

**Sixty-second Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 4, 2011**

HOUSE BILL NO. 1066
(Representatives Rust, Sanford, Wieland)
(Senators Andrist, Miller)

AN ACT to amend and reenact sections 15.1-36-01, 15.1-36-04, and 18-12-04 of the North Dakota Century Code, relating to thresholds and criteria for school district construction projects; to provide an effective date; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15.1-36-01 of the North Dakota Century Code is amended and reenacted as follows:

15.1-36-01. (~~Effective through June 30, 2011~~) School construction projects - Approval.

1. Notwithstanding the powers and duties of school boards provided by law, the superintendent of public instruction shall approve the construction, purchase, repair, improvement, modernization, or renovation of any public school building or facility before commencement of the project if the cost of the project, as estimated by the school board, is in excess of fortyone hundred thousand dollars.
2. The superintendent of public instruction may not approve a project unless the school district proposing the project:
 - a. Demonstrates the need for the project and the educational utility of the project or demonstrates potential utilization of the project by a future reorganized school district; ~~and~~
 - b. In the case of new construction or a renovation affecting more than fifty percent of an existing structure's square footage, demonstrates that circumstances within the district are likely to result in a stable or increasing student population; and
 - c. Demonstrates the capacity to pay for the project under rules adopted by the superintendent of public instruction pursuant to chapter 28-32.
3.
 - a. If the superintendent of public instruction denies the project, the school board may appeal the superintendent's decision to the state board of public school education. In considering the appeal, the state board shall review:
 - (1) The need for the project;
 - (2) The educational utility of the project;
 - (3) The potential use of the project by a future reorganized school district;
 - (4) The capacity of the district to pay for the project; and
 - (5) Any other objective factors relative to the appeal.
 - b. The decision of the state board is final.
4. ~~This section does not apply to any construction, purchase, repair, improvement, renovation, or modernization required as part of a plan of correction approved by the state fire marshal under section 15.1-06-09 unless the cost of the improvements exceeds seventy five thousand dollars.~~

5. This section is applicable to any construction, purchase, repair, improvement, renovation, or modernization, even if the school board pays for the project in whole or in part with moneys received on account of the leasing of lands acquired by the United States for flood control, navigation, and allied purposes in accordance with 33 U.S.C. 701c-3 or in accordance with moneys received under the American Recovery and Reinvestment Act of 2009.
- 6-5. For purposes of this chapter, "facility" includes a public school parking lot, public school athletic complex, or any other improvement to real property owned by the school district.

~~(Effective after June 30, 2011) School construction projects -- Approval:~~

- ~~1. Notwithstanding the powers and duties of school boards provided by law, the superintendent of public instruction shall approve the construction, purchase, repair, improvement, modernization, or renovation of any public school building or facility before commencement of the project if the cost of the project, as estimated by the school board, is in excess of twenty-five thousand dollars.~~
- ~~2. The superintendent of public instruction may not approve a project unless the school district proposing the project:
 - a. Demonstrates the need for the project, the educational utility of the project, and the ability to sustain a stable or increasing student enrollment for a period of time at least equal to the anticipated usable life of the project or demonstrates potential utilization of the project by a future reorganized school district; and
 - b. Demonstrates the capacity to pay for the project under rules adopted by the superintendent of public instruction pursuant to chapter 28-32.~~
- ~~3. a. If the superintendent of public instruction denies the project, the school board may appeal the superintendent's decision to the state board of public school education. In considering the appeal, the state board shall review:
 - (1) The need for the project;
 - (2) The educational utility of the project;
 - (3) The school district's ability to sustain a stable or increasing student enrollment for a period of time at least equal to the anticipated usable life of the project;
 - (4) The potential use of the project by a future reorganized school district;
 - (5) The capacity of the district to pay for the project; and
 - (6) Any other objective factors relative to the appeal.b. The decision of the state board is final.~~
- ~~4. This section does not apply to any construction, purchase, repair, improvement, renovation, or modernization required as part of a plan of correction approved by the state fire marshal under section 15.1-06-09 unless the cost of the improvements exceeds seventy-five thousand dollars.~~
- ~~5. For purposes of this chapter, "facility" includes a public school parking lot, public school athletic complex, or any other improvement to real property owned by the school district.~~

SECTION 2. AMENDMENT. Section 15.1-36-04 of the North Dakota Century Code is amended and reenacted as follows:

15.1-36-04. Evidences of indebtedness.

The board of a school district may issue and sell evidences of indebtedness under chapter 21-03 to finance the construction or improvement of a project approved under this chapter. The principal amount of the loan and the evidences of indebtedness to repay the loan may not exceed the ~~lesser of thirty percent of the school district's taxable valuation or five million dollars~~ loan amount for which the district is eligible under this chapter. Evidences of indebtedness issued under this chapter constitute a general obligation of the school district.

SECTION 3. AMENDMENT. Section 18-12-04 of the North Dakota Century Code is amended and reenacted as follows:

18-12-04. Employment of registered architects and engineers.

All plans and specifications for construction, except agricultural sheds and barns, the monetary worth of which is one hundred thousand dollars or more, must be prepared by and the construction administration and construction observation services supervised by architects or engineers registered in this state. The architect or engineer is legally responsible for designing the building in accordance with the provisions of this chapter of adequate strength so as to resist fire, and constructing the building in a workmanlike manner, according to the plans and specifications as approved. ~~All School district projects for which the tax money exceeds two thousand dollars must be submitted to the department of public instruction or are subject to the approval requirements of section 15.1-36-01 and projects involving institutions of higher education under the control of the state board of higher education are subject to the approval requirements of chapter 15-10.~~

SECTION 4. EFFECTIVE DATE. This Act becomes effective on July 1, 2011.

SECTION 5. EMERGENCY. This Act is declared to be an emergency measure.

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-second Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1066 and that two-thirds of the members-elect of the House of Representatives voted in favor of said law.

Vote: Yeas 88 Nays 3 Absent 3

Speaker of the House

Chief Clerk of the House

This certifies that two-thirds of the members-elect of the Senate voted in favor of said law.

Vote: Yeas 46 Nays 0 Absent 1

President of the Senate

Secretary of the Senate

Received by the Governor at _____ M. on _____, 2011.

Approved at _____ M. on _____, 2011.

Governor

Filed in this office this _____ day of _____, 2011,
at _____ o'clock _____ M.

Secretary of State