

of which he shall be the administrator. Any violation of this act shall be deemed a misdemeanor and punishable by a fine of not less than \$100.00.

§ 2. EMERGENCY.] Whereas, an emergency exists, therefore this act shall take effect and be in force from and after its passage and approval.

Approved March 6, 1911.

PUBLIC BUILDINGS

CHAPTER 235.

[H. B. No. 124—Price]

CONSTRUCTION OF PUBLIC BUILDINGS.

AN ACT Relating to the Construction of Public Buildings, Prescribing the Duties of Boards of Trustees Thereof in the Matter of Securing Plans and Specifications, Advertising for Bids, Letting Contracts, Allowance and Payment of Estimates, Payment of Premiums on Contractor's Bonds, and Insurance on Unfinished Buildings and Material on the Ground, and Protecting Architects, Contractors, Manufacturers and Producers Resident Within the State of North Dakota.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. BUILDING AND REPAIR BY CONTRACT.] In altering, repairing or constructing buildings belonging or appertaining to any of the public institutions of the state, or in doing any work thereon amounting to more than one thousand dollars, the board of trustees thereof shall procure all necessary plans, drawings and specifications thereof, and in all cases where expedient, such plans, drawings and specifications shall be procured from an architect or architects maintaining offices and residing and doing business within the state of North Dakota.

§ 2. ADVERTISING FOR BIDS.] Said board shall advertise for bids for the doing of such work for which such plans, drawings and specifications are required; such advertisement shall be for three successive weeks, the first publication thereof being twenty-one days prior to the date of the opening of the bid; such advertisement shall be published in some established newspaper of general circulation qualified to publish legal notices, and which is printed and published in the city or town where such public institution is located, and also in some trade publication of general circulation, among the contractors and building material manufacturers and dealers of this state.

Said advertisement shall state:

1. When and where the plans, drawings and specifications therefor may be seen and examined.

2. The place where, and the day and hour when the bids will be opened.

3. Must reserve the rights of the board to reject any and all bids and,

4. Shall require a certified check on some solvent bank within the state of North Dakota, for not less than five per cent of the amount of the bid to accompany the same, as guaranty that the bidder, will enter into the contract, if his bid be accepted.

§ 3. PLANS AND SPECIFICATIONS, FILED WHERE.] Copies of all plans, drawings and specifications required by this act, shall be filed in the office of the secretary of local board of trustees, where institution is located in the office of each and every builders and traders exchange maintaining an office in the state of North Dakota, organized for at least one year prior to date thereof, and such other places as may be designated by the board of trustees, immediately following the first publication of said advertisement for bids.

§ 4. OPENING BIDS. AWARD OF CONTRACT AND BOND REQUIRED.] At the time and place specified in said notice, the board shall publicly open and read aloud the bids received and may award the contract to the lowest bidder, and when deemed by said board to be for the best interests of the state, such contract shall be awarded to a contractor or contractors who are and have been established and continuously in business in the state of North Dakota for the period of not less than one year prior thereof. The board shall require of the contractor to whom the contract is awarded, a bond complying with the provisions of Ch. 80 of the Civil Code, according to the 1905 revision thereof.

The board has power to reject any and all bids and may advertise anew in accordance herewith until a satisfactory bid is received.

§ 5. ALLOWANCE AND PAYMENT OF ESTIMATES.] At least once during each calendar month during the continuance of work upon any public building, begun and carried on under the provisions of the preceding sections, the board of trustees of such institution, or a committee thereof duly authorized by the board for that purpose, shall meet to receive and allow estimates furnished by the supervising architect or the superintendent of construction of such building which estimate shall not be less than seventy per cent nor more than eighty-five per cent of the labor then performed upon such building and of the material then upon the ground for use in the construction thereof, said board or committee thereof shall immediately after accepting and allowing such estimates, certify and forward the same to the state auditor who shall forthwith draw his warrant upon the proper fund and transmit the same promptly to the contractor or con-

