

**2017 HOUSE GOVERNMENT AND VETERANS AFFAIRS**

**HB 1189**

# 2017 HOUSE STANDING COMMITTEE MINUTES

## Government and Veterans Affairs Committee Fort Union, State Capitol

HB 1189

1/19/2017

27153

☐ Subcommittee

☐ Conference Committee

Committee Clerk Signature

*Carmen Hart*

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

Relating to exceptions to bidding thresholds for state building projects

### Minutes:

Attachment 1

**Chairman Kasper** opened the hearing on HB 1189.

**Bonnie Staiger, Executive Vice President of AIA ND, the American Institute of Architects**, appeared in support. Rep. Keiser agreed to sponsor this bill on our behalf. Steve Tabor was introduced as president of AIA ND but who is here speaking on his own behalf to offer his perspective as to why this bill is necessary.

**Steve Tabor, S. A. Tabor Architecture**, appeared in support of HB 1189. Attachment 1. (:58-3:44)

**Rep. Laning:** It almost seems like this bill reduces work for your industry.

**Steve Tabor:** In essence it does reduce our workload a little bit only in the sense though that at the current fee levels if a project's estimated fees are above \$25,000, when I inquire to put together a formal solicitation package to submit to that state agency, and those solicitation packages can take an awful lot of time on my staff's part which is me, it is of benefit to the architecture and engineering profession to see these fee limits raised. I am also very familiar with the amount of work that those state employees go through to get these things and the costs they end up paying to advertise those solicitations.

**Chairman Kasper:** My concern is there is a favorite company or person out there, and if you increase to a \$35,000 fee, you just go to the person or firm you like and say let us negotiate and nobody else has an opportunity. How do you address that concern?

**Steve Tabor:** There is \_\_\_ in the existing exception clause that addresses some of the things that the state agencies still need to consider when they are looking at soliciting or hiring that architectural firm. They may go to that favorite firm, but they probably would only be able to do that one time, because the second piece of this is that \$75,000 limit. That is in a 12-month period.

**Chairman Kasper:** They could just go to one entity or individual up to \$75,000 combined and nobody else would have an opportunity. Is that correct?

**Steve Tabor:** Correct. They could do two \$35,000 projects. Based on my experience dealing with the state agencies, there are certain times when it is a benefit to that state agency to be able to go to a specific aiming firm. An instance of that would be a remodeling or a reroofing project on that facility, and the \_\_\_ firm was the original firm of record so they have the familiarity with the building.

**John Boyle, Director of Facility Management,** appeared in a neutral position.

**Chairman Kasper:** Walk us through the process right now for projects that are under \$25,000 that an agency can do and, in your experience, has done to make the selection for their architect, engineer, etc.

**John Boyle:** The current maximum is \$50,000 with any one firm, so we try to select firms that we haven't worked with in the past. Familiarity with a project, as Mr. Tabor stated, does occur. If there is a firm we have worked with in the past like roofing, we would go back to that same company if it were less than the \$25,000 and try to hire them as our consultant. There aren't that many projects anymore where the architectural fee is \$25,000 or less. Usually it is just to do with schematic design and get costs estimates for a larger project.

**Chairman Kasper:** Under these levels, the department is free to call somebody and say come on up, we want to talk?

**John Boyle:** That is correct. That cap of \$70,000 does limit how much you can do. It is the exact opposite for a general contractor. Their limit today is \$100,000. If there is \$100,000 worth of work, we can just give it to anybody, and there is no cap on that. You can give 6, 8, 10 jobs to one person if you want.

**Chairman Kasper:** Is there some public notice even though it is a direct negotiation?

**John Boyle:** There is not.

**Rep. Olson:** When was the last time this number was raised?

**John Boyle:** About five sessions ago, 2007. It went from 10 to 25 at that time.

**Rep. P. Anderson:** \$25,000 for architect fees. What would be the value of the whole project on an average?

**John Boyle:** 10% would be a \$250,000 job. They have fixed costs in there. If you could find somebody to do a job that small for 10%, you would be doing very well.

