

**2015 SENATE POLITICAL SUBDIVISIONS**

**SB 2149**

# 2015 SENATE STANDING COMMITTEE MINUTES

## Political Subdivisions Committee Red River Room, State Capitol

SB 2149  
1/23/2015  
Job Number 22431

☐ Subcommittee  
☐ Conference Committee

Committee Clerk Signature



### Explanation or reason for introduction of bill/resolution:

Relating to public improvement contracts

### Minutes:

Written Testimony # 1- Glenn Moen

**Chairman Burckhard** opened the hearing for SB 2149. Senators Burckhard, Anderson, Lee, Bekkedahl, Grabinger were present. Senator Dotzenrod was absent.

**Chairman Burckhard** The sponsor for this bill offered a brief introduction. I was asked to sponsor this bill, with a very impressive group of co-sponsors. I have a plethora of experts to testify to this bill. He introduced Mr. Russ Hanson from the AGC to start it off.

**Russ Hanson** (1:13-2:30) Associated General Contractors of North Dakota. This bill was introduced at the association's request and he is correct that there are a lot of experts in the room. Many times you hear this is a simple bill and then once you start discussing the bill, it really isn't but this is a simple bill it really is. It addresses three areas looking at time and insuring that the plans are ready when the bids are advertised; looking at getting some increased visibility with the advertising; and then a clean up the language from a 2007 bill that was an oversight to insure that the contractor on a selection committee is actually licensed. There is prepared testimony from Glenn Moen which will get into detail on the thought process of why we are requesting this amendment to the statute, and why we believe that it would be an improvement to an already good statute.

**Chairman Burckhard** Russ what precipitated the introduction of this bill? How complicated or simple is that?

**Russ Hanson** Pretty simple and Glenn will get into the details of the bill. The first part was dealing with times where the contractors would see the bids going out for advertisement and they would go to the area where the plans and specs would be and they wouldn't be ready yet. They wouldn't have the full amount of time to crunch their numbers. That is one. The other instance is the advertisement. The statute has some rules on how the bids must be advertised and it says the "official county of record" and in some of the rural areas that paper is a weekly. It is not a daily. We thought we would add a 'daily' where the project will

be located. If it is in a county paper of record we don't want to take that away from the weekly, but, we think that will increase the visibility and perhaps the amount of contractors and maybe the owners will get better bids.

**Glenn Moen**(3:56-8:13) Mattson Construction out of Minot, North Dakota an estimator for them. Written testimony #1.

**Senator Bekkedahl** Mr. Moen, the other thing when you're getting your bids, getting notification of bids, is there any trade industry exchange publication that also lists the bids opportunities that are coming out or do you solely rely entirely on the legals?

**Glenn Moen** yes there are several trade publications. There are 10/20 and if you say you see an architect in our audience who might testify, if he picked the Reed Report and I subscribed to the Dodge and not Reed, I would miss that. But almost everyone I know always read our local papers. We do ads every day to look for what is in our area.

**Senator Bekkedahl** He supports that change in there. I think that is a good change especially when you advertise in the area where the project is as well as not where it is bid out. The other question I don't remember our engineers ever telling us they didn't have things ready as you stated, for the bid. It makes perfect sense to me they are trying to rush something out the door and it probably happens. So I am going to follow up with our local engineers and find out how often this happens and what kind of an issue it is because it does exactly what I think he says it doing, increases the cost and is counter-productive in the end. There must be a reason that it was put in statute for 3 weeks to begin with. That was to get the best opportunities on the bids.

**Senator Anderson** I was looking at this publications section here, and do you have any estimate of the cost or maybe somebody else will bring that up about how much it is going to cost to do this? It is my understanding that they would just have to publish once a week in the daily paper?

**Glenn Moen**, correct. They have to publish one day a week, say on a Monday, and then the next Monday and the next Monday, so it is for 3 consecutive weeks.

**Senator Anderson** I am not sure that is clear. Then down in the last sentence it says, "except the advertisement of public improvement financed by special assessments" need be published only once each week for two weeks in the official newspaper with the first publication being at least 14 days before the opening bid. So with that language I would assume that a public improvement project financed by special assessments would be exempt from the language that you have above, because it says except "that if" it's only a public improvement project. Is that also your intention?

