

February 7, 2023
House Industry, Business and Labor Committee
HB 1296
Rep. Scott Louser, Chair

For the record, I am Stephanie Dassinger Engebretson. I am appearing on behalf of the North Dakota League of Cities, in opposition of HB 1296. I am the deputy director and attorney for the North Dakota League of Cities.

There are a couple of questions/concerns about the wording of the bill:

It is the League's understanding that an amendment will be introduced to remove subsection 2(b)(5) on lines 3-4 of page 2. This language eliminates any ability a city has to deny a site authorization under ordinances. Without removing this language, a city basically becomes a rubber stamp for site authorizations.

Also, on subsection 2(b)(7) on lines 7-8 of page 2, it states that a site authorization can only be denied when "granting approval would violate an *existing* local statute or ordinance." It is unclear if this section means that cities cannot enact new ordinances related to gaming after this bill passes or what "existing" means in this context.

In preparing for this bill hearing, the League has reached out to legislators, charitable gaming regulators, city appointed officials, city elected officials, individuals on boards for charities conducting charitable gaming, charitable gaming management staff, and lobbyists representing charitable gaming interests. Even after all of those conversations, the League is not sure what the impacts of HB 1296 will be but here is what we have learned:

- In the vast majority of cases, cities issue site authorizations to the charity that the site owner has selected;
- Charities have done a wonderful job investing charitable gaming money back into the communities that host their sites such as:
 - o Building a band shell in Washburn; and
 - o Partially funding an additional sheet of ice in Mandan;
- A number of fire department charities provide funds to help with covering the public safety expense of fire protection;
- A lot of cities are not having issues with disputes over issuing charitable gaming site authorizations;
- In the cities where issues arise regarding site authorizations, those issues become contentious very quickly;
- In the cities where site authorization issues exist, there is often an outside influence driving the discord in the charitable gaming community; and
- Cities generally do not want to pick winners and losers in charitable gaming.

Under current law, a charity wishing to conduct gaming first needs to apply for a site authorization “which may be granted at the discretion of the governing body [of the city or county].” Once the charity has a site authorization, it can sign a lease with the bar owner. HB 1296 would completely reverse the process and require a charity to sign a lease with a bar before applying for a site authorization. In other words, the process seems to require a city to deny a site authorization, instead of granting a site authorization.

It is unclear what consequences will result from these changes; however, a few possibilities come to mind:

- Charities may not be able to commit to funding long term projects due to potential that a site owner will refuse to renew their lease without cause;
- Charities located in small cities may lose their sites to larger out of town charities;
- Small charities may not be able to compete with larger charities; and
- Residents in areas protected by fire departments partially funded by charitable gaming may lose their fire protection because a bar owner decides not to renew a lease with a fire charity.

The North Dakota League of Cities respectfully requests a Do Not Pass recommendation on HB 1296.