

Fifty-fifth  
Legislative Assembly  
of North Dakota

## ENGROSSED HOUSE BILL NO. 1445

Introduced by

Representative Carlson

1 A BILL for an Act to create and enact a new section to chapter 48-01.1 of the North Dakota  
2 Century Code, relating to the use of a licensed architect or registered professional engineer as  
3 a construction manager for public improvement projects; and to amend and reenact section  
4 48-01.1-01 of the North Dakota Century Code, relating to definitions regarding public  
5 improvement contracts.

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

7 **SECTION 1. AMENDMENT.** Section 48-01.1-01 of the 1995 Supplement to the North  
8 Dakota Century Code is amended and reenacted as follows:

9 **48-01.1-01. Definitions.** In this chapter, unless the context otherwise requires:

- 10 1. "Construction" includes repair and alteration.
- 11 2. "Construction administration" means administrative services provided on behalf of  
12 the governing body, either by the governing body or a registered design  
13 professional, and includes providing clarifications, submittal review,  
14 recommendations for payment, preparation of change orders, and other  
15 administrative services included in the agreement with the registered design  
16 professional. The term does not include supervision of the construction activities  
17 for the construction contracts.
- 18 3. "Construction management" means the management and supervision of the  
19 construction of a public improvement, including the management and supervision  
20 of multiple prime contracts. The term does not include construction administration  
21 performed by a design professional under the terms of a professional services  
22 agreement with the governing body.

1           4. "Contractor" means any person, duly licensed, that undertakes or enters ~~into~~ a  
2           contract with a governing body ~~of~~ for the construction or construction management  
3           of any public improvement, including multiple prime contracts.

4       ~~3.~~ 5. "Governing body" means the governing officer or board of any state entity or of any  
5           political subdivision.

6       ~~4.~~ 6. "Public improvement" means any improvement the cost of which is payable from  
7           taxes or other funds under the control of a governing body including improvements  
8           for which special assessments are levied. The term does not include any county  
9           road construction and maintenance, state highway, or public service commission  
10          project governed by titles 11, 24, or 38.

11       ~~5.~~ 7. "Surety" means a bond or undertaking executed by a surety company authorized  
12          to do business in this state which is countersigned by an agent of that company.

13           **SECTION 2.** A new section to chapter 48-01.1 of the North Dakota Century Code is  
14   created and enacted as follows:

15           **Use of licensed architect or registered professional engineer as construction**  
16   **manager.** If a governing body uses a licensed architect or registered professional engineer as  
17   a construction manager on a public improvement, the licensed architect or registered  
18   professional engineer must be a licensed contractor. In selecting a construction manager, the  
19   governing body shall comply with the competitive bidding and bid bond requirements of this  
20   chapter. A construction manager awarded a contract for construction of a public improvement  
21   shall bond the entire cost of the project through a single bond, or through bonds supporting all  
22   bid packages and the construction manager's bond for the full amount of the construction  
23   manager's services.