

# PUBLIC BUILDINGS

## CHAPTER 381

### HOUSE BILL NO. 1356

(Representatives Schreiber-Beck, M. Johnson, Lefor, Mitskog, Trottier, Zubke)  
(Senators Hogan, Klein, Kreun, J. Lee, Luick)

AN ACT to amend and reenact sections 43-19.1-28, 48-01.2-02.1, and 48-01.2-10 of the North Dakota Century Code, relating to bids, plans, and specifications for public improvements and bond thresholds.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Section 43-19.1-28 of the North Dakota Century Code is amended and reenacted as follows:

##### **43-19.1-28. Public works.**

Except as otherwise provided by law, the state and its political subdivisions may not engage in the construction of public works involving the practice of professional engineering when the contemplated expenditure for the project exceeds the sum of ~~one~~two hundred ~~fifty~~ thousand dollars, unless the engineering drawings and specifications and estimates have been prepared by, and the construction administration and construction observation services are executed under the supervision of, a registered professional engineer. Any engineering contract executed in violation of this section is void.

**SECTION 2. AMENDMENT.** Section 48-01.2-02.1 of the North Dakota Century Code is amended and reenacted as follows:

##### **48-01.2-02.1. Public improvement construction threshold.**

1. The threshold for bidding construction of a public improvement is ~~one~~two hundred ~~fifty~~ thousand dollars. The threshold for procuring plans, drawings, and specifications from an architect or engineer for construction of a public improvement is ~~one~~two hundred ~~fifty~~ thousand dollars.
2. Notwithstanding the thresholds in subsection 1, if the state or a political subdivision undertakes the construction of a public improvement and there is reason to believe that engineering or architectural services are necessary to protect the health, safety or welfare of the public, the state or political subdivision shall consider consulting with an engineer or architect.

**SECTION 3. AMENDMENT.** Section 48-01.2-10 of the North Dakota Century Code is amended and reenacted as follows:

##### **48-01.2-10. Bonds from contractors for public improvements.**

1. Unless otherwise provided under this chapter, a governing body authorized to enter a contract for the construction of a public improvement in excess of ~~one~~two hundred ~~fifty~~ thousand dollars shall take from the contractor a bond before permitting any work to be done on the contract. The bond must be for an amount equal at least to the price stated in the contract. The bond must be conditioned to be void if the contractor and all subcontractors fully perform all terms, conditions, and provisions of the contract and pay all bills or claims on account of labor performed and any supplies, and materials furnished and used in the performance of the contract, including all demands of subcontractors. The requirement that bills and claims be paid must include the requirement that interest of the amount authorized under section 13-01-14 be paid on bills and claims not paid within ninety days. The bond is security for all bills, claims, and demands until fully paid, with preference to labor and material suppliers as to payment. The bond must run to the governing body, but any person having a lawful claim against the contractor or any subcontractor may sue on the bond.
2. A governing body may not require any person required to provide a surety bond to obtain the surety bond from a specified insurance or surety company or insurance producer or to submit financial data to the company or producer.

Approved April 24, 2019

Filed April 24, 2019

## CHAPTER 382

### HOUSE BILL NO. 1136

(Representatives Keiser, Bosch, Lefor)  
(Senators Burckhard, Klein, Vedaa)

AN ACT to amend and reenact section 48-01.2-06 of the North Dakota Century Code, relating to bid requirements for public improvements.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Section 48-01.2-06 of the North Dakota Century Code is amended and reenacted as follows:

#### **48-01.2-06. Bid requirements for public improvements.**

1. Multiple prime bids for the general, electrical, and mechanical portions of a project are required when any individual general, electrical, or mechanical contract or any combination of individual contracts is in excess of the threshold established under section 48-01.2-02.1. If a general, mechanical, or electrical contract is estimated to be less than twenty-five percent of the threshold, the contract may be included in one of the other prime contracts. A governing body may allow submission of a single prime bid for the complete project or bids for other specialized portions of the project. A governing body may not accept the single prime bid unless that bid is lower than the combined total of the lowest responsible multiple bids for the project.
2. If a bid for the general, electrical, or mechanical portions of a project is not received, a governing body may negotiate:
  - a. Negotiate a contract amendment, up to an additional one hundred fifty thousand dollars, with the general, electrical, or mechanical contractor whose contract would represent the largest portion of the project cost for providing the portion of the project for which a bid was not received without rebidding all or part of the project; or
  - b. Award a contract for each portion of a project that received responsible bids pursuant to section 48-01.2-07 and readvertise for bids on the portion of the project that did not receive bids.

Approved March 20, 2019

Filed March 21, 2019

## CHAPTER 383

### HOUSE BILL NO. 1056

(Representatives Heinert, M. Ruby, Meier, Dockter, Keiser, Klemin, Pyle)  
(Senators Dever, Bekkedahl, Marcellais)

AN ACT to create and enact section 48-05-01.1 of the North Dakota Century Code, relating to the display of the prisoner of war and missing in action flag on the state capitol grounds; and to declare an emergency.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1.** Section 48-05-01.1 of the North Dakota Century Code is created and enacted as follows:

**48-05-01.1. Display of prisoner of war and missing in action flag - State capitol grounds.**

The prisoner of war and missing in action flag:

1. Must be flown daily on the state capitol grounds at the following flagpole locations:
  - a. Immediately south of the state capitol building;
  - b. In front of the all veterans memorial; and
  - c. On the east side of the heritage center.
2. May be flown either below the flag of the United States on the same flagpole or alone on a separate flagpole.
3. Must be displayed using proper flag etiquette.

**SECTION 2. EMERGENCY.** This Act is declared to be an emergency measure.

Approved April 30, 2019

Filed May 1, 2019

## CHAPTER 384

### SENATE BILL NO. 2188

(Senators Davison, Meyer)  
(Representatives Bosch, Dockter)

AN ACT to amend and reenact section 48-09-01 of the North Dakota Century Code, relating to bid requirements for park districts.

#### **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1. AMENDMENT.** Section 48-09-01 of the North Dakota Century Code is amended and reenacted as follows:

#### **48-09-01. Granting of concessions for cafes, restaurants, and confectioneries on public buildings and grounds.**

Any state official, board, or commission, any county official, board, or commission, and any municipal officer, board, or commission, having the supervision, control, and management of any state, county, or municipal building and adjacent grounds, for the public benefit and good, may grant a concession in the building or on the grounds for any cafe, restaurant, or confectionery, by renting, leasing, and licensing a concession to the highest responsible bidder at a reasonable rental per month, ~~for a period not exceeding eight years~~, and may reject any and all bids for the concession. However, the board of directors of any North Dakota fair association or board of county park commissioners may grant a concession under this chapter without letting bids.

Approved March 8, 2019

Filed March 8, 2019