**Glenn Moen** I don't have the answer to that right now. My work is strictly building work in Chapter 48 and I know that is a 3 week advertisement. I think your referencing more of the utility work there and we would have to get an answer back for you on that.

**Senator Grabinger**, Glenn the way I read this and maybe I am reading it wrong, it says it has to be published in the official newspaper, or it has to be in this daily newspaper and in a

trade publication, electronic, all these things if its' not put in the public. Should that on line 5 should that be 'or', in a trade publication it seems to me we've got a lot of stuff added on there.

**Glenn Moen** yes. That should say "or" not "and". **Senator Grabinger** okay.

**Glenn Moen** then repeated that "and" is right.

**Senator Grabinger** We will wait for your explanation on that. Then the second thing, are there any sites like on the web that this information is there that anybody can access rather than going in this direction? I mean this is the computer age. Can't this be accessed on the website somewhere?

**Glenn Moen** Correct. There are varieties similar to the Dodge reports. You can get those sent to your office. It's a daily publication by hard copy or you can also pay and get it on the web. It is still a public entity for advertising. If they advertise in Reed, and I subscribe to Dodge, you know there is a whole lot of trade publications and not everyone subscribes to all 10 or 20 trade publications.

**Senator Judy Lee** We've talked about this in earlier years. The whole idea was to have access through as many different venues as possible so that the most notices to the most people could be accomplished. So let's talk about the electronic plan service and my understanding is that somebody smarter about this than I am can get up and talk about it. But in addition to the legal notices which are appropriate and continues to be in the legal notices, I think the daily newspaper is a great idea. But we still have the opportunity for all of those others and that is why it says 'and' because on a project like this the cost of the legal notice frankly is decimal to us; and I am not crazy about spending money foolishly but I mean you have to let people know what is going on here. So that is why there is a variety of places here that call for notices and you can let me know if I am not hitting it on the head here. But that is my recollection from earlier years of having added some of this stuff about electronic notices in trade publications. Is that potential bidder going to be reached by the most avenues possible? All of those different avenues may lead to additional bidders. Would that be close?

**Glenn Moen** correct.

**Senator Anderson** If you would allow me a little bit of room here. I have a constituent and his question to me was we always bid the work, the contract, but we don't bid the engineering or the architecture work which at 14% can run into a substantial amount of dollars on a larger project. While we have all these people in the room is why I bring it up so they can either answer to the group or me separately, but I am wondering why that is and how that might be done differently to save some money on some of the projects?

**Glenn Moen** I don't believe our bill addresses selection of designers. I guess that would be for a separate conversation. I think we have some designers that may speak in support of this and they may have a better answer that I can give you.

**Alan Dostert** (16:10-18:22) President of AIPC Architects Engineers, and also a board member of the North Dakota chapter of the AIA. I live in Buffalo, ND and my practice included a staff of

over 120 people across 5 cities in North Dakota. We are a larger design firm and put a lot of work out on to the streets and is directly affected by this. The short story in this is we support all three of these portions of change in its entirety. Specifically, I will address the availability of the plans. It is our expectation to have those plans done. I will add a couple of things that I wasn't prepared to talk about this morning, but in the past large projects may have 50-70 sets of plans asked to be run. It is tough sometimes to anticipate how many sets of those plans we might need. That has caused delays for availability. With today's technology large firm or small firm you're really not in a hardship to provide that in either a cloud or a web site or FTP site so the digital world has kind of eliminated that problem for us. So there really is no reason to have any problems with that at all. It really is an expectation on our part as a design firm to exactly that. The second item is the advertising in the daily newspaper. We concur that doing that is an "and" statement. We will increase the exposure of a project and we struggle to maintain a budget and maintaining our estimates to bids across the state of North Dakota especially western North Dakota. So competition is king and we very much welcome that as an opportunity as well. Finally cleaning up the language of a license contractor, I have sat on several CM selection boards over the last year and half, and I would welcome that language as well. It is very refreshing to have qualified people on the board who can ask the important questions to make sure when we team up with that group as an architect teaming with that team that we get the best possible member of that team amongst the candidates. We are in support of all three of those components of change.

