

1988

Session Law 88-108

Florida Senate & House of Representatives

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LEGISLATIVE SUPPLEMENT "B" - SESSION LAW ABSTRACT

Year 1988	Session Law No. 88-108	LOF Cite	#pp
Prime Bill# HB 270	Sponsor Gardner	Comp./Sim. Bills	nc
JLHC Hist. Leg. Cites	Senate pp.#s	House pp.#s	258 (HB 270)
Committee of Ref.	Senate Gov. Ops.	Previous versions?	
	House Commerce		

Committee Records

H/S	Committee	Year	Record Series: Folder Title, etc.	Location Cite	#pp
H	Commerce	88	Bill FILE HB 270 (+ A.)		
S	Gov. Ops	88	Bill FILE HB 270		

Senate/House Journals

Page	?	Date	#pp	Page	?	Date	#pp

Tape Recordings

H/S	Floor	Committee/subcommittee	Date	# Tapes	Location Cite
H		Commerce, sub-int Gov. Commerce	4/6/88		
H		Commerce, sub-int Gov. Commerce	4/8/88		
S		Gov. Ops	5/23/88		

Other Documentation

Record series title, folder title, etc.	Location Cite	#pp

By Representative Gardner

1 A bill to be entitled

2 An act relating to the Consultants' Competitive
3 Negotiation Act; amending s. 287.055, F.S.,
4 modifying the definition of "continuing
5 contract"; providing an effective date.
6

7 Be It Enacted by the Legislature of the State of Florida:
8

9 Section 1. Paragraph (g) of subsection (2) of section
10 287.055, Florida Statutes, is amended to read:

11 287.055 Acquisition of professional architectural,
12 engineering, landscape architectural, or land-surveying
13 services; definitions; procedures; contingent fees prohibited;
14 penalties.--

15 (2) DEFINITIONS.--For purposes of this section:

16 (g) A "continuing contract" is a contract for
17 professional services entered into in accordance with all the
18 procedures of this act between an agency and a firm whereby
19 the firm provides professional services to the agency for
20 projects in which construction costs do not exceed \$500,000,
21 or for study activity when the fee for such professional
22 service does not exceed \$25,000, or for work of a specified
23 nature as outlined in the contract required by the agency,
24 with no time limitation except that the contract shall provide
25 a termination clause.

26 Section 2. This act shall take effect July 1, 1988, or
27 upon becoming a law, whichever occurs later.
28
29
30
31

HOUSE SUMMARY

Modifies the definition of "continuing contract" under the Consultants' Competitive Negotiation Act, to include certain contracts which provide architectural, engineering, or land surveying services for construction projects or for study activity. Provides limitations.

This publication was produced at an average cost of 1.12 cents per single page in compliance with the Rules and for the information of members of the Legislature and the public.

STORAGE NAME: h270-f.co
Date: June 6, 1988

HOUSE OF REPRESENTATIVES
HOUSE COMMERCE COMMITTEE
FINAL STAFF ANALYSIS & ECONOMIC IMPACT STATEMENT

BILL #: HB 270

RELATING TO: Consultants' Competitive Negotiation

SPONSOR(S): Representative Gardner

EFFECTIVE DATE: July 1, 1988 or upon becoming law (whichever later)

DATE BECAME LAW: _____

CHAPTER #: 88- Laws of Florida

COMPANION BILL(S): _____

OTHER COMMITTEES OF REFERENCE: (1) _____

(2) _____

I. SUMMARY:

House Bill 270 relates to the Consultants' Competitive Negotiation Act (CCNA) amending Section 287.055(2)(g), Florida Statutes, by placing monetary limitations within the definition of the term "continuing contract". This bill attempts, in effect, to prohibit governmental agencies from procuring engineering/architectural type services under a continuing contract when costs of the related construction project are more than \$500,000 or when the fee for study activity is more than \$25,000. The proposed limitation would apply to architectural, engineering, landscape architectural, or land surveying services procured by any state or local governmental agency.

In addition, HB 270 amends s. 287.055(4)(b), F.S., to clarify that specific contract price proposals shall not be considered by an agency during the competitive selection stage of the CCNA process at which point an agency is to select the three most qualified firms for the job. The three selected firms then enter the competitive negotiation stage of the process, as outlined in s. 287.055(5), F.S., where contract price is a proper consideration.

A. Current Law & Present Situation:

Florida law, Chapter 287, regulates the procurement of personal property and services by public agencies (public procurement). This law is guided by a general statement of legislative intent: "...that fair and open competition is a basic tenet of public procurement; and that such competition reduces the appearance and opportunity for favoritism and inspires public confidence that contracts are awarded equitably and economically...", s. 287.001, F.S.

In 1973, the Legislature amended Chapter 287 by adding s. 287.055, F.S., also known as the Consultants' Competitive Negotiation Act. The CCNA sets out procedures by which public agencies contract for architectural, engineering, landscape architectural, or land surveying services.

State and local governmental agencies are required to annually certify firms qualified to provide these professional services, and then advertise projects upon which the certified firms can bid. Agencies must then follow the "competitive selection" procedure: i.e., evaluate the qualifications of and select for consideration at least three professional firms for any given project based upon statutory criteria, (s. 287.055(4), F.S.). Once the three firms are selected, the agency must negotiate a contract with the most qualified firm at fair, competitive compensation taking into consideration the cost of professional services required and their scope and complexity (s. 287.055(5), F.S.). However, **continuing contracts** are not prohibited by the "competitive selection" requirement.

