

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1091

2005 HOUSE GOVERNMENT AND VETERANS AFFAIRS

HB 1091

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1091

House Government and Veterans Affairs Committee

☐ Conference Committee

Hearing Date 01/07/05

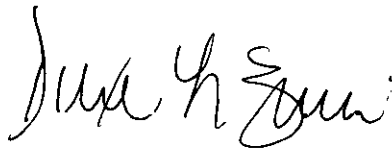
Tape Number
HB 1091

Side A
x

Side B

Meter #
0-7.8

Committee Clerk Signature



Minutes: HB 1091 Relating to bid opening and preference to tie bids.

13 members present, 1 absent.

Chairman Haas: We will open the hearing on HB 1091.

Sherry Neas-Office of Management and Budget, State Procurement Office-For-Attached Testimony

Rep. Kasper: On your testimony in the third paragraph, you mentioned approved vendors, how does a North Dakota Company or any company become an approved vendor.

Sherry: In the state procurement laws 54-44.4-09 there is an approval process, you need to get registered with the Secretary of State, fill out application with Office of Management and Budget, where you just pick the bidders list.

Rep. Kasper: If the company is an approved bidder and a department or some various entity wants to purchase are all the approved vendors given a RFP or do they need to stay on top of this.

Sherry: Under the current law, they send notice to those vendors on that approved bidders list, unless you make a determination why you are not going to put your name on the bidders list.

Rep. Horter: How is the vendor defined? Could you give me an example of how this might occur.

Sherry: Vendor in this situation is a company, either an individual or a business entity, that is either submitting a bid or proposal, to win a State Contract. Example: State vehicle bid, where you might have a tie bid between a Minnesota vendor and a North Dakota vendor, which previously we have been resolving by a flip of the coin.

Rep. Kasper: Your familiar with Whiska? North Dakota was not a part of Whiska until December 1st and now we are becoming a part. Can you tell me where we are at on the Whiska situation?

Sherry: Whiska is Western States contracting alliance, membership includes 19 other states. We are not actual members of Whiska, but we can purchase from their contracts. We have been purchasing from their contracts since 1991.

Rep. Kasper: If you use Whiska, are you prohibited from receiving bids from any other North Dakota Computer Companies.

Sherry: What you are referring too is are most recent computer contract, the first section of that, it is a mandatory contract with supply and HP, section 2, if you are buying a computer that doesn't meet those standard specifications, you can but from either any of the Whiska vendors or use normal competitive process.

Rep. Kasper: You can utilize Whiska, you are not prohibited from accepting bids from someone who is not a member of Whiska, so as long as they submit a bid, as long as they meet your specifications. Is that correct?

Sherry: That is correct.

Rep. Forseth: I think this is a good idea, but what do other states, like Montana, Minnesota, South Dakota, do they have the same type law in place in those states?

Sherry: Minnesota does not have a tie preference, they have reciprocal preference like we do, South Dakota does have a tie base preference, and Montana does not have tie bid preference.

Rep. Forseth: It wouldn't put us at any disadvantage to have this law on our books, it wouldn't put us at any disadvantage with our neighboring states, for our companies to do business with them?

Sherry: It put us in a situation, if a North Dakota vendor in a tie bid in another state and that state does not have a tie bid preference, but they do have a reciprocal preference, then there probably is a coin toss.

Rep. Haas: Thank You very much. Any more questions?

Rep. Sitte: I move a DO PASS on HB 1091.

Rep. Potter: I second.

Vote: YES 13 NO 0 ABSENT 1 Rep. Sitte will carry the bill.

Date: 11/7/05
Roll Call Vote #: 1

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1091

House House Government and Veterans Affairs

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken

DO PASS

Motion Made By

Rep Sitte

Seconded By

Rep Potten

Representatives	Yes	No	Representatives	Yes	No
Chairman C.B. Haas	✓		Rep. Bill Amerman	✓	
Bette B. Grande - Vice Chairman	✓		Rep. Kari Conrad	✓	
Rep. Randy Boehning	✓		Rep. Louise Potter	✓	
Rep. Glen Froseth	✓		Rep. Sally M. Sandvig	AB	
Rep. Pat Galvin	✓				
Rep. Stacey Horter	✓				
Rep. Jim Kasper	✓				
Rep. Lawrence R. Klemin	✓				
Rep. Lisa Meier	✓				
Rep. Margaret Sitte	✓				

Total (Yes)

13

No

0

Absent

1

Floor Assignment

Rep. Sitte

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

REPORT OF STANDING COMMITTEE (410)
January 7, 2005 11:06 a.m.

