



Senate Industry and Business Committee

Testimony to oppose SB 2347

Chairman Larsen and Members of the Committee, my name is Mike Krumwiede appearing on behalf of the American Council of Engineering Companies in opposition of HB 2347. The American Council of Engineering Companies of North Dakota (ACEC/ND) is a nonprofit, voluntary, self-governing organization which represents 27 member firms and nearly 1700 employees.

The concerns ACEC has about HB 2347 are generally universal to all of the threshold bills that have come before the Legislative Assembly over the past several biennia. The primary concern is that the issue of thresholds as a requirement for project bidding and thresholds as they relate to a requirement of utilizing licensed design professionals have historically been tied together, and they should not be.

Thresholds related to project bidding for construction should be established by striking a balance between agility of agencies to procure services and being fiscally responsible, while giving the contracting industry an opportunity to bid projects in an open, fair and consistent manner. However, thresholds related to requirements for utilizing licensed design professionals should be established with appropriate deliberation given to the impact to public safety.

Agencies are making judgments of whether to get a licensed professional involved in the design of a project based on the project cost, because that is the metric prescribed in State law. The reality is that a \$500 project could have a higher degree of impact to public safety than a \$5 million project, depending on the scope of the project. Simply increasing the threshold amount by any factor is going to be accompanied by a corresponding increase in risk to public safety, and we don't feel that is acceptable.

Two sessions ago we worked extensively to come up with a compromise to raising the threshold limit. Actually, the language starting on line 14 on page 1 of SB 2347 is the language we agreed to in the 2019 session and we came to an agreement to raise the threshold by \$50,000 to its current \$200,000 limit. This is approximately a 33% increase, and this bill would increase it again by 400% in just 4 years. Arbitrarily raising this threshold again is going to be accompanied by increased risk to public safety.

In addition, this bill also exempts Pre-Engineered units which raises additional concerns among the engineering community because these types of buildings still require the expertise of architects and/or engineers to evaluate plans, drawings, or specifications.

This bill does not reflect the process and design work that goes into a pre-engineered building like:

- Building Specifications
 - Size
 - Design life
 - wind/snow loads
 - insulation requirements
 - doorways/emergency exits (if any)
 - vehicle access
- Foundation
- Heating and ventilation
- Plumbing
- Fire protection/sprinkler systems
- Electrical system
- Building Site
 - Sidewalks
 - Driveways
 - Water/sewer connections

This bill changes the requirement so the person designing these pre-engineered buildings does not need to be an engineer or architect licensed in North Dakota. So rhetorically I ask you to consider, “Is this project or person insured for design errors?” Or “What happens if something is missed, who is now responsible?”

If the goal is to optimize the value of engineering and architectural services obtained by public entities, there are a lot of studies that show that the best way to do this is to conduct qualifications-based selections as already described in NDCC 54-44.7.03. Any concerns about necessary versus unnecessary services can be easily discussed and accounted for as part of this process.

For these reasons we would ask for a Do Not Pass recommendation on Senate Bill 2347.