

House Government & Veterans Affairs
Chairman – Representative Austen Schauer
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Testimony of:

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In Opposition to Senate Bill 2347

Why is procuring services from a registered design professional a good idea for public projects?

First, it encourages a level playing field for bidders and contractors. Design professionals like architects or engineers will design a project through the use of plans or drawings and a set of specifications, which typically includes bidding documents for interested contractors to use. When a set of specifications is developed by a design professional, it sets a standard for the products which are allowed to be used, performance requirements, maintenance requirements, warranty requirements, etc. It levels the playing field because all contractors are bidding the same project with the same set of requirements, and the project and its requirements have been thought out by a design professional who is designing a project for the public.

Without a set of plans and specifications, the contractor has the latitude to pick and choose the products and their associated performance. And as you might expect, using a cheaper product as a basis for bidding gives a contractor an advantage. But is cheaper always better? Is cheaper always in the public interest? I think we all would agree that cheaper is in the public interest with all other things being equal. But without a clear set of plans and specifications which lays out the requirements for a project, the playing field will not be level, and there will be incentive to use products with a lower capital cost that may have reduced performance, poor efficiency, or higher operational and maintenance costs.

Secondly, and most importantly, using licensed design professionals assists in ensuring public safety, regardless of the project size or cost. I dislike the threshold laws of our State because they unfortunately trade agency procurement agility with public safety. I don't believe the intent was ever to compromise public safety, but that is an unintended consequence of these types of bills. I'll give you a real example from my own work.

Several years ago, I was working in a northwest North Dakota community when I observed a used waterslide being unloaded at the community swimming pool. This slide had been purchased from the Minot Air Force Base for \$250. It was an exceptionally good buy, given the size and type of waterslide. For context, it was about twenty feet tall and came complete with the pumps and controls. The community contractors had gotten together with the local recreation board and they had a plan to get this slide operational for the community for under \$5,000.

I simply asked how they intended to anchor the slide, and it caused quite a stir. The plan was to anchor it to the existing 4" concrete slab. Without question, this installation would have failed in the North Dakota wind, so I suggested that they get a structural design professional involved. Their response was that they didn't need a structural engineer because the project cost was only \$5,000. This illustrates the unintended consequences of thresholds for procuring the services of design professionals. Regardless of the cost of a project, a design professional should be involved if the general public is to expect that the installation is safe for public use. Ultimately, I had to blow the whistle to make sure that the slide was placed on an appropriate foundation that would be safe for the general public to use. To those that didn't understand the safety risk, I was fairly unpopular in that community. I've included a newspaper article with my testimony for reference.

When the threshold for requiring a design professional is increased, the risk associated with not having a public project properly designed also increases. Public safety takes a hit. I think that is bad policy.

Also, the bill creates a special carve-out for what it refers to as 'pre-engineered units'. The bill states that a political subdivision or agency can procure a 'pre-engineered unit' without the use of an engineer if it's under \$1 million. So, is the 'pre-engineered unit' actually engineered? Certainly, pre-engineered structures, such as a metal building system supplied by a contractor, are fairly common. But the steel structures have to be designed by a registered professional engineer to ensure public safety. And all of the reputable metal building suppliers in this state have a team of structural engineers that design these buildings safely. The one part that they typically do not design, though, is the foundation system. While the design of a given metal building in Minot and Grand Forks may be identical from the floor and up, the system below the floor could be much different, depending on the soils.

And to go back to my first point, is it in the public interest to have bidders and contractors guessing about the foundation requirements for a public building? I don't think it is. The best practice is to have the structure designed by a registered professional and to put the plans and specifications out to bid for all contractors to utilize as a consistent basis for determining their best price. Not only is this fiscally responsible, it's in the best interests of public safety as well.

I respectfully request a 'do not pass' recommendation on this bill.



The Kenmare News

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Park Board says water slide is unlikely to ever be installed here

The water slide purchased for the swimming pool by the City of Kenmare remains in pieces in the Jaycees Park where it was unloaded nearly four years ago.

5/22/13 (Wed)



A good idea at the time . . . The used water slide purchased for the Kenmare swimming pool in 2009 remains dismantled in the Jaycees Park south of the pool. Soil testing and other preparatory work have delayed the installation for three years, and the project may have to be abandoned.

By Caroline Downs

The water slide purchased for the swimming pool by the City of Kenmare remains in pieces in the Jaycees Park where it was unloaded nearly four years ago.

"Yes, it is an eyesore," said Kenmare Park Board president Arlen Gartner.

The city paid the Minot Air Force Base \$250 after winning the bid for the slide in October 2009. The slide seemed like an ideal attraction for the local pool at the time, and the cost included the pump needed to draw water from the pool to operate the slide.

The slide was supposed to be installed on the west side of the Kenmare pool during the summer of 2010, when Gartner approached the city council about the project. However, city engineer Ryan Ackerman told the council soil testing would have to be done in order to build an adequate foundation and secure the structure.

The council approved up to \$5000 to spend on soils investigation at the pool, but that work delayed the slide installation.

"When it was brought in, we weren't aware we were going to have to go through all the testing of the soil samples," Gartner said, "and we weren't aware of the structural requirements. That took almost a year."

According to Gartner, by the time the soil test results were available, the Park Board was facing the wet spring of 2011, and the super-saturated soils at the time prevented any construction from taking place.

"We had to make sure that when we put the pillars in for the slide, we wouldn't crack the foundation of the pool," said Gartner. "We still don't know if the slide will fit in the area designated for it because we've never been able to get the measurements done for that."

The delays and uncertainties have taken a toll. "You lose that enthusiasm for getting the slide up," Gartner said. "It was a great project that we can't fulfill."

As the 2013 summer season approaches, Gartner doesn't see any way to get the slide installed for public use. "Unless some individuals who are energetic and have the skills to do it come forward," he added. "Otherwise, we should sell the slide and get rid of it."

City swimming pool will open soon

The pool itself will open for business as usual under the supervision of the Kenmare Recreation Board, according to Gartner. "It's not a money maker, but it's something the community needs, for the kids and for the adults," he said. "You're funding the pool, funding the lifeguards and constantly fixing things, but the manager and board have worked hard and kept costs down so the pool isn't losing \$20,000 to \$30,000 a year anymore."

Erika Lemere will take over as manager of the facility, replacing Karen Medlang who formerly served in that capacity.

Gartner noted repairs will be made to the bathhouse at the pool this summer, and the foundation on the west side of the facility will be reinforced with additional concrete.

The pool will offer daily swimming sessions and several rounds of lessons. The opening date, hours and lesson schedule will be announced and advertised in a later issue of *The Kenmare News*.