



North Dakota House of Representatives

STATE CAPITOL
600 EAST BOULEVARD
BISMARCK, ND 58505-0360



Representative Josh Boschee

District 44
517 First Street North
Fargo, ND 58102-4540
jboschee@ndlegis.gov

Minority Leader

COMMITTEES:

Industry, Business and Labor

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Good morning, Chairman Clemens and members of the Senate Transportation Committee,

For the record, my name is Josh Boschee and I serve as a Representative from District 44, which comprises downtown and north Fargo.

House Bill 1310 is introduced to protect individual property rights for North Dakotans who's home is part of a condo association. As you are likely aware, when someone buys a home that is part of an association, there are typically established bylaws that govern the rights and responsibilities of being a part of that association. While this legislation prioritizes individual property rights over the priorities of an association, the intention is that the homeowner is responsible for all applicable costs associated with the installation, operation and maintenance of an electric vehicle charging station, including the energy costs associated with the use of the charging station.

This legislation came out of a conversation with a constituent who after reviewing the bylaws of a condo that was for sale determined that this condo would work well for her as an electric vehicle owner. Having done her due diligence, she purchased the condo, moved in, and began making it her home. After a period of time, issues began to arise with the condo association in terms of her installation of a charging station. She will be testifying after me to provide you more information about that experience.

The legislation in front of you for consideration is modeled after legislation in Florida and New York, both of whom have a larger population of electric vehicle owners than North Dakota. As more and more people own hybrid or electric vehicles, the ability to efficiently charge their vehicles at home will become more and more important. Additionally, a home with a charging station installed may have an increased value to some buyers.

Following the passage of HB 1310 in the House, I was contacted by the [Community Association Institute](#), which is an international advocacy and education organization that focuses on common-interest community governance, with requests to significantly amend the legislation, which I felt would undo the original intent of the legislation. Over a couple weeks of conversation, we were able to find a compromise to their proposed amendments, which I have provided to you attached to my testimony and respectfully ask the committee to consider.

With that, Mr. Chairman, I'd like to walk the committee through key parts of the Christmas tree proposed amended version of HB 1310, which is attached to my testimony.

Page 1, lines 9-13 allow a homeowner's association to have reasonable restrictions, with lines 19-24 and lines 1-3 of page 2 outlining that the association can not prohibit or unreasonably restrict the installation of an electric charging station in an owner's designated or deeded garage or parking spot.

Page 2, lines 4-12 requires the charging station to "meet all applicable health and safety standards and requirements imposed by law, rule or regulation". It also allows the association to have an application for approval.

Page 2, lines 13-30 outlines the approval requirements of the owner if the charging station is to be located in a common area or limited common area. Including the requirement to provide a certificate of insurance, utilize a licensed contractor and pay installation and usage costs.

Page 2, line 31 through page 3 line 10 ensures that current and future owners cover ongoing maintenance costs, costs to restore common areas if removed and usage costs. This responsibility is to be disclosed to any potential buyers.

Page 3, lines 11-21 outline the insurance requirements of the homeowner.

Page 3, lines 22-25 mirrors the language found in the definitions

Page 3, lines 26-29 allows denial of installing a charging station only based on bona fide safety requirements consistent with building codes or recognized safety standards.

Page 3, line 30 through page 4, line 9 outlines the process for an association to allow the installation of a charging station outside of the owner's designated/deeded parking space if it is impossible or unreasonably expensive to install a station there. The identified space requires the association to "enter a license agreement with the owner for the use of the space" and requires the homeowner to comply with all requirements as if the installation occurred in the owners designated/deeded parking space.

Page 4, lines 10-12 allows the association to install a charging station of their own to be used by association members.

Page 4, lines 13-15 allows the association to create a new parking spot to facilitate the installation of an electric vehicle.

Page 4, lines 16-26 is the agreed upon language between me and the Community Association Institute that puts any liability for the installation, maintenance, operation or use of an EV charging station on the homeowner.

Chairman Clemens and members of the committee, I hope you'll support HB 1310 as a key part of private property rights and an opportunity for home owners to take care of their electric vehicle if they choose to own one. I am happy to answer any questions you may have.

Sixty-eighth
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1310

Introduced by

Representatives Boschee, Cory, Dakane, Louser, Mock, Novak, Roers Jones

Senators Braunberger, Larson

1 A BILL for an Act to create and enact a new section to chapter 47-04.1 of the North Dakota
2 Century Code, relating to electric vehicle charging station installation in condominiums; and to
3 provide a penalty.

