

SENATE POLITICAL SUBDIVISIONS COMMITTEE
City of Fargo Legislative Testimony on HB 1300
March 5, 2021

Chairman Burckhard and members of the Senate Political Subdivisions Committee my name is Kent Costin, Director of Finance from the City of Fargo.

TESTIMONY IN OPPOSITION TO HB 1300

We are here to testify in opposition of HB 1300. We provided testimony for bills on this topic in the past legislative session in addition to testimony this session in the House Finance and Taxation Committee. We think this is a local control issue.

FAIR AND EQUITABLE COST SHARE POLICIES IN PLACE

The central theme inherent in current special assessment laws is based upon an equitable distribution of the benefits arising from the placement of infrastructure assets. This benefit is tied directly to a parcel of land using fair and equitable allocation methods. A portion of the project cost is allocated and becomes a first lien on properties impacted, essentially a first mortgage. Special assessments by their very nature are designed to have everyone pay their “fare share”. This benefit can be paid in full at the time that assessments are levied or can be amortized over a longer term. Either option allows property owners to pay 100% of the benefits assigned to their property in a fair and equitable manner.

Property owners have a responsibility to pay 100% of the benefit assigned regardless of the method used. This is a critically important concept. Keep this in mind because the early termination of special assessments as drafted in this bill begins to destroy the fair and equitable share concept. The fact that some accumulation of funds in special assessment debt service funds should not be a reason to remove or dilute the original benefits.

Look at how this bill would will affect our taxpayers in the examples below:

Examples	Scenario	Taxpayer Outcomes
Taxpayer A	Pays the original assessment at the time levied	Taxpayer A has paid for 100% of the benefits assigned.
Taxpayer B	Assumes the obligation to pay existing specials when property purchased, lives in their home for several years then sells.	Taxpayer B has paid for 100% of their proportionate share of special assessment benefits assigned while in their ownership.
Taxpayer C	Assumes the obligation to pay existing specials near the end of the bond term. This bill then ends the obligation to pay special assessments prematurely.	Taxpayer C will pay less than 100% of their proportionate share of their infrastructure. A municipality that amortizes over a twenty-year term and discontinues certification of specials three years early creates a 15% discount.

It is very important to know that the taxpayer is not liable for the bonds issued to fund infrastructure. The municipality that issues the bond is liable. Special assessments are levied to assure that we can make our bond payments as required. Special assessments are designed to make sure that property owners pay for their fair share of the infrastructure they use every day. Again, shutting off specials early because there is some accumulation of funds creates a disproportionate imbalance that favors those citizens assuming special assessments near the end of the bond term.

FARGO COMPLETES EXTENSIVE STUDY OF SPECIAL ASSESSMENT FUNDING IN 2019

The City of Fargo on its own initiative created a task force in 2019 that took a deep dive into how special assessments work and how funding policies affects the net amounts paid by out taxpayers. After about one year of continuous meetings there were twenty-six recommendation forwarded to our City Commission. Our Commission approved all but four of the recommendations that lowered special assessment burdens significantly. The City of Fargo pays about 70% of the cost of a reconstruction project with the homeowner share about 30%. Discontinuing special assessment certifications early was not approved based upon the premise that it creates an inequitable distribution of benefits.

GROWING CITIES USE OF DEFERRED SPECIAL ASSESSMENTS

In our testimony provided to the House Finance and Taxation Committee, we also discussed our use of deferred assessments. Deferred assessments are levied but not collected until a later period after development occurs. This can vary from five to ten years. This bill would remove our local ability to collect deferred assessments in full and could drive up the cost to taxpayers who would have to pay special assessments on undeveloped land. Fargo is a growth City that uses special assessment deferral contracts as a very fair and equitable way of collecting special assessments. Other cities may need to use them in certain development situations. We would like to continue our longstanding practice of using them where appropriate without having to end them early as drafted in this bill.

Fargo is the largest City in the State and has over \$410 million in outstanding special assessments. We feel that collecting them to the original term is the most fair and equitable way to administer them. North Dakota law, as recognized by the Attorney General opinions recognize that cities must identify practical solutions to address the myriad of variables and uncertainties inherent in special assessments and public bonding.

LOCAL CONTROL ISSUES

It is not the term of the assessments that should be debated but rather the overall taxpayer share of project costs actually assessed. Local officials are responsible to balance their resources vs. the level of assessment to taxpayers. These policies vary widely across the State. Each municipality needs to formulate policies that continue to preserve a “fair and equitable” approach that may be unique. Local control over this process is important because each community will face different challenges in managing their City.

Local control points to consider:

- Local elected officials and finance staff are in the best position to manage special assessments from beginning (debt issuance) to the end (debt retirement)
- Special assessment policies are unique to local communities and their markets
- What works in Fargo may not be the best approach in a different community and vice versa; the local elected official is closest to the property owner
- Local control means each community can customize their approach and determine what works best for their community – this is the legacy of North Dakota’s approach to local government and financial management.

City officials continue to adopt and update policies as needed to maintain consistency over the years and are best suited to manage this important process.

We support a **DO NOT** pass recommendation for this bill. Thank you for the opportunity to testify on this bill