

HOUSE BILL No. 5883

April 11, 2002, Introduced by Reps. Mead, Allen, Bisbee, Vear, Gilbert, Howell and Van Woerkom and referred to the Committee on Commerce.

A bill to amend 1984 PA 431, entitled
"The management and budget act,"
by amending section 237 (MCL 18.1237), as amended by 1999 PA 8,
and by adding section 237b.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 237. (1) For state agency capital outlay projects or
2 facilities, the department is responsible for development, over-
3 sight, review, and approval of program statements, studies,
4 designs, plans, management, specifications, contract documents,
5 construction management, and construction, relative to the acqui-
6 sition, construction, lease purchase, improvement, demolition, or
7 other capital outlay projects for state agencies for which an
8 appropriation or other authorization has been made.

9 (2) The department shall approve the award, selection, and
10 employment of architects, professional engineers, construction

1 managers, and other design or construction professional services
2 contractors, subject to SECTION 237B AND rules of the department
3 of civil service, to do all of the following:

4 (a) Prepare program statements, studies, designs, plans, and
5 specifications for the construction of, repairing of, making
6 additions to, remodeling or demolition of, lease purchase of, or
7 acquisition of state facilities.

8 (b) Administer construction work, including resident inspec-
9 tors, on-site management, and supervision of construction
10 projects.

11 (3) The department may obtain independent testing services
12 to provide quality control of work performed on facilities.

13 (4) Prior to state building authority financing, the depart-
14 ment shall provide final approval of the capital outlay project
15 to ensure compliance with the authorized program, plans, and
16 specifications.

17 (5) The attorney general shall review all standard lease and
18 lease purchase agreement formats and approve any exceptions to
19 the standard formats and may assess a fee for legal services pur-
20 suant to an agreement with the department.

21 SEC. 237B. (1) THE SELECTION OF ARCHITECTS, PROFESSIONAL
22 ENGINEERS, PROFESSIONAL SURVEYORS, AND QUALIFIED FIRMS SHALL BE
23 BASED UPON THE APPROPRIATE QUALIFICATIONS OF THE ARCHITECT, PRO-
24 FESSIONAL ENGINEER, PROFESSIONAL SURVEYOR, OR QUALIFIED FIRM FOR
25 THE TYPE OF PROFESSIONAL SERVICE REQUIRED BY THE DEPARTMENT.

26 (2) THE DEPARTMENT SHALL PREPARE A WRITTEN DESCRIPTION OF
27 THE SCOPE OF THE PROPOSED SERVICES TO BE USED AS THE BASIS OF

1 NEGOTIATION, TAKING INTO ACCOUNT THE ESTIMATED VALUE, SCOPE,
2 COMPLEXITY, AND PROFESSIONAL NATURE OF THE SERVICES TO BE
3 RENDERED. NOTIFICATION OF THE WRITTEN DESCRIPTION FOR SERVICES
4 SHALL BE GIVEN TO ARCHITECTS, PROFESSIONAL ENGINEERS, PROFES-
5 SIONAL SURVEYORS, OR QUALIFIED FIRMS UNDER PROCEDURES ESTABLISHED
6 BY THE DEPARTMENT. THE DEPARTMENT SHALL NOT ESTABLISH A MAXIMUM
7 OVERHEAD RATE OR OTHER PAYMENT FORMULA DESIGNED TO ELIMINATE
8 ARCHITECTS, PROFESSIONAL ENGINEERS, PROFESSIONAL SURVEYORS, OR
9 QUALIFIED FIRMS FROM CONTENTION OR TO RESTRICT COMPETITION.

10 (3) UPON RECEIVING PROPOSALS FOR SERVICES FROM AN ARCHITECT,
11 PROFESSIONAL ENGINEER, PROFESSIONAL SURVEYOR, OR QUALIFIED FIRM
12 MADE TO THE DEPARTMENT IN RESPONSE TO THE WRITTEN DESCRIPTION
13 MADE UNDER SUBSECTION (2), THE DEPARTMENT SHALL SELECT NO FEWER
14 THAN 3 ARCHITECTS, PROFESSIONAL ENGINEERS, PROFESSIONAL SURVEY-
15 ORS, OR QUALIFIED FIRMS THE DEPARTMENT DETERMINES TO BE MOST
16 QUALIFIED TO PROVIDE SERVICES FOR THE PROJECT AND RANK THEM IN
17 ORDER OF QUALIFICATIONS TO PROVIDE SERVICES REGARDING THE SPE-
18 CIFIC REQUEST.

