

2019 HOUSE POLITICAL SUBDIVISIONS

HB 1360

2019 HOUSE STANDING COMMITTEE MINUTES

Political Subdivisions Committee Prairie Room, State Capitol

1/17/2019

HB 1360

Job # 31006

Subcommittee

Conference Committee

Committee Clerk: Carmen Hickle

Explanation or reason for introduction of bill/resolution:

Relating to bid requirements for park districts; and to declare an emergency

Minutes:

1,2,3,4,5

Chairman J. Dockter: Opens the hearing on HB 1360.

Rep. Bosch: (Handout #1,2) Introduced HB 1360 and read his testimony. Pointed out a proposed amendment from OMB that suggests consistent language between another bill the school districts have that is similar to this.

Rep. Longmuir: Why the emergency measure?

Rep. Bosch: There are some purchases and maintenance contracts that are coming up.

Rep. Ertelt: If this were to be changed so you were exempt if you were purchasing equipment is it possible that the work that needs to be completed could be broke up into multiple stages to avoid the bidding process?

Rep. Bosch: Generally, it's not work associated with this but buying products.

Rep. Ertelt: What all falls under equipment?

Rep. Bosch: The amendment we take equipment out and change it to the definition that came from OMB.

Chairman J. Dockter: It's attached to Century Code 54-44.04.

Rep K. Koppelman: You have the phrase "in an emergency situation" is that defined anywhere?

Rep. Bosch: I believe it is defined in the public improvement statute.

(6:08) **Dana Schaar Jahner:** (Handout #3) Executive Director of ND Recreation and Park Association (NDRPA) She read her testimony.

(7:55) **Wayne Munson:** Bismarck Board of Park Commissioner. (Handout #4) He read his testimony.

Sherry Neas: Office of Management and Budget: (Handout #5) We support this bill and the amendment. In looking at the original language it was narrowed to the purchase of equipment. In North Dakota state procurement law there is a section that was established in 2003. OMB can either participate in or organize cooperative purchasing. OMB has a staff of procurement professionals we find good service equipment supplies of common use competitively bid that and then it's made available for government in ND. OMB must have a website for government bidding opportunities and also maintain the state bidders list. Some of the problems we have had in the past was since they were mandated to go out for bid at \$25,000 the parks districts were not able to use our cooperative purchasing.

Rep. Hatlestad: How do you accumulate quantities that you are going to have to bid for?

Ms. Neas: The state cooperative purchasing law is it lets OMB establish contracts that are open ended.

Rep. Hatlestad: If I am going to bid on a state contract but don't know quantity doesn't that give you a less favorable price?

Ms. Neas: If you had defined requirements than you can leverage it. There is always a projection of the estimated quantities.

Rep K. Koppelman: What constitutes an emergency and where is that definition?

Ms. Neas: There is different chapter of law that govern the different types of procurement. The scope of OMB's authority is goods, services, and IT. In OMB law there is a definition of emergency purchase. This law governs park boards, so the question is what allows an emergency purchase under the park board law?

Rep K. Koppelman: Maybe our intern can look into that.

Randy Bina: Executive Director of Bismarck Parks and Recreation District. In chapter 48-01.2 there is a definition of emergency situations.

Rep K. Koppelman: Do you know if anything in this chapter references that?

Mr. Bina: We are proposing in this new bid threshold to include an emergency provision.

Chairman J. Dockter: Page 2 line 14 it gives the definition of an emergency situation.

21:45 **Chairman J. Dockter:** Reopened the hearing for committee work.

Rep. Longmuir: Made a motion to accept the amendment.

Rep. Johnson: Second the motion.

Rep. Toman: We are removing the requirement for purchasing equipment cooperative purchase is that equipment only?

Rep K. Koppelman: I think the idea was equipment would fit into OMB description.

Chairman J. Dockter: This would allow the park districts to work with OMB for more purchasing power to go through their procurement cooperative purchasing process.

Rep. Johnson: If we eliminate equipment would that regard equipment?

Chairman J. Dockter: My understanding is this would expand and allow them to work with OMB.

Ms. Neas: The change would make it identical to the school board which allows you to not have to do competitive bidding process if you make a cooperative purchase through OMB. Remember public improvement is its own thing, concessions is its own thing, there are other laws that still apply to park districts.

During the testimony there was reference to the public improvement chapter of law, and that law does have a definition of what an emergency is.

Rep. Johnson: Is that the goal of the amendment to broaden the scope?

Chairman J. Dockter: Yes, to allow them to work with OMB.

Rep K. Koppelman: The intent of the amendment is to harmonize this with the other chapter to ensure continuity in state law.

Rep. Johnson: If you define this specifically and the park board determines an emergency situation are we enabling them to determine an emergency situation when no other portion of the statute allows that?

Rep K. Koppelman: Do you see that as too broad of a license to give to park boards? Do you think it needs to be more tightly defined?

