HOUSE BILL No. 5238


A bill to create the local government professional services selection act; to provide the procedure to procure architectural services, engineering services, and land surveying services by local governments; and to prescribe the powers and duties of certain local government officers and officials.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

Sec. 1. This act shall be known and may be cited as the "local government professional services selection act".

Sec. 3. As used in this act:

(a) "Architectural services" means the practice of architecture as that term is defined in section 2001 of the occupational code, 1980 PA 299, MCL 339.2001.

(b) "Engineering services" means the practice of professional engineering as that term is defined in section 2001 of the

(c) "Firm" means a sole proprietorship, partnership, corporation, or limited liability company through which a person licensed as an architect, professional engineer, or professional surveyor under article 20 of the occupational code, 1980 PA 299, MCL 339.2001 to 339.2014, offers or provides architectural services, engineering services, or land surveying services to the public.

(d) "Land surveying services" means the practice of professional surveying as that term is defined in section 2001 of the occupational code, 1980 PA 299, MCL 339.2001.

(e) "Local unit" means a county, city, village, township, school district, water-sewer district, authority, or any other political subdivision of this state.

(f) "Project" means any capital improvement project or any study, plan, survey, or new or existing program or activity that requires architectural services, engineering services, or land surveying services.

(g) "Satisfactory relationship" means that a firm is performing architectural services, engineering services, or land surveying services for a local unit and performing those services to the satisfaction of the local unit.

Sec. 5. Unless a local unit has a satisfactory relationship with 1 or more firms for providing architectural services, engineering services, or land surveying services, if a proposed project by a local unit requires architectural services, engineering services, or land surveying services, the local unit
shall publish a notice requesting a statement of interest in the proposed project by any firm, along with a statement of qualifications and performance data from that firm. The published notice shall state the general scope and nature of the proposed project for which services are required and shall include contact information for a representative of the local unit who can provide further details of the proposed project.

Sec. 7. (1) Unless a local unit has a satisfactory relationship with 1 or more firms for providing architectural services, engineering services, or land surveying services, in procuring architectural services, engineering services, or land surveying services for a proposed project, a local unit shall evaluate the statements of interest, statements of qualifications, and performance data submitted by firms. In evaluating a firm for the proposed project, a local government shall consider all of the following:

(a) Qualifications of the firm.
(b) Ability of the professional personnel of the firm.
(c) Past record and experience of the firm.
(d) Any other qualifications-based factors that the local unit determines are applicable.

(2) The local unit may conduct discussions with and require public presentations by any firm being considered to provide the required architectural services, engineering services, or land surveying services for the proposed project.

(3) Based on the evaluations, discussions, and presentations, the local unit shall select those firms considered the most highly
qualified to provide the required architectural services, engineering services, or land surveying services for the proposed project. The local unit shall rank those firms selected in order based on the qualifications set forth in this section.

Sec. 9. (1) Unless a local unit has a satisfactory relationship with 1 or more firms for providing architectural services, engineering services, or land surveying services, a local unit shall enter into contract negotiations with the highest ranked firm at compensation that the local unit determines to be fair and reasonable. The local unit shall take into account the estimated value, scope, complexity, and professional nature of the services to be rendered.

(2) If a local unit is unable to negotiate a satisfactory contract with the highest-ranked firm, negotiations with that firm shall be formally terminated. The local unit shall begin negotiations with the next most highly ranked firm and continue until an agreement is reached or the process is terminated.

(3) If the local unit is unable to negotiate a satisfactory contract with any of the selected firms, the local unit shall reevaluate the architectural services, engineering services, or land surveying services requested, including the estimated value, scope, complexity, and fee requirements. The local unit shall then compile another list of ranked firms and proceed to negotiate with those firms as provided in this section.

Sec. 11. A local unit may waive the requirements of this act under either of the following conditions:

(a) The governing body of the local unit determines, by
resolution, that an emergency situation exists and a firm must be selected in an expeditious manner.

(b) The cost of the architectural services, engineering services, or land surveying services for a project is less than $20,000.00.

Enacting section 1. This act takes effect 90 days after the date it is enacted into law.