In this context, a "continuing contract" can generally be described as a relationship for professional consultation between an agency and a firm which continues without time limit as long as both parties agree. The contract may be periodically reviewed and reaffirmed or it may automatically renew unless notice of termination is given by one or the other of the parties. Such contracts would normally be used by agencies for general consulting (as one would retain legal or financial consultation), or for relatively small repetitive projects (such as asbestos removal or office renovation).

Agencies use continuing contracts as a device to save time. The Department of General Services (department) estimates that it takes 60 - 75 days of lead time to comply with the "competitive selection" requirements of s. 287.055(4), F.S., when contracting for engineering/architectural type services. If, on the other hand, a continuing contract exists with a firm, the lead time could be cut down to two or three weeks.

Currently, the department handles "competitive selection/negotiation" for about half of the state's construction projects. Local governments and the Board of Regents handle their own construction projects. In addition, certain legislatively designated projects of the Departments of Corrections and Health and Rehabilitative Services are handled in-house.

Arguably, an agency could, for example, retain a single architectural firm under continuing contract, and then funnel all of its construction projects and studies to that one firm. Thus, the agency could circumvent the "competitive selection/negotiation" process. This practice, should it occur, would appear to violate the legislative intent of the statute that public procurement be subject to "fair and open competition".

B. Effect of Proposed Changes:

House Bill 270 amends the definition of the term "continuing contract" (as contained in s. 287.055(2)(g), F.S.) by placing a monetary limit on projects which fall within the definition. The sponsor's intent is that construction projects costing more than \$500,000 or studies costing more than \$25,000 may not be covered by a continuing contract. However, firms retained under continuing contract could perform as many different projects as a given agency wishes so long as the individual project cost is below the \$500,000/\$25,000 limit. Thus, large or major construction or study projects requiring engineering/architectural type services would need to be competitively selected and negotiated as set out in the statute and could not be covered by a continuing contract. This limitation would apply to architectural, engineering, landscape architectural, and land surveying services contracted for by any state or local governmental agency and take effect July 1, 1988, or upon becoming law, whichever is later.

In addition, s. 287.055(4)(b) of the CCNA was amended to clarify that contract price proposals shall not be considered by an agency (even if offered) during the "competitive selection" stage of the process when qualitative factors as set out in the statute are considered in selecting the three most qualified firms. Contract price is a proper consideration during the next stage (s. 287.055(5), F.S.--Competitive Negotiation) when the agency negotiates the contract with one from among the three selected firms.

II. ECONOMIC IMPACT:

A. Public:

None.

B. Government: Only those governmental agencies currently using the continuing contract device for all their construction projects will be affected by the proposed change. They would have to go through the competitive selection process for projects exceeding the \$500,000/\$25,000 cost limitations which would add 45 - 60 days to the length of a given project. The benefits of the CCNA process may or may not exceed possible increased costs due to any resulting project delay. However, longer range planning could avoid most of the potential increased costs due to project delay. The Board of Regents, and the Departments of General Services and Corrections have indicated that they do not expect any fiscal impact as a result of this proposal.

III. STATE COMPREHENSIVE PLAN IMPACT:

House Bill 270 is consistent with the governmental efficiency policy of Florida's State Comprehensive Plan in that it "encourages greater efficiency and economy at all levels of government through ... implementation of effective ... evaluation practices." s. 187.(20)(b)9, F.S. Arguably, it does this by forcing agencies to follow evaluative processes outlined in the CCNA for large construction projects which, theoretically, will result in higher quality and/or lower cost of engineering and architectural services.

IV. COMMENTS:

LEGISLATIVE HISTORY:

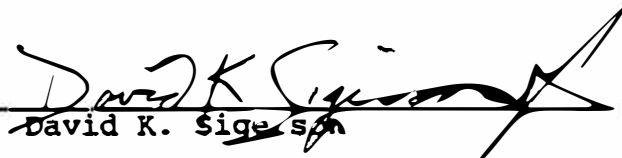
Enacted Bill:

House Bill 270 was prefiled on February 4, 1988, by Representative Gardner and referred to the Committee on Commerce. On April 6, the Subcommittee on General Commerce of the Commerce Committee recommended HB 270 to the Full committee with one amendment. The Full Commerce Committee, on April 18, removed the subcommittee amendment and reported the bill favorably. HB 270 passed the House by a vote of 112 to 1 on April 25, and was sent to the Senate (HJ 00239). The Senate Committee on Governmental Operations, to which the bill had been referred, reported HB 270 favorably on May 23. The Senate amended the bill clarifying the point at which price is to be considered in the CCNA process and passed it by a vote of 35 to 0 on May 26 (SJ 00433). The House, on the same day, received HB 270, concurred in the Senate amendments, and passed the bill by a vote of 111 to 0 (HJ 00816).

Disposition of Companion:

No companion bill.

V. PREPARED BY:


David K. Sigerson

VI. STAFF DIRECTOR:


H. Fred Varn

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

	<u>ANALYST</u>	<u>STAFF DIRECTOR</u>	<u>REFERENCE</u>	<u>ACTION</u>
1.	Kane <i>AK</i>	Stenple <i>JS</i>	1. GO	Favorable
2.	_____	_____	2. _____	_____
3.	_____	_____	3. _____	_____
4.	_____	_____	4. _____	_____

SUBJECT:

Consultants' Competitive
Negotiation Act

BILL NO. AND SPONSOR:

HB 270 by
Representative Gardner

I. SUMMARY:

A. Present Situation:

The "Consultants' Competitive Negotiation Act", s. 287.055, F.S., specifies an alternative to competitive bidding for agency procurement of certain professional services relating to construction for those within the scope of practice of architecture, professional engineering, landscape architecture, and registered landscape surveying. For projects over \$120,000, and fees for planning services over \$6,000, agencies are required to obtain the specified professional services through a competitive negotiation procedure. According to the Department of General Services, this method provides for a professional relationship, rather than for a contractor relationship, between the firm and the agency.

