

Sixty-fifth
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2271

Introduced by

Senator Laffen

1 A BILL for an Act to amend and reenact section 48-05-10, 48-05-11, and 48-05-12 of the North
2 Dakota Century Code, relating to energy conservation measures.

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

4 **SECTION 1. AMENDMENT.** Section 48-05-10 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **48-05-10. Energy conservation measure recommendations.**

7 Before entering into a contract under section 48-05-11, a governmental unit shall submit a
8 request for proposals. The time period between the request for proposals and the due date for
9 proposals may be no less than twenty-one days. Each proposal must be reviewed by, approved,
10 and stamped with the seal of a registered professional engineer or architect before being
11 submitted to a governmental unit. Upon receipt of the request for proposals, the governmental
12 unit shall evaluate all ~~reports~~proposals from qualified providers ~~which summarize and make a~~
13 selection based on the overall qualifications of each qualified provider. A qualified provider that
14 performs energy analysis work before being selected must be disqualified. The selected
15 qualified provider shall prepare an energy conservation measure report, including estimates of
16 all costs of installations, modifications, or remodeling, including costs of design, engineering,
17 installation, maintenance, repairs, or debt service, and estimates of the amounts by which
18 energy or operating costs will be reduced. ~~If technical assistance is not available by a licensed~~
19 ~~architect or registered professional engineer on the governmental unit staff, then the evaluation~~
20 ~~of this report must be done by a registered professional engineer or architect, who is to be~~
21 ~~retained by the governmental unit. The governmental unit may pay a reasonable fee for~~
22 ~~preparation of the report or include the fee as part of a contract under section 48-05-11.~~

23 **SECTION 2. AMENDMENT.** Section 48-05-11 of the North Dakota Century Code is
24 amended and reenacted as follows:

1 **48-05-11. Guaranteed energy savings contracts.**

2 The governmental unit shall provide public notice of the meeting at which it proposes to
3 award a guaranteed energy savings contract, the names of the parties to the proposed contract,
4 and the purpose of the contract. After reviewing the report under section 48-05-10, a
5 governmental unit may enter a guaranteed energy savings contract with a qualified provider if
6 the governmental unit finds that the amount the governmental unit would spend on the energy
7 conservation measures recommended in the report is not likely to exceed the amount to be
8 saved in energy and operation costs over a period not exceeding fifteen years from the date of
9 installation if the recommendations in the report are followed. The contract must include a
10 written guarantee of the qualified provider that the energy and operating cost-savings will meet
11 or exceed the costs of the system, a list of subcontractor pricing, the financing costs for the
12 project, and any provider fees. The written guarantee must be for a period equal to the financing
13 period, which may provide payments over a period not exceeding fifteen years. If the
14 governmental unit can document that savings meet or exceed the payment for a period of not
15 less than three years, the governmental unit may request a waiver of the guaranteed portion of
16 the contract for the remainder of the financing term. A guarantee waiver request must be
17 approved by a committee administered by the division of community services. If the contract
18 involves facility alteration or real property improvement, a qualified provider to whom the
19 contract is awarded shall give a sufficient bond to the governmental unit for the faithful
20 performance of the contract.

21 **SECTION 3. AMENDMENT.** Section 48-05-12 of the North Dakota Century Code is
22 amended and reenacted as follows:

23 **48-05-12. Competitive bidding and architect and engineering services.**

24 Guaranteed energy savings contracts are not subject to the requirements of chapter
25 48-01.2, which relate to competitive bidding, ~~and are not subject to section 43-19.1-28.~~