

Introduced by

Senators Kannianen, Campbell, Laffen

Representatives Beadle, Sukut

1 A BILL for an Act to amend and reenact section 48-01.2-23 of the North Dakota Century Code,  
2 relating to bond requirements for public improvements.

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

4 **SECTION 1. AMENDMENT.** Section 48-01.2-23 of the North Dakota Century Code is  
5 amended and reenacted as follows:

6 **48-01.2-23. Bond required.**

- 7 1. An agency construction manager, before starting any work, shall provide the governing  
8 body with a bond that is equal to the cost of the agency construction manager's  
9 services with the governing body. ~~Each~~Under an agency construction manager  
10 delivery method, each contractor performing services on the public improvement shall  
11 provide the governing body with a separate bond for the contractor's portion of the  
12 public improvement.
- 13 2. A construction manager at-risk, before starting any construction, shall provide the  
14 governing body with a bond in an amount at least equal to the amount of the  
15 guaranteed maximum price. The bond must be conditioned to be void if the contractor  
16 and all subcontractors fully perform all terms, conditions, and provisions of the  
17 construction services contract and pay all bills or claims on account of labor and  
18 materials, including supplies used for machinery and equipment, performed, furnished,  
19 and used in the performance of the contract, including all demands of subcontractors.  
20 The requirement that bills and claims be paid must include the requirement that  
21 interest of the amount authorized under section 13-01.1-02 be paid on bills and claims  
22 not paid within ninety days. The bond is security for all bills, claims, and demands until  
23 fully paid, with preference to labor and material suppliers as to payment. The bond  
24 must run to the governing body, but any person having a lawful claim against the

1 contractor may sue on the bond. Under a construction manager at-risk delivery  
2 method, the governing body may not require each contractor performing services on  
3 the public improvement to provide a separate bond for the contractor's portion of the  
4 public improvement.