For projects or study activities which meet the threshold costs, agencies are to give public notice of their requirements for professional services. As well, agencies are also required to maintain updated information on firms available to perform professional services. For a particular project or study activity, an agency must first determine which firms or persons are qualified, must evaluate those firms, and then must conduct discussions with no less than three firms regarding their qualifications for the project. The agency must select at least three firms deemed to be the most highly qualified, and then negotiate with one firm at a time in order of rank until an agreement is reached.

The law also provides for procurement of professional services for "work of a specified nature", with no time limitation, through a mechanism that is termed a "continuing contract." A continuing contract must also be procured through the competitive negotiation procedure. This provision enables an agency to obtain ongoing consulting services for general advice on a number of matters, over time, without having to go through a selection process in each instance.

It is not clear from the language of the statute, however, that once retained for work of a specified nature, a firm may not be assigned all work of that nature for a series of projects, which would otherwise have to be separately competitively negotiated because of the amount of costs involved. In this way, an agency may be able to use the continuing contract to avoid going through a selection process for services for individual construction projects.

B. Effect of Proposed Changes:

The definition of "continuing contract" would be amended to provide that a continuing contract may also be a contract for professional services in which a firm provides professional services to the agency for projects in which construction costs

are not in excess of \$500,000, or study activity when the fee for such professional service is not in excess of \$25,000.

II. ECONOMIC IMPACT AND FISCAL NOTE:

A. Public:

None

B. Government:

None

III. COMMENTS:

The change sought to be effected is not apparent from the language of the bill. Currently, professional services for projects over \$120,000, and fees for study activities over \$6,000, must be negotiated. Agencies may retain professional firms pursuant to continuing contracts for work of a specified nature, which must also be negotiated. It is not clear whether services for individual projects over the threshold amounts for requiring negotiated contracts may be rendered by a firm already retained on a continuing contract.

Because of the use of the disjunctive "or" in the amending language, the new language would create an additional category of continuing contract, to wit, "projects in which constructions costs do not exceed \$500,000, or for study activity when the fee for such professional service does not exceed \$25,000." Rather than limiting the use of continuing contracts, this additional language may provide an alternative to the provisions of existing law requiring bidding for services on individual projects when the project or fee amount exceeds the threshold amounts indicated above.

IV. AMENDMENTS:

None

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

	<u>ANALYST</u>	<u>STAFF DIRECTOR</u>	<u>REFERENCE</u>	<u>ACTION</u>
1.	<u>Kane <i>AK</i></u>	<u>Stenple <i>js</i></u>	1. <u>GO</u>	<u>Favorable</u>
2.	_____	_____	2. <u>*</u>	_____
3.	_____	_____	3. _____	_____
4.	_____	_____	4. _____	_____

SUBJECT:

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Negotiation Act

BILL NO. AND SPONSOR:

HB 270 by
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For projects or study activities which meet the threshold costs, agencies are to give public notice of their requirements for professional services. As well, agencies are also required to maintain updated information on firms available to perform professional services. For a particular project or study activity, an agency must first determine which firms or persons are qualified, must evaluate those firms, and then must conduct discussions with no less than three firms regarding their qualifications for the project. The agency must select at least three firms deemed to be the most highly qualified, and then negotiate with one firm at a time in order of rank until an agreement is reached.

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It is not clear from the language of the statute, however, that once retained for work of a specified nature, a firm may not be assigned all work of that nature for a series of projects, which would otherwise have to be separately competitively negotiated because of the amount of costs involved. In this way, an agency may be able to use the continuing contract to avoid going through a selection process for services for individual construction projects.

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The definition of "continuing contract" would be amended to provide that a continuing contract may also be a contract for professional services in which a firm provides professional services to the agency for projects in which construction costs

are not in excess of \$500,000, or study activity when the fee for such professional service is not in excess of \$25,000.

II. ECONOMIC IMPACT AND FISCAL NOTE:

A. Public:

None

B. Government:

None

III. COMMENTS:

The change sought to be effected is not apparent from the language of the bill. Currently, professional services for projects over \$120,000, and fees for study activities over \$6,000, must be negotiated. Agencies may retain professional firms pursuant to continuing contracts for work of a specified nature, which must also be negotiated. It is not clear whether services for individual projects over the threshold amounts for requiring negotiated contracts may be rendered by a firm already retained on a continuing contract.

Because of the use of the disjunctive "or" in the amending language, the new language would create an additional category of continuing contract, to wit, "projects in which constructions costs do not exceed \$500,000, or for study activity when the fee for such professional service does not exceed \$25,000." Rather than limiting the use of continuing contracts, this additional language may provide an alternative to the provisions of existing law requiring bidding for services on individual projects when the project or fee amount exceeds the threshold amounts indicated above.

