GOVERNOR'S OFFICE OF BUDGET AND PROGRAM PLANNING

Fiscal Note 2027 Biennium

Bill#/Title: **HB0875.01: Revise requirements for public works contracts**

Primary Sponsor: Jerry Schillinger Status: As Introduced

☐ Included in the Executive Budget ☐ Needs to be included in HB 2 ☐ Significant Local Gov Impact

☐ Significant Long-Term Impacts ☒ Technical Concerns ☐ Dedicated Revenue Form Attached

FISCAL SUMMARY

	FY 2026 Difference	FY 2027 Difference	FY 2028 Difference	FY 2029 Difference
Expenditures				
General Fund (01)	$250	$250	$0	$0
Revenues				
General Fund (01)	$0	$0	$0	$0
Net Impact	($250)	($250)	$0	$0
General Fund Balance				

Description of fiscal impact

HB 875 seeks to modify the preference requirements in 18-1-102, MCA, to be awarded a construction contract. This bill will also require a state agency to terminate an existing construction contract under certain conditions.

FISCAL ANALYSIS

Assumptions

Department of Administration

1. An appropriation of $500 for the 2027 biennium is given to the Department of Administration to be used for updating educational materials to distribute to the public related to the changes outlined in the bill. It is assumed this appropriation will be split between FY 2026 and FY 2027.

Fiscal Analysis Table

Department of Administration

	FY 2026 Difference	FY 2027 Difference	FY 2028 Difference	FY 2029 Difference
Fiscal Impact				
Expenditures				
Operating Expenses	$250	$250	$0	$0
TOTAL Expenditures	**$250**	**$250**	**$0**	**$0**
Funding of Expenditures				
General Fund (01)	$250	$250	$0	$0
TOTAL Funding of Expenditures	**$250**	**$250**	**$0**	**$0**

Revenues

Net Impact to Fund Balance (Revenue minus Funding of Expenditures)

General Fund (01)	($250)	($250)	$0	$0

Technical Concerns

1. The language in the bill is incoherent as to its applicability.
2. Page 1, line 17 provides an exception to the resident bidder preference over a non-resident bidder from any state or country that enforces a preference for resident bidders. This is commonly referred to as a reciprocal preference for which the bill, as written, will provide an exception.
3. The unintelligible portion is on page 2, line 1, where a resident bidder is allowed a preference unless ("except") when the lowest bidder has met the three negative conditions in (3)(a) through (3)(c). This "except" in page 2, line 1, is contradictory and provides for cancellation of the preference so long as the lowest bidder is a non-performer. In other words, a resident bidder is allowed a preference UNLESS the lowest bidder has met the three negative conditions in (3)(a) through (3)(c), in which case the contract has to remain with the lowest bidder. This also conflicts with the contract award cancellation allowance in subsection (4).
4. Essentially, the effect of new subsection (3) will be to disallow giving a preference to a resident bidder in the event of having an irresponsible lowest bidder.
5. It is unclear as to whether or not the "lowest bidder" referred to in page 2, line 2, is a resident or non-resident bidder.
6. New subsection (3) will now provide a resident bidder preference of the lowest bidder in the event that any lowest bidder has not met any of three conditions:
   a. Page 2, line 3, has not performed on a prior contract
   b. Page 2, line 4, has requested more than two extensions on a contract
   c. Page 2, line 5, has failed to perform warranty work on a prior contract
7. New subsection (4) may cancel contracts awarded to the lowest bidder and given to the second lowest bidder, which could result in added costs and delays.

Sponsor's Initials	Date	Budget Director's Initials	Date
	3-31-25		3/31/2025