

Sixty-fifth
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1178

Introduced by

Representatives Porter, Heinert, Nathe, Owens

Senators D. Larson, G. Lee, Wardner

1 A BILL for an Act to amend and reenact section 57-40.6-02 and subsection 1 of section
2 57-40.6-14 of the North Dakota Century Code, relating to the assessed communications service
3 fee and the prepaid wireless emergency 911 fee.

4 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

5 **SECTION 1. AMENDMENT.** Section 57-40.6-02 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **57-40.6-02. Authority of counties or cities to impose fee on assessed**
8 **communications service - Procedure.**

9 The governing body of a county or city may impose a fee on all assessed communications
10 services in accordance with the following requirements:

- 11 1. The governing body shall adopt a resolution that proposes the adoption of the fee
12 permitted under this section. The resolution must specify an effective date for the fee
13 which is no more than two years before the expected implementation date of the
14 emergency services communication system to be funded by the fee. The resolution
15 must include a provision for submitting the proposed fee to the electors of the county
16 or city before the imposition of the fee is effective. The resolution must specify a fee
17 that does not exceed one dollar and fifty cents per month per communication
18 connection and must be applied equally upon all assessed communications services.
19 Prepaid wireless service is not subject to the fee imposed under this section.
- 20 2. A political subdivision shall add a fee of fifty cents to the fee imposed on assessed
21 communications services established under subsection 1. The additional fifty cents per
22 communication connection must be dedicated to the political subdivision obligation to
23 the statewide interoperability radio network and remitted to the governing joint powers
24 entity established under chapter 54-40.3 for the purpose of implementing a statewide

1 interoperability radio network. The funds collected under this subsection must be
2 expended in a manner consistent with the recommendations of the statewide
3 interoperability executive committee.

4 3. The question of the adoption of the fee must be submitted on a petition on which the
5 petition title of the proposition includes the maximum monthly rate of the proposed fee
6 authorized under subsection 1. The question of the adoption of the fee may be
7 submitted to electors at a general, primary, or special election or at a school district
8 election if the boundaries of the school district are coterminous with the boundaries of
9 the governing body adopting the resolution proposing the adoption of the fee. The fee
10 is not effective unless it is approved by a majority of the electors voting on the
11 proposition. The ballot must be worded so that a "yes" vote authorizes imposition of
12 the fee.

13 ~~3.4.~~ Once established by this section, the maximum fee may be increased, decreased, or
14 eliminated by a majority vote of the electors. The question may be placed on the ballot
15 of any general, primary, or special election by a resolution of the governing body, or by
16 a petition signed by ten percent or more of the total number of qualified electors of the
17 political subdivision voting for governor at the most recent gubernatorial election and
18 submitted to the governing body. By action of the governing body, the fee amount
19 collected may be adjusted, subject to the maximum approved by the voters, to meet
20 the costs allowed by this chapter.

21 ~~4.5.~~ In any geographic area, only one political subdivision may impose the fee and
22 imposition must be based on the subscriber service address.

23 ~~5.6.~~ In the interest of public safety, where the subscriber's telephone exchange access
24 service boundary and the boundary of the political subdivision imposing the fee do not
25 coincide, and where all of the political subdivisions within the subscriber's telephone
26 exchange access service boundary have not complied with subsection 1, and where a
27 majority of the subscribers within the subscriber's telephone exchange access service
28 boundary have voted for the fee, a telephone exchange access service subscriber
29 whose subscriber service address is outside the political subdivision may receive 911
30 services by signing a contract agreement with the political subdivision providing the
31 emergency services communication system. The telephone exchange access service

1 provider may collect an additional fee, equal in amount to the basic fee on those
2 subscribers within the exchange boundary. The additional fee amounts collected must
3 be remitted as provided in this chapter.

4 ~~6-7.~~ A fee imposed under this section before August 1, 2007, on telephone exchange
5 access service is extended to all assessed communications services and will remain in
6 effect until changed pursuant to subsection ~~3~~4.

7 **SECTION 2. AMENDMENT.** Subsection 1 of section 57-40.6-14 of the North Dakota
8 Century Code is amended and reenacted as follows:

- 9 1. There is imposed a prepaid wireless emergency 911 fee of two and one-half percent
10 on the gross receipts of sellers from all sales at retail of prepaid wireless services in
11 this state.
- 12 a. A retail transaction that is made, in person, by a consumer at a business location
13 of the seller shall be treated as occurring in this state if that business location is
14 in this state. Any other retail transaction shall be treated as occurring in this state
15 if the retail transaction is treated as occurring in this state under the provisions of
16 chapter 57-39.4 as those provisions apply to a prepaid wireless calling service.
- 17 b. Prepaid wireless emergency 911 fees collected by sellers shall be remitted to the
18 commissioner.
- 19 c. An entity required to collect and remit the prepaid wireless emergency 911 fee
20 shall register with the commissioner. The registration shall be made in the form
21 prescribed by the commissioner, in which the registrant shall identify the name
22 under which the registrant transacts or intends to transact business, the location
23 of the business, the federal identification number, and other information as the
24 commissioner may require.
- 25 d. Gross receipts from sales at retail of prepaid wireless services are exempt from
26 the prepaid wireless emergency 911 fee imposed by this section when the sale is
27 made to a person entitled to a sales and use tax exemption under subsection 6
28 or 12 of section 57-39.2-04.