Rep. Johnson: I don't know. Overall this is beneficial to the park districts at \$50,000. There is a lot of unanswered questions if we say a park board can declare an emergency situation without limitations.

Rep. Hatlestad: In this particular case we are talking about the park districts and they would have the authority to declare an emergency. There is no way we can define everything for everybody.

Chairman J. Dockter: Agreed with Rep. Hatlestad.

Vice Chairman Pyle: ND is one of the only 14 states that the park board is a separate taxing entity and has nothing to do with the city.

Voice vote to adopt the amendment: Carried

Rep. Hatlestad: Made a do pass as amended motion.

Rep. Adams: Second the motion.

Vote: yes 10, no 3, absent 1.

Rep. Hatlestad: Will carry HB 1360.

Chairman J. Dockter: Closed the hearing.

DA 1/17/19

19.0086.03001
Title.04000

Prepared by the Legislative Council staff for
Representative Bosch
January 17, 2019

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1360

Page 1, line 13, remove "when the contract is for the purchase of equipment"

Page 1, line 14, replace "through" with "for cooperative purchases with"

Renumber accordingly

Date: 1-17-19
Roll Call Vote #: 1

2019 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1360

House Political Subdivisions Committee

Subcommittee

Amendment LC# or Description: 19.0086.03001

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
Other Actions: Reconsider _____

Motion Made By Rep. Longmuir Seconded By Rep. Johnson

Representatives	Yes	No	Representatives	Yes	No
Chairman Dockter			Rep. Adams		
Vice Chairman Pyle			Rep. Guggisberg		
Rep. Ertelt					
Rep. Fegley					
Rep. Hatlestad					
Rep. Johnson					
Rep. Koppelman					
Rep. Longmuir					
Rep. Magrum					
Rep. Simons					
Rep. Toman					
Rep. Strinden					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Voice Vote Passed

Date: 1-17-19
 Roll Call Vote #: 2

**2019 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 1360**

House Political Subdivisions Committee

Subcommittee

Amendment LC# or Description: _____

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
 Other Actions: Reconsider _____

Motion Made By Rep. Hatlestad Seconded By Rep. Adams

Representatives	Yes	No	Representatives	Yes	No
Chairman Dockter	/		Rep. Adams	/	
Vice Chairman Pyle	/		Rep. Guggisberg	/	
Rep. Ertelt	/				
Rep. Fegley	/				
Rep. Hatlestad	/				
Rep. Johnson	/				
Rep. Koppelman	/				
Rep. Longmuir	/				
Rep. Magrum		/			
Rep. Simons		/			
Rep. Toman	/	/			
Rep. Strinden	/				

Total (Yes) 10 No 3

Absent 1

Floor Assignment Rep. Hatlestad

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1360: Political Subdivisions Committee (Rep. Dockter, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (10 YEAS, 3 NAYS, 1 ABSENT AND NOT VOTING). HB 1360 was placed on the Sixth order on the calendar.

Page 1, line 13, remove "when the contract is for the purchase of equipment"

Page 1, line 14, replace "through" with "for cooperative purchases with"

Renumber accordingly

2019 SENATE POLITICAL SUBDIVISIONS

HB 1360

2019 SENATE STANDING COMMITTEE MINUTES

Political Subdivisions Committee Red River Room, State Capitol

HB 1360
2/28/2019
Job # 33000

- Subcommittee
 Conference Committee

Committee Clerk: Mary Jo Wocken

Explanation or reason for introduction of bill/resolution:

Relating to bid requirements for park districts; and to declare an emergency.

Minutes:

Written attachment #1 Rep. Glenn Bosch
Written attachment #2 Dana Schaar Jahner
Written attachment #3 Brian Beattie p1-3

Chairman Burckhard opened the hearing on HB1360. All senators are present.

Representative Glenn Bosch, represent Bismarck's District 30, introduced the bill. **Written attachment #1.** (:36-2:46)

Senator J. Lee: I just was wondering if you had any, and yes Senator Anderson said there were four versions and we started with 3000 so it is only one amendment. The addition of the cooperative purchases, so it is just enabling buying off the state procurement, is that right?

Representative Glenn Bosch: Yes, that language actually came from the state purchasing. There's been a number of bills like this that had to do with school districts and they just had a general language that they wanted to use that was consistent with all the other bills that were like this, this session. So that is where that came from.

Dana Schaar Jahner, Executive Director of the North Dakota Recreational and Park Association, represent park districts across the state of North Dakota. I am here in support of HB1360. **Written attachment #2.**

Mr. Brian Beattie, President of the Bismarck Board of Park Commissioners, Bismarck Park and Rec District. **Written attachment #3**, pg. 1-3. (5:53-8:10)

Chairman Burckhard: closed the hearing on HB1360.

Senator J. Lee made a motion for a do pass on HB1360.
Senator Diane Larson, moved a 2nd.

Committee discussion

Senator Dotzenrod: The bill says on Line 14, it's got the \$50,000 in there. So bids would come in that our projects that are less than that, like \$30,000. Then would there be no requirement under law? They could act just by board action, no bids required, is that how I understand that?

