

Senate Bill 2296

Presented by: **Randy Christmann, Chair**
 Public Service Commission

Before: **House Government and Veterans Affairs Committee**
 The Honorable Austen Schauer, Chair

Date: **March 16, 2023**

TESTIMONY

Mr. Chair and committee members, I am Randy Christmann, Chair of the Public Service Commission, and I'm submitting testimony in opposition to this bill on behalf of the Public Service Commission (Commission).

The Public Service Commission is a constitutional agency with three state-wide elected officials. Constitutional agencies are unique in that they hold executive power as prescribed by the legislature but are not subject to executive appointment. Generally, the Commission is vested with authority over a number of jurisdictions relating to economics, environmental, infrastructure protection, energy infrastructure siting, gas pipeline safety, and coal mine reclamation. Many of these jurisdictions are public interest statutes requiring decisions based on legal terms of art such as "prudent," "used and useful," "just and reasonable," "for the public convenience and necessity," or "in the public interest."

Regulatory frameworks like economic regulation of franchise monopolies and environmental siting are often not well-defined because they require the flexibility and broad authority to investigate and address a wide range of issues that may arise to protect the public and individual citizens.

The Commission also has a number of programs that are State-Federal Partnerships such as the pipeline safety and coal reclamation programs. It should be noted that these programs are audited, including enforcement and legal action, and to the extent that they do not believe that the state is adequately applying the federal interpretations and enforcements consistent with the Surface Coal Mining and Reclamation Act and the Pipeline and Hazardous Materials Safety Administration, they provide findings of inadequacy. Findings of inadequacy create risk of the federal government agencies assuming the enforcement from the state.

It is unclear what issues this bill will resolve, but there is a high likelihood that it will result in additional litigation. While the impacts are difficult to forecast, the PSC operates on a lean staff. The additional time and work engaged in addressing appeals and litigation may cripple the agency.

If the Legislature determines there is a need for this bill, I urge you to exclude agencies lead by elected officials such as the Public Service Commission. These agencies have the proper backgrounds for this decision making and are accountable to the people of North Dakota.

Chair Schauer, this concludes our testimony. I will be happy to answer any questions.