**Bonnie Staiger** (18:35-19:23) Representing AIA North Dakota and ACEC the American Council of Engineering Companies We just want to stand and reiterate that we have no problem with the changes that are being proposed. I hate to use the word housekeeping, because sometimes, that scope creep is involved in that, and really these are tweaks to what has always been a very good bill. We also want to let you know that the AGC Russ brought the proposed changes to both organizations early last fall so we all had the opportunity to take a good look at them and were fine with them.

**Chairman Burckhard** So cleanup language; housekeeping, tweaking, all of that? **Bonnie**, good to go!

**Bill Kalanek** (19:43-20:20) Representing the National Electrical Contractors Association, Dakotas chapter as well as the North Dakota Association of Plumbing Heating and Mechanical Contractors. Very similar to what Bonnie just said, we were approached by Russ with these changes some time ago, and our membership for both associations thought they were good solid changes. We really like the plans and specifications portion, as there has been some struggles there as well as the other cleanup portions. We think it is a good bill. We encourage you to support it.

**Senator Judy Lee** wondered if perhaps it could be Mr. Hanson could step to the podium. Doesn't North Dakota have statute, that I've heard a little concern about, from some folks in construction that requires it to be done in a particular way? We heard about Senator Anderson's concern about splitting out the various components. I mean I have a person in Fargo and this couple owns an engineering firm and they've been frustrated a little bit with the way some of the things don't get done. Remind all of us what the state law is about how the projects are done with the motivation of it being less expensive that way but there also are some strings attached as I recall that make it a little more challenging for some.



**Russ Hanson** I am not sure I am absorbing the question right now. Are you talking about the different delivery systems? **Senator Judy Lee** it's like a design build as compared to x or y. But there is one way to understand how it works. I guess that would be it.

**Russ Hanson** In Chapter 48 there are several delivery systems. One is the typical design bid build system with anything currently. There has been a lot of discussion on what that threshold should be this session with multiple prime contracts for general electric or mechanical contracts. In order to choose that delivery system there is also the construction- management-at-risk which is a delivery system which the selection committee is being addressed in this. You are absolutely correct. It depends upon the contractor or sub-contractor and what they specialize in. Some prefer one delivery system and excel at it. Some prefer the other and excel at it and they might talk to their local governing boards and say we would like to see a bid this way, but ultimately the owner makes the decision. It is about how you feel about the delivery system.

**Senator Judy Lee** I am on the Governing Board for the Veterans Home and we get some hassles with that really nice new building. But because of the fact it has to be multiple prime contractors the buck doesn't stop anywhere. An engineer who has been involved with completing that project when it was not adequately supervised by the previous engineer, talked about the fact that in his opinion is one of the challenges. So I just bring that to your attention because the legal work is not over yet.

**Senator Bekkedahl** Responding to Senator Lee's second comment, I think that is why you're seeing the CMAR(Construction Manager at Risk) be a preferred alternative in bidding a lot of larger projects because that does place a single contractor in charge of all the aspects of that job. When I was a contractor in the 1970-1980's it was very easy because as a general contractor I hired my subs and I was in charge of that and I controlled the schedule. But that changed over the years when we went to the multiple prime bids because I could bid it as a general contractor and with the multiple primes I may get electrical and a mechanical contractor that were not my selections and didn't normally work with and not that there was friction there, but there was a little loss of control. I think Senator Anderson's question relates too, if I understand it right, is that the selection process for architects and engineers is not a bid process, it's a request for a proposal process. We're not allowed to discuss in that process what the charges or the costs will be for them to provide services. We look at the experience levels and prior contract jobs, so, is that what you were getting too? **Senator Anderson** right.

**Senator Grabinger** This is where I am struggling with this. Beyond notifying through the legal notices which I think is right and everything, I just question why we're legislating these political subdivisions, how they advertise these projects. We are telling them you have to do this, and I just wonder by putting more in there, we are just compounding it. It is more of a problem and perhaps Aaron would be best to answer that. How is this going to affect our political subdivisions? To me we are just adding on more, maybe it is not a problem.