Chairman Burckhard: You said Line 14.

Senator Dotzenrod: Line 14 says if it exceeds \$50,000 it must be awarded to the lowest bidder. What other requirements that are imposed on a bid below \$50,000? I guess that is my question.

Mr. Randy Bina: Executive Director with the Bismarck Parks and Recreation District. What this bill does it sets a bidding threshold that increases it to \$50,000. However, I am aware and it is my understanding that most of the park districts in the state. There boards establish internal policies to purchase. Just like the one President Beattie just testified in with our testimony we had an attachment that outlined our internal process. So, internally in Bismarck what we do is anything that is over \$5000 we have to get quotes. I think it is \$5000 to \$10,000 we get two quotes, anything over \$10,000 we get sealed quotes. We just don't put it in the paper but we do get multiple sealed quotes when we can from the vendors. We have found that to be very helpful. I don't have the number with me today, but going through a quote and a bidding process our district tracts it and we save significant dollars.

Senator Dotzenrod: That example that you gave there of when you require some bids and it is below a certain dollar amount. Those are internal to your park district rules that you've set for yourselves. Evidently there isn't any requirement in statute here in state law that would impose any requirements like that on purchases less than \$50,000, if this bill were adopted.

Mr. Randy Bina: That is correct. But again I would emphasize that especially the larger park districts I believe most of them have internal policies for purchasing that are below the state bid threshold.

Senator Dotzenrod: I just want to make it clear that we are essentially extending our sense of good judgment and good faith that the boards are capable and qualified and understand enough. We are not going to try and impose from the state. It reaches a point where at some point the state has to say we have to give the subdivisions of the state a little bit of leeway. We can't control every aspect of every transaction out of Bismarck; and so it does appear that below \$50,000 the state would extend to the park districts their own sense that their good judgment will apply.

Mr. Randy Bina: That is correct.

Chairman Burckhard: So we really don't micro-manage them, alright. We have a do pass motion, from Senator Lee, and a second from Senator Larson.

Roll call vote: 6-0-0

Carrier: Senator Diane Larson

Date: 2.28.19
 Roll Call Vote #: 1

**2019 SENATE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. H. B. 1360**

Senate Political Subdivisions Committee

Subcommittee

Amendment LC# or Description: _____

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
 Other Actions: Reconsider _____

Motion Made By Sen. Judy Lee Seconded By Sen. Diane Larson

Senators	Yes	No	Senators	Yes	No
Chair Randy Burkhard	X		Sen. Jim Dotzenrod	X	
Vice chair Howard Anderson	X				
Sen. Diane Larson	X				
Sen. Judy Lee	X				
Sen. Jordan Kannianen	X				

Total (Yes) 6 No 0

Absent 0

Floor Assignment Senators Diane Larson

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1360, as engrossed: Political Subdivisions Committee (Sen. Burckhard, Chairman)
recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING).
Engrossed HB 1360 was placed on the Fourteenth order on the calendar.

2019 TESTIMONY

HB 1360

Introduce HB-1360

#1
HB1360
1-17-19

Chairman Dockter and members of the Political Subdivisions committee, for the record I'm Glenn Bosch, representing Bismarck's District 30. I'm here today to introduce HB-1360.

Over the last several sessions, legislation has passed that modifies bidding requirements. The changes made served a couple of different purposes but typically they changed the dollar amount that would trigger when a more formal bidding process would take place.

In 2017 the public improvement construction threshold requiring a formal bid was increased from \$100k to \$150K. In 2015, the same statute was amended to raise the PROJECT amount FROM \$100K-\$150K that required plans from an architect/engineer to be created for a project.

Today at the State level, purchases under \$50K are classified as small purchases and only require informal phone quotes from three vendors. Projects between \$50K-\$100K, classified as an informal purchase, require 3 written bids and purchases need to reach the \$100K level to require a formal sealed bidding process.

At the same time, chapter 48-01.2 requires that all Park District contracts exceeding only \$25K be awarded to the lowest responsible bidder after advertisement in the official newspaper for two successive weeks. The \$25K threshold was last revised in 2009.

The bill before you amends current Park District purchasing statutes and provides additional flexibility during the procurement process. Specifically, it would....

- 1) Increase the contract amount that requires the formal bidding process from \$25K to \$50K.
- 2) Allow a Park District the ability to purchase from state purchasing agreements.
- 3) Allow a Park district the ability to declare an emergency.

Other will testify on how these changes will positively impact their specific operations.

With that I'll stand for any questions.

