

Testimony in Opposition to House Bill 1323  
April 1, 2021  
Senate Political Subdivisions Committee  
Bill Wocken on behalf of the North Dakota League of Cities

Good morning Mr. Chairman and members of the Senate Political Subdivisions Committee. For the record, my name is Bill Wocken and I am testifying in opposition to House Bill 1323 on behalf of the North Dakota League of Cities.

House Bill 1323 bans any elected official or political subdivision from requiring anyone to wear a face covering or shield. While some may want to debate the effectiveness of face coverings or the personal freedoms issues involved in the masking debate, I will try to limit my remarks to the effects of the bill, if enacted. I am afraid there are a great many undesirable and unanticipated consequences that go along with this proposal. Many of these have heavy potential cost ramifications.

The bill would prohibit a city from requiring anyone to wear a face covering. Police in riot response gear? Fire personnel with SCBU breathing masks? Public health workers responding to potentially infectious diseases? Sanitarians dealing with mold abatement? Welders in welding helmets? These workers and many more are afforded protective masks and clothing to keep them safe in their professional duties. To make the use of this protective equipment voluntary exposes a city to Worker Compensation, liability and insurance claims that will need to be paid by the taxpayer. Not requiring the use of protective devices by responders is unwise and potentially costly.

This bill would also prohibit elected officials from requiring the use of masks for access to public facilities. Some argue that they have the right of access without a mask while others argue that their personal safety may be compromised by an unmasked person who may infect others who need to use the building. Let us put that personal rights argument aside and ask the question if it is prudent to impose restrictions on the use of a building or equipment. Businesses and large employers, churches and nursing homes

have imposed restrictions of various kinds to keep their facilities viable. To deny this option to public facility managers does not seem responsible or wise.

This bill is written in very expansive language. While the mask or no-mask question is a legitimate topic for discussion, this bill applies a flat prohibition far beyond the forum for a mask debate. Lines 12 and 13, Page 1 extend the face covering prohibition to ND Century Code section 23-01-05 (State Health Officer duties and responsibilities), to NDCC 23-07-06 (Local Board of Health responsibilities for control of contagious diseases) and NDCC 37-17.1 (National Guard multi-state mutual assistance compact). I am not certain if these powers and agreements can legally be altered with this proposed legislation. I am concerned for unanticipated consequences that may stem from the prohibitions in this bill.

Some of us have seen the effects of Covid-19, smallpox and diphtheria outbreaks in our lifetimes and we have also seen and heard about prairie fires and anhydrous spills. Many local governments have wrestled with and heard many hours of debate from concerned citizens on both sides of the masking issue. The decisions reached on the use of masks by various cities reflected their discussions with their constituents and their collective needs. Local government can handle this situation best and local officials are very accessible to their constituents. The North Dakota League of Cities requests you to give House Bill 1323 a Do Not Pass recommendation so local government can continue to deal with the situations to which they are closest.