

**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**

HOUSE BILL NO. 1445  
(Representative Carlson)

AN ACT to create and enact a new section to chapter 48-01.1 of the North Dakota Century Code, relating to the use of a construction manager for public improvement projects; and to amend and reenact section 48-01.1-01 of the North Dakota Century Code, relating to definitions regarding public improvement contracts.

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

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

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

1. "Construction" includes repair and alteration.
2. "Construction administration" means administrative services provided on behalf of the governing body, either by the governing body or a registered design professional, and includes providing clarifications, submittal review, recommendations for payment, preparation of change orders, and other administrative services included in the agreement with the registered design professional. The term does not include supervision of the construction activities for the construction contracts.
3. "Construction management" means the management and supervision of the construction of a public improvement, including the management and supervision of multiple prime contracts. The term does not include construction administration performed by a design professional under the terms of a professional services agreement with the governing body.
4. "Contractor" means any person, duly licensed, that undertakes or enters into a contract with a governing body for the construction or construction management of any public improvement, including multiple prime contracts.
- ~~3.~~ 5. "Governing body" means the governing officer or board of any state entity or of any political subdivision.
- ~~4.~~ 6. "Public improvement" means any improvement the cost of which is payable from taxes or other funds under the control of a governing body including improvements for which special assessments are levied. The term does not include any county road construction and maintenance, state highway, or public service commission project governed by titles 11, 24, or 38.
- ~~5.~~ 7. "Surety" means a bond or undertaking executed by a surety company authorized to do business in this state which is countersigned by an agent of that company.

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

**Use of construction manager.** If a governing body uses a construction manager on a public improvement, the construction manager must be a licensed contractor. A construction manager awarded a contract for construction of a public improvement shall bond the entire cost of the project through a single bond, or through bonds supporting all bid packages and the construction manager's bond for the full amount of the construction manager's services.

\_\_\_\_\_  
Speaker of the House

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President of the Senate

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Chief Clerk of the House

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Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Fifty-fifth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1445.

House Vote:      Yeas    76      Nays    18      Absent    3

Senate Vote:    Yeas    34      Nays    12      Absent    3

\_\_\_\_\_  
Chief Clerk of the House

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