IV. AMENDMENTS:

None

**GENERAL ACTS
RESOLUTIONS AND MEMORIALS
ADOPTED BY THE
TENTH LEGISLATURE OF FLORIDA
UNDER THE CONSTITUTION
AS REVISED IN 1968**

**During the Regular Session
April 5, 1988 through June 7, 1988
and Special Sessions
September 21 - October 8, 1987; October 12 - 14, 1987;
December 8 - 10, 1987; February 2 - 4, 1988; and
June 8, 1988**



Volume I, Part One

Published by Authority of Law

Under Direction of the

**JOINT LEGISLATIVE MANAGEMENT
COMMITTEE**

TALLAHASSEE

1988

Approved by the Governor June 16, 1988.

Filed in Office Secretary of State June 16, 1988.

CHAPTER 88-108

House Bill No. 270

An act relating to the Consultants' Competitive Negotiation Act; amending s. 287.055, F.S., modifying the definition of "continuing contract"; specifying time during which proposals for compensation are to be requested, accepted, and considered; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Paragraph (g) of subsection (2) and paragraph (b) of subsection (4) of section 287.055, Florida Statutes, are amended to read:

287.055 Acquisition of professional architectural, engineering, landscape architectural, or land-surveying services; definitions; procedures; contingent fees prohibited; penalties.--

(2) DEFINITIONS.--For purposes of this section:

(g) A "continuing contract" is a contract for professional services entered into in accordance with all the procedures of this act between an agency and a firm whereby the firm provides professional services to the agency for projects in which construction costs do not exceed \$500,000, or for study activity when the fee for such professional service does not exceed \$25,000, or for work of a specified nature as outlined in the contract required by the agency, with no time limitation except that the contract shall provide a termination clause.

(4) COMPETITIVE SELECTION.--

(b) The agency shall select, in order of preference, no fewer than three firms deemed to be the most highly qualified to perform the required services. In determining whether a firm is qualified, the agency shall consider such factors as the ability of professional personnel; whether a firm is a certified minority business enterprise; past performance; willingness to meet time and budget requirements; location; recent, current, and projected workloads of the firms; and the volume of work previously awarded to each firm by the agency, with the object of effecting an equitable distribution of contracts among qualified firms, provided such distribution does not violate the principle of selection of the most highly qualified firms. The agency may request, accept, and consider proposals for the compensation to be paid under the contract only during competitive negotiations under subsection (5).

Section 2. This act shall take effect July 1, 1988, or upon becoming a law, whichever occurs later.

Approved by the Governor June 16, 1988.

Filed in Office Secretary of State June 16, 1988.

CHAPTER 88-109

Committee Substitute for House Bill No. 400

An act relating to the Florida Adoption Act; amending s. 63.032, F.S., providing that the definition of "primary residence and place of employment in Florida" includes military personnel who designate Florida as their place of residence; amending s. 63.085, F.S.; requiring the intermediary to take certain action when he represents both sides in an adoption proceeding; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (12) of section 63.032, Florida Statutes, is amended to read:

63.032 Definitions.--As used in this act, unless the context otherwise requires, the term:

(12) "Primary residence and place of employment in Florida" means a person lives and works in this state at least 6 months of the year and intends to do so for the foreseeable future or military personnel who designate Florida as their place of residence in accordance with the Soldiers' & Sailors' Civil Relief Act of 1940.

Section 2. Paragraph (e) is added to subsection (1) of section 63.085, Florida Statutes, to read:

63.085 Disclosure by intermediary.--

(1) An intermediary shall disclose the following circumstances to a person or persons who are seeking to adopt a child being placed for adoption by the intermediary:

(e) Written acknowledgement shall be provided by the intermediary, signed by the persons required to consent to adoption pursuant to s. 63.062, that the intermediary has informed them that he represents the adoptive parents and that regarding the natural parent or parents, he acts only as intermediary for placement of the child.

Section 3. This act shall take effect October 1, 1988.

Approved by the Governor June 16, 1988.

Filed in Office Secretary of State June 16, 1988.