4 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

5 **SECTION 1.** A new section to chapter 47-04.1 of the North Dakota Century Code is created
6 and enacted as follows:

7 **Electric vehicle charging station installation - Penalty.**

8 1. For purposes of this section:

9 a. "Reasonable restrictions" means restrictions ~~that~~ on the number, size, location,
10 and manner of placement or installation of an electric vehicle charging station on
11 the common or limited common area which do not significantly increase the cost
12 of the electric vehicle charging station or significantly decrease ~~its~~ the efficiency or
13 specified performance of the electric vehicle charging station.

14 b. "Electric vehicle charging station" means a station that delivers electricity from a
15 source outside an electric vehicle into one or more electric vehicles. An electric
16 vehicle charging station may include several charge points simultaneously
17 connecting several electric vehicles to the station and any related equipment
18 needed to facilitate charging plug-in electric vehicles.

19 2. Any covenant, restriction, or condition contained in any deed, contract, security
20 instrument, or other instrument affecting the transfer or sale of any interest in the
21 property, or any by-law, that either effectively prohibits or unreasonably restricts the
22 installation or use of an electric vehicle charging station within an owner's unit or in a
23 designated parking space, including a deeded parking space, a parking space in an
24 owner's limited common area, or a parking space specifically designated for use by a

1 particular owner, or is in conflict with the provisions of this section is void and
2 unenforceable. This section does not apply to a by-law that imposes reasonable
3 restrictions on electric vehicle charging stations.

4 3. An electric vehicle charging station must meet all applicable health and safety
5 standards and requirements imposed by law, rule, or regulation. If approval is required
6 for the installation or use of an electric vehicle charging station, the application for
7 approval must be processed and approved by the administrative body governing the
8 condominium in a manner prescribed by the administrative body governing the
9 condominium and may not be willfully avoided or delayed. The approval or denial of an
10 application must be in writing. If an application is not denied in writing within sixty days
11 from the date of receipt of the application, the application is deemed approved, unless
12 that delay is the result of a reasonable request for additional information.

13 4. If the electric vehicle charging station is to be placed in ~~a common area or in a~~ limited
14 common area, as provided in the required declaration contained in section 47-04.1-02:

15 a. The owner shall obtain approval from the administrative body governing the
16 condominium to install the electric vehicle charging station. The administrative
17 body governing the condominium shall approve the installation in a limited
18 common area if the owner agrees in writing to:

19 (1) Comply with the architectural standards of the administrative body
20 governing the condominium for the installation of the charging station;

21 (2) Engage a licensed contractor to install the charging station;

22 (3) Within fourteen days of approval, provide a certificate of insurance that
23 names the administrative body governing the condominium as an additional
24 insured under the owner's insurance policy pursuant to subdivision c; ~~and~~

25 (4) Pay the costs associated with the installation of and the electricity usage
26 associated with the charging station; and

27 (5) Comply with any other reasonable regulations, including regulations on the
28 number, size, location, and manner of placement or installation of electric
29 vehicle charging stations on the limited common area, as required by the
30 administrative body governing the condominium.

31 b. The owner and each successive owner of the charging station is responsible for:

- 1 (1) Costs relating to damage to the charging station, common area, limited
2 common area, or any unit resulting from the installation, maintenance,
3 repair, removal, or replacement of the charging station;
4 (2) Costs relating to the maintenance, repair, and replacement of the charging
5 station until it is removed and for the restoration of the common area after
6 removal;
7 (3) The cost of electricity associated with the charging station; ~~and~~
8 (4) Other costs not listed in this subsection which may arise; and
9 (5) Disclosing to prospective buyers the existence of any charging station and
10 the related responsibilities of the owner under this section.

11 c. The owner of the charging station, ~~whether located within a unit or within a~~
12 ~~common area or limited common area,~~ shall, at all times, maintain a liability
13 coverage policy not to exceed the value of a typical condominium owner's policy.
14 Within fourteen days of approval of the application, the owner that submitted the
15 application to install the charging station shall provide the administrative body
16 governing the condominium with the corresponding certificate of insurance. The
17 owner and each successive owner shall provide the administrative body
18 governing the condominium with the certificate of insurance each year.

