

**Fifty-ninth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 4, 2005**

HOUSE BILL NO. 1091
(Government and Veterans Affairs Committee)
(At the request of the Office of Management and Budget)

AN ACT to amend and reenact section 44-08-01.1 and subsection 4 of section 54-44.4-09 of the North Dakota Century Code, relating to bid opening and preference for tie bids.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 44-08-01.1 of the North Dakota Century Code is amended and reenacted as follows:

44-08-01.1. Bids to be sealed - Designation of time and place for opening - Preference for tie bids. Notwithstanding any other provisions of the North Dakota Century Code, the governing bodies of the political subdivisions of the state of North Dakota shall accept only sealed bids, whenever by law or administrative decision they are required to call for, advertise, or solicit bids for the purchase of personal property and equipment. Whenever a political subdivision of this state calls for, advertises, or solicits sealed bids, it shall designate a time and place for the opening of such bids. If all of the bids are not rejected, the purchase must be made from the bidder submitting the lowest and best bid meeting or exceeding the specifications ~~called for~~ set out in the invitation for bids. In the event that two or more bids contain identical pricing or receive identical evaluation scores, preference must be given to bids submitted by North Dakota vendors.

SECTION 2. AMENDMENT. Subsection 4 of section 54-44.4-09 of the North Dakota Century Code is amended and reenacted as follows:

4. The procurement officer may authorize receipt of a bid or proposal from a vendor that is not on the list of approved vendors if the procurement officer makes a written determination that it is in the best interest of the state to receive the bid or proposal. The successful bidder or offeror must become approved before the award and the existence of this approval requirement must be stated in the solicitation. If an unapproved vendor is selected for award, the vendor's bid or proposal may be rejected if that vendor fails to become approved within sixty days or within a shorter period as specified in writing by the procurement officer. Before issuing a solicitation, the procurement officer may waive the approval requirement if the procurement officer determines, in consultation with the secretary of state, that registration with the secretary of state and appointment of an agent for service of process in this state are not required. The waiver of the approval requirement must be stated in the solicitation. In the event of a tie bid or proposal, the approved vendor must be given that two or more bids contain identical pricing or receive identical evaluation scores, preference must be given pursuant to section 44-08-01.1. If the application of section 44-08-01.1 does not result in the award of a contract, preference must be given to bids submitted by vendors approved under this section.

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Fifty-ninth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1091.

House Vote: Yeas 92 Nays 0 Absent 2

Senate Vote: Yeas 44 Nays 1 Absent 2

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 2005.

Approved at _____ M. on _____, 2005.

Governor

Filed in this office this _____ day of _____, 2005,

at _____ o'clock _____ M.

Secretary of State