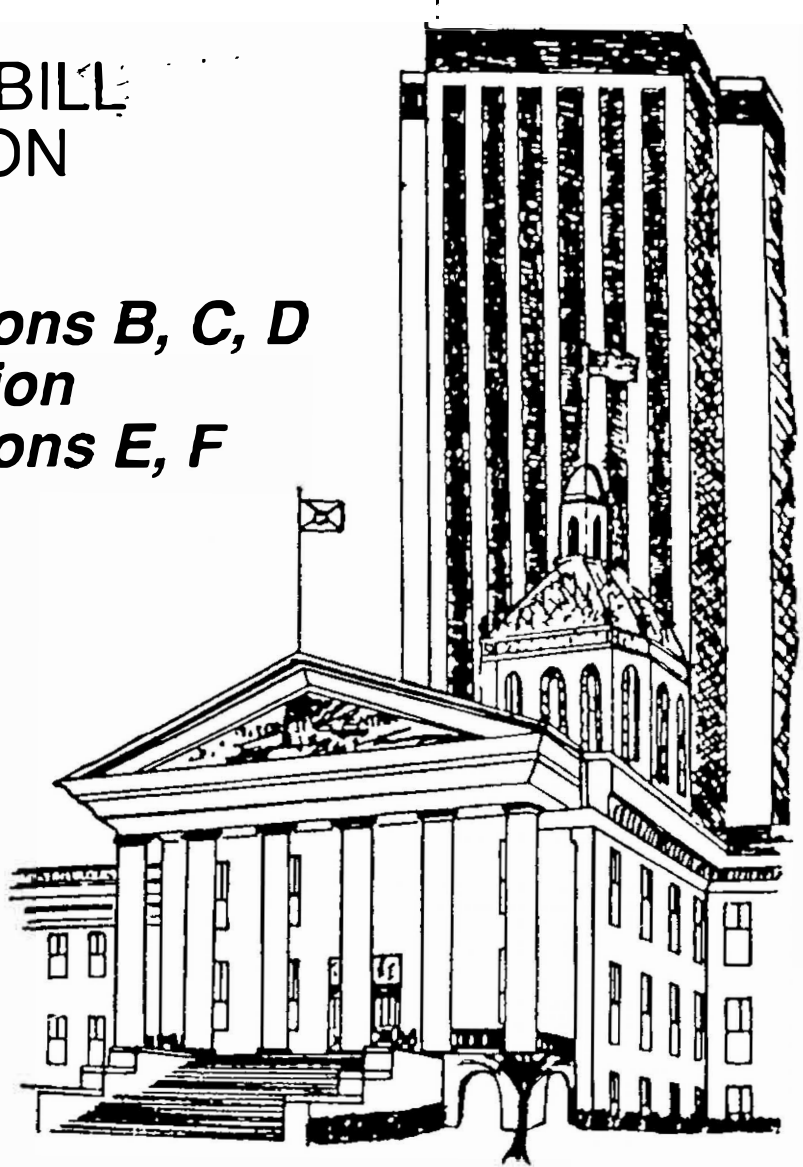
CHAPTER 88-110

House Bill No. 426

FLORIDA LEG

FINAL LEGISLATIVE BILL INFORMATION

***1987 Special Sessions B, C, D
1988 Regular Session
1988 Special Sessions E, F***



prepared by:

Joint Legislative Management Committee
Legislative Information Division
Capitol Building, Room 826 — 488-4371

FLORIDA LEGISLATURE—REGULAR SESSION—1988

HISTORY OF HOUSE BILLS

H 264 (CONTINUED)

04/22/88 HOUSE On Committee agenda—Health Care, 04/26/88, 1 15 pm, 317C—For ratification of subreferral
06/07/88 HOUSE Died in Committee on Health Care

H 265 GENERAL BILL by Souto (Identical S 650, Compare CS/CS/ENG/S 1192)

Beverage Packaging/Photodegradable, requires manufacturers or retailers selling any product using beverage packaging to use beverage packaging which is photodegradable, provides penalty Effective Date 10/01/88

02/04/88 HOUSE Prefiled
02/11/88 HOUSE Referred to Commerce, Appropriations
03/15/88 HOUSE Subreferred to Subcommittee on General Commerce
04/05/88 HOUSE Introduced, referred to Commerce; Appropriations—HJ 29, Subreferred to Subcommittee on General Commerce
04/12/88 HOUSE On subcommittee agenda—Commerce, 04/14/88, 3 30 pm, 24—HOB—Temporarily passed
04/14/88 HOUSE On Committee agenda Commerce, 04/18/88, 1 15 pm, 317C—For ratification of subreferral
06/07/88 HOUSE Died in Committee on Commerce, Iden /Sim /Compare bill passed, refer to CS/CS/SB 1192 (Ch 88-130)

H 266 GENERAL BILL/CS by Natural Resources; Souto; Logan and others (Similar S 555)

Litter Law/Additional Penalty, provides additional penalty for violations of Florida Litter Law Amends 403 413 Effective Date 10/01/88

02/04/88 HOUSE Prefiled
02/11/88 HOUSE Referred to Natural Resources, Appropriations
04/05/88 HOUSE Introduced, referred to Natural Resources, Appropriations—HJ 29, On subcommittee agenda—Natural Resources, 04/05/88, 3 30 pm, Morris Hall, Subcommittee Recommendation pending ratification by full Committee Favorable, On Committee agenda, pending subcommittee action—Natural Resources, 04/06/88, 2 30 pm, Morris Hall
04/06/88 HOUSE Preliminary Committee Action by Natural Resources Favorable as a Committee Substitute
04/12/88 HOUSE Comm Report. CS by Natural Resources—HJ 135, CS read first time—HJ 133, Now in Appropriations—HJ 135
05/03/88 HOUSE Withdrawn from Appropriations—HJ 314, Placed on Calendar
05/10/88 HOUSE Placed on Special Order Calendar
05/16/88 HOUSE Read second time—HJ 486
05/17/88 HOUSE Read third time, CS passed, YEAS 114 NAYS 0—HJ 510; Immediately certified—HJ 510
05/17/88 SENATE In Messages
05/18/88 SENATE Received, referred to Judiciary—Criminal—SJ 314, Withdrawn from Judiciary—Criminal, Substituted for SB 555—SJ 345, CS passed, YEAS 35 NAYS 0—SJ 346
05/19/88 Ordered enrolled
05/26/88 Signed by Officers and presented to Governor—HJ 817
06/02/88 Approved by Governor, Chapter No 88-79—HJ 1283

H 267 GENERAL BILL by Titone (Similar S 300, Compare CS/H 291)

Mobile Home Act/Revision, redefines terms "mobile home" & "mobile home park", provides additional duties of Land Sales, Condominiums, & Mobile Homes Division, requires park owners to provide certain documents to each prospective lessee of unoccupied lot, requires prospective lessees & mobile home owners to sign receipts acknowledging receipt of certain documents, reduces minimum number of days required for notice of rental increases, etc. Amends Ch 723. Effective Date 07/01/88 or upon becoming law, whichever occurs later

