

SENATE BILL NO. 2273

Introduced by

Senators Erbele, Heitkamp, Wardner

Representatives Dietrich, Gulleson, Kretschmar

1 A BILL for an Act to create and enact a new section to chapter 23-11 of the North Dakota
2 Century Code, relating to housing authority project bidding; and to amend and reenact sections
3 23-11-11, 23-11-20, 23-11-21, and subsection 3 of section 23-11-24 of the North Dakota
4 Century Code, relating to housing authorities.

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

6 **SECTION 1. AMENDMENT.** Section 23-11-11 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **23-11-11. Powers of authority.** An authority has the following powers and duties:

- 9 1. To exercise public and essential governmental functions.
- 10 2. To sue and be sued.
- 11 3. To have perpetual succession.
- 12 4. To make and execute contracts and other instruments necessary or convenient to
13 the exercise of the powers of the authority.
- 14 5. To make, amend, and repeal such bylaws, rules, and regulations, not inconsistent
15 with this chapter, as are necessary to carry into effect the powers and purposes of
16 the authority.
- 17 6. To prepare, carry out, acquire, lease, and operate housing projects within its area
18 of operation.
- 19 7. To provide for the construction, reconstruction, improvement, alteration, or repair of
20 any housing project, or any part of a housing project, within the authority's area of
21 operation.
- 22 8. To arrange or contract for the furnishing by any person or any public or private
23 agency of services, privileges, works, or facilities for, or in connection with, a
24 housing project or the occupants of a housing project.

Sixtieth
Legislative Assembly

- 1 9. To include, in any contract let in connection with a project, stipulations requiring
- 2 that the contractor and any subcontractor comply with requirements as to minimum
- 3 wages and maximum hours of labor and any conditions that the federal
- 4 government may have attached to the financial aid for the project.
- 5 10. To lease or rent any dwellings, houses, accommodations, lands, buildings,
- 6 structures, or facilities embraced in any housing project and, subject to the
- 7 limitations contained in this chapter, to establish and revise the rents or charges in
- 8 the housing project.
- 9 11. To own, hold, and improve property.
- 10 12. To purchase, lease, obtain options upon, or acquire, by gift, grant, bequest, devise,
- 11 or otherwise, any property or any interest in property.
- 12 13. To acquire real property by the exercise of the power of eminent domain.
- 13 14. To sell, lease, exchange, transfer, assign, pledge, or dispose of any property, or
- 14 any interest in property.
- 15 15. To insure, or provide for the insurance of, any property, or any operation of the
- 16 authority, against any risks or hazards.
- 17 16. To procure insurance or guaranties from the federal government of the payment of
- 18 any debts, or parts of debts, secured by mortgages on any property included in any
- 19 of the authority's housing projects, whether the debts were incurred by the
- 20 authority or not.
- 21 17. To invest any funds held by the authority in reserves or sinking funds, or any funds
- 22 not required for immediate disbursement, in property or securities in which savings
- 23 banks may legally invest funds subject to a savings bank's control.
- 24 18. To purchase its bonds at a price not more than the principal amount of the bonds
- 25 and accrued interest, a bond so purchased is canceled.
- 26 19. To investigate, in the authority's area of operation, living, dwelling, and housing
- 27 conditions and the means and methods of improving the same.
- 28 20. To determine, within the authority's area of operation, where slum areas exist or
- 29 where there is a shortage of decent, safe, and sanitary dwelling accommodations
- 30 for persons of low or moderate income.

