

**2019 HOUSE POLITICAL SUBDIVISIONS**

**HB 1411**

# 2019 HOUSE STANDING COMMITTEE MINUTES

## Political Subdivisions Committee Prairie Room, State Capitol

2/1/2019

HB 1411

Job # 31972

Subcommittee

Conference Committee

Committee Clerk: Carmen Hickle

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

Relating to bid requirements of public improvements

### Minutes:

1,2,3

**Chairman J. Dockter:** Opens the hearing on HB 1411.

**Rep. Trottier:** (Handout #1) Introduced the bill by reading his testimony.

**Rep. Ertelt:** I have a question on the above ground, it appears in the first section you are removing the threshold completely from anything not above ground? It's striking the words public works and only leaving above ground street improvements.

**Rep. Trottier:** That's right, if you go under the grade it goes back to the original code of \$150,000.

**Rep K. Koppelman:** Is that in another section of code? If that was your intent that is not how the bill reads. It just removes public works and replaces that term with above ground road and street improvements and changes the threshold dollar amount. By removing public works, you are then dealing with above ground road and street improvements. Unless that is somewhere else in code.

**Rep. Trottier:** That is what my intent is.

**Chairman J. Dockter:** We have a similar bill on HB 1356 that we haven't taken action on.

**Bill Kalanek:** Dakota Chapter of National Electrical Contractor Association and ND Association of Plumbing, Heating & Mechanical Contractors. (Handout #2). Read his testimony.

**Rep K. Koppelman:** Do you see a problem whatever the figure with an arbitrary number governing all of this?

**Mr. Kalanek:** When we talk about the design part that raises a question. A dollar figure is appropriate for a bidding requirement but for a design services that is different.

**Travis Greff:** HA Thompson and Sons. (Handout #3). Read his testimony.

**Mike Krumwiede:** American Council of Engineering Companies. We want to echo what has been said, I am opposing this bill. Arbitrarily raising a number tied to public safety is a dangerous idea. This bill strikes out below grade which is troubling. We are working on language on the bill that Chairman Dockter has pointed out.

**Rep K. Koppelman:** When I refer to arbitrary levels I am meaning at the current level or higher or lower.

**Russ Hanson:** Associated General Contractors. The above ground terminology jumped out and is concerning to us. We have the same question as how that would impact below ground municipal and heavy works. We think changing it would be a little too high to fast.

**Chairman J. Dockter:** Closed the hearing.

# 2019 HOUSE STANDING COMMITTEE MINUTES

**Political Subdivisions Committee**  
Prairie Room, State Capitol

HB 1411  
2/1/2019  
Job # 32030

- Subcommittee  
 Conference Committee

Committee Clerk Signature	Carmen Hickle
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**Explanation or reason for introduction of bill/resolution:**

Relating to bid requirements of public improvements

**Minutes:**

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**Chairman J. Dockter:** Reopens for committee work.

**Rep K. Koppelman:** Made a do not pass motion.

**Rep. Longmuir:** Second the motion.

Vote yes 14, no 0, absent 0.

**Rep. Ertelt:** Will carry the bill.

Date: 2-1-19  
Roll Call Vote #: 1

**2019 HOUSE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. 1411**

House 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 Rep. Koppelman Seconded By Rep. Longmuir

Representatives	Yes	No	Representatives	Yes	No
Chairman J. Dockter:	/				
Vice Chairman Pyle:	/				
Rep. Ertelt:	/				
Rep. Fegley:	/				
Rep. Hatlestad:	/				
Rep. Johnson	/				
Rep K. Koppelman:	/				
Rep. Longmuir	/				
Rep. Magrum:	/				
Rep. Simons:	/				
Rep. Toman:	/				
Rep. Strinden:	/				
Rep. Adams:	/				
Rep. Guggisberg	/				

Total (Yes) 14 No 0

Absent 0

Floor Assignment Rep. Ertelt

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

**REPORT OF STANDING COMMITTEE**

**HB 1411: Political Subdivisions Committee (Rep. Dockter, Chairman) recommends DO NOT PASS** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1411 was placed on the Eleventh order on the calendar.

**2019 TESTIMONY**

**HB 1411**

## Trottier, Wayne A.

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#1  
2-1-19

**From:** Trottier, Wayne A.  
**Sent:** Thursday, January 31, 2019 9:22 PM  
**To:** hatwooduniversity@yahoo.com; Trottier, Wayne A.  
**Subject:** HB 1411

HB 1411

Good morning Chairman Kaiser, and members of the IBL committee,

For the record, my name is Wayne Trottier, representing DIST 19, which is bordered on the North by Hoople and Northwood on the south.

HB 1411, as read by your clerk, is a bill that pertains to public entities, and public improvements, in this case streets and roads.

The current code is any project over \$150,000, requires an engineer.

This bill raises that limit to \$500,000.

Engineers design, in this case, roads & streets. They address proper designs and design for safety. This however is putting an additional layer of pavement, in most cases. This is as the bill reads is above grade, from the ground up, and not going lower, like dealing with water and sewer.

