

FIRST ENGROSSMENT
with Conference Committee Amendments
ENGROSSED HOUSE BILL NO. 1386

Introduced by

Representatives Wald, Carlson, Svedjan

Senator Tollefson

1 A BILL for an Act to amend and reenact sections 48-01.1-09, 54-44.7-01, and 54-44.7-02,
2 subsection 1 of section 54-44.7-03, and subsection 1 of section 54-44.7-04 of the North Dakota
3 Century Code, relating to construction management.

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

5 **SECTION 1. AMENDMENT.** Section 48-01.1-09 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **48-01.1-09. Use of construction manager.** If a governing body uses a construction
8 manager on a public improvement, the construction manager must be a licensed contractor. A
9 The construction manager awarded a the contract for construction of a public improvement
10 shall bond the entire cost of the project through a single bond, or through bonds supporting
11 provided by all bid packages and the construction manager's bond for the full amount of the
12 construction manager's services. If the total of the bonds is less than the total project bid, the
13 construction manager shall bond the difference between the total of the bonds and the total
14 project bid.

15 **SECTION 2. AMENDMENT.** Section 54-44.7-01 of the North Dakota Century Code is
16 amended and reenacted as follows:

17 **54-44.7-01. Definition.** "Architect, engineer, construction management, and land
18 surveying services" are those professional services associated with the practice of architecture,
19 professional engineering, professional land surveying, landscape architecture, ~~and~~ interior
20 design pertaining to construction, and construction management, as defined by the laws of this
21 state, as well as incidental services that members of these professions and those in their
22 employ may logically or justifiably perform, including studies, investigations, surveys,
23 evaluations, consultations, planning, programming, conceptual designs, plans and
24 specifications, cost estimates, inspections, construction management, shop drawing reviews,

sample recommendations, preparation of operating and maintenance manuals, and other related services, except for professional services related to prefabricated steel for bridge purposes.

SECTION 3. AMENDMENT. Section 54-44.7-02 of the North Dakota Century Code is amended and reenacted as follows:

54-44.7-02. Applicability - Policy. Architect, engineer, construction management, and land surveying services must be procured as provided in this chapter. It is the policy of this state that all North Dakota state agencies shall negotiate contracts for services on the basis of demonstrated competence and qualification for the particular type of services required.

SECTION 4. AMENDMENT. Subsection 1 of section 54-44.7-03 of the North Dakota Century Code is amended and reenacted as follows:

1. Each using agency shall establish its own architect, engineer, construction management, and land surveying services selection committee hereinafter referred to as the agency selection committee, which must be composed of those individuals whom the agency head determines to be qualified to make an informed decision as to the most competent and qualified firm for the proposed project. The head of the using agency or his qualified, responsible designee shall sit as a member of the agency selection committee for the purpose of coordinating and accounting for the committee's work.

SECTION 5. AMENDMENT. Subsection 1 of section 54-44.7-04 of the North Dakota Century Code is amended and reenacted as follows:

1. All state agencies securing architect, engineer, construction management, or land surveying services for projects for which the fees are estimated not to exceed ten thousand dollars may employ the architects, engineers, construction managers, and land surveyors by direct negotiation and selection, taking into account all of the following:
 - a. The nature of the project.
 - b. The proximity of the architect, engineer, construction management, or land surveying services to the project.
 - c. The capability of the architect, engineer, construction manager, or land surveyor to produce the required services within a reasonable time.

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- 1 d. Past performance.
- 2 e. Ability to meet project budget requirements.
- 3 This procedure shall still follow state policy set forth above.