19 d. A homeowner may not be required to maintain a homeowners liability coverage
20 policy for an existing national electrical manufacturers association standard
21 alternating current power plug.

22 e. This section does not prohibit the administrative body governing a condominium
23 from imposing reasonable regulations on the number, size, and manner of
24 placement of an electric vehicle charging station in common areas or limited
25 common areas.

26 f. The administrative body governing the condominium may deny the installation of
27 an electric vehicle charging station based on bona fide safety requirements,
28 consistent with an applicable building code or recognized safety standard, for the
29 protection of persons and property.

30 5. Except as provided in subsection 6, if installation of an electric vehicle charging station
31 in the owner's designated parking space is impossible or unreasonably expensive, the

- 1 administrative body governing the condominium may authorize the installation of an
2 electric vehicle charging station for the exclusive use of an owner in a common area
3 that is not a limited common area. The administrative body governing the
4 condominium may deny the installation of an electric vehicle charging station if a
5 reasonable area is not available or the area cannot be reasonably accessed by the
6 owner. If installation is authorized under this subsection, the administrative body
7 governing the condominium shall enter a license agreement with the owner for the use
8 of the space in a common area and the owner shall comply with all the requirements in
9 subsection 4.
- 10 6. The administrative body governing the condominium or owners may install an electric
11 vehicle charging station in a common area for the use of all members of the
12 condominium and develop appropriate terms of use for the charging station.
- 13 7. An administrative body governing the condominium may create a new parking space
14 where one did not previously exist to facilitate the installation of an electric vehicle
15 charging station.
- 16 8. ~~An administrative body governing a condominium which willfully violates this section is~~
17 ~~liable for actual damages and shall pay a civil penalty to the applicant or other party in~~
18 ~~an amount not to exceed one thousand dollars.~~
- 19 ~~9. In any action by a unit owner requesting to have an electric vehicle charging station~~
20 ~~installed and seeking to enforce compliance with this section, the unit owner must be~~
21 ~~awarded reasonable attorney's fees if the unit owner prevails.~~ Any unit owner installing
22 an electric vehicle charging station shall indemnify and hold the administrative body
23 governing the condominium harmless from all liability, including reasonable attorney's
24 fees incurred by the administrative body governing the condominium resulting from a
25 claim arising out of the installation, maintenance, operation, or use of the electric
26 vehicle charging station.

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1310

- Page 1, line 9, replace "that" with "on the number, size, location, and manner of placement or installation of an electric vehicle charging station on the common or limited common area which"
- Page 1, line 10, replace "its" with "the"
- Page 1, line 11, after "performance" insert "of the electric vehicle charging station"
- Page 2, line 12, remove "a common area or in"
- Page 2, line 16, after "installation" insert "in a limited common area"
- Page 2, line 23, remove "and"
- Page 2, line 25, after "station" insert "; and
- (5) Comply with any other reasonable regulations, including regulations on the number, size, location, and manner of placement or installation of electric vehicle charging stations on the limited common area, as required by the administrative body governing the condominium"
- Page 3, line 4, remove "and"
- Page 3, line 5, after "(4)" insert "Other costs not listed in this subsection which may arise; and
(5)"
- Page 3, line 7, remove ", whether located within a unit or within a"
- Page 3, line 8, remove "common area or limited common area"
- Page 3, after line 17, insert:
- "e. This section does not prohibit the administrative body governing a condominium from imposing reasonable regulations on the number, size, and manner of placement of an electric vehicle charging station in common areas or limited common areas.
- f. The administrative body governing the condominium may deny the installation of an electric vehicle charging station based on bona fide safety requirements, consistent with an applicable building code or recognized safety standard, for the protection of persons and property."
- Page 3, line 22, after the underscored period insert "The administrative body governing the condominium may deny the installation of an electric vehicle charging station if a reasonable area is not available or the area cannot be reasonably accessed by the owner."
- Page 4, line 1, remove "An administrative body governing a condominium which willfully violates this section is"

Page 4, remove lines 2 through 5.

Page 4, line 6, replace "awarded reasonable attorney's fees if the unit owner prevails" with "Any unit owner installing an electric vehicle charging station shall indemnify and hold the administrative body governing the condominium harmless from all liability, including reasonable attorney's fees incurred by the administrative body governing the condominium resulting from a claim arising out of the installation, maintenance, operation, or use of the electric vehicle charging station"

Renumber accordingly