

**HOUSE BILL NO. 1182**

Introduced by

Representatives Mooney, Kelsh, J. Nelson, M. Nelson, Owens

Senators Bowman, Sinner, Sorvaag

1 A BILL for an Act to amend and reenact sections 11-11-26, and 11-11-27, ~~11-11-29, 18-12-04,~~  
2 ~~24-05-04.2, 43-19.1-28, and 48-01.2-02.1~~ of the North Dakota Century Code, relating to bidding  
3 requirements for public purchases ~~and public improvements and plans and specifications for~~  
4 ~~public improvements~~; and to provide for a legislative management study.

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

6 **SECTION 1. AMENDMENT.** Section 11-11-26 of the North Dakota Century Code is  
7 amended and reenacted as follows:

8 **11-11-26. When board shall advertise for bids for fuel.**

9 ~~Except as provided in chapter 48-01.2, when the amount to be paid during the current year~~  
10 ~~for the erection of county buildings or for election ballots and supplies exceeds ten thousand~~  
11 ~~dollars, the board of county commissioners shall cause an advertisement for bids to be~~  
12 ~~published at least once each week for two successive weeks in the official newspaper of the~~  
13 ~~county and in such other newspapers as it shall deem advisable. The first publication shall be~~  
14 ~~made at least fifteen days before the day set for the opening of the bids. For the purchase of~~  
15 ~~fuel when the amount exceeds four thousand dollars, the board of county commissioners shall~~  
16 ~~seek bids either by telephone solicitation from at least two suppliers, or by an advertisement for~~  
17 ~~bids to be published at least once each week for two successive weeks in the official newspaper~~  
18 ~~of the county and in other newspapers as the board deems advisable.~~

19 **SECTION 2. AMENDMENT.** Section 11-11-27 of the North Dakota Century Code is  
20 amended and reenacted as follows:

21 **11-11-27. Contents of fuel bids advertisement - When bids may be opened - Lowest**  
22 **bidder accepted.**

23 The advertisement shall ~~must~~ state what supplies are amount type of fuel is required or where  
24 the plans and specifications may be examined, the time allowed for the completion of the

1 examination, and when the bids will be opened and passed upon by the board of county  
2 commissioners. The bids may be opened and passed upon at a regular or adjourned session of  
3 the board, or at a meeting called by the county auditor as provided in section 11-11-05. The bid  
4 of the lowest responsible bidder shall must be accepted, but the board shall have power to may  
5 reject any or all bids.

6 ~~— **SECTION 3. AMENDMENT.** Section 11-11-29 of the North Dakota Century Code is  
7 amended and reenacted as follows:~~

8 ~~— **11-11-29. Contract - Form - Contents - Majority vote necessary - When payment made.**~~

9 ~~— A contract shall may be entered into under the provisions of this chapter only after it has  
10 been approved by the vote of a majority of the members of the board of county commissioners.  
11 The contract shall must be made in writing and may be signed on behalf of the board by the  
12 chairman thereof of the board and the county seal affixed thereto to the contract. The contract  
13 shall provide that not more than seventy percent of the contract price shall be paid until the  
14 contract is executed and completed to the satisfaction and acceptance of the board of county  
15 commissioners, its architect, or authorized superintendent. Payment to the extent of seventy  
16 percent of the contract price may be made from time to time during the process of construction  
17 or as supplies are furnished, and may be divided into such installments as the board may agree  
18 upon.~~

19 ~~— **SECTION 4. AMENDMENT.** Section 18-12-04 of the North Dakota Century Code is  
20 amended and reenacted as follows:~~

21 ~~— **18-12-04. Employment of registered architects and engineers.**~~

22 ~~— All plans and specifications for construction, except agricultural sheds and barns, the  
23 monetary worth of which is one hundred thousand dollars or more exceeds the public  
24 improvement construction threshold for bidding under section 48-01.2-02.1, must be prepared  
25 by and the construction administration and construction observation services supervised by  
26 architects or engineers registered in this state. The architect or engineer is legally responsible  
27 for designing the building in accordance with the provisions of this chapter of adequate strength  
28 so as to resist fire, and constructing the building in a workmanlike manner, according to the  
29 plans and specifications as approved. School district projects are subject to the approval  
30 requirements of section 15.1-36-01 and projects involving institutions of higher education under~~

1 the control of the state board of higher education are subject to the approval requirements of  
2 chapter 15-10.

3 ~~— **SECTION 5. AMENDMENT.** Section 24-05-04.2 of the North Dakota Century Code is~~  
4 ~~amended and reenacted as follows:~~

5 ~~— **24-05-04.2. Contracts to be advertised – Road construction.**~~

6 ~~— A contract for highway improvement that exceeds one hundred thousand dollarsthe public~~  
7 ~~improvement construction threshold for bidding under section 48-01.2-02.1 must be advertised~~  
8 ~~as provided by sections 11-11-26 and 11-11-27at least once each week for two successive~~  
9 ~~weeks in the official newspaper of the county and in other publications as the board of county~~  
10 ~~commissioners deems advisable. For any contract for highway improvement which exceeds fifty~~  
11 ~~thousand dollars but does not exceed one hundred thousand dollarsthe public improvement~~  
12 ~~construction threshold for bidding under section 48-01.2-02.1, the county, when possible, shall~~  
13 ~~seek quotes from at least two contractors.~~

14 ~~— **SECTION 6. AMENDMENT.** Section 43-19.1-28 of the North Dakota Century Code is~~  
15 ~~amended and reenacted as follows:~~

16 ~~— **43-19.1-28. Public works.**~~

17 ~~— Except as otherwise provided by law, the state and its political subdivisions may not engage~~  
18 ~~in the construction of public works involving the practice of professional engineering when the~~  
19 ~~contemplated expenditure for the project exceeds the sum of one hundred thousand~~  
20 ~~dollarspublic improvement construction threshold for bidding under section 48-01.2-02.1, unless~~  
21 ~~the engineering drawings and specifications and estimates have been prepared by, and the~~  
22 ~~construction administration and construction observation services are executed under the~~  
23 ~~supervision of, a registered professional engineer. Any engineering contract executed in~~  
24 ~~violation of this section is void.~~

25 ~~— **SECTION 7. AMENDMENT.** Section 48-01.2-02.1 of the North Dakota Century Code is~~  
26 ~~amended and reenacted as follows:~~

27 ~~— **48-01.2-02.1. Public improvement construction threshold.**~~

28 ~~— The threshold for bidding construction of a public improvement is one hundred fifty~~  
29 ~~thousand dollars. The threshold for procuring plans, drawings, and specifications from an~~  
30 ~~architect or engineer for construction of a public improvement is one hundred fifty thousand~~  
31 ~~dollars.~~

1 | **SECTION 3. LEGISLATIVE MANAGEMENT STUDY.** During the 2015-16 interim, the  
2 legislative management shall consider studying public improvement issues relating to use of  
3 multiple bids versus single prime bids, bidding thresholds, design services thresholds, and  
4 indemnification. The legislative management shall report its findings and recommendations,  
5 together with any legislation required to implement the recommendations, to the sixty-fifth  
6 legislative assembly.