02/04/88 HOUSE Prefiled
02/11/88 HOUSE Referred to Judiciary, Finance & Taxation, Appropriations
04/05/88 HOUSE Introduced, referred to Judiciary; Finance & Taxation, Appropriations—HJ 30
04/12/88 HOUSE Subreferred to Subcommittee on Real Property and Family Law, On Committee agenda—Judiciary, 04/14/88, 3 30 pm, 214C—For ratification of subreferral
06/07/88 HOUSE Died in Committee on Judiciary

H 268 GENERAL BILL by Titone (Similar S 257)

Mobile Home Eviction revises notice requirements, revises methods of determining purchase price of mobile home, provides for calculation of market value portion of purchase price, establishes restriction against changes in land use, creates exceptions to that restriction, provides applicability, etc. Amends 723 061. Effective Date: 07/01/88

02/04/88 HOUSE Prefiled
02/11/88 HOUSE Referred to Judiciary, Finance & Taxation, Appropriations
04/05/88 HOUSE Introduced, referred to Judiciary, Finance & Taxation, Appropriations—HJ 30
04/12/88 HOUSE Subreferred to Subcommittee on Real Property and Family Law, On Committee agenda—Judiciary, 04/14/88, 3 30 pm, 214C—For ratification of subreferral
06/07/88 HOUSE Died in Committee on Judiciary

H 269 GENERAL BILL by Tobiassen; Holland (Similar ENG/S 647)

Relief/Thomas W. Hicks, provides appropriation to compensate him for personal injuries he sustained as result of collision between his vehicle & vehicle owned

(PAGE NUMBERS REFLECT DAILY SENATE AND HOUSE JOURNALS AND NOT FINAL BOUND JOURNALS)

H 269 (CONTINUED)

by D O T & operated by a department employee. Claim with Appropriation: \$468,000 Effective Date Upon becoming law
02/04/88 HOUSE Prefiled
02/11/88 HOUSE Referred to Select Committee on Claims
04/05/88 HOUSE Introduced, referred to Select Committee on Claims—HJ 30
06/07/88 HOUSE Died in Committee on Select Committee on Claims, Iden./, Sim /Compare bill passed, refer to SB 647 (Ch. 88-431)

H 270 GENERAL BILL/ENG by Gardner

Consultants' Competitive Negotiation modifies definition of "continuing contract", specifies time during which proposals for compensation are to be requested, accepted, & considered. Amends 287 055 Effective Date 07/01/88.

02/04/88 HOUSE Prefiled
02/11/88 HOUSE Referred to Commerce
03/15/88 HOUSE Subreferred to Subcommittee on General Commerce
04/05/88 HOUSE Introduced, referred to Commerce—HJ 30; Subreferred to Subcommittee on General Commerce, On subcommittee agenda—Commerce, 04/06/88, 8:30 am, 317C
04/06/88 HOUSE Subcommittee Recommendation pending ratification by full Committee Favorable with 1 amendment
04/14/88 HOUSE On Committee agenda—Commerce, 04/18/88, 1 15 pm, 317C—For ratification of subreferral; On Committee agenda—Commerce, 04/18/88, 1:15 pm, 317C
04/18/88 HOUSE Preliminary Committee Action by Commerce: Favorable
04/20/88 HOUSE Comm Report: Favorable by Commerce, placed on Calendar—HJ 229
04/21/88 HOUSE Placed on Special Order Calendar; Read second time—HJ 223
04/25/88 HOUSE Read third time, Passed, YEAS 112 NAYS 1—HJ 239
04/26/88 SENATE In Messages
05/03/88 SENATE Received, referred to Governmental Operations—SJ 220
05/13/88 SENATE Extension of time granted Committee Governmental Operations
05/19/88 SENATE On Committee agenda—Governmental Operations, 05/23/88, 2 00 pm, Room—H
05/23/88 SENATE Comm Report. Favorable by Governmental Operations, placed on Calendar—SJ 366
05/26/88 SENATE Placed on Special Order Calendar—SJ 426, Passed as amended, YEAS 35 NAYS 0—SJ 433, Immediately certified—SJ 433
05/26/88 HOUSE In Messages, Concurred—HJ 815, Passed as amended, YEAS 111 NAYS 0—HJ 816
05/26/88 Ordered engrossed, then enrolled
06/02/88 Signed by Officers and presented to Governor—HJ 1281
06/16/88 Approved by Governor; Chapter No 88-108

H 271 GENERAL BILL by Mackey; Mitchell; Martin and others

Water Management Districts/Lobbying, prohibits expenditure of district funds for lobbying by persons who are not full-time, salaried employees of districts, provides exceptions Amends 373 103 Effective Date 10/01/88.

02/04/88 HOUSE Prefiled
02/11/88 HOUSE Referred to Natural Resources, Appropriations
04/05/88 HOUSE Introduced, referred to Natural Resources, Appropriations—HJ 30, On Committee agenda—Natural Resources, 04/06/88, 2 30 pm, Morris Hall—For ratification of subreferral
04/07/88 HOUSE Subreferred to Subcommittee II
06/07/88 HOUSE Died in Committee on Natural Resources

H 272 GENERAL BILL/CS by Regulatory Reform; Tobiassen; Gordon; Grindle and others (Similar CS/S 913)

Electrologist Practice Act, creates said act, creates Electrolysis Council under Board of Medicine in Professional Reg. Dept., requires licensure of electrologists & provides civil penalty, provides for temporary permits & temporary licenses, authorizes disciplinary actions against licensees, provides for approval of schools of electrology, curriculum, licensure of instructors, provides for infection control; provides for review & repeal, etc Effective Date 10/01/88