Module No: HR-04-0167
Carrier: Sitte
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1091: Government and Veterans Affairs Committee (Rep. Haas, Chairman)
recommends **DO PASS** (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING).
HB 1091 was placed on the Eleventh order on the calendar.

2005 SENATE POLITICAL SUBDIVISIONS

HB 1091

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1091


Senate Political Subdivisions Committee

☐ Conference Committee

Hearing Date February 25, 2005

Tape Number	Side A	Side B	Meter #
1	X		5711 - End
1		X	0 - 939

Committee Clerk Signature



Minutes:

Chairman Cook opened the hearing on HB 1091 relating to bid opening and preference for tie bids. All committee members (6) present.

Linda Belisle, Director of OMB, Central Services Division, testified in support of HB 1091.

(See attachment #1)

Senator Triplett: If you can do a piece of this in administrative code why couldn't you do the rest of it in administrative rules and just do the resolution of the tie in general by the administrative rules?

Linda Belisle: Every administrative rule has to have a reference in law and we have no reference in statute to address the in state preference.

Kalvin Kingsley, Operation Director, K2 Interactive testified in support of HB 1091 on behalf of the Information Technology Council of North Dakota, in which he is a board member, and K2 Interactive. (See attachment #2)

Senator Triplett: From my experience of being on the county commission for twelve years I don't ever remember getting identical bids and we put out lots of bids.

Kalvin Kingsley: I felt the same when I first saw this that it is a rare opportunity and I as I see it is more of all things being equal shouldn't a North Dakota company get that bid. I see it as basically stamping that to make that law instead of an assumption.

Senator Dever: Do you compete with a lot of out of state competitors?

Kalvin Kingsley: We have had experience that we have competed.

No further testimony for or against HB1091.

Chairman Cook closed the hearing on HB 1091.

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1091

Senate Political Subdivisions Committee

☐ Conference Committee

Hearing Date March 10, 2005 (action)


Tape Number
1

Side A

Side B
X

Meter #
412 - 568

Committee Clerk Signature



Minutes:

Chairman Cook opened the discussion and asked for action on HB 1091. All members (6) present.

Senator Gary Lee moved a Do Pass.

Senator Hacker seconded the motion.

Roll call Yes 6 No 0 Absent 0

Carrier: **Senator Hacker**

Date: 3-10-05
Roll Call Vote #: 1

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. AB 1091

Senate Political Subdivisions

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken Do Pass

Motion Made By Senator Gary Lee Seconded By Senator Hacker

Senators	Yes	No	Senators	Yes	No
Senator Dwight Cook, Chairman	X				
Senator Nicholas P. Hacker, VC	X				
Senator Dick Dever	X				
Senator Gary A. Lee	X				
Senator April Fairfield	X				
Senator Constance Triplett	X				

Total Yes 6 No 0

Absent

Floor Assignment Senator Hacker

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

REPORT OF STANDING COMMITTEE (410)
March 10, 2005 1:38 p.m.

Module No: SR-44-4657
Carrier: Hacker
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1091: Political Subdivisions Committee (Sen. Cook, Chairman) recommends DO PASS (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1091 was placed on the Fourteenth order on the calendar.

2005 TESTIMONY

HB 1091

House Bill No. 1091

Government and Veterans Affairs Committee
January 7, 2005
Chairman C.B. Haas

Testimony

Good morning, Chairman Haas and members of the committee, I am Sherry Neas of the Office of Management and Budget, State Procurement Office.

Section 1 of House Bill 1091 amends the State's reciprocal preference law to create a preference for North Dakota vendors in the event of a tie bid or proposal. The statute is currently silent regarding the resolution of tie bids and proposals.

Section 2 of House Bill 1091 amends state procurement laws (N.D.C.C. § 54-44.4-09). Current state procurement laws regarding tie bids give preference to approved vendors on the state bidders list. If this bill is successful, preference in the event of a tie will be given first to the resident bidder; if the tie is not resolved by the in-state preference, then preference is given to the approved vendor on the state bidders list. OMB has promulgated administrative rules to address situations when the tie is not resolved after the application of these statutes, and a copy of those rules is attached to my testimony.

OMB does not support preference laws because they put North Dakota vendors at a disadvantage when bidding in other states.

