

such ballots and draw from such box as many ballots as shall be specified by said judge, and, thereupon, all jurors whose names are contained on such ballots, so drawn, shall be excused and discharged from further service or attendance at said term of court, and none of their names shall be again placed in said trial jury box during said term of court.

§ 3. All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

Approved March 4, 1929.

PUBLIC BUILDINGS

CHAPTER 195

(S. B. No. 185—Atkins.)

CONSTRUCTION PUBLIC BUILDINGS

An Act relating to the construction of public buildings and repairs thereof and the erection of improvements connected therewith or pertaining thereto; prescribing the duties of the board of administration, of county commissioners, city commissions, city councils, board of park commissioners, school district officials, and other public officers in the matter of securing plans and specifications, advertising for bids, letting of contracts, allowance and payment of estimates, providing for contractor's bond and payment of premiums thereon, and the filing of claims thereunder, the insurance on unfinished buildings and material on ground, and preferring architects, contractors and manufacturers, resident within the State of North Dakota, and repealing all acts and parts of acts in conflict herewith.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. BUILDING AND REPAIR BY CONTRACT.] In altering, repairing or constructing buildings belonging or appertaining to any of the public institutions of the state, or to any county, city, park district, village, school district or other political subdivisions of the state, or in any improvements connected therewith or pertaining thereto, or in doing any work thereon amounting to more than the sum of \$3,000.00, the board of administration, city council, city commission, board of park commissioners, county commissioners, school district officials, or village trustees, as the case may be, shall procure such plans, drawings and specifications thereof, upon competitive bids or otherwise as such board may deem necessary; and in all cases where expedient, such plans, drawings and specifications

shall be procured from a licensed architect or architects maintaining offices and residing and doing business within the State of North Dakota.

§ 2. ADVERTISING FOR BIDS.] Such board of administration, county commissioners, city commission, city council, board of park commissioners, board of village trustees or school district officials, as the case may be, shall advertise for bids for the doing of such work for which such plans, drawings and specifications are required. Such advertisement shall be for three successive weeks, the first publication thereof being at least twenty-one days prior to the date of the opening of bids thereunder; such advertisement shall be published in some established newspaper of general circulation qualified to publish legal notice, and which is printed and published in the city or village where such public building is located, and also in some trade publication of general circulation among the contractors and building manufacturers and dealers of this state. In case there is no newspaper qualified to publish legal notice located in the city or village wherein such public construction is to be had, then such publication shall be made in a newspaper published at the county seat of the county in which such public construction is to be erected.

Said advertisement shall state :

(1) When and where the plans, drawings and specifications therefor may be seen and examined.

(2) The place where, and the day and hour when the bids will be opened.

(3) That the rights of the board to reject any and all bids is reserved, and

(4) Shall require a certified check on some solvent bank within the State of North Dakota, for not less than five per cent of the amount of the bid; to accompany the same as guaranty that the bidder will enter into the contract, if his bid is accepted.

§ 3. PLANS AND SPECIFICATIONS, FILED WHERE.] Copies of all plans, drawings, and specifications required by this Act, shall be filed in the office of the secretary of the board of administration in case the building or improvement is at one of the public institutions of the state. In case the building or improvement is one that belongs to a school district, copies of all plans, drawings and specifications required by this act, shall be filed in the office of the clerk of said school district. In case the building or improvement is to be erected or constructed by a county, then copies of plans, drawings and specifications required by this act, shall be filed in the office of the county auditor. In case the building or improvement

is to be erected by a board of park commissioners, copies of all plans, drawings and specifications required by this act, shall be filed with the secretary of such board of park commissioners. In case the building or improvement is the property of a city, copies of all plans, drawings and specifications required by this Act, shall be filed with the city auditor. In case the building or improvement is the property of a village, then copies of plans, drawings and specifications required by this act, shall be filed in the office of the village clerk. Upon written requests therefor, copies of all plans, drawings and specifications required by this act, shall be mailed to the office of any builders and traders exchange maintaining an office in the State of North Dakota for at least one year prior to the date of such request. Copies thereof shall be filed at such other places as may be designated by the board of administration, county commissioners, city commission, city council, board of park commissioners, school district officers, or village trustees, as the case may be. Copies of all plans, drawings and specifications shall be filed immediately following the first publication of such advertisement for bids; but failure to file such copies as above specified with any builders and traders exchange, shall not of itself invalidate the letting of any contract.

