

PUBLIC BUILDINGS

CHAPTER 509

SENATE BILL NO. 2450
(Mutch)

CONTRACTOR BOND FOR PUBLIC IMPROVEMENTS

AN ACT to amend and reenact section 48-01-01 of the North Dakota Century Code, relating to bonds for contractors for public improvements.

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

SECTION 1. Section 48-01-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

48-01-01. Bonds from contractors for public improvements. Every public officer or board authorized to enter into a contract for the erection, repair, or alteration of any public building or any other public improvement, except a municipal improvement made under special assessment statutes, before permitting any work to be done on ~~such that~~ contract, shall take from the contractor a good and sufficient bond. ~~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 shall fully perform all terms, conditions, and provisions of the contract and shall pay all bills or claims on account of labor and materials, including supplies used for machinery and motor power equipment, performed, furnished, and used in and about the performance of said 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. Such The bond shall stand~~ stands as security for all such bills, claims, and demands until ~~the same are~~ fully paid, with preference to labor and materialmen ~~to have preference~~ as to payment. ~~Said The bond shall~~ must run to ~~the this state of North Dakota,~~ but any person having a lawful claim against the contractor, or any subcontractor, as provided in this chapter, on account of labor, materials, or supplies, or for a breach of ~~said the~~ contract, may sue ~~in his own name on said bond with like effect as though it were payable to him on the bond.~~

Approved March 15, 1983

CHAPTER 510

HOUSE BILL NO. 1680
(Lloyd, Stofferahn)

PUBLIC BUILDING ARCHITECT REQUIREMENT

AN ACT to amend and reenact section 48-02-02 of the North Dakota Century Code, relating to the requirement that a licensed architect be retained for certain public works; and to declare an emergency.

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

* SECTION 1. AMENDMENT. Section 48-02-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

48-02-02. Prerequisite to building and repair by contract - Exceptions. In If in altering, repairing, or constructing any building belonging or appertaining to any of the public institutions of the state, or to any county, city, park district, school district, or other political subdivision of the state, or in making any improvements connected therewith or pertaining thereto, or in doing any work thereon with the building, the total estimated cost of which of all work involved amounts to more than twenty-five fifty thousand dollars for the completed project, the governing body of such the public institution, or of such municipality, or political subdivision, shall procure such plans, drawings, and specifications thereof for the work, upon competitive bids or otherwise as such the board may deem necessary. In all cases where the estimated cost of such the work exceeds twenty-five fifty thousand dollars, such the plans, drawings, and specifications shall must be procured from a licensed architect, provided that any state agency or institution contemplating doing any work amounting to more than five thousand dollars without such plans, drawings, and specifications, shall first obtain the approval of the state construction superintendent, and that, in the case of public buildings in use by or to be used by the North Dakota agricultural experiment station in connection with farm or agricultural research operations, such the plans, drawings, and specifications may, with the approval of the board of higher education, be procured from a registered professional engineer, providing such the engineer is in the regular employment of the agricultural experiment station. Any type or class of engineering or electrical modifications in any state building must be done by or

* NOTE: Section 48-02-02 was also amended by section 1 of Senate Bill No. 2408, chapter 511.

under the supervision of a licensed engineer or electrician if so directed by the state construction superintendent. The competitive bid requirements of this section shall be waived upon determination by the state construction superintendent that an emergency situation exists requiring the prompt destruction, demolition, or repair of an existing building, facility, or portion thereof owned by the state, and a contract may be made for such prompt destruction, demolition, or repair without seeking bids. The state construction superintendent shall notify the agency or institution having charge of the building of his determination in writing.

SECTION 2. EMERGENCY. This Act is hereby declared to be an emergency measure and is in effect from and after its passage and approval.

Approved April 5, 1983

CHAPTER 511

SENATE BILL NO. 2408
(Naaden, Thane)

STATE CONSTRUCTION SUPERINTENDENT

AN ACT to amend and reenact sections 48-02-02, 48-02-03, 48-02-19, 54-21-27, 54-21.2-03, 54-21.3-02, and 54-21.3-03 of the North Dakota Century Code, relating to elimination of the office and duties of the state construction superintendent; and to repeal sections 54-21-17 and 54-21.3-06 of the North Dakota Century Code, relating to the office and duties of the state construction superintendent.