**Aaron Birst** with the Association of Counties. We do not have a particular position on this bill but just to give you a background. The counties generally, and I cannot speak for all of the political subdivisions, generally don't have a problem. The publication requirements, posting on the web, so those things are not a problem, but we do suggest as we have suggested in the

other bills of potentially raising the threshold so although it's not legally required counties could still do so. We think that is more appropriate than trying to limit what kind of publication costs should be. Every time you suggest taking it out of the paper, then of course you run into the issue with the papers wanting it in there. That is a small cost anyway. So, it's never been something we've tried to remove. If I could just digress a little bit, to Senator Anderson's question, I teach bidding to county officials. Most of the time, you don't use fees for service in your selection of your architect or engineer. It used to be unethical for engineers to even suggest what their fees are. The US Supreme Court was challenged, and they said yes you can have fees, as a process so a blanket ethical rule prohibiting that is not allowed. But for the most part most political subdivisions still operate on telling what the project is, your history, those kinds of things. We don't look at fees. Only after they make their selection of the architect then do they get into the fee selection.

**Chairman Burckhard** closed the hearing on SB 2180.

**Senator Bekkedahl** asked to hold the bill until next week.

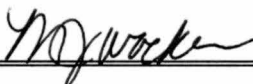
# 2015 SENATE STANDING COMMITTEE MINUTES

## Political Subdivisions Committee Red River Room, State Capitol

SB 2149  
1/29/2015  
Job Number 22824

- ☐ Subcommittee  
☐ Conference Committee

Committee Clerk Signature



### Explanation or reason for introduction of bill/resolution:

Relating to public improvement contracts

### Minutes:

"Click to enter attachment information."

**Chairman Burckhard** brought the committee together to discuss SB 2149. All senators were present.

**Senator Bekkedahl** asked the committee to wait for the discussion until he was able to contact his constituents in Williston.

**Senator Bekkedahl** Essentially, what I wanted to ask our engineer was how often does this happen? The concern that was brought up was the bid dates were out there and the plans and specifications were not available to them to even bid on. What is happening in practice is everybody is scrambling to get so many projects done in such a short construction season, that they circumvent the process of giving the contractor sufficient time to actually bid on the projects and having the information to bid properly. So, they get the bids out there, the bid they advertised each has three consecutive weeks and then they fill in the information to the bid exchange areas for the contractors to look at, after that date. So, they go and look at it and they say there is nothing to bid on and it gives me less time to bid on it because you don't have the information out there. So I asked our engineer and asked if that happens and he replied yes it does happen. I said is it a problem and he said if I was on the other side, it would be a problem. I said, to me, it circumvents the intent of the law, to give 3 full weeks to bid these out when you do it that way. He said I understand that. I said what would you do if you were us? I would stick to the intent of the law and I would not let it be happening without stamped and signed bid documents out there. So he agrees with what they are trying to do at this instance. It is just one opinion from our city and everybody's been there for 30 years.

**Chairman Burckhard** so we have nobody in opposition to this bill as I recall. We had the AGC in favor, we had the EAPC owner, Bonnie Staiger was in favor with the American Council of Engineering, and Bill Kalanek.



**Senator Grabinger** I appreciate the explanation and I agree with you whole heartedly on the stamp part of it. But that was my complaint with this is were putting another place where on page 2, lines 4 &5, in my opinion, I really question as I brought up that day, whether or not we should be legislating to these political subdivisions where they have to advertise this stuff beyond an official newspaper or public site.

**Senator Anderson** We already do that. Of course as you can see we are just adding one place. However, I would second the motion to remove that change, to take that out.

**Senator Grabinger** added I would so move that.

**Chairman Burckhard** replied then let's be clear of what the motion is.

**Senator Grabinger**, it is to remove the insert of on page 2, line 4 & 5 where it is undersigned ' in a daily newspaper having a general circulation in the area where the project is located'. (Grabinger amendment)

**Chairman Burckhard** asked for further discussion on this proposal. I took that to mean that some of these communities don't have a daily newspaper right? So this is necessary to have it in a newspaper with a general circulation in the area, isn't that somewhat important or am I wrong?

