

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SPN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1386

2001 HOUSE POLITICAL SUEDIVISIONS

HB 1386

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB1386

House Political Subdivisions Committee

Conference Committee

Hearing Date 2-08-01

Tape Number	Side A	Side B	Meter #
1		xx	3460-end
2	xx		1--4575
Committee Clerk Signature <i>Pamela</i>			

Minutes: Chair Froseth opened the hearing on HB1386 relating to public improvement contracts. Rep. Frank Wald, Dist 37, Dickinson : prime sponsor of HB1386. Section 1 is a new section to 48.01-01 if the public improvement needs money coming from economic development funds or sales tax revenues. Section 2 deals with bid requirements and we are increasing the amount of single and multiple bids for general, electrical, and mechanical portion of the project from \$100,000 to \$150,000. On page 2, we have some change in language there. In use of construction managers, it reads: if a governing body uses a construction manager on a public improvement, the construction manager must be a licensed contractor. A construction manager awarded a contract for construction of a public improvement shall bond the entire cost of the project through a single bond supporting all bid packages and the construction manager's services. In my mind, this is the most important part of the bill. (3719-0000) Rep. Wald gave an example of why this language is important.

Rep. N. Johnson : (3820) In the third part of the amendment, how does that work with the construction manager? Does it increase whatever they will charge to cover that large of a bond?

Rep. Wald : He has that all figured out when he submits his bid.

Rep. Delmore : I have received lots of e-mails on this bill, and they are all against it? Can you tell me who is responsible for the drafting of this bill and which organizations are in support?

Rep. Wald : Myself, Rep. Carlson, Rep. Svedjan, and Sen. Tollefson. I have had conversations with the Association of General Contractors, general and subcontractors at home, and have mailed a copy of the bill to all contractors in Dickinson in the Yellow pages. I did not receive any response.

Rep. Delmore : I problem that was mentioned most, was the multiple bid. The language, to allow but not require, was the problem.

Rep. Herbel : In section 3, does that mean that the subcontractor doesn't need to bond?

Rep. Wald : No. If A is the plumber, and B is the mechanical, and C is the electrical, and we all write a \$100,000 bid for a \$5 M project; the general contractor or construction manager furnishes the bond for the entire project. A, B, and C do not have to bond our work.

Rep. Ekstrom : (4170) I don't understand lines 16 and 17, page 1. This \$250,000 or less is what I need explained. Do you need multiple bids or not?

Rep. Wald : Yes, you need multiple bids.

Vice-Chair Severson : On page 1, line 8, it talks about sales tax revenue. Would this language put the economic development funds in my community in jeopardy?

Rep. Wald : gave an example (4330-4440) Someone else here can address that issue.

Leah K. Coghlan, Association of Contractors of ND, Bismarck : (4550) testified on behalf of Curt Peterson in support of HB1386. **(SEE ATTACHED TESTIMONY)** Passed out copy of amendment. We want to close the loophole for construction managers.

Vice-Chair Severson : Has there been circumstances within the state where this in fact has happened?

Leah : I don't know. I will have to ask Curt Peterson.

Rep. Ekstrom : I want to go back to the multiple bid situation. The amendment that you handed us, takes the whole situation from a \$250,000 project to a \$1 M project. We are now dealing with a larger project and not requiring multiple bids. It's usually smaller projects that you have trouble getting multiple bids, not larger projects. What is the rationale.

Leah : That's correct. It went to \$1 M to give the governmental body more control and flexibility with what is in the bid.

Kevin Mattson, Mattson Construction Co., Minot; Vice-Pres. ABC Builders Assoc. : (5645) I support this bill. We support the amendment. Right now the law says anything over \$50,000 has to be multiple bids. (Gave an example from Grand Forks)

Glenn Moen, Baukol Builders-Vice-Pres., Grand Forks, : (6048) here to support this bill. We agree with the greater protection to the governmental body. **(end tape 1, begin tape 2)** If you allow the public entities the flexibility, things will run smoother.