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

* SECTION 1. AMENDMENT. Section 48-02-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

48-02-02. Prerequisite to building and repair by contract - Exceptions. In altering, repairing, or constructing any building belonging or appertaining to any of the public institutions of the state, or to any county, city, park district, school district, or other political subdivision of the state, or in making any improvements connected therewith or pertaining thereto, or in doing any work thereon, the estimated cost of which amounts to more than twenty-five thousand dollars, the governing body of such public institution, or of such municipality or political subdivision, shall procure such plans, drawings, and specifications thereof, upon competitive bids or otherwise as such board may deem necessary. In all cases where the estimated cost of such work exceeds twenty-five thousand dollars, such plans, drawings, and specifications shall be procured from a licensed architect, provided that any state agency or institution contemplating doing any work amounting to more than five thousand dollars without such plans, drawings, and specifications, shall first obtain the approval of the state construction superintendent, and that, in the case of public buildings in use by or to be used by the North Dakota agricultural experiment station in connection with farm or agricultural research operations, such plans, drawings, and specifications may, with the approval of the board of higher education, be procured from a registered professional engineer, providing such engineer is in the regular employment of the agricultural experiment station. Any type or class of engineering

* NOTE: Section 48-02-02 was also amended by section 1 of Senate Bill No. 1680, chapter 510.

or electrical modifications in any state building must be done by or under the supervision of a licensed engineer or electrician if so directed by the state construction superintendent. The competitive bid requirements of this section shall be waived upon determination by the state construction superintendent that an emergency situation exists requiring the prompt destruction, demolition, or repair of an existing building, facility, or portion thereof owned by the state, and a contract may be made for such prompt destruction, demolition, or repair without seeking bids. The state construction superintendent shall notify the agency or institution having charge of the building of his determination in writing.

SECTION 2. AMENDMENT. Section 48-02-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

48-02-03. Method used in securing bids. The governing board shall advertise for bids for the doing of the work for which plans, drawings, and specifications are required by section 48-02-02. Such advertisement shall be published for three successive weeks, the first publication thereof to be at least twenty-one days prior to the date of the opening of bids thereunder. Such advertisement shall be published in the official newspaper of such municipality or political subdivision, and also in some trade publication of general circulation among the contractors, building manufacturers, and dealers of this state. Alterations or improvements may be accomplished by a state department or institution on competitive bids or on a time and material basis or by institutional personnel if the total cost of any one project does not exceed the sum of twenty-five thousand dollars, but if the cost exceeds five thousand dollars, prior approval shall be obtained from the state construction superintendent. In instances where a contractor is performing work on a time and material basis, all materials and all labor supplied by such contractor must be obtained by competitive estimates from qualified suppliers for projects.

SECTION 3. AMENDMENT. Section 48-02-19 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

48-02-19. Public buildings and facilities to be usable by physically handicapped - Duties of construction superintendent. All public buildings and facilities constructed, in whole or in part, from funds of the state or of its political subdivisions shall be accessible to, and usable by, the physically handicapped in accordance with the provisions of this section by July 1, 1981, with the following exceptions: (1) institutions under the supervision and control of the board of higher education, provided, however, that at least two institutions of higher education shall be so constructed or remodeled so as to make all programs offered therein accessible as required in this section; and (2) areas, offices, or levels of public buildings not used for activities open to members of the general public. The state construction superintendent, after consultation with the state board of architecture, shall promulgate rules and regulations for agencies and institutions of the state and

its political subdivisions to follow in making public buildings and facilities reasonably accessible and usable by the physically handicapped. The state construction superintendent, in preparing and promulgating the rules, shall give in meeting the requirements of this section full consideration shall be given to the rules and regulations recommended in and provided by the American standard specifications (A117.1-1961) approved October 31, 1961, by the American standards association, and future amendments thereto. The rules and regulations promulgated by the state construction superintendent shall be issued in accordance with chapter 28-32. The state construction superintendent shall by July 1, 1980, prepare a statement showing (1) a listing and description of the regular uses of each public building operated by counties, cities, and agencies of the state of North Dakota, (2) a description of the degree of compliance of each listed public building with the accessibility standards promulgated under this section, and (3) a description of the action planned to bring public buildings into accessibility compliance, with an estimate of the costs projected for the planned action, and an estimate of the cost of bringing the public building into full compliance. In preparing such statement, the superintendent shall seek cooperation from the state agencies, the political subdivisions, and from any organizations and groups working to enhance the interests of the handicapped. The state construction superintendent shall annually revise and update the rules and regulations. No state agency or institution shall construct a building or facility unless the state construction superintendent determines that the plans and specifications for the building or facility are in conformity with the standards promulgated pursuant to this section. Governing bodies of political subdivisions shall require a statement from the person or persons preparing the plans and specifications for the building or facility that the plans and specifications are in conformance with the provisions of this section or that exceptions to the section have been granted by the state construction superintendent. Any exceptions granted to a governing body shall be made a part of the motion or resolution of approval of the drawings and specifications by the governing body and shall be recorded in the minutes of the meeting where the approval is given. Adequate space for the physically handicapped to park automobiles near the facility without the necessity of crossing a street to reach the facility shall be provided. All parking spaces reserved for use by motor vehicles operated by or for physically handicapped persons shall be designated by blue paint on the curb or edge of the paved portion of the parking space. All city curbs and crosswalks at principal intersections in the vicinity of public buildings shall be made usable to persons in wheelchairs. In cases of practical difficulty, unnecessary hardship, or extreme differences, the state construction superintendent may grant exceptions within the limits of legislative appropriation, from the literal requirements of the standards provided by this section or permit the use of other methods or materials, or, in the case of existing multiple-story buildings, provide such access to only one floor. The state construction superintendent shall notify each state agency, county, and city, if the proposed actions constitute a reasonable effort toward