§ 4. OPENING BIDS. AWARD OF CONTRACT AND BOND REQUIRED.] At the time and place specified in said notice, the board of administration, county commissioners, city commission, city council, board of park commissioners, school district officials or village trustees, as the case may be, shall publicly open and read aloud all bids received, and may reject all bids or award the contract to the lowest and best bidder. Provided, however, that in event the bid of a contractor or bidder who has been continuously in business in the State of North Dakota for a period of more than one year prior to filing his bid thereon, shall be in approximately the same amount as the lowest bid received, and the place of business of the contractor making such lowest bid, shall be outside of the State of North Dakota; then and in such event, other considerations being equal, such bid of a contractor or bidder having such established place of business in this state, shall be deemed the low bid and the contract shall be awarded accordingly. The particular board or party concerned, shall require of the contractor to whom the contract is awarded, a bond complying with Chapter 92 of the Civil Code of North Dakota for the year 1913 as amended by Chapter 67 of the Laws of North Dakota for the year 1915.

The particular board or body concerned shall have the power to reject any and all bids and may advertise anew in accordance herewith, until a satisfactory bid is received.

§ 5. ALLOWANCE AND PAYMENT OF ESTIMATES.] At least once during each calendar month during the continuance of work upon any public building or erection begun and carried on under the provisions of the preceding sections, the board of administration, the county commission, city commission, city council, board of park commissioners, school district officials or the village trustees, as the case may be; or a committee thereof duly authorized by said board for that purpose, shall meet and receive and consider estimates furnished by the supervising architect or the superintendent of construction of such building or erection if either such is in supervision thereof; and shall allow such estimates in an amount of approximately 85 per cent of the labor then performed upon said building or erection, and of the material then upon the ground for use in the construction thereof. In event no supervising architect or no superintendent of construction is employed upon such contract, the contractor may at the end of each calendar month during the continuance of work under any such contract, furnish to such board or public body in charge of such work, like estimates which shall be in like manner allowed. Said board or committee thereof, shall immediately after considering and allowing any such estimate verify and forward the same to the state auditor, county auditor, city auditor, or other official having the power to draw warrants, who shall forthwith draw his warrant upon the proper fund and transmit the same promptly to the contractor or contractors entitled thereto; and in case said board or committee shall fail or neglect to certify any such estimate allowed or the said auditor shall neglect or fail to issue said warrant as above provided, for a period of more than 30 days from the date of such estimate; then and in that event said estimate shall draw interest from its date at the rate of six per cent per annum until the issuance of a proper warrant therefor, which interest shall be computed and added to the face of said estimate by the officer required to issue such warrant and shall be included in the warrant when drawn and be charged to the fund upon which the same is drawn. No payment for, or on account of any contract made under the provisions of this act, shall be made, except upon estimate of the supervising architect or superintendent of construction, as in this section provided; if either such be employed in supervisions of such construction or erection.

§ 6. APPROPRIATIONS NOT TO BE DIVERTED.] No portion of any special appropriation for the erection of any building or improvement, or for the doing of any work, shall be drawn from the state treasury in advance of the work done or of materials furnished; and the same shall be drawn only upon proper estimates thereof approved by the board of administration; and no portion of any appropriation for any purpose, shall be drawn from the treasury before it shall be required for the purpose for which it is made, and

no appropriation, which is or may be made, for any purpose, with respect to such construction or improvement, shall be drawn or used for any other purpose until the construction or improvement for which such appropriation was made, is fully completed, and paid for.

