

**Fifty-fifth Legislative Assembly, State of North Dakota, begun in the Capitol in the City of Bismarck, on Monday, the sixth day of January, one thousand nine hundred and ninety-seven**

SENATE BILL NO. 2379  
(Senators Robinson, Nalewaja, St. Aubyn)  
(Representatives Keiser, Poolman)

AN ACT to amend and reenact sections 18-12-04, 40-28-03, and 61-35-102 of the North Dakota Century Code, relating to construction supervision by engineers.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1. AMENDMENT.** Section 18-12-04 of the North Dakota Century Code is amended and reenacted as follows:

**18-12-04. Employment of registered architects and engineers.** All plans and specifications for construction, except agricultural sheds and barns, the monetary worth of which is ~~twenty-five one~~ hundred thousand dollars or more, must be prepared by and the construction administration and construction observation services supervised by architects or engineers registered in this state. The architect or engineer is legally responsible for designing the building in accordance with the provisions of this chapter of adequate strength so as to resist fire, and constructing the building in a workmanlike manner, according to the plans and specifications as approved. All projects where the tax money exceeds two thousand dollars must be submitted to the department of public instruction or the board of higher education for approval.

**SECTION 2. AMENDMENT.** Section 40-28-03 of the North Dakota Century Code is amended and reenacted as follows:

**40-28-03. Municipality may contract work when property owner fails to make service connections as required.** If the connection with the sewer, main, wire, or conduit is not made by the owner of the property within the time specified in the notice given by the city auditor, the governing body shall order such work done by such person as it may contract with therefor at the expense of the lot or parcel of land adjoining each improvement or service connection. Such work shall be ~~done~~ administered and observed under the supervision of the engineer acting for the municipality. The expense of making such connection, including the expense of giving all notices relating thereto, of making the assessments therefor, and of any other nature, shall be assessed by the engineer against the lot or parcel of land properly chargeable therewith, and the assessment list shall be filed in the office of the city auditor. The city auditor shall cause such list, together with a notice of the time when and place where the governing body will meet to consider the approval thereof, to be published in one issue of the official newspaper of the municipality at least ten days prior to the meeting of the governing body at which the approval of the assessment will be considered.

**SECTION 3. AMENDMENT.** Section 61-35-102 of the North Dakota Century Code is amended and reenacted as follows:

**61-35-102. Conditions and terms.** A contract let under this chapter requires the work to be done pursuant to the plans and specifications on file in the office of the district, subject to the approval of the engineer acting for the district, and must provide:

1. That the board has the right to suspend the work at any time for improper construction and to relet the contract or to order a reconstruction of the work as to any part improperly done.
2. The time within which the work must be completed.
3. The period of time for which the work must be guaranteed as to workmanship and materials.

4. The fund from which the contract price is to be paid by the district.
5. That the consideration expressed in the contract is payable only in bonds drawn on the fund described in the contract.
6. That the district assumes and incurs no general liability under the contract.
7. That failure of the engineer to reject work and materials that are not up to specifications and acceptance of the job by the engineer does not release the contractor from liability for any failure on the contractor's part to perform work or furnish materials in accordance with the plans and specifications.

The engineer acting for the district shall ~~supervise and inspect~~ provide construction administration and observation of the work during its progress. In addition to any rights a district may have under its contract for construction of part or all of an improvement after a contract has been awarded and before work under the contract has been completed, a district, with the consent of the contractor and without advertising for bids, may order additional work done by that contractor of the same character as the work that was contracted for, whether within or without the improvement district for which the original contract was made, and upon the same terms and conditions specified in the original contract except as to time of performance, and at the same prices for the additional work; provided, that the total price payable to the contractor for the additional work may not exceed twenty percent of the amount estimated by the engineer for the district to be payable for that character of work under the original contract.

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President of the Senate

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Speaker of the House

\_\_\_\_\_  
Secretary of the Senate

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Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Fifty-fifth Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2379.

Senate Vote:      Yeas    46          Nays    0          Absent    3

House Vote:      Yeas    91          Nays    0          Absent    6

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Secretary of the Senate

Received by the Governor at \_\_\_\_\_ M. on \_\_\_\_\_, 1997.

Approved at \_\_\_\_\_ M. on \_\_\_\_\_, 1997.

\_\_\_\_\_  
Governor

Filed in this office this \_\_\_\_\_ day of \_\_\_\_\_, 1997,

at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Secretary of State