

Testimony
House Bill 1077
House Political Subdivisions Committee
January 9, 2015
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. The Environmental Health Section is responsible for implementation of many of the environmental protection programs in the state. Implementation responsibility includes review and approval, prior to construction, of engineering plans and specifications for public improvement projects involving water works, sewerage, and solid waste. I am here to provide testimony in opposition to House Bill 1077.

House Bill 1077 addresses requirements for construction of public improvement projects by the state and its political subdivisions. Under current state law, projects costing over \$100,000 must be bid and cannot proceed to bidding and construction without engineer-prepared plans and specifications. House Bill 1077 proposes to increase this threshold to one million dollars. If House Bill 1077 is enacted, the state and its political subdivisions would be allowed to undertake public improvement projects up to one million dollars in cost without engineer-prepared plans and specifications and without bidding.

The Department of Health opposes House Bill 1077 for the following reasons:

- As stated above, the Department of Health is responsible for review and approval, prior to construction, of public improvement projects involving water works, sewerage, and solid waste. This includes all projects, regardless of estimated cost. These reviews are done to ensure that projects meet design standards. This is crucial to ensure system functionality, 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.
- Under the current threshold of \$100,000, communities occasionally submit projects for review that have not been prepared by an engineer. The Department of Health spends considerable time working with these communities in an attempt get their submittals to satisfy design standards

and in a form that can be understood and quoted for construction purposes. Many times, communities realize that getting their submittal into an approvable condition is beyond their expertise and hire an engineer. In addition to being inherently inefficient for all parties, this leads to delays in project approval and construction, all of which could have been avoided if an engineer had been initially involved in the project. Increasing the threshold to \$1 million dollars will significantly exacerbate this situation. At a minimum, many projects will face an extended or lengthy approval period while attempting to get the project to an approvable state. Many projects will be rejected and not approved. All of this will add a significant amount of work to already heavy workloads and will delay approval of all projects.

- The Department of Health's role as a regulator is to review and approve already-prepared projects to ensure that design standards are met. Our role is not to design projects. We are often asked and do provide design recommendations. However, as regulators, we cannot both design and approve projects as this represents a conflict of interest. To avoid any potential conflict of interest, the Department of Health will have to reject projects that cannot be verified as meeting design standards. This could delay projects.
- The increased threshold may have the unintended consequence of reducing funding assistance opportunities for communities. Funding assistance agencies typically require engineer involvement in public improvement projects. This is likely due to the inherent technical complexity of such projects and the associated 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, the Department of Health has experienced a huge increase in the number of projects submitted for approval. For example, the number of water and wastewater projects submitted per year increased from around 150 to over 400. The bulk of these projects were prepared by engineers. This enabled more timely review and approval. An increased threshold has the potential to significantly reduce engineer involvement. This could adversely impact the Department of Health's ability to approve projects in a timely manner. In turn, this has the potential to delay or impede needed public improvement projects statewide.

The Department of Health takes its responsibility for public and safety seriously and wishes to keep practices in place that allow us to provide timely and efficient project reviews for all parties involved.

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