19.0086.03001
Title.

Prepared by the Legislative Council staff for
Representative Bosch
January 16, 2019

#2

1-17-19

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1360

Page 1, line 13, remove "when the contract is for the purchase of equipment"

Page 1, line 14, replace "through" with "cooperative purchases with"

Renumber accordingly

NDRPA

North Dakota Recreation & Park Association •



#3
HB 1360
1-17-19

advancing parks and recreation for quality of life in North Dakota

**Testimony of Dana Schaar Jahner
North Dakota Recreation and Park Association
House Political Subdivisions Committee
Support for HB 1360
Thursday, January 17, 2019**

Chairman Dockter and Members of the Committee, my name is Dana Schaar Jahner, and I am executive director of the North Dakota Recreation and Park Association (NDRPA). NDRPA represents more than 700 members across the state, including park board members and park district staff, and works to advance parks, recreation and conservation for an enhanced quality of life in North Dakota. We are here in support of House Bill 1360.

Park districts across North Dakota support this bid limit increase because periodic adjustments to limits established in Century Code are necessary as the cost of doing business continues to rise. As NDRPA discussed this issue with members across the state, small park districts shared the desire of their park board commissioners to buy local. By raising the bid limit on smaller purchases, this allows local businesses to be more competitive and therefore keep dollars in those communities.

The emergency clause also provides parity with many other existing bidding requirements in Century Code, providing locally elected park boards the ability to manage emergency situations to ensure the safety of a park district's facilities.

Finally, explicit authority for park districts to utilize Office of Management and Budget procurement services creates efficiencies and cost-savings for local taxpayers.

NDRPA asks for a do pass on HB 1360. Thank you.

Let's Play!
#4

**Testimony of Wayne Munson, Commissioner
Bismarck Board of Park Commissioners
Bismarck Parks and Recreation District
House Political Subdivisions Committee
Support for HB 1360
Thursday, January 17, 2019**

Chairman Dockter and Members of the Committee, my name is Wayne Munson and I am a Commissioner on the Bismarck Board of Park Commissioners, Bismarck Parks and Recreation District. Our mission is: Working with the community to provide residents and visitors with the highest quality park, program, facility and event experience. I am here today on behalf Bismarck Parks and Recreation District (BPRD) to support House Bill 1360. I support raising the bid requirement from \$25,000 to \$50,000 for the following reasons:

- It has been 10 years since NDCC 40-49-14 was amended to increase the bid requirement from \$10,000 to its current \$25,000 threshold. As we all know, \$25,000 does not buy as much as it did 10 years ago.
- Policies to determine purchasing practices below the state bid requirement are established locally by Park Boards. BPRD's purchasing policies require written quotes and multiple sealed price quotes for various purchasing thresholds as low as \$5,000. See Attachment 1.
- Purchasing thresholds by OMB Guidelines for formal bidding are at much higher levels than the current threshold for Park Districts. See Attachment 2.
- This bill also provides for the same emergency exception that is currently outlined in 48-01.2, Public Improvement Bids and Contracts that applies to construction projects with a cost in excess of \$150,000. One example is a fire that occurred in one of our buildings when time was of the essence to get the building back to being fully operational. Contractors provided cost estimates that were reviewed and approved by the insurance company. However, since BPRD was responsible for paying the contractors, the repairs were delayed because the costs exceeded \$25,000 requiring bids to be obtained. Having the ability to have the board declare an emergency would have allowed the repairs to be completed sooner.
- HB1360 also clarifies that purchases of equipment may be made through the office of management and budget as provided in chapter 54-44.4, State Purchasing Practices, without requiring park districts to separately advertise for bids.

BPRD supports a do pass recommendation on HB 1360. Are there any questions?

Thank you.

A nationally accredited park and recreation agency.

BISMARCK PARKS AND RECREATION DISTRICT
GENERAL OPERATING PROCEDURES

PURCHASING POLICY

A purchasing policy has been developed for the purpose of obtaining the best possible price of goods and services for the Park District while ensuring compliance with state law. The purchasing policy provides the contractors and vendors an equitable method of providing the goods and services on a competitive basis and avoids conflicts of interest by staff, vendors or contractors. It is recommended to obtain quotes if the goods or services are common items and it would be in the Park District's best interest to obtain competitive quotes.

1. For purchases of \$5,000 to \$10,000 it is required to obtain written quotes. Written quotes must be documented with date, name of vendor, vendor's contact person and price. The manager will retain copies for one year.
2. A purchase of \$10,001 to \$25,000 requires written specifications and multiple sealed price quotes must be obtained in writing. Written quotes must document the date, name of vendor, vendor's contact person and price. All price quotes must be submitted to the Division Director and Finance Director for review and approval. The manager will retain one copy on location and a copy will be filed in the main office. Price quotes are to be kept for one year.
3. In the event only one price quote is available, documentation explaining the reason for one quote is necessary.
4. In the case where timeliness is of essence, the Executive Director may waive the price quotes requirements noted above. The waiver must be in writing documenting the reason for the waiver. All waivers must be communicated with the Park Commissioners.

