

**SENATE BILL NO. 2175**

Introduced by

Senators G. Lee, Oehlke, Triplett

Representatives Ruby, Weisz, Delmore

1 A BILL for an Act to amend and reenact section 24-02-07.3 of the North Dakota Century Code,  
2 relating to prequalification and selection of consultants by the department of transportation.

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

4 **SECTION 1. AMENDMENT.** Section 24-02-07.3 of the North Dakota Century Code is  
5 amended and reenacted as follows:

6 **24-02-07.3. Prequalification, selection, and contracting for consultants - Solicitations.**

7 1. The director may prequalify, select, and contract for consultants in the area of  
8 engineering, land surveying, architecture, traffic safety, business administration, and  
9 related matters. The prequalification of the consultant must be based on detailed  
10 information regarding firm organization, qualifications of personnel, type of work the  
11 firm is qualified to perform, previous work experience, and financial status and must be  
12 provided to the director in a form approved by the director. If a consultant meets the  
13 criteria set by the director, the director shall prequalify the consultant, noting any  
14 limitations as to the type or amount of the work the consultant may perform. When a  
15 consultant is prequalified, the consultant is entitled to receive requests for proposals,  
16 proposals, and other solicitations for work in the areas in which the consultant is  
17 prequalified without any other screening or qualification process. The period of  
18 prequalification may not exceed three years. The qualifications of the consultant for a  
19 specific project must be determined according to the criteria in subsection 5 of section  
20 54-44.7-03. The director shall publish a prequalification solicitation at least once each  
21 year and need not comply with the provision in subdivision c of subsection 2 of section  
22 54-44.7-03 requiring the publication of an invitation for a specific project. The selection  
23 and contract negotiation must be performed according to subsections 6 and 7 of  
24 section 54-44.7-03.

- 1           2.   The director is not required to comply with subsection 3 of section 54-44.7-03 or  
2           54-44.7-04 and may procure the services of consultants for:
- 3           a.   Projects with consultant costs estimated to be not more than ~~twenty-five~~one  
4           hundred thousand dollars through direct negotiation with a selected prequalified  
5           firm, after considering the nature of the project; the proximity of the architect,  
6           engineer, construction management, or land surveying services to the project; the  
7           capability of the architect, engineer, construction manager, or land surveyor to  
8           produce the required services within a reasonable time; past performance; and  
9           the ability to meet project budget requirements. Fees paid pursuant to this  
10          subdivision during the twelve months immediately preceding negotiation of the  
11          contract by the department of transportation for professional services performed  
12          by any one architectural, engineering, or land surveying individual or firm may not  
13          exceed ~~forty~~two hundred thousand dollars. A person seeking to render  
14          professional services under this section shall furnish the department a list of  
15          professional services previously provided to the department, including the fees  
16          paid during the twelve months immediately preceding the contract being  
17          negotiated. If the department determines that it is appropriate, the department  
18          may use the procurement procedures in subdivision b or c in place of the  
19          procedures in this subdivision.
- 20          b.   Projects with consultant costs estimated to be greater than ~~twenty-five~~one  
21          hundred thousand dollars but not more than ~~one~~three hundred thousand dollars  
22          by notifying all prequalified firms in the specific area of need, allowing a minimum  
23          of seven calendar days to respond, and following the remaining process in  
24          subsections 4 through 7 of section 54-44.7-03. If the department determines that  
25          it is appropriate, the department may use the procurement procedures in  
26          subdivision c in place of the procedures in this subdivision.
- 27          c.   Projects with consultant costs estimated to be greater than ~~one~~three hundred  
28          thousand dollars by notifying all prequalified firms, allowing a minimum of  
29          twenty-one calendar days to respond, and following the remaining process in  
30          subsections 4 through 7 of section 54-44.7-03.

- 1       3. Notwithstanding any other provision of law, when soliciting the services of consultants
- 2             under this section, the director may include multiple projects in one solicitation. The
- 3             requirements for the project within the highest dollar threshold under subsection 2
- 4             apply to all of the projects in the multiple project solicitation.