**Senator Judy Lee** I certainly understand the comments of the previous speaker on this motion or the amendment. In the first place, I guess the most important thing to me is that not a single person who stood up objected to that and we had several large groups represented. They are all quite accustomed to public notice and I thought someone said something about the fact a daily paper has some readership that the little weeklies don't own either and they might be living in a another community. Every potential way to expose this project to a contractor that may perhaps being in a small local bidder who reads the daily paper from the next place. If even one person had objected to it, I would have felt a little more strongly about it and it isn't terribly important, but, I guess I am okay with leaving it in.

**Senator Bekkedahl** I think that I can bring this to a little more to light. Steve Andrist was here in the corner and in Williams County the official county newspaper is the Williston Daily Herald. Not a lot of people in Tioga get the Williston Daily Herald. He used to own the paper in Crosby and Tioga that was a weekly publication. I think it was an attempt probably or the intent of this was probably to give notice in those publications for jobs and awards in those areas where those people don't look at the Williston Daily Herald, which is the county newspaper by the vote of the public. That would just be a comment.

**Chairman Burckhard** asked for more discussion for the proposed amendment.

**Senator Grabinger** So I am saying what we're talking about here is the contractors to look at these bids and stuff and the suggestion is that maybe there not looking at the official newspapers to find out where the bids are possible and available?

**Senator Bekkedahl** I would say that that is exactly what we're dealing with here. I don't know if Williams County is unique in this but Tioga has never liked the idea that they are not the county seat.

**Chairman Burckhard** We are going to take a roll call vote on the amendment.

**Senator Grabinger** made the motion for the amendment.

**Senator Anderson 2<sup>nd</sup>**

Roll call vote 3 Yea , 3 No, 0 Absent

Motion fails

**Chairman Burckhard** asked for a motion on the bill without an amendment.

**Senator Judy Lee** moved Do Pass on SB 2149

**Senator Bekkedahl 2<sup>nd</sup>**

Roll call vote: 6 Yea, 0 No, 0 Absent

Motion passes

Carrier: Senator Burckhard

**2015 SENATE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO.214<sup>g</sup>**

Senate Political Subdivisions Committee

☐ Subcommittee

Amendment LC# or Description: Senator Grabinger Proposal

Recommendation: ☒ Adopt Amendment  
☐ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation  
☐ As Amended ☐ Rerefer to Appropriations  
☐ Place on Consent Calendar  
Other Actions: ☐ Reconsider ☐ \_\_\_\_\_

Motion Made By Sen. Grabinger Seconded By Senator Anderson

Senators	Yes	No	Senators	Yes	No
Chairman Burckhard		x			
Senator Anderson	x		Senator Dotzenrod		x
Senator Bekkedahl	x		Senator Grabinger	x	
Senator Judy Lee		x			

Total (Yes) 3 No 3

Absent 0

Floor Assignment \_\_\_\_\_

If the vote is on an amendment, briefly indicate intent: Senator Grabinger's proposal. It is to remove the insert "of" on page 2, line 4&5 where it is undersigned " in a daily newspaper having a general circulation in the area where the project is located".

Motion fails due to 3-3 tie.

Date: 1.29.15  
Roll Call Vote: 2

**2015 SENATE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. 2149**

Senate Political Subdivisions Committee

☐ Subcommittee

Amendment LC# or Description: \_\_\_\_\_

Recommendation: ☐ Adopt Amendment  
☒ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation  
☐ As Amended ☐ Rerefer to Appropriations  
☐ Place on Consent Calendar

Other Actions: ☐ Reconsider ☐ \_\_\_\_\_

Motion Made By Sen. Judy Lee Seconded By Sen. Bekkedahl

Senators	Yes	No	Senators	Yes	No
Chairman Burckhard	X				
Senator Anderson	X		Senator Dotzenrod	X	
Senator Bekkedahl	X		Senator Grabinger	X	
Senator Judy Lee	X				

Total (Yes) 6 No 0

Absent 0

Floor Assignment Senator Burckhard

If the vote is on an amendment, briefly indicate intent:

**REPORT OF STANDING COMMITTEE**

**SB 2149: Political Subdivisions Committee (Sen. Burckhard, Chairman)** recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2149 was placed on the Eleventh order on the calendar.



