


Testimony Prepared for the
Senate Political Subdivisions Committee

Friday, February 12, 2021

By: Nick West PE, NDACE President & Grand Forks County Engineer

The logo is a green silhouette of the state of North Dakota. Inside the silhouette, the text "North Dakota Association of County Engineers" is written in a serif font, with "North Dakota" on the first line, "Association of" on the second line, and "County Engineers" on the third line.

*North Dakota
Association of
County Engineers*

RE: Senate Bill 2324

Chairman Burckhard and members of the Senate Political Subdivisions Committee, thank you for the opportunity to provide testimony in opposition of SB 2324 on behalf of the North Dakota Association of County Engineers.

Every time a crossing (culvert or bridge) is replaced or worked on it is potentially controversial. There is a constant tug of war between the upstream and downstream landowners. The upstream folks want a bigger crossing, while the downstream folks want a smaller crossing, and the local subdivision (sub) is stuck in the middle. The middle common ground is the NDCC and the resident knowledge of the local sub people, with the support (not mandates) of the State Engineers (SE) office on very controversial projects.

Grand Forks County unfortunately is all too familiar with water problems, we live and breathe water controversy every day, and thus are fluent in our current water laws. When a situation becomes extra difficult and common ground can't be found locally, the State Engineers office is called in to help. The current existing balance of authority between the local subs and state office works well as-is and does not warrant change. We consider the SE office a great partner and asset.

Bottom line, this bill would transfer power from the local sub to the State, in addition it would create an unfunded mandate. The SE office could force their way into the pocket book of the local sub. Having one Government entity tell another Government entity how to spend their funds is never good. For example, the SE office could arbitrarily mandate the County add another culvert or replace an existing culvert with a bigger one, against the County's opinion, even if the culvert already meets the stream crossing standards. A larger culvert is always more expensive. The County would have no authority to rebut that, the County would have no choice but to pay for a more expensive culvert and maintain a larger more expensive culvert in the future too. This philosophy could create a

negative working relationship between local subs and the SE office. It would also create significantly more work for the SE office. Is the SE office capable and willing to absorb the additional task?

Here's one scenario: The standard on a County major collector road is a 25-year event. If a crossing only passes a 20-year event, then the County should pay to install a culvert that meets a 25-year event. If the current culvert passes a 25-year event and the SE determines a larger culvert is needed, then the SE office should pay for the larger culvert.

I will admit, there are times when it is prudent to install a crossing that exceeds the stream crossing standards, but those situations need to be thought out, designed carefully and work in conjunction with the SE and Local Sub, which is how it's done currently; not mandated by the SE office.

We believe the bill, as written, has an unfavorable fiscal impact to counties. Please consider the following additional language to address this issue: "The cost of a crossing to meet the stream crossing standards shall be borne by the crossings owner. If a crossing is determined that its hydraulic capacity needs to exceed the stream crossing standards, the entity making such determination shall pay for the additional cost. The manner in which the construction is done shall be borne by the crossings owner".

We would recommend a "do not pass" vote on this bill, however if this bill proceeds further we recommend adding language to address the unfunded mandate.

Please feel free to reach out to me with any questions. I can be reached via phone at Office: 701-780-8248 or Mobile: 701-317-0126 or via email at: nick.west@gfcounty.org.

Thank you for your time and consideration.