

**Testimony**  
**House Bill 1426**  
**House Education Committee**  
**February 3, 2015; 2:00 p.m.**  
**North Dakota Department of Health**

Good morning, Chairman Nathe and members of the House Education Committee. My name is Wayne Kern. 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 Sections 2 and 3 of House Bill 1426.

Under current state law, public works and public improvement projects costing over \$100,000 cannot proceed to construction without engineer-prepared plans and specifications. Sections 2 and 3 of House Bill 1426 propose to increase this threshold amount to \$500,000. If House Bill 1426 is enacted, the state and its political subdivisions would be allowed to undertake projects up to \$500,000 without engineer-prepared plans and specifications.

The Department of Health opposes Sections 2 and 3 of House Bill 1426 for the following reasons:

- The Department of Health is responsible for review and approval, prior to construction, of all projects involving water works, sewerage, and solid waste. These reviews are done to ensure that projects meet design standards. This is 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 \$500,000 dollars will significantly exacerbate this situation as larger and more complex projects will be involved. This will 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 communities.

- 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 conflict 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.
- Finally, engineers are uniquely equipped to prepare plans and specifications that meet design standards and that are sufficiently detailed for construction purposes. Over the last four years, we have experienced an increase from 150 to over 400 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 significantly 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 of Health takes its responsibility for public health, safety and environmental protection seriously. Keeping the current threshold of \$100,000 in place for engineer-prepared plans and specifications will allow us to do this.

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