Purchasing Thresholds Effective July 1, 2018		
NDUS employees must follow SBHE policies and NDUS procedures . State Agencies, excluding Higher Education institutions, must follow OMB guidelines .		
Level	Competition Requirements	Documentation Maintenance Requirement
Level 1 "Micro" Purchase Less than \$10,000	Obtain at least one fair and reasonable quote. Note: Equipment and software must be added to inventory if \$5,000 or greater. (N.D.C.C. § 54-27-21 Fixed Asset Minimum Reporting Value) OMB: Rotate vendors solicited on an equitable basis (N.D.A.C. § 4-12-08-02) OMB: State agencies (excluding Higher Education institutions) must submit printing purchase requests \$5,000 and over to OMB State Procurement.	NDUS: Documentation not required Alternate Procurement form not required if multiple quotes not solicited OMB: Document vendors solicited, quotes received, and award determination.
Level 2 Small Purchase At least \$10,000 but less than \$50,000	Solicit informal quotes/bids or proposals from at least three vendors, or post to SPO Online with appropriate state bidders list. May send to additional vendors. OMB: ITD must review IT purchases over \$25,000. Contact itdprocurement@nd.gov	Documentation is required. Alternate Procurement form required if competition is not solicited from at least three vendors. The form is not required if three vendors are solicited and fewer than three bids or proposals are received.
Level 3 Informal Written Purchase At least \$50,000 but less than \$100,000	Solicit informal bids or proposals using SPO Online with appropriate state bidders list. May send to additional vendors. OMB: ITD must review IT purchases over \$25,000. Contact itdprocurement@nd.gov	Documentation is required Alternate Procurement form required if: <ol style="list-style-type: none"> 1. Competition is not solicited. 2. SPO Online is not used. 3. OMB: Competition is limited.
Level 4 Formal Purchase \$100,000 and over	Must be purchased using formal sealed bids or Request for Proposal (RFP). Solicitations must be posted using SPO Online with appropriate state bidders list. May send to additional bidders. OMB: ITD must review IT purchases over \$25,000. Contact itdprocurement@nd.gov	Documentation is required. Alternate Procurement required if: <ol style="list-style-type: none"> 1. Competition is not solicited, or competition is limited. 2. SPO Online is not used. 3. OMB: Competition is Limited.
Questions? Contact OMB State Procurement at infospo@nd.gov or 701-328-1726		

19.0086.03000

Sixty-sixth
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1360

*What allows a
park district to declare
an emergency*

*#5
1-17-19*

Introduced by

Representatives Bosch, Lefor, Nathe, Sanford

Senators Bakke, Bekkedahl, D. Larson, Oban

1 A BILL for an Act to amend and reenact sections 40-49-14 of the North Dakota Century Code,
2 relating to bid requirements for park districts; and to declare an emergency.

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

4 **SECTION 1. AMENDMENT.** Section 40-49-14 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **40-49-14. When ye and nay vote taken - Letting Awarding contracts - Debt limit -**
7 **Bills, claims, and demands against board.**

8 1. Yea and nay votes must be taken on all propositions involving the expenditure of
9 money, levying of taxes, or the issuance of bonds or certificates of indebtedness.
10 Approval of an expenditure of money must be recorded in the record of the board's
11 proceedings and is sufficient to indicate approval without requiring the members to
12 sign or initial the voucher or order for payment. Except as provided in chapter 48-01.2,
13 in an emergency situation, or when the contract is for the purchase of equipment
14 through the office of management and budget as provided in chapter 54-44.4, all
15 contracts exceeding twenty-five fifty thousand dollars must be let awarded to the lowest
16 responsible bidder after advertisement in the official newspaper of the municipality
17 once each week for two successive weeks. The board may reject any or all bids. All
18 contracts must be in writing and must be signed by the president of the board or a
19 designated representative and unless so executed, they shall be void. The debt of a
20 park district may not exceed one percent of the taxable property within the district
21 according to the last preceding assessment. No bill, claim, account, or demand
22 against the district may be audited, allowed, or paid until a full, written, itemized
23 statement has been filed with the governing body or unless otherwise authorized by
24 the governing body pursuant to contract or other action. The governing body may

*48-09
concessions*

1 require the filing of any additional information which it may deem necessary to the
2 proper understanding and audit of any claim or account and it may require the filing of
3 a sworn statement in such form as it may prescribe or as noted below:

4 CERTIFICATE

5 I do hereby certify that the within bill, claim, account, or demand is just and true; that the
6 money therein charged was actually paid for the purposes therein stated; that the services
7 therein charged were actually rendered and of the value therein charged; and that no part of
8 such bill, claim, account, or demand has been paid; and that the goods therein charged
9 were actually delivered and were of the value charged.

10 Sign here _____

11 _____
12 If signed for a firm or company,
13 show authority on this line.

14 2. As used in this section, "emergency situation" means a sudden or unexpected
15 occurrence that requires immediate action to protect public health, safety, or property.

16 **SECTION 2. EMERGENCY.** This Act is declared to be an emergency measure.

could reward
(like 48-01.2-04 subsection 2)

If the
park board declares
an emergency situation,
the park board may enter
into a contract over \$50,000 without
seeking bids

#5
HB 1360
1-17-19

15.1-09-33.2. Continuing education - Payment - Directives.

