

March 4, 2024

Chair Dziedzic and Members of the Senate State and Local Government and Veterans Committee:

RE: SF 4126 LIABILITY; SEWAGE BACKUP

The Minnesota Section American Water Works Association (MN AWWA) Water Utility Council provides guidance to MN AWWA in matters of legislative, regulatory, security and energy related issues. Members of the Water Utility Council represent water utilities from across the State, both metro and outstate, and include non-utility members consisting of engineers and scientists with expertise in the water and wastewater industries. Additionally, many water utilities across the state also operate corresponding wastewater conveyance systems.

The MN AWWA Water Utility Council appreciates the opportunity to comment on SF 4126.

A large majority of water utilities in the State are owned by municipalities with corresponding wastewater collection systems. These collection systems are typically operated, maintained, and renewed with revenue generated through utility fees charged to utility customers. The maintenance and operation of wastewater systems include activities such as closed-circuit television inspection, cleaning of pipes, repair of infrastructure, and removal of debris with the potential of causing or already causing blockage of flow. In most instances blockages are the result of tree root intrusion, grease buildup (from food processing, preparation, cleaning along with other grease generating activities), debris and roots generated from private service cleaning activities, and rags, wipes, and other materials introduced into the system by others.

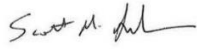
The wastewater system operator has virtually no way to know when these activities are occurring and must rely on a systematic approach to inspections and maintenance with the goal of maintaining flows. When backups are reported or blockages identified, crews respond to restore flow as quickly as possible. As you likely know, damage to property caused by sewer backups can be costly in certain instances. Without reasonable liability protection, especially when a documented maintenance program is being implemented, utilities might have to bear the cost of restoration caused by actions outside of their control. This cost would ultimately be reflected in increased sewer rates for the community.

The language in this proposed legislation is broad – in particular, 1.9 “failed to commit an act that resulted in a sewage backup on the person’s property.” This might suggest that all backups are the result of a failure to remove buildup of almost anything at any time, naturally occurring, or intentionally or unintentionally placed by individuals whether a city is even aware. With very little control of what can be introduced into the sanitary sewer system, this level of liability could very likely create a financial burden on municipalities that would ultimately be borne by utility rate payers. Protection from liability for sewer backups in the absence of negligence in the operation of a wastewater collection system is crucial for

wastewater utilities and utility rate payers.

Thank you again for the opportunity to provide comments. If you have any questions or would like additional information or additional testimony, please contact me.

Sincerely,



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Chair

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Water Utility Council