**Rep. P. Anderson:** What we are doing here is to make your job more efficient, easier, less time consuming?

**John Boyle:** It would definitely make it a lot easier for a state agency.

**Chairman Kasper** closed the hearing.

**Rep. Steiner** made a motion for a DO PASS on HB 1189.

**Rep. Laning** seconded the motion.

A roll call vote was taken. 12 Yeas, 0 Nays, 2 Absent.

**Rep. Vetter** will carry the bill.



Date: 1-18-17  
Roll Call Vote #: 1

**2017 HOUSE STANDING COMMITTEE**  
**ROLL CALL VOTES**  
**BILL/RESOLUTION NO. 1189**

House Government and Veterans Affairs 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 Steiner Seconded By Lanning

Representatives	Yes	No	Representatives	Yes	No
Jim Kasper-Chairman	<input checked="" type="checkbox"/>		Pamela Anderson	<input checked="" type="checkbox"/>	
Scott Louser-Vice Chairman	<input checked="" type="checkbox"/>		Mary Schneider	<input checked="" type="checkbox"/>	
Jason Dockter	<input checked="" type="checkbox"/>				
Craig A. Johnson	<input checked="" type="checkbox"/>				
Daniel Johnston	<input checked="" type="checkbox"/>				
Karen Karls	<input checked="" type="checkbox"/>				
Ben Koppelman	<input checked="" type="checkbox"/>				
Vernon Lanning	<input checked="" type="checkbox"/>				
Christopher D. Olson	<input checked="" type="checkbox"/>				
Karen M. Rohr	<input checked="" type="checkbox"/>				
Vicky Steiner	<input checked="" type="checkbox"/>				
Steve Vetter	<input checked="" type="checkbox"/>				

Total (Yes) 12 No 0

Absent 2

Floor Assignment Vetter

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

**REPORT OF STANDING COMMITTEE**

**HB 1189: Government and Veterans Affairs Committee (Rep. Kasper, Chairman)**  
recommends **DO PASS** (12 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING).  
HB 1189 was placed on the Eleventh order on the calendar.

**2017 SENATE GOVERNMENT AND VETERANS AFFAIRS**

**HB 1189**

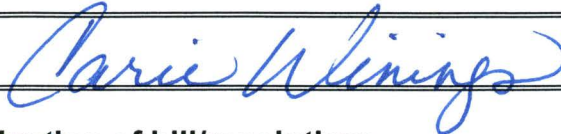
# 2017 SENATE STANDING COMMITTEE MINUTES

## Government and Veterans Affairs Committee Sheyenne River Room, State Capitol

HB 1189  
3/16/2017  
Job Number 29309

☐ Subcommittee  
☐ Conference Committee

Committee Clerk Signature



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

A BILL for an Act to amend and reenact section 54-44.7-04 of the North Dakota Century Code, relating to exceptions to bidding thresholds for state building projects.

### Minutes:

Attachments: 1

**Chairman Poolman:** Opened the hearing on HB 1189.

**Bonnie Staiger, Executive Vice President, American Institute of Architects of North Dakota:** See Attachment #1 for testimony to explain and in support of the bill.

**(3:30) Senator Bekkedahl:** Essentially, this relates to the fees for the specific services and not the total cost of the projects, is that correct?

**Bonnie Staiger:** That is correct.

**Chairman Poolman:** I appreciate you mentioning that the chair of the other committee that would have to concur with this agrees with amendment, correct?

**Bonnie Staiger:** Yes. He said to tell you that he would concur if you take care of this.

**Chairman Poolman:** No further testimony was present. Closed the hearing on HB 1189. We will have council draw this amendment up for the committee and we will address it when it comes back.



# 2017 SENATE STANDING COMMITTEE MINUTES

## Government and Veterans Affairs Committee

Sheyenne River Room, State Capitol

HB 1189  
3/23/2017  
Job Number 29597

☐ Subcommittee  
☐ Conference Committee

Committee Clerk Signature



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

A BILL for an Act to amend and reenact section 54-44.7-04 of the North Dakota Century Code, relating to exceptions to bidding thresholds for state building projects.

### Minutes:

Attachments: 1

**Chairman Poolman:** Opened HB 1189 for committee discussion. See Attachment #1 for amendment proposed to the committee. It simply adds current form that they are using instead of the outdated form. This was requested by Bonnie Staiger.

