those that may be  
4 submitted by other firms regarding the proposed project, and conduct discussions with one or more firms  
5 regarding anticipated concepts and the relative utility of alternative methods of approach for furnishing the  
6 required services.

7 (2) (a) The agency shall then select, based on criteria established under agency procedures and  
8 guidelines and the law, the firm considered most qualified to provide the services required for the proposed  
9 project.

10 (b) The agency procedures and guidelines must be available to the public and include at a  
11 minimum the following criteria as they relate to each firm:

- 12 (i) the qualifications of professional personnel to be assigned to the project;
- 13 (ii) capability to meet time and project budget requirements;
- 14 (iii) location;
- 15 (iv) present and projected workloads;
- 16 (v) related experience on similar projects; and
- 17 (vi) recent and current work for the agency.

18 (c) The agency shall follow the minimum criteria of this part if no other agency procedures are  
19 specifically adopted.

20 (3) After conducting an evaluation of firms pursuant to subsections (1) and (2)(b), a local agency  
21 may enter into a contract with one or more of those firms to provide architectural, engineering, or land surveying  
22 services on an as-needed basis for one or more projects and for a term to be mutually agreed to by the parties.  
23 Nothing in this subsection prevents a local agency from following the procurement procedures in this part for  
24 professional services for a particular project, unless a contract made pursuant to this subsection provides  
25 otherwise.

26 (4) The provisions of this section do not apply to procurement of architectural, engineering, and  
27 land surveying services for projects that the transportation commission has approved pursuant to an alternative

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1 project delivery method under [section 1] or as part of the design-build contracting program authorized in 60-2-  
2 137.

3 ~~(5) — The definitions in 60-2-134 apply to this section.~~"

4  
5 **Section 3.** Section 18-8-205, MCA, is amended to read:

6 **"18-8-205. Negotiation of contract for services.** (1) The agency shall negotiate a contract with the  
7 most qualified firm for architectural, engineering, and land surveying services at a price that the agency  
8 determines to be fair and reasonable. In making its determination, the agency shall take into account the  
9 estimated value of the services to be rendered, as well as the scope, complexity, and professional nature of the  
10 services.

11 (2) If the agency is unable to negotiate a satisfactory contract with the firm selected at a price the  
12 agency determines to be fair and reasonable, negotiations with that firm must be formally terminated and the  
13 agency shall select other firms in accordance with 18-8-204 and continue as directed in this section until an  
14 agreement is reached or the process is terminated.

15 (3) The provisions of this section do not apply to the negotiation of contracts for projects that the  
16 transportation commission has approved pursuant to an alternative project delivery method under [section 1] or  
17 as part of the design-build contracting program authorized in 60-2-137.

18 ~~(4) — The definitions in 60-2-134 apply to this section.~~"

19  
20 **Section 4.** Section 60-2-111, MCA, is amended to read:

21 **"60-2-111. (Temporary) Letting of contracts on state highways and commission-designated**  
22 **highway systems.** (1) Except as provided in subsection (2), all contracts for the construction or reconstruction  
23 of the highways located on commission-designated highway systems and state highways, including portions in  
24 cities and towns, and all contracts entered into under 7-14-4108 must be let by the commission. Except as  
25 otherwise specifically provided, the commission may enter the types of contracts and upon terms that it may  
26 decide. All contracts must meet the requirements of Title 18, chapter 2, part 4. When there is no prevailing rate  
27 of wages set by collective bargaining, the commission shall determine the prevailing rate to be stated in the