

Testimony
House Bill 1182
House Political Subdivisions Committee
January 22, 2015; 9:30 a.m.
North Dakota Department of Health

Good morning, Chairman Klemin and members of the House Political Subdivisions Committee. My name is Wayne Kern, and I am Director of the North Dakota Department of Health's Division of Municipal Facilities, which is part of the Environmental Health Section. I am here to provide testimony in opposition to House Bill 1182.

Under current state law, public improvement projects exceeding a threshold of \$100,000 must be bid and cannot proceed to bidding and construction without engineer-prepared plans and specifications. House Bill 1182 proposes to increase this threshold to \$150,000. If House Bill 1182 is enacted, the state and its political subdivisions would be allowed to undertake any public improvement project up to \$150,000 without engineer-prepared plans and specifications and without bidding.

The Department of Health opposes House Bill 1182 as it pertains to public improvement projects involving water works, sewerage, and solid waste for several reasons which were shared with the Committee on January 9 during testimony on House Bill 1077.

- The Department of Health is responsible for review and approval, prior to construction, of all public improvement projects involving water works, sewerage, and solid waste. These reviews ensure that projects meet design standards, and are crucial to ensure system functionality and integrity, and to protect public health and the environment. Improperly designed or constructed facilities can fail, leading to loss of service and direct contamination of drinking water, groundwater, or surface waters.
- Based on the current threshold of \$100,000, communities occasionally submit projects for review that have not been prepared by an engineer. We spend considerable time working with these communities to get their submittals in a form that satisfies design standards and can be quoted for construction purposes. Many times, communities realize that getting their submittal into an approvable condition is beyond their expertise and hire an engineer. This is inefficient and causes delays in project approval and construction. Increasing the threshold to \$150,000 will exacerbate this

situation. At a minimum, more projects may face extended approval periods. This may add more work to already heavy workloads and delay approval of all projects. More projects may be rejected and not approved, leading to further delays and expense for the applicants.

- The Department's role is to review and approve already-prepared projects to ensure that design standards are met, not to design projects. We are often asked and do provide design recommendations. However, we cannot both design and approve projects, as this represents a conflict of interest. To avoid conflicts of interest, we may have to reject projects that do not initially meet design standards, which may result in project delays.
- The proposed increased threshold could reduce funding assistance opportunities for communities. Funding assistance agencies typically require engineer involvement in public improvement projects. This is likely in recognition of their technical complexity and public health and safety implications.
- Engineers are uniquely equipped to prepare plans and specifications that meet design standards and that are sufficiently detailed for bidding and construction purposes. Over the last four years, we have experienced a huge increase in the number of projects submitted for approval. Nearly all of these projects were prepared by engineers. This enabled timely review and approval. The proposed increased threshold has the potential to reduce engineer involvement and our ability to approve projects in a timely manner. It also has the potential to impede needed public improvement projects statewide.

The Department takes its responsibility for public health, safety and environmental protection seriously. Keeping the current threshold will allow us to do just that.

This concludes my testimony. I would be happy to answer any questions you have at this time.