tractors entitled thereto; and in case said board or committee shall fail or neglect, to certify said estimate or said auditor shall neglect or fail to issue and forward said warrant as above provided, for a period of more than thirty days from the date of said estimate, then and in that event said estimate shall draw interest from its date at the rate of six per cent per annum until the issuance of the auditor's warrant therefor, which interest shall be computed and added to the face of said estimate by said auditor, included in the warrant when drawn and charged to the fund upon which said warrant is drawn; and no payment for or on account of any contract made under the provisions of this act shall be made except upon the estimate of the supervising architect or superintendent, as in this section provided.

§ 6. APPROPRIATIONS NOT TO BE DIVERTED.] No portion of any special appropriation for the erection of any building or for the doing of any work shall be drawn from the state treasury in advance of the work done or the materials furnished, and only upon proper estimates thereof approved by the trustees, and no portion of any appropriation, for any purpose, shall be drawn from the treasury before it shall be required for the purpose for which it was made, and no appropriation which is or may be made, for one purpose shall be drawn or used for any other purpose until the building for which the appropriation was made is fully completed and paid for.

§ 7. PAYMENT OF PREMIUM ON BONDS AND INSURANCE.] All bonds furnished by contractors, as hereinbefore required, shall be furnished by a bond or surety company organized in or authorized to transact business in this state, and the premium thereon shall be paid by the board; the board shall cause to be insured in some solvent company against loss or damage by fire and tornado, all unfinished buildings and material upon the ground, in an amount sufficient to protect the board and the contractor, and all premiums for such insurance shall be paid by the Board.

§ 8. MATERIALS PRODUCED IN STATE TO BE USED IN PUBLIC BUILDINGS.] All boards of trustees purchasing materials for use in making alterations, repairs or additions or in erecting new buildings, and all contractors making such alterations, repairs, or additions or erecting new buildings shall always, price, fitness, and quality being equal, prefer materials manufactured or produced within this state, and shall next prefer such as shall have been partially manufactured or produced in this state.

§ 9. SPECIFIED BRANDS, MARKS, NAMES OR PATENTED ARTICLES NOT TO BE SPECIFIED.] No board of trustees or officers or employee of any public institution in this state shall, when specifying for materials to be used in or about the work for which plans and specifications are called for as provided in Sec. 1, hereof, ask for bids for any article of a specified brand or name, the product of any manufacturer or any patented apparatus or appliances, when such requirement will prevent proper competi-

tion, unless such specifications shall also ask for bids on other similar articles of equal value, utility and merit.

§ 10. OFFICERS MUST NOT BE INTERESTED IN CONTRACT.] No board of trustees or any member thereof, or any employee or appointee of any of such boards shall be pecuniarily interested or concerned directly or indirectly, in any contract, either verbal or written, that may be entered into by any person or persons on behalf of the state for any purpose whatever connected with the business of such institution.

§ 11. ARCHITECTS AND SUPERINTENDENTS.] That the board of trustees of all public institutions in the state are hereby authorized to employ the architect furnishing the plans as hereinbefore provided, or some other suitable person who shall be a practical mechanic and builder, as superintendent of construction of the work for which the plans and specifications are called for as provided by section 1, hereof, who shall have personal charge and supervision of the contractor on the work under the direction of the architect and board of trustees, and whose duty it will be to see that such contractor performs his work in full compliance with the plans and specifications adopted by the board of trustees; that the architect, while acting as such superintendent, shall receive such compensation therefor as may be agreed upon by such architect and said board of trustees; and any other person, while acting as such superintendent, shall receive a reasonable compensation to be fixed by the board of trustees; provided that the duties imposed and powers conferred upon the board of trustees by this act shall apply to any other board hereafter created to have charge of such institution, in lieu of such board of trustees.

§ 12. REPEAL.] All acts or parts of acts in conflict with this act are hereby repealed.

Approved March 3, 1911.