

HOUSE BILL NO. 1128

Introduced by

Industry, Business and Labor Committee

(At the request of the State Board of Higher Education)

1 A BILL for an Act to amend and reenact section 48-01.2-23 of the North Dakota Century Code,
2 relating to bonds for construction managers at-risk.

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

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- 1 3. Each mechanical contractor and electrical contractor providing work on a public
2 improvement project that utilizes the construction management at-risk delivery method
3 shall provide the ~~governing body~~construction manager at-risk with a separate bond for
4 the contractor's portion of the public improvement, with the governing body included
5 as a co-obligee.