A school board's right to reimburse teachers for the cost of continuing education activities undertaken in connection with the No Child Left Behind Act of 2001, may not be contractually curtailed.

15.1-09-33.3. Student teachers - Provision of stipend.

The board of a school district may provide a stipend to a student teacher assigned to a school in the district.

15.1-09-33.4. Student misconduct - Prohibition against participation in extracurricular activities.

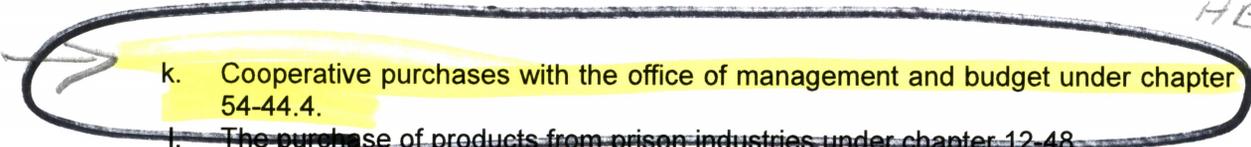
1. The board of a school district shall prohibit a student from participating in any extracurricular activity if:
 - a. The student has pled guilty to or been convicted of a criminal offense and sentenced under section 12.1-32-02.1 or pled guilty or been convicted of an offense specified in subsection 1 of section 12.1-32-09.1;
 - b. The student has:
 - (1) An order prohibiting contact issued against the student at the request of another student or employee of the school under section 12.1-31.2-02;
 - (2) A disorderly conduct restraining order issued against the student at the request of another student or employee of the school under section 12.1-31.2-01, except a temporary restraining order under subsection 4 of section 12.1-31.2-01; or
 - (3) A protection order issued against the student at the request of another student or employee of the school, except a temporary protection order under section 14-07.1-03;
 - c. The principal of the school receives information pertaining to an offense or order included under this section as provided in subsection 2 of section 27-20-51; or
 - d. The victim of the offense or the subject of the order notifies the principal of the offense or order.
2. For purposes of this section, a representative of the juvenile court system may notify the principal of a school regarding the existence of files or records of the juvenile court pertaining to a student of the school which are open to inspection by the principal under subsection 2 of section 27-20-51.



15.1-09-34. Contracts by school boards - Bids - Penalty.

1. Except as provided in this section, the board of a school district may not enter a contract involving the expenditure of an aggregate amount greater than twenty-five thousand dollars unless the school board has given ten days' notice by publication in the official newspaper of the district, received sealed bids, and accepted the bid of the lowest responsible bidder. This section does not apply to contracts for:
 - a. The personal services of district employees.
 - b. Textbooks and reference books.
 - c. Articles not sold on the open market.
 - d. Patented, copyrighted, or exclusively sold devices or features required to match articles already in use.
 - e. Patented, copyrighted, or exclusively sold articles so distinctive that only one brand can be purchased.
 - f. Building construction projects under chapter 48-01.2.
 - g. School transportation services purchased under section 15.1-30-11.
 - h. Vehicle fuel purchased under section 15.1-09-34.1.
 - i. Heating fuel purchased under section 15.1-09-34.1.
 - j. The purchase of a used motor vehicle, including a schoolbus, motorbus, or van, intended primarily for the transportation of students.

This is the similar language
for School Boards



- k. Cooperative purchases with the office of management and budget under chapter 54-44.4.
- ~~l. The purchase of products from prison industries under chapter 12-48.~~
- ~~m. The purchase of products from work activity centers under chapter 25-16.2.~~
- 2. For purposes of this section, a "used motor vehicle" means a motor vehicle that has been previously owned or leased and which has an odometer reading in excess of eighteen thousand miles [28967 kilometers].
- 3. A board member who participates in a violation of this section is guilty of a class B misdemeanor.

15.1-09-34.1. Vehicle and heating fuel - Purchases.

At least once each year, the board of a school district shall publish in the official newspaper of the district information regarding the registration of vehicle fuel vendors and heating fuel vendors. Except as otherwise provided in this section, the board shall purchase vehicle fuel and heating fuel only after seeking written quotes from all vendors who registered with the district for that school year.

15.1-09-35. Reports by school boards on conditions of schools.

Upon the conclusion of each school year, the board of a school district shall:

- 1. Prepare a report regarding the condition of all schools in the district, including their financial condition and the educational progress of students enrolled in each school;
- 2. Forward a copy of the report to the county superintendent of schools; and
- 3. Publish in the official newspaper of the school district that portion of the report which deals with the financial condition of each school.

15.1-09-36. School board - Authority over student fees.