**Senator Bekkedahl:** Moved Amendment 17.0556.01001.

**Vice Chairman Davison:** Seconded.

**A Roll Call Vote Was Taken:** 6 yeas, 0 nays, 0 absent.

**Motion Carried.**

**Senator Bekkedahl:** Moved a Do Pass As Amended.

**Senator Meyer:** Seconded.

**A Roll Call Vote Was Taken:** 6 yeas, 0 nays, 0 absent.

**Motion Carried.**

**Senator Vedaa will carry the bill.**

March 23, 2017

C-  
3/23-2017  
1 of 1

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1189

Page 1, line 1, after "reenact" insert "subsection 3 of section 54-44.7-03 and"

Page 1, line 2, after the first "to" insert "procurement procedures and"

Page 1, after line 3, insert:

**"SECTION 1. AMENDMENT.** Subsection 3 of section 54-44.7-03 of the North Dakota Century Code is amended and reenacted as follows:

3. The date for submission of information from interested persons or firms in response to an invitation must be not less than twenty-one days after publication of the invitation. Interested architect, engineer, and land surveying persons or firms must be required to respond to the invitation with the submission of the information required in general services administration ~~forms SF 254 and SF 255~~ form SF 330, architect-engineer ~~related services questionnaire~~ qualifications for specific project, or such similar information as the agency selection committee may prescribe by rule."

Renumber accordingly

2017 SENATE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. 1189

Senate Government and Veterans Affairs Committee

☐ Subcommittee

Amendment LC# or Description: 17.0556.01001

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 Bekkedahl Seconded By Davison

Senators	Yes	No	Senators	Yes	No
Chairman Poolman	<input checked="" type="checkbox"/>		Senator Marcellais	<input checked="" type="checkbox"/>	
Vice Chairman Davison	<input checked="" type="checkbox"/>				
Senator Bekkedahl	<input checked="" type="checkbox"/>				
Senator Meyer	<input checked="" type="checkbox"/>				
Senator Vedaa	<input checked="" type="checkbox"/>				

Total (Yes) 6 No 0

Absent 0

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

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

Date: 3/23  
Roll Call Vote #: 2

2017 SENATE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. 1189

Senate Government and Veterans Affairs 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 Bekkedahl Seconded By Meyer

Senators	Yes	No	Senators	Yes	No
Chairman Poolman	✓		Senator Marcellais	✓	
Vice Chairman Davison	✓				
Senator Bekkedahl	✓				
Senator Meyer	✓				
Senator Vedaa	✓				

Total (Yes) 6 No 0

Absent 0

Floor Assignment Vedaa

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



**REPORT OF STANDING COMMITTEE**

**HB 1189: Government and Veterans Affairs Committee (Sen. Poolman, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1189 was placed on the Sixth order on the calendar.

Page 1, line 1, after "reenact" insert "subsection 3 of section 54-44.7-03 and"

Page 1, line 2, after the first "to" insert "procurement procedures and"

Page 1, after line 3, insert:

**"SECTION 1. AMENDMENT.** Subsection 3 of section 54-44.7-03 of the North Dakota Century Code is amended and reenacted as follows:

3. The date for submission of information from interested persons or firms in response to an invitation must be not less than twenty-one days after publication of the invitation. Interested architect, engineer, and land surveying persons or firms must be required to respond to the invitation with the submission of the information required in general services administration forms ~~SF 254 and SF 255~~ form SF 330, architect-engineer ~~related services questionnaire~~ qualifications for specific project, or such similar information as the agency selection committee may prescribe by rule."

Renumber accordingly



**2017 TESTIMONY**

**HB 1189**

Attachment 1  
1189  
1-19-17

House Bill 1189

Good afternoon Chairman Kasper and Committee Members. My name is Steve Tabor. I am the owner of S.A. Tabor Architecture here in Bismarck. I appear here in favor of House Bill 1189.

This bill raises the fee limits for directly securing architect, engineer, construction management, or land surveying services for projects from twenty five thousand dollars to thirty five thousand dollars and raises the fee limit that a state agency can pay any one architectural, engineering, or land surveying person or firm within a twelve-month period from fifty thousand to seventy thousand dollars.