§ 7. PAYMENT OF PREMIUM ON BONDS, FILING CLAIMS THEREUNDER, AND INSURANCE.] All bonds furnished by contractors, as hereinbefore required, shall be furnished by a bond or surety company organized in or authorized to transact business in this state, and the premium thereon shall be paid by the contractor. The board or commission shall cause to be insured in some solvent company, against loss or damage against fire or tornado, all unfinished buildings, erections, improvements and material upon the ground, in an amount sufficient to protect the board or commission, and the contractor; all premiums for such insurance shall be paid by the board.

§ 8. MATERIAL PRODUCED IN STATE TO BE USED IN PUBLIC BUILDINGS.] All boards or commissions purchasing material for use in making alterations, repairs or additions, or in erecting new buildings, and all contractors making such alterations, repairs, or additions, or erecting new buildings, or improvements therewith or pertaining thereto, shall always, price, fitness and quality being equal, prefer materials manufactured or produced within this state and shall next prefer such as have been partially manufactured or produced in North Dakota.

§ 9. SPECIFIED BRANDS, MARKS, NAMES OR PATENTED ARTICLES NOT TO BE SPECIFIED.] The board of administration, no city council, city commission, board of education, school board, or board of village trustees shall, in specifying materials to be used in or about such work, or in plans or specifications thereof, ask for bids for any article of a specified or copyrighted brand or name, or the product of any one manufacturer, or any patented apparatus or appliance, when such requirement will prevent proper competition, unless such specifications shall also ask for bids on other similar articles of equal value, utility and merit.

§ 10. OFFICERS MUST NOT BE INTERESTED IN CONTRACT.] No board of administration, no board of county commissioners, no city commission, no city council, no board of park commissioners, no board of education or board of school trustees, no village trustees, or any member thereof, or employee or appointee to such board, shall be pecuniarily interested or concerned directly or indirectly in any contract, either verbal or written, that may be entered into by any person or persons on behalf of the state, any county, any city, any village or any school district, for any purpose whatever connected

with the construction, repair or alteration of any public building or erection specified hereunder, of the state, or any such political or municipal subdivision thereof.

§ II. ARCHITECTS AND SUPERINTENDENTS.] The board of administration, county commissioners, city commission, city council, board of education, board of park commissioners, school district board or village trustees are hereby authorized to employ the architect furnishing the plans as hereinbefore provided, or some other suitable person, who shall be a practical mechanic and builder with four years experience, as superintendent of construction of the work for which the plans and specifications are called for, as provided by section 1 hereof, and he shall have personal charge and supervision of the contractor on the work, under the direction of the architect and board of administration, county commission, city commission, city council, board of education, board of park commissioners, school district officials or village trustees, and whose duty it will be to see that such contractor performs his work in full compliance with the plans and specifications adopted by the board of administration, county commissioners, city commission, city council, board of education, board of park commissioners, school district officials, or village trustees. The architect, while acting as such superintendent, shall receive such compensation therefor as may be fixed by said board of administration, county commissioners, city commission, city council, board of park commissioners, board of education, school district officials or village trustees; and any other person while acting as such superintendent, shall receive a reasonable compensation to be fixed by the board of administration, county commissioners, city commission, city council, board of park commissioners, board of education, school district officials or village trustees, provided that the duties imposed and powers conferred upon the board of administration, county commissioners, city commission, city council, board of park commissioners, board of education, school district officials, or village trustees, by this act, shall apply to any other board or commission hereafter created to have charge of such institutions in lieu of the board of administration, county commissioners, city commission, city council, board of park commissioners, board of education, school district officials or village trustees.

§ 12. REPEAL.] All acts or parts of acts in conflict with this act are hereby repealed.

Approved March 9, 1929.