- 1. A school board may not charge a fee for textbooks or other items necessary for completion of a specific course required for grade advancement or graduation.
- 2. A school board may:
 - a. Require that a student pay a security deposit for the return of textbooks, materials, supplies, or equipment.
 - b. Assess a student a use charge if a textbook or other item covered under subsection 1 has received undue wear.
 - c. Require that a student furnish personal or consumable items.
 - d. Require that a student pay an admission fee or other charges for extracurricular or noncurricular activities if the student's attendance is optional.
 - e. Require that a student pay a fee or a premium for any authorized student health and accident benefit plan.
 - f. Require that a student pay a fee for personal athletic equipment and apparel; provided the board shall allow a student to use the student's own equipment and apparel if it meets reasonable health and safety standards established by the board.
 - g. Require that a student pay a fee in any program which generates a product that becomes the personal property of the student.
 - h. Require that a student pay a fee for behind-the-wheel driver's education instruction.
 - i. Require that a student pay a fee for goods, including textbooks, and services provided in connection with any postsecondary level program or any program established outside regular elementary, middle school, or secondary school programs, including career and technical programs, and adult or continuing education programs.
 - j. Require that a student pay a fee for the use of a musical instrument owned or rented by the school district, provided that the total fee payable by the student for a school year does not exceed the annual rental cost to the district or the annual depreciation plus actual maintenance cost for the instrument.

Introduce HB-1360

Chairman Burckhard and members of the Senate Political Subdivisions committee, for the record I'm Glenn Bosch, representing Bismarck's District 30. I'm here today to introduce HB-1360.

Over the last several sessions, legislation has passed that modifies bidding requirements. The changes made served a couple of different purposes but typically they changed the dollar amount that would trigger when a more formal bidding process would take place.

In 2017 the public improvement construction threshold requiring a formal bid was increased from \$100k to \$150K. In 2015, the same statute was amended to raise the PROJECT amount FROM \$100K-\$150K that required plans from an architect/engineer to be created for a project.

Today at the State level, purchases under \$50K are classified as small purchases and only require informal phone quotes from three vendors. Projects between \$50K-\$100K, classified as an informal purchase, require 3 written bids and purchases need to reach the \$100K level to require a formal sealed bidding process.

At the same time, chapter 48-01.2 requires that all Park District contracts exceeding only \$25K be awarded to the lowest responsible bidder after advertisement in the official newspaper for two successive weeks. The \$25K threshold was last revised in 2009.

The bill before you amends current Park District purchasing statutes and provides additional flexibility during the procurement process. Specifically, it would....

- 1) Increase the contract amount that requires the formal bidding process from \$25K to \$50K.
- 2) Allow a Park District the ability to purchase from state purchasing agreements.
- 3) Allow a Park District the ability to declare an emergency.

A definition of an emergency is provided on page 2, line 14 and 15.

With that, others are here, that will testify on how these changes will positively impact their specific operations and provide a more efficient purchasing process.

NDRPA

North Dakota Recreation & Park Association •



H.B. 1360
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att #2

advancing parks and recreation for quality of life in North Dakota

**Testimony of Dana Schaar Jahner
North Dakota Recreation and Park Association
Senate Political Subdivisions Committee
Support for HB 1360
Thursday, February 28, 2019**

Chairman Burckhard and Members of the Committee, my name is Dana Schaar Jahner, and I am executive director of the North Dakota Recreation and Park Association (NDRPA). NDRPA represents more than 700 members across the state, including park board members and park district staff, and works to advance parks, recreation and conservation for an enhanced quality of life in North Dakota. We are here in support of House Bill 1360.

Park districts across North Dakota support this bid limit increase because periodic adjustments to limits established in Century Code are necessary as the cost of doing business continues to rise. As NDRPA discussed this issue with members across the state, small park districts shared the desire of their park board commissioners to buy local. By raising the bid limit on smaller purchases, this allows local businesses to be more competitive and therefore keep dollars in those communities.

The emergency section also provides parity with many other existing bidding requirements in Century Code, providing locally elected park boards the ability to manage emergency situations to ensure the safety of a park district's facilities.

Finally, explicit authority for park districts to utilize Office of Management and Budget cooperative purchasing services creates efficiencies and cost-savings for local taxpayers.

NDRPA asks for a do pass on HB 1360. Thank you.

**Testimony of Brian Beattie, President
Bismarck Board of Park Commissioners
Bismarck Parks and Recreation District
Senate Political Subdivisions Committee
Support for HB 1360
Thursday, February 28, 2019**

Chairman Burckhard and Members of the Committee, my name is Brian Beattie and I am the President of the Bismarck Board of Park Commissioners, Bismarck Parks and Recreation District. Our mission is: Working with the community to provide residents and visitors with the highest quality park, program, facility and event experience. I am here today on behalf Bismarck Parks and Recreation District (BPRD) to support House Bill 1360. I support raising the bid requirement from \$25,000 to \$50,000 for the following reasons:

