

TESTIMONY ON HOUSE BILL 1386

Senate Industry, Business and Labor Committee

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Daniel L. Gaustad, City Attorney, City of Grand Forks, ND
Joseph E. Quinn, Assistant City Attorney, City of Grand Forks, ND

Chairman Klein and members of the Senate Industry, Business and Labor Committee, we are the City Attorney and Assistant City Attorney for the City of Grand Forks. We want to thank you for the opportunity to provide testimony and express the City of Grand Forks' opposition for HB 1386.

As initially drafted, HB 1386 was directed solely at amending N.D.C.C. § 37-17.1-05 and was intended to preclude a governor from selectively limiting the operation of a business or industry, requiring executive orders to be applied equally to all businesses and industries. However, at the February 1, 2021, committee hearing, Representative Becker presented a hoghouse amendment that prohibited not only state agencies and executive orders from limiting the hours of operation of businesses and industry, the amendment now also seeks to preclude a political subdivision, like the City of Grand Forks, from exercising local control over business and industry during a declared emergency.

The City of Grand Forks, like many cities in North Dakota, relies on the ability of the Mayor, as the executive officer, to take action through executive orders in the time of emergencies impacting the City and its residents. This includes not only executive orders like those issued to aid in combating the current pandemic, but also executive orders necessary to combat natural disasters, like the 1997 flood in Grand Forks, to protect the safety and well-being of its citizens. Indeed, the City of Fargo recently issued an executive order to set a 10:00 p.m. curfew to quell the social unrest and rioting that occurred on May 30, 2020 following a protest march. As it is currently drafted, HB 1386 prohibits political subdivisions from issuing these types of executive orders to combat such disasters and local emergencies.

The testimony presented by the bill sponsor made clear the intent of HB 1386 was directed at the state level response to the current pandemic. However, HB 1386 as currently drafted, is too broad to address this narrow issue of concern. As a result, the unintended consequences of the passage of HB 1386 would be to limit the ability of Grand Forks, and other political subdivisions, (and the state) from necessarily utilizing executive orders in times of emergencies and natural disasters. In turn, HB 1386 will place political subdivisions at a disadvantage when faced with local emergencies and natural disasters, yet being precluded, or at least delayed, from responding to such emergencies and natural disasters by issuing orders directed at securing the safety of its citizens.

The City of Grand Forks asks for a DO NOT PASS for HB 1386.