02/04/88 HOUSE Prefiled
02/11/88 HOUSE Referred to Regulatory Reform; Finance & Taxation; Appropriations
04/05/88 HOUSE Introduced, referred to Regulatory Reform, Finance & Taxation, Appropriations—HJ 30
04/14/88 HOUSE Subreferred to Subcommittee on Business Regulation, On subcommittee agenda—Regulatory Reform, 04/18/88, 1 15 pm, 217—HOB
04/18/88 HOUSE Subcommittee Recommendation pending ratification by full Committee Favorable, On Committee agenda—Regulatory Reform, 04/20/88, 10:30 am, Morris Hall—Temporarily passed
04/25/88 HOUSE On Committee agenda—Regulatory Reform, 04/27/88, 9 00 am, Morris Hall
04/27/88 HOUSE Preliminary Committee Action by Regulatory Reform: Favorable as a Committee Substitute

(CONTINUED ON NEXT PAGE)

Journal
of the
S E N A T E
State of Florida

TWENTIETH REGULAR SESSION
UNDER THE CONSTITUTION AS REVISED IN 1968
APRIL 5 THROUGH JUNE 7, 1988



ARTICLE VII
FINANCE AND TAXATION

SECTION 17. Bonds for acquiring transportation right-of-way or for constructing bridges.—

(a) When authorized by law, state bonds pledging the full faith and credit of the state may be issued, without a vote of the electors, to finance or refinance the cost of acquiring real property or the rights to real property for state transportation facilities or for state transportation corridors, or to finance or refinance the cost of state bridge construction, and purposes incidental to such property acquisition

(b) Bonds issued under this section shall be secured by a pledge of and shall be payable primarily from toll revenues, motor fuel and special fuel taxes, or motor vehicle license taxes, as provided by law and shall additionally be secured by the full faith and credit of the state

(c) Bonds may not be issued under this section unless a state fiscal agency created by law has made a determination that in no state fiscal year will the debt service requirements of the bonds proposed to be issued and all other bonds secured by the same pledged revenues exceed ninety percent of the pledged revenues available for payment of such debt service requirements, as defined by law For the purposes of this subsection, the term "pledged revenues" means all revenues pledged to the payment of debt service, excluding any pledge of the full faith and credit of the state

BE IT FURTHER RESOLVED that the following statement be placed on the ballot

CONSTITUTIONAL AMENDMENT
ARTICLE VII, SECTION 17

BONDS FOR ACQUISITION OF TRANSPORTATION LAND AND PROPERTY —Proposing an amendment to the State Constitution, effective upon adoption, to authorize the Legislature to provide for issuance by the state, without a vote of the electors, of bonds pledging the full faith and credit of the state, the proceeds of which are to be used to finance or refinance the cost of acquiring real property for transportation facilities or corridors or for constructing bridges

—was read the second time in full On motion by Senator Brown, by two-thirds vote CS for CS for SJR 391 was read the third time by title, passed by the required constitutional three-fifths vote of the membership and was certified to the House The vote on passage was

Yeas—36

Mr. President	Girardeau	Johnson	Plummer
Barron	Gordon	Langley	Ros-Lehtinen
Beard	Grant	Lehtinen	Scott
Brown	Grizzle	Malchon	Stuart
Childers, D.	Hair	Margolis	Thomas
Childers, W D.	Hill	McPherson	Thurman
Deratany	Hollingsworth	Meek	Weinstein
Dudley	Jenne	Myers	Weinstock
Frank	Jennings	Peterson	Woodson

Nays—None

Vote after roll call:

Yea—Crawford, Crenshaw, Kirkpatrick

HB 270—A bill to be entitled An act relating to the Consultants' Competitive Negotiation Act, amending s. 287.055, F.S., modifying the definition of "continuing contract", providing an effective date.

—was read the second time by title.

Senator W D Childers moved the following amendments which were adopted:

Amendment 1—On page 1, strike all of lines 9-25 and insert.

Section 1. Paragraph (g) of subsection (2) and paragraph (b) of subsection (4) of section 287.055, Florida Statutes, are amended to read.

287.055 Acquisition of professional architectural, engineering, landscape architectural, or land-surveying services, definitions, procedures; contingent fees prohibited; penalties.—

(2) DEFINITIONS —For purposes of this section

(g) A "continuing contract" is a contract for professional services entered into in accordance with all the procedures of this act between an agency and a firm whereby the firm provides professional services to the agency for projects in which construction costs do not exceed \$500,000, or for study activity when the fee for such professional service does not exceed \$25,000, or for work of a specified nature as outlined in the contract required by the agency, with no time limitation except that the contract shall provide a termination clause.

