

TESTIMONY OF

David Bruschwein, Director of Municipal Facilities

Good morning Chairman Larsen and members of the Senate Industry and Business Committee. My name is David Bruschwein, and I am the Director of the Division of Municipal Facilities in the North Dakota Department of Environmental Quality. I am here to testify in opposition to Senate Bill No. 2347 as written but would like to offer an amendment to keep the \$200,000 threshold for public improvements and pre-engineered units involving water works, sewerage, or solid waste projects.

Under current state law, public works and public improvements projects costing over \$200,000 cannot proceed to construction without engineer-prepared plans and specifications. Senate Bill 2347 proposes to increase the cost threshold to \$1 million and exempts pre-engineered units from the cost threshold. If Senate Bill 2347 is enacted, the state and its political subdivisions could undertake projects up to \$1 million without engineer-prepared plans and specifications or projects with pre-engineered units of any cost.

The Department of Environmental Quality (DEQ) proposes an amendment to Senate Bill 2347 for the following reasons:

- The DEQ is responsible for the pre-construction review and approval of all projects involving water works, sewerage, and solid waste. These reviews ensure that projects meet design standards. This is crucial to ensure system functionality and integrity, and to protect public health and the environment. Improperly designed or constructed facilities can fail, leading to loss of service, additional costs, and direct contamination of drinking water, groundwater, or surface waters.
- Based on the current threshold of \$200,000, communities occasionally submit projects for review that have not been prepared by an engineer. We spend considerable time working with these communities to get their submittals in a form that satisfies design standards. It is an inefficient use of state resources and causes delays in project approval and construction. Increasing the threshold to \$1 million would heighten this situation by involving larger and more complex projects. This will add more work to already heavy workloads and delay approval of all projects.
- The Department's role is to review and approve already-prepared projects to ensure that the design standards are met, not to design projects. We do provide design recommendations when asked. However, we cannot both design and approve projects, as this represents a conflict of interest. To avoid a conflict of interest, we may have to

reject projects that do not initially meet design standards, which may result in further project delays.

- Exempting pre-engineered units from the engineering threshold causes several concerns for the Department. This bill does not include a definition for a “pre-engineered unit”. It is anticipated that pre-engineered units for drinking water and wastewater infrastructure would include water and wastewater treatment plant equipment and process units. These are complex designs requiring knowledge from an experienced engineer to determine appropriateness and feasibility. Vendors and manufacturers do not perform these services, which will put this responsibility onto the drinking water or wastewater operator. Furthermore, review and approval of pre-engineered units would require a significant increase in staff time to coordinate directly with vendors and manufacturers, who are often located out-of-state and have limited experience with North Dakota’s climate and water resources. This would place a burden on both the community and the Department’s engineers.
- Finally, engineers are uniquely equipped to prepare plans and specifications that meet design standards sufficiently detailed for construction purposes. Over the last four years, there has been an average of 174 projects submitted for approval each year. Nearly all of these projects were prepared by engineers. This enabled timely review and approval. The proposed increased threshold has the potential to significantly reduce professional involvement and our ability to approve projects in a timely manner.

The DEQ takes its responsibility for public health, safety, and environmental protection seriously. Keeping the current threshold of \$200,000 in place for engineer-prepared plans and specifications will allow us to do this. Therefore, we request that the bill be amended to keep the \$200,000 threshold for public improvements and pre-engineered units involving water works, sewerage, or solid waste projects.

This concludes my testimony. I would be happy to answer any questions you have at this time.

AMENDMENT TO SENATE BILL NO. 2347

Page 1, line 10, after “public improvement” insert “involving waterworks, sewerage, or solid waste is two hundred thousand dollars and for construction of other improvement projects is one million dollars.”

Page 1, line 13, after “under this section” insert “except for those involving waterworks, sewerage, or solid waste”

Renumber accordingly