compliance- The notice of reasonable compliance shall be an exception granted from full compliance required under this section. The exception shall be valid for a period of two years from the date of issuance.

SECTION 4. AMENDMENT. Section 54-21-27 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-21-27. Removal or sale of unsafe public building - Procedure. The superintendent of the institution, the warden of the institution, the commanding general of the national guard, or the head of an agency, department, bureau, board, or commission, as the case may be, having the responsibility of supervising and maintaining a public building belonging to the state of North Dakota, may sell or remove such building whenever it is found to be obsolete, a fire hazard, in unsafe condition so as to constitute a hazard to life or limb, and is of no future use to the state where it is located, by obtaining the written approval of the state director of institutions if under his supervision or the head of the department having supervision, and the state fire marshal, and the state construction superintendent.

A copy of such findings and approvals shall be filed with and kept in the custody of the state construction superintendent.

Economics shall dictate whether or not the sale or removal shall be by advertising for public bids and awarding same to the lowest responsible bidder. If the building is to be destroyed, every effort shall be made to salvage and store any material which will be beneficial to the state, or which will have a salable value.

SECTION 5. AMENDMENT. Section 54-21.2-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-21.2-03. Rulemaking power Energy conservation standards.

- 1- The construction superintendent employed by the secretary of state pursuant to section 54-21-17 shall prepare a uniform standards code for energy conservation in new building construction, containing standards for thermal design conditions and criteria for buildings, and for adequate thermal resistance in regard to the design and selection of mechanical, electrical service, and illumination systems and equipment which will enable the effective use of energy in new buildings-
- 2- On July 1, 1977, the construction superintendent shall adopt published standards which shall be, must at least equal to the energy conservation code based on the American Society of Heating, Refrigerating, and Air Conditioning Engineers Standard 90-75 as the uniform standards code for energy conservation and new building construction. Following July 1, 1977, the construction

superintendent may adopt and any amendments or additions thereto which meet the minimum requirements of American Society of Heating, Refrigerating, and Air Conditioning Engineers Standard 90-75 or such other requirements as he may deem to be necessary for the purposes of this chapter.

- 3- All rules and regulations adopted pursuant to this section shall be adopted in the manner prescribed by chapter 28-32 and shall have the force and effect of law.

SECTION 6. AMENDMENT. Section 54-21.3-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-21.3-02. Definitions. As used in this chapter, unless the context requires otherwise:

1. "Agricultural purposes" includes purposes related to agriculture, farming, ranching, dairying, pasturage, horticulture, floriculture, viticulture, and animal and poultry husbandry.
2. "Building" means a combination of any materials fixed to form a structure and the related facilities for the use or occupancy by persons, or property. The word "building" shall be construed as though followed by the words "or part or parts thereof".
3. "City" means any city organized under the laws of this state.
4. "Construction" means the construction, erection, reconstruction, alteration, conversion, or repair of buildings.
5. "Jurisdictional area" means the area within which a city or township has zoning jurisdiction.
6. "State building code" means the state building code provided for in this chapter.
- 7- "Superintendent" means the state construction superintendent.

* SECTION 7. AMENDMENT. Section 54-21.3-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-21.3-03. State building code - Amendments.

1. The state building code shall consist of the 1976 Uniform Building Code with the 1978 Accumulative Supplement to the Uniform Building Code. This code shall be implemented by and may be amended by rules ~~promulgated~~ adopted by the

* NOTE: Section 54-21.3-03 was also amended by section 1 of House Bill No. 1690, chapter 562, and section 1 of House Bill No. 1391, chapter 563.

superintendent director of the office of management and budget pursuant to chapter 28-32.

2. For the purposes of manufactured homes, the state building code shall consist of the manufactured homes construction and safety standards under 24 CFR 3280 adopted pursuant to the Manufactured Housing Construction and Safety Standards Act [42 U.S.C. 5401 et seq.].
3. The state building code may be amended by cities, townships, and counties to conform with local needs; provided, however, that the standards established by amendment under this subsection must meet or exceed those of the state building code.

SECTION 8. REPEAL. Sections 54-21-17 and 54-21.3-06 of the North Dakota Century Code are hereby repealed.

Approved April 13, 1983