(4) COMPETITIVE SELECTION —

(b) The agency shall select, in order of preference, no fewer than three firms deemed to be the most highly qualified to perform the required services. In determining whether a firm is qualified, the agency shall consider such factors as the ability of professional personnel; whether a firm is a certified minority business enterprise; past performance, willingness to meet time and budget requirements; location; recent, current, and projected workloads of the firms, and the volume of work previously awarded to each firm by the agency, with the object of effecting an equitable distribution of contracts among qualified firms, provided such distribution does not violate the principle of selection of the most highly qualified firms. The agency may request, accept, and consider proposals for the compensation to be paid under the contract only during competitive negotiations under subsection (5)

Amendment 2—In title, on page 1, line 5, after the semicolon (;) insert specifying time during which proposals for compensation are to be requested, accepted, and considered,

On motion by Senator Barron, by two-thirds vote HB 270 as amended was read the third time by title, passed and certified to the House. The vote on passage was

Yeas—35

Mr President	Frank	Jennings	Plummer
Barron	Girardeau	Johnson	Ros-Lehtinen
Beard	Gordon	Langley	Scott
Brown	Grant	Lehtinen	Stuart
Childers, D	Grizzle	Malchon	Thomas
Childers, W D	Hair	Margolis	Thurman
Crenshaw	Hill	McPherson	Weinstein
Deratany	Hollingsworth	Meek	Woodson
Dudley	Jenne	Peterson	

Nays—None

Vote after roll call

Yea—Crawford, Kirkpatrick

On motion by Senator Barron, the rules were waived and HB 270 was ordered immediately certified to the House

On motion by Senator Barron, by unanimous consent—

CS for CS for SB 38—A bill to be entitled An act relating to mobile homes and recreational vehicles; amending s. 320.01, F.S., redefining the term "park trailer" with respect to the definition of "motor vehicle", amending s. 320.77, F.S., redefining the term "mobile home or recreational vehicle broker" with respect to licensing such persons, amending s. 320.822, F.S., redefining the term "code" to conform to a name change of a model code and redefining the term "mobile home dealer" to include persons who buy, sell, or deal in one or more mobile homes or recreational vehicles in a 12-month period, amending s. 320.834, F.S.; redefining legislative purpose with respect to mobile home code requirements, mobile home warranties, and resolution of consumer complaints, amending s. 418.304, F.S., revising criteria with respect to the power of a mobile home park recreation district to enter into certain contracts; reviving and re-adopting ss. 320.77-320.866, F.S., notwithstanding repeal scheduled pursuant to the Regulatory Sunset Act and providing for future review and repeal of said sections; providing an effective date

—was taken up out of order with pending Amendment 1A.

By permission, Amendment 1A was withdrawn.

Amendment 1 was adopted

Senator Margolis moved the following amendment which was adopted:

Amendment 2—In title, on page 1, strike all of lines 1-26 and insert A bill to be entitled An act relating to mobile homes and recre-

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

<u>ANALYST</u>	<u>STAFF DIRECTOR</u>	<u>REFERENCE</u>	<u>ACTION</u>
1. <u>Kane <i>AK</i></u>	<u>Stenple <i>JS</i></u>	1. <u>GO</u>	<u>Favorable</u>
2. _____	_____	2. _____	_____
3. _____	_____	3. _____	_____
4. _____	_____	4. _____	_____

SUBJECT:

Consultants' Competitive
Negotiation Act

BILL NO. AND SPONSOR:

HB 270 by
Representative Gardner

I. SUMMARY:

A. Present Situation:

The "Consultants' Competitive Negotiation Act", s. 287.055, F.S., specifies an alternative to competitive bidding for agency procurement of certain professional services relating to construction for those within the scope of practice of architecture, professional engineering, landscape architecture, and registered landscape surveying. For projects over \$120,000, and fees for planning services over \$6,000, agencies are required to obtain the specified professional services through a competitive negotiation procedure. According to the Department of General Services, this method provides for a professional relationship, rather than for a contractor relationship, between the firm and the agency.

For projects or study activities which meet the threshold costs, agencies are to give public notice of their requirements for professional services. As well, agencies are also required to maintain updated information on firms available to perform professional services. For a particular project or study activity, an agency must first determine which firms or persons are qualified, must evaluate those firms, and then must conduct discussions with no less than three firms regarding their qualifications for the project. The agency must select at least three firms deemed to be the most highly qualified, and then negotiate with one firm at a time in order of rank until an agreement is reached.

The law also provides for procurement of professional services for "work of a specified nature", with no time limitation, through a mechanism that is termed a "continuing contract." A continuing contract must also be procured through the competitive negotiation procedure. This provision enables an agency to obtain ongoing consulting services for general advice on a number of matters, over time, without having to go through a selection process in each instance.

It is not clear from the language of the statute, however, that once retained for work of a specified nature, a firm may not be assigned all work of that nature for a series of projects, which would otherwise have to be separately competitively negotiated because of the amount of costs involved. In this way, an agency may be able to use the continuing contract to avoid going through a selection process for services for individual construction projects.

B. Effect of Proposed Changes:

The definition of "continuing contract" would be amended to provide that a continuing contract may also be a contract for professional services in which a firm provides professional services to the agency for projects in which construction costs

are not in excess of \$500,000, or study activity when the fee for such professional service is not in excess of \$25,000.

II. ECONOMIC IMPACT AND FISCAL NOTE:

A. Public:

None

B. Government:

None

III. COMMENTS:

The change sought to be effected is not apparent from the language of the bill. Currently, professional services for projects over \$120,000, and fees for study activities over \$6,000, must be negotiated. Agencies may retain professional firms pursuant to continuing contracts for work of a specified nature, which must also be negotiated. It is not clear whether services for individual projects over the threshold amounts for requiring negotiated contracts may be rendered by a firm already retained on a continuing contract.

Because of the use of the disjunctive "or" in the amending language, the new language would create an additional category of continuing contract, to wit, "projects in which constructions costs do not exceed \$500,000, or for study activity when the fee for such professional service does not exceed \$25,000." Rather than limiting the use of continuing contracts, this additional language may provide an alternative to the provisions of existing law requiring bidding for services on individual projects when the project or fee amount exceeds the threshold amounts indicated above.

IV. AMENDMENTS:

None