This fee level was last visited during the 60<sup>th</sup> Legislative Session in 2007. At that time, fee limits were raised from ten thousand dollars per project and twenty thousand dollars per twelve month period to the current levels. Proposed state budget cuts will force state agencies to do more with less. By raising these fee limits, state agencies will be able to execute slightly larger projects without having to perform the time consuming, and at times costly, solicitation procedures required by other portions of this chapter.

In addition, construction costs have increased over the past ten years. These increases translate into state agencies having to perform the formal solicitation procedures on projects that would not have required them in 2007 when the current fee limits were established.

This bill would provide state agencies increased flexibility when procuring professional design services for smaller projects, but still require formal solicitation and competition for larger scale projects.

In addition, I propose the following additional HB 1189 amendment be added to Chapter 54-44.7-03 Paragraph 3.

#### **HB 1189 - Proposed Amendment.**

#### **Section 2. Amendment to Section 54-44.7-03 of the North Dakota Century Code is amended and reenacted as follows:**

##### **54-44.7-03. Procurement procedures.**

1. Each using agency shall establish its own architect, engineer, construction management, and land surveying services selection committee hereinafter referred to as the agency selection committee, which must be composed of those individuals whom the agency head determines to be qualified to make an informed decision as to the most competent and qualified firm for the proposed project. The head of the using agency or that person's qualified, responsible designee shall sit as a member of the agency selection committee for the purpose of coordinating and accounting for the committee's work.
2. The agency selection committee is responsible for all of the following:
  - a. Developing a description of the proposed project.
  - b. Enumerating all required professional services for that project.
  - c. Preparing a formal invitation to firms for submission of information. The invitation must include, but not be limited to, the project title, the general scope of work, a description of all professional services required for that project, and the submission deadline. The invitation or notice thereof must be published. Upon written request, the agency shall also mail copies of the invitation to any interested party. The manner in which this must be published, the content of the publication, and the frequency of the publication, must be established by regulation of the agency selection committee.



3. The date for submission of information from interested persons or firms in response to an invitation must be not less than twenty-one days after publication of the invitation. Interested architect, engineer, and land surveying persons or firms must be required to respond to the invitation with the submission of the information required in general services administration forms SF 254 and SF 255 330, architect-engineer qualifications related services questionnaire for specific project, or such similar information as the agency selection committee may prescribe by rule.

4. Following receipt of information from all interested persons and firms, the agency selection committee shall hold interviews with at least three persons or firms who have responded to the committee's advertisement and who are deemed most qualified on the basis of information available prior to the interviews. If less than three persons or firms have responded to the advertisement, the committee shall readvertise or hold interviews with those who did respond. The agency selection committee's determination as to which will be interviewed must be in writing and must be based upon its review and evaluation of all submitted materials. The written report of the committee must specifically list the names of all persons and firms that responded to the advertisement and enumerate the reasons of the committee for selecting those to be interviewed. This written report must be available to the public upon written request. The purpose of the interviews must be to provide such further information as may be required by the agency selection committee to fully acquaint itself with the relative qualifications of the several interested persons or firms.

5. The agency selection committee shall evaluate each of the persons or firms interviewed on the basis of the following criteria:

- a. Past performance.
- b. The ability of professional personnel.
- c. Willingness to meet time and budget requirements.
- d. Location, with higher priority given to firms headquartered in North Dakota.
- e. Recent, current, and projected workloads of the persons or firms.
- f. Related experience on similar projects.
- g. Recent and current work for the agency.

Based upon these evaluations, the agency selection committee shall select the three which, in its judgment, are most qualified, ranking the three in priority order. The agency selection committee's report ranking the interviewed persons or firms must be in writing and must include data substantiating its determinations. This data must be available to the public upon written request.

6. The agency selection committee shall submit its written report ranking the interviewed persons or firms to the governing body of the using agency for its evaluation and approval. When it is determined that the ranking report is final by the agency, written notification of the selection and order of preference must be immediately sent to all of those that responded to the agency selection committee's invitation to submit information.