19 (4) THE DEPARTMENT SHALL NOTIFY IN WRITING THE ARCHITECT,
20 PROFESSIONAL ENGINEER, PROFESSIONAL SURVEYOR, OR QUALIFIED FIRM
21 THE DEPARTMENT DETERMINES MOST QUALIFIED TO NEGOTIATE A CONTRACT
22 FOR SERVICES FOR THE PROJECT AT FAIR AND REASONABLE
23 COMPENSATION. THE DEPARTMENT SHALL ESTABLISH PROCEDURES FOR
24 NOTIFYING THOSE IT DETERMINES AS NOT QUALIFIED FOR THE PROJECT.
25 IF FEWER THAN 3 ARCHITECTS, PROFESSIONAL ENGINEERS, PROFESSIONAL
26 SURVEYORS, OR QUALIFIED FIRMS SUBMIT A RESPONSE TO THE
27 DEPARTMENT'S PROPOSAL, THE DEPARTMENT MAY PROCEED TO NEGOTIATE A

1 CONTRACT WITH ALL THOSE WHO RESPONDED TO THE DEPARTMENT'S
2 REQUEST.

3 (5) IF THE DEPARTMENT IS UNABLE TO NEGOTIATE A SATISFACTORY
4 CONTRACT WITH THE ARCHITECT, PROFESSIONAL ENGINEER, PROFESSIONAL
5 SURVEYOR, OR QUALIFIED FIRM THAT THE DEPARTMENT HAS DETERMINED AS
6 MOST QUALIFIED, NEGOTIATIONS SHALL BE TERMINATED. IF THE DEPART-
7 MENT IS UNABLE TO NEGOTIATE A SATISFACTORY CONTRACT WITH THE
8 ARCHITECT, PROFESSIONAL ENGINEER, PROFESSIONAL SURVEYOR, OR QUAL-
9 IFIED FIRM IT HAS DETERMINED TO BE THE NEXT MOST QUALIFIED TO
10 PERFORM THE SERVICES FOR THE PROJECT, NEGOTIATIONS SHALL BE
11 TERMINATED. IF THE DEPARTMENT IS UNABLE TO NEGOTIATE A SATISFAC-
12 TORY CONTRACT WITH THE ARCHITECT, PROFESSIONAL ENGINEER, PROFES-
13 SIONAL SURVEYOR, OR QUALIFIED FIRM IT HAS DETERMINED TO BE THE
14 NEXT MOST QUALIFIED TO PERFORM SERVICES FOR THE PROJECT, NEGOTIA-
15 TIONS SHALL BE TERMINATED.

16 (6) IF THE DEPARTMENT IS UNABLE TO NEGOTIATE A SATISFACTORY
17 CONTRACT WITH ANY OF THE 3 SELECTED AS MOST QUALIFIED, THE
18 DEPARTMENT SHALL GIVE WRITTEN NOTICE OF THOSE AFFECTED, SHALL
19 REEVALUATE THE SERVICES REQUESTED, AND SHALL PROCEED TO DETERMINE
20 THE NEXT MOST QUALIFIED ARCHITECT, PROFESSIONAL ENGINEER, PROFES-
21 SIONAL SURVEYOR, OR QUALIFIED FIRM FOLLOWING THE SAME PROCEDURES
22 FOR NOTIFICATION AND NEGOTIATION AS PROVIDED IN THIS ACT.

23 (7) AS USED IN THIS ARTICLE:

24 (A) "ARCHITECT" MEANS THAT TERM AS DEFINED IN SECTION 2001
25 OF THE OCCUPATIONAL CODE, 1980 PA 299, MCL 339.2001.

1 (B) "PROFESSIONAL ENGINEER" MEANS THAT TERM AS DEFINED IN
2 SECTION 2001 OF THE OCCUPATIONAL CODE, 1980 PA 299, MCL
3 339.2001.

4 (C) "PROFESSIONAL SURVEYOR" MEANS THAT TERM AS DEFINED IN
5 SECTION 2001 OF THE OCCUPATIONAL CODE, 1980 PA 299, MCL
6 339.2001.

7 (D) "QUALIFIED FIRM" MEANS A FIRM DESCRIBED IN SECTIONS 2001
8 AND 2010 OF THE OCCUPATION CODE, 1980 PA 299, MCL 339.2001 AND
9 339.2010.