

TESTIMONY ON HOUSE BILL 1462

House Political Subdivisions Committee

February 1, 2023

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Chairman Donald W. Longmuir and members of the House Political Subdivisions Committee, my name is Daniel L. Gaustad and I am the City Attorney for the City of Grand Forks. I want to thank you for the opportunity to provide testimony and express the City of Grand Forks' opposition to the portion of House Bill 1462 that would amend N.D.C.C. § 28-34-01(1) regarding appeals of local governing body decisions.

The City of Grand Forks, like many cities in North Dakota and other governmental entities, conduct regular meetings wherein various decisions are made. The City of Grand Forks, through its robust website, provides notices of its meetings, information regarding agenda items considered at meetings and the decisions that are made. In addition, the City of Grand Forks city council, its committee of the whole and planning and zoning committee meetings can be seen live on local television are streamed live at <https://www.facebook.com/CityofGrandForks>. It is understood similar extensive outreach to citizens is occurring within other municipalities. Thus, the citizens of Grand Forks are afforded significant opportunities to learn of decisions in real time or shortly thereafter through these live and web-based forums.

Certain decisions made by the City of Grand Forks governing body may be appealed to district court, and N.D.C.C. § 28-34-01 sets forth the time period, requirements and procedures in order for a district court to have jurisdiction to hear and consider such an appeal. As proposed, House Bill 1462 would change the time period to bring an appeal by changing the commencing date of the appeal period, which is currently starts on the date of the governing body decision is made, to starting on the date an "affected party" has been served with the governing body decision. Thus, as modified, the appeal period would not begin until service of the decision is made on each "affected party."

This may appear to be an innocuous modification. However, decisions of the Grand Forks City Council that may be subject to appeal can have city-wide affect. As proposed by House Bill 1462, such city-wide decisions that are subject to an appeal would require the City to serve each citizen of the Grand Forks with the decision because each citizen would be "affected" by the decision. Under the modifications offered by House Bill 1462, the appeal time period would not commence for each citizen that was affected by the decision but not served. Indeed, an argument could be made that this proposed change would be interpreted to mean that absent service on each and every "affected party" the appeal

period would not commence. The cost and expense to accomplish such service would be monumental. Furthermore, requiring such service to start the appeal period would have a crippling effect on local governing bodies because decisions made months or even years ago, even when the matter or work arising from such decision has been completed, would still be subject to an appeal, which in turn would necessitate the expenditure of time and money to defend. Even with those decisions that may have a more finite number of "affected parties," the required service on each "affected party" could delay the implementation of such governmental decisions because the appeal period would only end upon completion of service on each "affected party."

The City of Grand Forks asks for a DO NOT PASS for House Bill 1462.