

TESTIMONY ON SENATE BILL 2313

Senate Energy and Natural Resources

January 25, 2023

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Chairman Patten and members of the Senate Energy and Natural Resources, my name is Daniel L. Gaustad and I am the City Attorney for the City of Grand Forks. I want to thank you for the opportunity to provide testimony and express the City of Grand Forks' opposition to SB 2313.

The City of Grand Forks, like many cities in North Dakota and other governmental entities must construct public improvements, including streets, potable water and wastewater systems that are critical for its citizens.

In order to construct such public improvements, at times it does become necessary to acquire property interests from private landowners. In doing so, the City of Grand Forks, in good faith, makes all reasonable and diligent effort to acquire these property interests through negotiation as is required by N.D.C.C. § 35-15-06.1. However, despite such efforts, there are times these negotiations are not successful, which then necessitates the City of Grand Forks to acquire these property interests through an eminent domain action.

As this committee is aware, in an eminent domain action, the property owner is to be receive and be paid just compensation. Just compensation is the fair market value of the property interests sought to be acquired. Just compensation may also include severance damages (if the parcel sought to be acquired is part of a larger parcel) and consequential damages (if property is not acquired but damaged by the construction of the public improvement). Finally, the law allows the court to award the property owner the costs and attorneys' fees incurred in the eminent domain action.

Senate Bill 2313, as proposed, would increase the amount to be paid for the property interests that must be acquired through an eminent domain action to exceeds the fair market value of the property acquired and any applicable damages by 33%. This will negatively affect the City of Grand Forks and other government bodies. First, this proposed bill will create an obvious financial impact and stress in the construction of public improvements which financial impact would then become a burden on other taxpayers. Second, the proposed bill will also likely create an impediment the City of Grand Forks and other governmental bodies to effectively negotiate the acquisition of property interests – which is pursued to avoid an eminent domain action – and reach a settlement without eminent domain litigation because even with an offer, made during negotiation,

that is equal to fair market value and any applicable damages, it is the eminent domain litigation that would result in a 33% multiplier.

The City of Grand Forks asks for a DO NOT PASS for SB 2313.