**2015 HOUSE POLITICAL SUBDIVISIONS**

**SB 2149**

# 2015 HOUSE STANDING COMMITTEE MINUTES

## Political Subdivisions Committee

Prairie Room, State Capitol

SB 2149  
3/12/2015  
24724

☐ Subcommittee  
☐ Conference Committee

*Amanda Muschla*

### Explanation or reason for introduction of bill/resolution:

Relating to public improvement contracts

### Minutes:

Testimony 1, 2

Chairman Klemin: Opened hearing on SB 2149

Russ Hanson: I am with Associated General Contractors of North Dakota (AGC of ND) and I have 3 points about this bill. It is a simple bill. The first section deals with public projects and has an addition. The next change is on page two to increase the visibility of projects that are advertised. We think it will increase competition and bids and it is imitation language from highway bidding. The third change is housekeeping and adds the license contractor. A previous bill put contracting management at risk.

Representative Koppelman: The newspaper publication is a publication in the legals?

Russ: Yes. It is run every day except Sunday for about \$70.00.

Representative Koppelman: I assume the people who would be bidding are the few people on earth that read legals and newspapers. If that is true why do we need the additional publication?

Russ: Yes and yes. Contractors use the paper quite a bit. The statute also states it must also be advertised in an industry publication but there are dozens, so the contractor subscribes to one of those and it could be missed in there.

Representative Koppelman: I wasn't putting down newspapers but in the administrative rules committee we changed a requirement so instead of publishing in legals they could publish a display ad but that is because they are trying to reach the general public saying this regulation is being prorogated and I think people in this industry make it a point to read the legals, correct?

Russ: Yes

Representative Kelsh: Some people don't have access to papers that would provide these. I guess they are more for public information and who want to bid on the projects?

Russ: Yes

Senator Berkkhart: Please give it consideration.

Glenn Moen: Testimony

Bill Kalaneck: I represent the National Electrical Contractors Association and the North Dakota Association of Plumbing, Heating, and Mechanical Contractors. This proposal as you have it, I worked with them on and my groups fully support it. I would say from my subcontractors perspective, the provision in this bill which requires specs and plans to be available on the day the bid is advertised would go further to insure that appropriate bids are received on projects than any adjustment to the thresholds that you might make. Many of my contractors have expressed they decline to offer bids on bids because specs and plans were not available because risks are too high.

Stacey Krumwiede: I represent the American Council of Engineering Companies and the American Institute of Architects in the North Dakota chapter all of who support the bill

Opposition:

Bill Wocken: I want to offer this amendment (testimony 2). Some of our engineers get pretty busy and plans don't always get stamped by the initial advertisement. We don't think it will limit or hinder anyone but there is this concern which would be fixed by the amendment.

Representative Maragos: We heard that this bill harmonizes with other parts of the statute. Does this also?

Bill: I am unsure but this would dub tail with some of the special assessment provisions.

Representative Koppelman: Is it normally a 21 day window?

Bill: There are 2 standards. The 21 is for larger projects and a 14 day for the special assessment. We propose that we go to the 14 day standard for all of them.

Representative Koppelman: Have you visited with the others? Are you all on the same page?

Bill: We may not have the same point of view but they are aware of it.

Chairman Klemin: The part you are amending is the time within the plans, drawins, and specifications must be stamped and sealed the architecture and engineer but I heard you say verbally that you wanted to have a 14 day standard for the advertisement? That is not in the amendment I see.

Bill: I did the amendment this way because it refers to the date that the plans must be stamped and sealed and it relates that to the initial advertisement. It was my intention to draw of the date of the initial advertisement for the date when the plans have to be stamped

and sealed. As I understand it there is no present provision in the code for which a day that has to happen and that is the hear burn we have.

Chairman Klemin: If we follow the time frames here, advertisement for general projects under current law the first publication must be at least 21 days before the date of opening the bids. The amendment you're proposing would provide that the plans and the specs would be stamped and sealed a week after the first publication?

