

July 1, 2010

ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS
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CHAIRMAN POTTER AND COMMISSION MEMBERS:

My name is Jack McDonald. I'm appearing here today on behalf of the North Dakota Newspaper Association (NDNA). We believe the current bid laws inform the public, obtain the best bids and promote open and efficient government on the local level. We would oppose any changes.

These remarks are intended to cover our position on three of the bills to be heard today: [1.] #10063.0100, the bill now before the committee, regarding an increase in the bid threshold; [2.] #10065.0100 regarding the duration and amount of public bid advertising; and [3.] #10062.0100 regarding concession bids.

BID THRESHOLD – 10063-0100

First, we believe advertising for the bids through local newspapers serves several functions. It informs the public about the project and gives them the opportunity to voice opinions about it. Local or small contractors, who may just be getting into the business or who may want to do local projects, will be informed by multiple advertisements in local newspapers.

Secondly, we believe bidding projects is just good government. The problems recently in Bismarck, Dickinson, and Fargo regarding bid projects, coupled with the manipulation of projects at UND and NDSU to keep them below the \$100,000 level set by the Board of Higher Education...does that figure sound familiar?...seems to indicate the state needs to keep the bid requirements it has now, and not loosen them or allow more room for maneuvering to get around the bid requirements. Why do that?

Thirdly, we understand the threshold has not changed since 1997, but that alone is no reason to change. Many threshold levels in state law stay the same until a good reason is given for change; i.e. voting age, driver's license points, driving age limits, etc. I'm not aware that any reason has been given to raise the limit other than it hasn't been raised since 1997. That is a sizable project for most cities, and park and school districts in North Dakota. Again, we believe it is just good government to obtain bids. If its good to get bids, then a public entity should not be trying to avoid bids below any figure, much less one higher than \$100,000.

Finally, we certainly don't see why the level should be automatically increased every year. As I mentioned before, this is a good government issue, not some payment for services or assistance measure. There is absolutely no need to automatically increase this figure year after year.

(OVER)

NUMBER OF BID NOTICES – 10065.0100

The current number of published bid notices – 3 times in 3 weeks – has worked well in North Dakota over the years. Again, no real reason has been given for a change except that, well, maybe it should be changed. The three weeks allows the public an opportunity to become aware of the project and take some action, either by contacting others about the opportunity to bid, or to contact the public entity to give their opinions on the project. It gives bidders more time to plan a project, get the necessary information and specs and finally put the bid together. This all takes some time. We think 21 days allows more time for this to occur than 15 days.

The bill is also a bit confusing regarding bids for special assessment projects. It eliminates the two week requirement, but says the “first” publication must be at least 14 days before the bid opening. The use of the word “first” indicates there will be a second, and the 14 days seems to imply two notices, one each week. What is required, one or two notices?

If twice, then the language should read on line 16 “...need be published twice in the official newspapers...”

CONCESSION BIDDING – 10062.0100

We understand the problems that led to this bill, but we again raise some of the same arguments in opposition to the threshold increase and elimination of bids that we did above. I’m not familiar with the statistics involving concessions, but an increase of 539% is quite a jump to say the least. I would imagine that this would take the vast majority of concessions out of the bid process entirely. This just doesn’t seem fair to individuals who may be interested in doing this. And, it again doesn’t seem like good government.

We also believe the number of bids should stay at 3 for the reasons we listed above. However, we concede there may be some good reasons for shortening this time period given the seasonal nature of many concessions.

Finally, the language regarding the legal newspaper is outdated and inaccurate. There are only 90 newspapers published in a city in North Dakota, and many are not “near” where the concession will be operated. It would be better to use the newspaper language in Bill No. 10065.0100, lines 12-13: “The advertisement must be published in the official newspaper of the entity letting the bids.” All public entities in North Dakota have an official newspaper.

Therefore, we respectfully request that you do not make any changes in the current bid procedures. If you have any questions, I will be happy to try to answer them.

THANK YOU FOR YOUR TIME AND CONSIDERATION.