Under current state law, North Dakota vendors would only receive preference in a tie-bid situation between an in-state and out-of-state vendor if the laws of the nonresident vendor's state had a tie bid preference. In reviewing the procurement laws of the other 50 states, 33 states have tie-bid preferences for resident vendors.

Tie bids and proposals are not frequent, but the law needs to address how they will be resolved.

This concludes my testimony, and I welcome any questions you might have. Thank you.

N.D.A.C. 4-12-11-05. Tie bids or proposals.

In the event of a tie bid or proposal, the procurement officer will ensure that any applicable preference has been applied to price in accordance with North Dakota Century Code section 44-08-01. If a tie remains, award shall be determined as follows:

1. If the tie is between an approved vendor and vendor that is not approved, preference will be given to the approved vendor in accordance with North Dakota Century Code section 54-44.4-09.
2. If the solicitation specified delivery as soon as possible, the bid or proposal with the earliest delivery time will be accepted. In all other cases, delivery time will not be considered in making award, provided the bid or proposal states that delivery can be made within the required time.
3. If a tie remains, a split award may be made or award will be made through a random drawing.

History: Effective August 1, 2004.

General Authority: NDCC 54-44.4-04 -

Law Implemented: NDCC 44-08-01, 54-44.4-04, 54-44.4-05, 54-44.4-09, 54-44.4-10

House Bill No. 1091

**Political Subdivisions Committee
February 25, 2005
Chairman Cook**

Testimony

Good morning, Chairman Cook and members of the committee, I am Linda Belisle, Director of the OMB, Central Services Division.

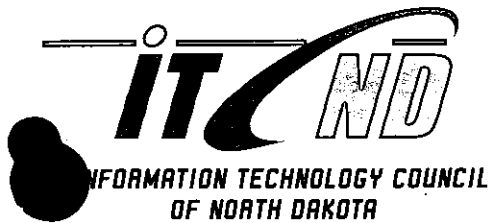
Section 1 of HB 1091 amends NDCC 44-08-01.1 and creates a preference for North Dakota vendors in the event of a tie bid or proposal. The section of statute is currently silent regarding the resolution of tie bids and proposals.

Section 2 of HB 1091 amends state procurement laws (N.D.C.C. § 54-44.4-09). Current laws regarding tie bids give preference to approved vendors on the state bidders list. If this bill is successful, preference in the event of a tie will be given first to the resident bidder. If the tie is not resolved by the in-state preference, then preference is given to the approved vendor on the state bidders list. OMB has promulgated administrative rules to address situations when the tie is not resolved after the application of these statutes, and a copy of those rules is attached to my testimony.

This bill only addresses tie bid situations. OMB does not otherwise support preference laws because they put North Dakota vendors at a disadvantage when bidding in other states.

Tie bids and proposals are not frequent, but the law needs to address how they will be resolved.

This concludes my testimony, and I welcome any questions you might have.
Thank you.



Attachment # 2

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Testimony of Calvin Kingsley
Operations Director, K2 Interactive
on HB 1091

February 25, 2005

Mr. Chairman and members of the Senate Political Subdivisions Committee:

My name is Calvin Kingsley and I am the operations director of K2 Interactive. Today, I am here to testify in support of HB 1091 on behalf of the Information Technology Council of North Dakota (or ITCND), of which I am a board member, and K2 Interactive.

K2 Interactive is an Internet marketing company specializing in designing and building our customer's Internet presence. K2 Interactive was founded in 1999 as a division of Kranzler Kingsley Advertising, Marketing, and Public Relations. Kranzler Kingsley has been a member of ITCND since its inception in 2000, when it was created by North Dakota business, government, and university leaders who recognized the need to strengthen the state's information technology infrastructure and position the state as a national leader in IT. ITCND has more than 100 member organizations and continues to grow every year. The members of ITCND believe in a stronger North Dakota through information technology excellence and development.

One of ITCND's 2005 legislative agenda items is to encourage state procurement opportunities for North Dakota IT professional service providers. HB 1091 helps advance that goal. The ITCND members who are professional service providers, including K2 Interactive, feel that it is very important for North Dakota vendors to be given preference when the state is considering bids containing identical pricing or evaluation scores. A number of ITCND's member companies, including myself, would be positively impacted by the passing of this bill.

We thank you for your support of business development in the past, and we encourage you to give HB 1091 a DO PASS recommendation.

Kingsley in support of HB 1091