7. The governing body of the using agency or its designee shall negotiate a contract for services with the most qualified person or firm, at a compensation which is fair and reasonable to the state, after notice of selection and ranking. Should the governing body of the using agency or its designee be unable to negotiate a satisfactory contract with this person or firm, negotiations must be formally terminated. Negotiations must commence in the same manner with the second and then the third most qualified until a satisfactory contract has been negotiated. If no agreement is reached, three additional persons or firms in order of their competence and qualifications must be selected after consultation with the agency selection committee, and negotiations must be continued in the same manner until agreement is reached.

This additional amendment is being proposed because the referenced GSA SF 254 and SF 255 forms are obsolete and have been replaced by the GSA SF 330 Architect – Engineer Qualifications form.

That completes my testimony. I would be glad to answer any questions the committee may have.

Steve Tabor, AIA  
S.A. Tabor Architecture  
(701) 258-7032



## Testimony in Support of House Bill 1189

Good afternoon Chairman Poolman and Committee Members. My name is Bonnie Staiger (Lobbyist #171). I am The Executive Vice President of AIA North Dakota (The American Institute of Architects). We support House Bill 1189 and asked Rep. Keiser to sponsor this bill on our behalf. He suggested that I introduce it today and begs your forgiveness.

This bill raises the fee limits for directly securing architect, engineer, construction management, or land surveying services for projects from twenty five thousand dollars to thirty five thousand dollars and raises the fee limit that a state agency can pay any one architectural, engineering, or land surveying person or firm within a twelve-month period from fifty thousand to seventy thousand dollars.

This fee level was last revisited during the 60<sup>th</sup> Legislative Session in 2007. At that time, they were raised from ten thousand dollars per project and twenty thousand dollars per twelve-month period to the current levels. Proposed state budget cuts will force state agencies to do more with less. By raising these fee limits as proposed in this bill, state agencies will be able to execute slightly larger projects without having to perform the time consuming, and at times costly, solicitation procedures required by other portions of this chapter.

In addition, construction costs have increased over the past ten years. These increases translate into state agencies having to perform the formal solicitation procedures on projects that would not have required them in 2007 when the current fee limits were established.

This bill would provide state agencies increased flexibility when procuring professional design services for smaller projects, but still require formal solicitation and competition for larger scale projects.

At the time of the House hearing we also proposed the following amendment be added to Chapter 54-44.7-03 Paragraph 3. Rep. Keiser's committee forgot to consider that when they gave the bill a unanimous Do Pass recommendation and he joins us in asking you to add this correction in the Senate.

This additional amendment is being proposed because the referenced GSA SF 254 and SF 255 forms are obsolete and have been replaced by the **GSA SF 330 Architect – Engineer Qualifications form**.

**HB 1189 - Proposed Amendment.****Section 2. Amendment to Section 54-44.7-03 of the North Dakota Century Code is amended and reenacted as follows:****54-44.7-03. Procurement procedures.**

1. Each using agency shall establish its own architect, engineer, construction management, and land surveying services selection committee hereinafter referred to as the agency selection committee, which must be composed of those individuals whom the agency head determines to be qualified to make an informed decision as to the most competent and qualified firm for the proposed project. The head of the using agency or that person's qualified, responsible designee shall sit as a member of the agency selection committee for the purpose of coordinating and accounting for the committee's work.
2. The agency selection committee is responsible for all of the following:
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3. The date for submission of information from interested persons or firms in response to an invitation must be not less than twenty-one days after publication of the invitation. Interested architect, engineer, and land surveying persons or firms must be required to respond to the invitation with the submission of the information required in general services administration forms SF 254 and SF 255 330, architect-engineer qualifications related services questionnaire for specific project, or such similar information as the agency selection committee may prescribe by rule.

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The purpose of the interviews must be to provide such further information as may be required by the agency selection committee to fully acquaint itself with the relative qualifications of the several interested persons or firms.

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17.0556.01001  
Title.

Prepared by the Legislative Council staff for  
Senator Poolman  
March 16, 2017

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1189

Page 1, line 1, after "reenact" insert "subsection 3 of section 54-44.7-03 and"

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Renumber accordingly