I have been approached by mostly cities, concerning the engineering costs for re-surfacing streets, mostly smaller cities & towns.

They told me they were looking at repairing and redoing tar/blacktop streets that need updating.

Many said they could probably only do 1 or 2 blocks, before they were at the \$150,000 limit.

By going to \$500,000, they may save \$40,000-\$50,000 in engineering costs. They said they all had one or more contractors, that they had experience with, and most said they were local contractors. They all said, that if they have had any trouble with their contractor's work, the local contractor could be dealt with. Just a better relationship.

Almost all said they have had disputes between engineers and the contractor.

Engineers are professionals and perform a needed service, however I was told over and over, contractors can meet the needs and requirements, that this bill addresses. Many have years & years of experience.

Keep in mind, this addresses several key issues. Elected officials can make the decision to hire an engineer for less than the \$500,000, if they feel they have a public safety issue, or a design question. This is giving the locals decisions back to the locals. These people are elected, just like the legislature. They dislike mandates, just like our state dislikes mandates from the federal government.

In closing, three things:

(1) The prairie dog bill that may be passed in this legislature, can mean a lot of street repair and replacement in our small towns (2). Remember, this is a local issue (3). This could save a lot of money for local citizens, that is mostly funded by property taxes.

48-01.2-02.1 addresses the bidding for public improvements, moving it from \$150,000 to \$500,000. In the past, the legislature has had questions dealing with raising the bidding process. Remember, this does not say that if an entity wants to put a \$100,000 or less up for bidding, they can do it.

However, I wouldn't have any issue with lowering this number.

Mr Chairman and committee members, I thank you for your time and attention, and would try to answer any questions I can

#2

Testimony  
House Bill 1411  
House Political Subdivisions Committee  
February 1<sup>st</sup>, 2019  
Bill Kalanek  
National Electrical Contractors Association, Dakotas Chapter  
North Dakota Association of Plumbing, Heating & Mechanical Contractors

Good Morning Chairman Dockter and members of the Political Subdivisions Committee. My name is Bill Kalanek and I'm here today on behalf of the Dakotas Chapter of the National Electrical Contractors Association (NECA) and the ND Association of Plumbing, Heating & Mechanical Contractors.

I'd like to begin by expressing our combined opposition to House Bill 1411. It was just 2 years ago, during the 2017 session that the legislature raised the threshold for bidding public projects 50% going from a threshold of \$100,000 to \$150,000 in SB 2146.

It has been our position to support public policy that encourages the bidding of more projects, not less. The current threshold which some may view as too low, ensures that there is fair access to public projects small and large and helps prevent potential corruption in the award process. There are plenty of small contractors out there that appreciate the opportunity to bid \$200,000 electrical, hvac or plumbing jobs. Raising the threshold only increases the possibility those taxpayer funded projects could regularly go to the same contractors as some may prefer.

Just because it might be easier doesn't make it right. I ask that you give HB 1411 a DO NOT PASS recommendation and continue the fair and prudent bidding process we enjoy today.

Thank you.

Chairman Dockter

Members of House Political Subdivisions Committee

#3  
2-1-19  
HB 1411

My name is Travis Greff. I am the Commercial Estimator for HA Thompson and Sons a plumbing and heating company located here in Bismarck. I am also the President of the North Dakota Association of Plumbing, Heating and Mechanical Contractors an association that has been in the state for almost 100 years. I am here today to voice opposition to this bill as a concerned tax payer of the state.

The first change to the language is to remove public works and modify it to above ground road and street improvements. I feel that is narrowly defining the code and there is the potential of many things that will no longer be covered within this bill. Sewer, water, power, data, storm drainage, retention ponds, etc. I feel could all be classified as a public work which it is now defined. Making this change to such a narrow definition could leave a lot of projects not covered within this portion of the code.

As for the threshold portion, currently the threshold is set at \$150,000 to have to publicly advertise and bid any taxpayer funded project. This threshold was just raised from \$100,000, where it had stood for quite a few years up to \$150,000 just last session to match the Architects threshold to design a project. We supported that raise as it made things clearer for public entities for when they needed to bid a project.

As a contractor with service contracts on the mechanical side of public buildings, we form strong relationships with the people entrusted with the care of these systems. Most public entities across the state have relationships like this with familiar contractors. When public improvements need to be made in the small public facilities, that make up most of the buildings within the state, they often exceed the \$150,000 threshold. Many things below the threshold often gets negotiated with the contractor they are comfortable with.

By raising the threshold to \$500,000, we are giving any publicly entity within the state the ability to hand a project over to their preferred contractor to avoid a having to go out and actively seek competitive bids. A small school district like where my kids go, could award a half of a million-dollar contract without having to at least try and obtain the lowest possible price for the project by allowing every responsible contractor the opportunity to bid it. This would waste valuable tax dollars that could be used for other upgrades that so many of the facilities in the state need.

These thresholds have saved taxpayers millions of dollars over the years. Arbitrarily raising it will only cost the state and local governments more money over the long term. I ask you to vote no on HB 1411 and keep the threshold at the current level.

Thank you