

Testimony Presented on SB 2313 to the
Senate Energy and Natural Resources Committee
Senator Dale Patten, Chairman

Brenda E. Derrig, City Engineer for the City of Fargo

January 26, 2023

Mr. Chairman and Members of the Committee,

The city of Fargo is responsible for providing municipal services to its residents, including building roads, flood protection, water and sewer service, and other necessary infrastructure. In order to provide these services, the city collects property and sales taxes, as well as levies assessments to the appropriate benefitting properties.

There are times that the city may require additional property rights in order to provide these services, which may include purchasing land from private property owners. City staff takes every effort during the design of the infrastructure so that any impacts are minimized to the property owners, but nonetheless there are times that additional private property is needed to provide the necessary services. When the need arises, the City of Fargo undertakes negotiations with the property owners by making a good faith offer based on fair value as determined by an independent appraisal, as required by existing statute, all the while serving as good stewards of the taxpayers' money.

Unfortunately, there are times when negotiations are unsuccessful and the parties simply disagree on the value of the property. Under these circumstances, the City Commission determines legal action to secure the property interests is necessary. That determination is not taken lightly since no one favors litigation over negotiation. However, when it does become necessary, existing statutes provide for payment of the property owner's attorney fees in appropriate circumstances. The property owner's rights are protected, while balancing the need to serve the public purpose.

SB 2313 proposes to add thirty-three percent to the damage award, which unnecessarily increases the taxpayer burden for an infrastructure project that requires additional private property in order for the City to properly provide municipal services to its residents. Further, to simply add to the damages in the event of litigation will certainly result in more litigation, not less. It would simply be cost prohibitive to the city to offer an additional 33% at the outset of negotiations, without any certainty of resolution short of litigation. The only individuals who would benefit from that scenario is the lawyers involved.

The City of Fargo requests a DO NOT PASS on SB 2313.

Thank you.