Sixtieth
Legislative Assembly

- 1 21. To make studies and recommendations relating to the problem of clearing,
2 replanning, and reconstructing the slum areas within the authority's area of
3 operation and the problem of providing dwelling accommodations for the persons
4 of low or moderate income, and to cooperate with the city, county, or state, or any
5 political subdivision in any action taken in connection with these problems.
- 6 22. To engage in research, studies, and experimentation on the subject of housing
7 within the authority's area of operation.
- 8 23. To conduct examinations and investigations and to hear testimony and take proof
9 under oath at public or private hearings on any matter material for the authority's
10 information.
- 11 24. To administer oaths, issue subpoenas requiring the attendance of witnesses or the
12 production of books and papers, and to issue commissions for the examinations of
13 witnesses who are outside of the state or unable to attend before the authority or
14 who are excused from attendance.
- 15 25. To make available to appropriate agencies, including those charged with the duty
16 of abating or requiring the correction of nuisances or like conditions, or of
17 demolishing unsafe or unsanitary structures within the authority's area of operation,
18 the authority's findings and recommendations with regard to any building or
19 property where conditions exist which are dangerous to the public health, morals,
20 safety, or welfare.
- 21 26. To issue bonds from time to time for any of its corporate purposes.
- 22 27. To issue refunding bonds for the purpose of paying or retiring bonds previously
23 issued by the authority.
- 24 28. To borrow money or accept grants or other financial assistance from the federal
25 government for, or in aid of, any housing project within the authority's area of
26 operation.
- 27 29. To take over or lease or manage any housing project or undertaking constructed or
28 owned by the federal government.
- 29 30. To comply with conditions and to enter into mortgages, trust indentures, leases, or
30 agreements as may be necessary, convenient, or desirable to carry out this
31 section.

- 1 31. To do any and all things necessary or desirable to secure the financial aid or
2 cooperation of the federal government in the undertaking, construction,
3 maintenance, or operation of any housing project.
- 4 32. To exercise all or any part or combination of powers granted.
- 5 33. To exercise within the authority's area of operation the authority granted to the
6 industrial commission under section 54-17-07.6.
- 7 34. To exercise the power to provide operation and maintenance expenses under
8 subdivision a of subsection 23 of section 23-11-24.
- 9 35. To exercise the power to ~~issue~~ pledge the general obligation bonds of the city or
10 county for which the housing authority is created in accordance with ~~chapter 21-03~~
11 subsection 23 of section 23-11-24.
- 12 36. To develop a plan identifying the public purposes of the authority's ownership,
13 conditions that would make the authority's ownership no longer necessary for
14 accomplishing those public purposes, and a plan to divest the authority's
15 ownership interest as soon as economically prudent once those conditions occur
16 and to effectuate the plan.
- 17 37. To exercise other powers and duties as may be necessary to carry out the
18 purposes and provisions of this chapter.

19 An authority, in exercising the powers specified in subsections 23, 24, and 25, may act through
20 one or more of the commissioners or through other persons designated by the authority.
21 Provisions of law with respect to the acquisition, construction, operation, or disposition of
22 property by other public bodies are not applicable to an authority unless there is specific
23 provision to that effect by the legislative assembly. ~~The construction of a housing project is a~~
24 ~~public improvement for which an authority is subject to the competitive bidding requirements of~~
25 ~~chapter 48-01.1.~~

26 **SECTION 2. AMENDMENT.** Section 23-11-20 of the North Dakota Century Code is
27 amended and reenacted as follows:

28 **23-11-20. Bonds - Types which may be issued.**

- 29 1. An authority may issue any type of bond as the authority determines necessary for
30 the purpose of financing housing for persons of low or moderate income, including
31 a bond on which the interest and principal are payable:

- 1 a. Exclusively from the income and revenues of the housing project financed
2 with the proceeds of the bond or with the proceeds together with a grant from
3 the federal government in aid of the project;
- 4 b. Exclusively from the income and revenues of certain designated housing
5 projects whether the projects are financed in whole or in part with the
6 proceeds of the bond; or
- 7 c. From the authority's revenues generally.
- 8 2. The bonds and other obligations of the authority are not payable out of any funds
9 or properties other than those of the authority or funds of the city or county which
10 has pledged its general obligation pursuant to subsection 23 of section 23-11-24.
11 These bonds, however, may be secured additionally by a pledge of any loan, grant,
12 or contribution, or part of the same, from the federal government or other source of
13 a pledge of any income or revenues or by a mortgage on any housing project,
14 projects, or other property of the authority.

