

Testimony Prepared for the  
**Senate Political Subdivisions**  
March 18<sup>th</sup>, 2021  
By: Donnell Preskey, NDACo



**RE: Opposition on HB 1457 – Length of time to extend emergencies**

Chairman Burckhard and committee members, I'm Donnell Preskey with the North Dakota Association of Counties. NDACo represents North Dakota's 53 counties. We speak today in opposition to HB 1457 as written and offer an amendment for your consideration.

This bill seeks to shorten the length of time local disaster, emergency or mandatory evacuation orders may be in effect. Specifically, it says these orders need to be reconsidered at every regularly scheduled board meeting to be renewed.

NDACo opposed HB 1457 when it was introduced as it sought to have counties reconsider these orders every 15 days. This is problematic as 20 counties hold meetings only once a month. The House committee amended the bill to require counties to renew at next regular scheduled meeting. Counties believe this change is still overly burdensome and unnecessary.

I want to stress, except for the COVID-19 pandemic, disasters and emergency orders **start and finish at the local level**. A large majority of our county disaster and emergency orders extend for a lengthy amount of time – 1 to 2 years. These disasters or emergencies are declared to address:

- Flood emergencies
- Snow emergencies
- Fire declarations – linked to fire index (goes "on" and "off" depending on fire index)
- Drought declarations
- Disaster declarations (Northwood Tornado)

The main reasons for declaring these disasters or emergencies is to open the local emergency reserve fund and pursue FEMA funds. Once declared at the local level, if the damage meets a certain threshold, the state can declare it an emergency and forward the declaration to the President for his consideration of a Presidential declaration. In most cases, the emergency is continued until the damage has been repaired or the emergency situation no longer exists.

Mr. Chairman, NDACo would like to suggest an amendment to this bill.

**PROPOSED AMENDMENTS TO HOUSE BILL NO. 1457**

**Page 1, after line 22 insert:**

**"3. Notwithstanding section 1, burn ban orders based on changes to a federal or state recognized fire index and issued pursuant to section 37-17.1-10.1 are not subjected to any time limitations."**

Let me further explain why this amendment is necessary. When dry conditions arise, like we are experiencing in many areas of our state currently, counties will issue a fire emergency. I have attached the current fire emergency that has been declared in McKenzie County for your review. These fire emergencies and burn bans are tied to the North Dakota Rangeland Fire Index.

1. County declares fire emergency/burn ban
2. County communicates that information to DES
3. DES updates the county emergency on the statewide map
4. Information is found at [ndresponse.gov](http://ndresponse.gov) website
5. Counties link their burn ban info to the [ndresponse.gov](http://ndresponse.gov) website

In most cases, when a county declares a fire emergency/burn ban the burn ban turns “on” and “off” depending on the fire index. So, while McKenzie County declared a fire emergency March 2<sup>nd</sup> – if that county would get a nice rainfall and the fire index went to the low category, the burn ban would no longer be in place for that day.

We would also request an amendment to address a second concern that an emergency order can not last more than thirty-one days between renewals. Given that some counties and cities meet only once per month, this provision may still require special meetings to stay in compliance. For example, if an entity meets on the second Tuesday of every month, there would have been four instances since the beginning of the COVID-19 disaster that would have required a special meeting because the time between meetings was thirty-five days.

Therefore, we are asking for **beginning on line 15 remove “An order under this subsection may not extend for more than thirty-one days from the date the order was issued.”** This sentence is confusing and unnecessary. If you do intend to restrict the extension, 35 days may be a better fit.

Mr. Chairman, working through this example with the fire emergency – illustrates how there are unforeseen complications with this legislation. Counties do not see a need for HB 1457 and would urge you to **adopt the amendments** but give HB 1457 a **Do Not Pass** Recommendation.