Jerry Horner, ND Dept. of Transportation, Maintenance Engineer, : (140) here to support HB1386. We particularly like section 2. **(SEE ATTACHED TESTIMONY)**

Rep. Delmore : (390) Does current law allow the contractor to now permit a single combined bid?

Jerry : The way we have to operate in current law is for buildings over \$100,000, we have to take bids for the electrical, mechanical and general and submit those available to bidding public.

Rep. Delmore : Won't this have a negative effect on those people?

Jerry : It will allow for smaller contractors more of a chance. We don't feel that this is limiting competition. Now, we have very few contractors that are bidding are bids. I think we would receive more bids if this is passed.

Rep. Ekstrom : Do you see any reason to raise this to \$1 M as is in one of the amendments?

Jerry : I think it's O.K. \$250,000 is too low for us.

Todd D. Kranda, ND Consultant Engineers Council : Just here to tell you we support HB1386. We like section 2. We weren't aware of the amendment to \$1 M.

Ken Cudy, C & C Plumbing/Heating, Minot : I come to support the first part of this bill. Feel this is a more fair and open playing field when bidding on projects.

Rep. Eliot Glassheim, Dist 18, Grand Forks : (900) I have been asked to read testimony from Dave McFarland against HB1386. (SEE ATTACHED) Section 1 is not a problem to me or Mr. McFarland. We do oppose the raising of the limit to \$ 1 M. The bill is changing the language to say "must" accept the single prime bid. It doesn't say whether the single prime bid has to be the lowest and best. This language is very important for the local government to have. I'm not clear about the fourth section.. You have kind of a David and Goliath situation. What do you want. The bill asks you to love Goliath, and current law protects David. The construction managers who can afford larger contracts and bonds, would be favored over smaller construction firms.

Rep. Ekstrom : Have you ever attended a bid opening and seen what goes on?

Rep. Glassheim : No. I would guess in 80-90% of the cases, the lowest bid is the best and is O.K. But the other 5-10%, the political subdivision needs to have some leeway to reject somebody who's buying the bid if they feel the work is not good.

Rep. Lonny Winrich, Dist. 18 : I am here in opposition to HB1386 and have a letter on behalf of Leon Comeau. (SEE ATTACHED)

Rep. Ekstrom : I have heard that it is very difficult to get multiple bids. Any comment?

Rep. Winrich : I have little experience in this area. I have not been involved with construction projects, so I can't speak to that issue.

Tom Tupa, NECA/NDPLMC : here in opposition to HB1386. With me are a number of contractors who are here in opposition to this bill. A number of letters were delivered to you. We really have a problem with section 2. Sections 1 and 3 are o.k.

Howard Wrigley, Pres. Wrigley Mechanical, Inc., Fargo : strongly opposed to HB1386. (SEE BROWN BOOKLET) Medium and small companies will not have the opportunity to grow. I think the amendments make it worse. We are mixing liability and bonding on page 4.

Rep. Ekstrom : (2980) If you drop down in the book "Note to bidders", is that present law?

Howard : Yes. I don't see why they want to fix anything, because it is not broken. This note covers the bases.

Tom Ke'sch, Economic Development Assoc. of ND : (3191) We are opposed to section 1. We need good paying jobs and don't need road blocks. My amendment would delete section 1. We don't have a position on sections 2 and 3.

Ralph Heintz, Edling Electric, Inc. Bismarek :(3500) opposed to this bill. (SEE ATTACHED)

Leon Comeau, NECA, Grand Forks : opposed to HB1386. (SEE ATTACHED)

Jim Fristad, Lunseth Plumbing/Heating, Grand Forks :opposed to HB1386 (SEE ATTACHED)

Rep. Ekstrom : (4199) On any of the jobs you have been on, have you noticed a lack of competition?

Jim Fristad : Not a great deal. Not on most projects.

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Bill Wooken, City of Bismarck Admin. : (4250) here in opposition to HB1386 only in section 1.