15 **SECTION 3. AMENDMENT.** Section 23-11-21 of the North Dakota Century Code is
16 amended and reenacted as follows:

17 **23-11-21. Bonds - Liability - Tax exempt.** Neither the commissioners of an authority
18 nor any person executing bonds of the authority is liable personally on the bonds by reason of
19 the issuance of the bonds, ~~nor is any city, county, or state, or political subdivision, liable on the~~
20 ~~bonds.~~ The bonds and other obligations of an authority are not a debt of the city, county, or
21 state, nor of any political subdivision, ~~and must so state on the face of the bond.~~ ~~The bonds do~~
22 ~~not constitute an indebtedness within the meaning of any constitutional or statutory debt~~
23 ~~limitation or restriction~~ unless a city or county pledges its general obligation to the payment of
24 the bonds under subsection 23 of section 23-11-24. The bond obligations are declared to be
25 issued for an essential public and governmental purpose and to be public instrumentalities and
26 the bonds, together with the interest on the bonds and income from the bonds are exempt from
27 taxation. The tax exemption provisions of this chapter are considered part of the contract for
28 the security of the bond obligations authorized by this chapter and do not need to be restated in
29 the bond obligations.

30 **SECTION 4. AMENDMENT.** Subsection 23 of section 23-11-24 of the North Dakota
31 Century Code is amended and reenacted as follows:

- 1 23. To make covenants and to do any acts and things as may be necessary,
2 convenient, or desirable in order to secure the authority's bonds, or, in the absolute
3 discretion of the authority, as will tend to make the bonds more marketable
4 notwithstanding that the covenants, acts, or things are not enumerated, including:
- 5 a. To the payment of the principal of and interest on bond obligations, when due,
6 there may be pledged as a first charge and lien the gross revenues of the
7 housing project financed in whole or in part by the obligations, and the
8 governing city or county may covenant to provide additional funds for the
9 benefit of that housing project to the extent that the gross revenues in excess
10 of those debt service requirements are not also sufficient from time to time to
11 pay the reasonable operating and maintenance expenses of that housing
12 project.
- 13 b. The governing body of an authority may pledge the general obligation of the
14 city or county for which the authority was created as additional security for
15 bonds provided that the authority finds that the pledged revenues will equal or
16 exceed one hundred ten percent of the principal and interest due on the
17 bonds for each year, the maturity of the bonds does not exceed thirty-five
18 years, and the principal amount of the issue must be and the general
19 obligation pledge are approved by the governing body of the city or county in
20 which the housing project is located and whose general obligation is pledged.
21 ~~Public hearings~~ A public hearing must be held on issuance of the obligations
22 and the pledge of the general obligation by the city or county in which the
23 housing project is located. The ~~hearings~~ hearing must be held at least fifteen
24 days, but not more than one hundred twenty days, before the sale of the
25 obligations.

26 **SECTION 5.** A new section to chapter 23-11 of the North Dakota Century Code is
27 created and enacted as follows:

28 **Letting of contracts.** The construction of a housing project is a public improvement for
29 which an authority is subject to the competitive bidding requirements of chapter 48-01.1. An
30 authority need not require competitive bidding for the construction of a housing project if:

- 1 1. The project is financed with the proceeds of bonds issued under this chapter or
2 from nongovernmental sources;
- 3 2. The project is either located on land that is owned or is being acquired by the
4 authority only for housing project purposes or is not owned by the authority at the
5 time the contract is entered into but the contract provides for conveyance or lease
6 to the authority of the project or improvements upon completion of construction;
7 and
- 8 3. The authority finds and determines that elimination of the public bidding
9 requirement is necessary in order for the housing project to be economical and
10 feasible at affordable rent levels for low-income and moderate-income tenants.