Bill: Yes

Chairman Klemin: How does that help the contractors know what they are bidding on if you don't have the plans complete until a week after you published the first time?

Bill: Well the advertisement alerts everyone to the fact that there is a project out there. The plans and specifications are the specifics the must use to bid the project. This would be saying the advertisement of the project would be out there we are not proposing to change that but that the detail plans that are approved by the engineer would not have to be available until a week after the initial advertisement.

Chairman Klemin: What can't you have them at the time of the ad?

Bill: They have a lot of work going on and this will give the some time.

Representative Beadle: Why wouldn't you just delay the advertisement so it came out when the plans were done?

Bill: We do that now when we get to what we feel an unacceptable period of time. Keep in mind there is no provision that I am aware of in the code where the plans and specs have to be stamped and sealed even one day before the bid opening. We try to set a standard for ourselves in that 10-14 day period of time. We could chose for ourselves to delay the bid opening or cancel the project. We want to see if we can create a buffer.

Representative Beadle: Is there anything else stopping you from waiting for the plans to be done before you put them in the ad?

Bill: There is nothing stopping us other than the number of projects and the time available.

Representative Koppelman: When you are planning a project and times are busy, and they throw out an ad for a bid, they don't get everything figured out in time so you screw up, put-off the project- we see fiscal notes based on staff time or plain costs. What will this cost the tax payers when it does happen?

Bill: If we have to screw up a project it would be the difference of another ad or we don't do the project.

Representative Koppelman: That doesn't include all the detail work redone.

Bill: If we had a set of plans and specs we probable put them away for a bit and brought them back next year. Sometimes the only thing that changes when we put it off is the cost.

House Political Subdivisions Committee

SB 2149

3/12/2015

Page 4

Representative Beadle: I move a do pass

Representative Klein: Second

A Roll Call Vote Was Taken: Yes 12, No 0, Absent 2 (Strinden, Anderson)

Motion carries

Representative Beadle will carry the bill



Date: 3/12/2015  
Roll Call Vote #: 1

2015 HOUSE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. 2149

House Political Subdivisions Committee

☐ Subcommittee ☐ Conference Committee

Amendment LC# or Description: \_\_\_\_\_

Recommendation: ☐ Adopt Amendment  
☒ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation  
☐ As Amended ☐ Rerefer to Appropriations

Other Actions: ☐ Reconsider ☐ \_\_\_\_\_

Motion Made By Beadle Seconded By Klein

Representative	Yes	No	Representative	Yes	No
Chairman Lawrence R. Klemin	X		Rep. Pamela Anderson	/	
Vice Chair Patrick R. Hatlestad	X		Rep. Jerry Kelsh	X	
Rep. Thomas Beadle	X		Rep. Kylie Oversen	X	
Rep. Rich S. Becker	X		Rep. Marie Strinden	/	
Rep. Matthew M. Klein	X				
Rep. Kim Koppelman	X				
Rep. William E. Kretschmar	X				
Rep. Andrew G. Maragos	X				
Rep. Nathan Toman	X				
Rep. Denton Zubke	X				

Total (Yes) 12 No 0

Absent 2 (Strinden, Anderson)

Floor Assignment Beadle

If the vote is on an amendment, briefly indicate intent:

motion carries

**REPORT OF STANDING COMMITTEE**

**SB 2149: Political Subdivisions Committee (Rep. Klemin, Chairman)** recommends **DO PASS** (12 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). SB 2149 was placed on the Fourteenth order on the calendar.

**2015 TESTIMONY**

**SB 2149**

**Testimony SB 2149**  
**Senate Political Subdivisions Committee**  
**January 23, 2015**

Mr. Chairman and members of the Senate Political Subdivision Committee, I am Glenn Moen from Minot. I work as a project Manager for a general contractor and am serving as the president of the Associated General Contractors of ND (AGC of ND) this year.

The AGC is a trade group that represents 500 contractors of all type across the state. The AGC has building Contractors like the firm I work for, highway contractors, utility contractors and numerous specialties contractors.