We endorse the amendment brought by Tom Kelsch.

Jay Cofell, Cofell's Plumbing, Bismarck : opposed to section 2 of this bill. I have been in this business for close to 20 years. This law has been in place to 15 years and has been good for ND. This change will impact my industry negatively and I urge a "No" vote.

Chair Froseth : Any more testimony. Hearing none, we are closed.

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB1386 b

House Political Subdivisions Committee

Conference Committee

Hearing Date 2-15-01

Tape Number	Side A	Side B	Meter #
1		88	3500--4000
Committee Clerk Signature <i>Pam Dever</i>			

Minutes: Chair Froseth : Let's look at HB1386. This bill would include economic development sales tax revenues to be included to section 1. Section 2 raises the bidding requirements for multiply prime bids from \$100,000 to \$250,000. Section 3, is the body of it where one single bond by the general contractor is necessary. There seems to be a lot of concern with section 1 and section 2 in testimony. In opposition, the smaller contractors think they would be excluded from a lot of the bidding process. I have amendments 10432.0401 for you to look at. Section 3 is the only one left in the bill.

Rep. Maragos : I move a **DO PASS ON AMENDMENTS.**

Rep. N. Johnson : I second.

VOICE VOTE: ALL YES.

Rep. Delmore : I move a **DO PASS AS AMENDED.**

Rep. N. Johnson : I second.

VOTE: 12 YES and 0 NO with 3 absent. PASSED. Rep. Disrud will carry the bill.

FISCAL NOTE

Requested by Legislative Council
03/30/2001

Bill/Resolution No.:

Amendment to: Engrossed
 HB 1386

1A. State fiscal effect: *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	1999-2001 Biennium		2001-2003 Biennium		2003-2005 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

1B. County, city, and school district fiscal effect: *Identify the fiscal effect on the appropriate political subdivision.*

1999-2001 Biennium			2001-2003 Biennium			2003-2005 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2. Narrative: *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

Possible costs for advertising. Although those costs cannot be determined, we believe they would be minimal.

3. State fiscal effect detail: *For information shown under state fiscal effect in 1A, please:*

A. Revenues: *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

B. Expenditures: *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

C. Appropriations: *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

Name:	Pam Sharp	Agency:	OMB
Phone Number:	328-4606	Date Prepared:	04/02/2001

FISCAL NOTE

Requested by Legislative Council
01/23/2001

Bill/Resolution No.: HB 1386

Amendment to:

1A. State fiscal effect: *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	1999-2001 Biennium		2001-2003 Biennium		2003-2005 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

1B. County, city, and school district fiscal effect: *Identify the fiscal effect on the appropriate political subdivision.*

1999-2001 Biennium			2001-2003 Biennium			2003-2005 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2. Narrative: *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

Fiscal impact cannot be determined.

3. State fiscal effect detail: *For information shown under state fiscal effect in 1A, please:*

A. Revenues: *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

B. Expenditures: *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

C. Appropriations: *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

Name:	Curt Zimmerman	Agency:	OMB, Facility Management
Phone Number:	328-4002	Date Prepared:	01/24/2001

Proposed Amendments to HD #1386

Page 1, Delete Section 1, Lines 5-12.

Page 1, Line 13, after Section, delete 2 and insert in lieu thereof 1.

Page 2, Line 1, after Section, delete 3 and insert in lieu thereof 2.

Kelsh

10432.0401
Title.0500

Prepared by the Legislative Council staff for
Representative Froseth
February 9, 2001

V/R
2/15/01

HOUSE AMENDMENTS to HB1386 HOUSE POL. SUBS. 2-16-01
Page 1, line 1, remove "subsection 6 of section 48-01.1-01 and sections"

Page 1, line 2, replace "48-01.1-06 and" with "section" and replace "public improvement" with
"construction managers."

Page 1, remove line 3

Page 1, remove lines 5 through 24

Renumber accordingly