- It has been 10 years since NDCC 40-49-14 was amended to increase the bid requirement from \$10,000 to its current \$25,000 threshold. As we all know, \$25,000 does not buy as much as it did 10 years ago.
- Policies to determine purchasing practices below the state bid requirement are established locally by Park Boards. BPRD's purchasing policies require written quotes and multiple sealed price quotes for various purchasing thresholds as low as \$5,000. See Attachment 1.
- Purchasing thresholds by OMB Guidelines for formal bidding are at much higher levels than the current threshold for Park Districts. See Attachment 2.
- This bill also provides for the same emergency exception that is currently outlined in 48-01.2, Public Improvement Bids and Contracts that applies to construction projects with a cost in excess of \$150,000. One example is a fire that occurred in one of our buildings when time was of the essence to get the building back to being fully operational. Contractors provided cost estimates that were reviewed and approved by the insurance company. However, since BPRD was responsible for paying the contractors, the repairs were delayed because the costs exceeded \$25,000 requiring bids to be obtained. Having the ability to have the board declare an emergency would have allowed the repairs to be completed sooner.
- HB1360 also clarifies that purchases of equipment may be made through the office of management and budget as provided in chapter 54-44.4, State Purchasing Practices, without requiring park districts to separately advertise for bids.

Bismarck Parks and Recreation District supports a do pass recommendation on HB 1360. Are there any questions? Thank you.

A nationally accredited park and recreation agency.

BISMARCK PARKS AND RECREATION DISTRICT
GENERAL OPERATING PROCEDURES

*H.B. 1360
2.28.2019
Att # 3 p. 2*

PURCHASING POLICY

A purchasing policy has been developed for the purpose of obtaining the best possible price of goods and services for the Park District while ensuring compliance with state law. The purchasing policy provides the contractors and vendors an equitable method of providing the goods and services on a competitive basis and avoids conflicts of interest by staff, vendors or contractors. It is recommended to obtain quotes if the goods or services are common items and it would be in the Park District's best interest to obtain competitive quotes.

1. For purchases of \$5,000 to \$10,000 it is required to obtain written quotes. Written quotes must be documented with date, name of vendor, vendor's contact person and price. The manager will retain copies for one year.
2. A purchase of \$10,001 to \$25,000 requires written specifications and multiple sealed price quotes must be obtained in writing. Written quotes must document the date, name of vendor, vendor's contact person and price. All price quotes must be submitted to the Division Director and Finance Director for review and approval. The manager will retain one copy on location and a copy will be filed in the main office. Price quotes are to be kept for one year.
3. In the event only one price quote is available, documentation explaining the reason for one quote is necessary.
4. In the case where timeliness is of essence, the Executive Director may waive the price quotes requirements noted above. The waiver must be in writing documenting the reason for the waiver. All waivers must be communicated with the Park Commissioners.

Purchasing Thresholds Effective July 1, 2018		
NDUS employees must follow <u>SBHE policies</u> and <u>NDUS procedures</u> . State Agencies, excluding Higher Education institutions, must follow <u>OMB guidelines</u> .		
Level	Competition Requirements	Documentation Maintenance Requirement
Level 1 "Micro" Purchase Less than \$10,000	Obtain at least one fair and reasonable quote. Note: Equipment and software must be added to inventory if \$5,000 or greater. (N.D.C.C. § <u>54-27-21</u> Fixed Asset Minimum Reporting Value) OMB: Rotate vendors solicited on an equitable basis (N.D.A.C. § <u>4-12-08-02</u>) OMB: State agencies (excluding Higher Education institutions) must submit <u>printing purchase requests</u> \$5,000 and over to OMB State Procurement.	NDUS: Documentation not required Alternate Procurement form not required if multiple quotes not solicited OMB: Document vendors solicited, quotes received, and award determination.
Level 2 Small Purchase At least \$10,000 but less than \$50,000	Solicit informal quotes/bids or proposals from at least three vendors, or post to SPO Online with appropriate state bidders list. May send to additional vendors. OMB: ITD must review IT purchases over \$25,000. Contact itdprocurement@nd.gov	Documentation is required. <u>Alternate Procurement form</u> required if competition is not solicited from at least three vendors. The form is not required if three vendors are solicited and fewer than three bids or proposals are received.
Level 3 Informal Written Purchase At least \$50,000 but less than \$100,000	Solicit informal bids or proposals using SPO Online with appropriate state bidders list. May send to additional vendors. OMB: ITD must review IT purchases over \$25,000. Contact itdprocurement@nd.gov	Documentation is required <u>Alternate Procurement form</u> required if: 1. Competition is not solicited. 2. SPO Online is not used. 3. OMB: Competition is limited.
Level 4 Formal Purchase \$100,000 and over	Must be purchased using formal sealed bids or Request for Proposal (RFP). Solicitations must be posted using SPO Online with appropriate state bidders list. May send to additional bidders. OMB: ITD must review IT purchases over \$25,000. Contact itdprocurement@nd.gov	Documentation is required. <u>Alternate Procurement required if:</u> 1. Competition is not solicited, or competition is limited. 2. SPO Online is not used. 3. OMB: Competition is Limited.
Questions? Contact OMB State Procurement at infospo@nd.gov or 701-328-1726		