I am here to speak in support of Senate Bill No. 2149. This bill is a house keeping measure for three items in chapter 48. They are:

The first change is in 48-01.2-02. Plans and specification for a public improvement. The change requested here is "Plans, drawings, and specifications of an architect or engineer must be stamped and sealed by the date of the initial bid advertisement". Presently North Dakota Century Code 48 calls for a three week public advertisement before a project can be bid. What we are seeing happening is the political subdivision will sometimes place an ad in the paper before the plans are complete. I have seen jobs were the plans are not completed until one week before the bid date.

When you do not allow for a proper bid preparation time it causes many problems, such as:

- A. It limits the bidders to the large contractors with large staffs that can put five estimators on the job. We all know that as competition decreases prices go up.
- B. Without a proper bid time it limits the time a contractor has to solicit bids from suppliers and sub-contractors from larger areas. Again with limited competition comes higher prices.
- C. We are presently planning on bidding on two school projects in two small towns outside of Minot, the first ad was in the Minot Daily on 1-5-15, we didn't get the plans until late on 1-12-15. The school received many calls saying that if they didn't extend the bid date to allow for a proper bid preparation time they would likely get one or two bids.
- D. When contractors don't have proper bid preparation time, they get pressed for time and to make sure they are covering themselves with higher prices.

SB2149

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# 1.2

- E. Over the past 30 years, I have been to many prebid meeting were the owners have cut the bid time short saying they had to get started at once. Only to have bids come in over budget and re-bid the project to get it back within budget. There has only been one project I have seen awarded that was substantially over budget.

The second item is changing advertising requirements for proposals or bids in smaller communities where they advertise in the local paper of record as required. The problem is the local paper may not be published daily and has limited circulation. This results in very limited exposure and may cause one bid or proposal on a project. By changing the advertising requirement to placing an ad in a paper with a daily circulation these projects will be advertised in a paper with a circulation that will alert more contractors and suppliers, resulting in more competition and lower prices. It will also limit cronyism. The proposed language SB 2149 to advertise in a daily publication where the project will be located is written verbatim to the language in NDCC 24 for advertising for highway projects.

The third change is in the construction manager at risk selection committee. It presently is made up of the owner, a Registered Engineer, a Licensed Architect and a Contractor. This changes the language to a Licensed Contractor. This cleans up an oversight in the original law.

Please issue a do pass recommendation. Thank you for your time and consideration. I will attempt to answer any question you may have.



SB 2149

3/12/2015

1.1

**Testimony SB 2149**  
**House Political Subdivisions Committee**  
**March 12, 2015**

Mr. Chairman and members of the House Political Subdivision Committee, I am Glenn Moen from Grand Forks. I work as a Project Manager for a general contractor (Structures, Inc.) and am serving as the president of the Associated General Contractors of ND (AGC of ND) this year.

The AGC is a trade group that represents 500 contractors of all type across the state. The AGC has building Contractors like the firm I work for, highway contractors, utility contractors and numerous specialties contractors.

I am here to speak in support of Senate Bill No. 2149. This bill is a house keeping measure for three items in chapter 48. They are:

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When you do not allow for a proper bid preparation time it causes many problems, such as:

- A. It limits the bidders to the large contractors with large staffs that can put five estimators on the job. We all know that as competition decreases prices go up.
- B. Without a proper bid time it limits the time a contractor has to solicit bids from suppliers and sub-contractors from larger areas. Again with limited competition comes higher prices.
- C. We are presently planning on bidding on two school projects in two small towns outside of Minot, the first ad was in the Minot Daily on 1-5-15, we didn't get the plans until late on 1-12-15. The school received many calls saying that if they didn't extend the bid date to allow for a proper bid preparation time they would likely get one or two bids.
- D. When contractors don't have proper bid preparation time, they get pressed for time and to make sure they are covering themselves with higher prices.

- E. Over the past 30 years, I have been to many pre bid meeting were the owners have cut the bid time short saying they had to get started at once. Only to have bids come in over budget and re-bid the project to get it back within budget. There has only been one project I have seen awarded that was substantially over budget.

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SB 2149

3/12/2015

2.1

PROPOSED AMENDMENT TO SENATE BILL 2149

On page 1, Line 19 of the bill delete the remainder of the line after "sealed" and insert in lieu thereof "at least 14 days prior to bid opening."