

Sixty-fifth  
Legislative Assembly  
of North Dakota

**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 a fee of two dollars per month per communication connection in accordance with the~~  
11 ~~following requirements:~~

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

~~interoperability executive committee. Prepaid wireless service is not subject to the fee imposed under this section.~~

~~2. The question of the adoption of the fee must be submitted on a petition on which the petition title of the proposition includes the maximum monthly rate of the proposed fee authorized under subsection 1. The question of the adoption of the fee may be submitted to electors at a general, primary, or special election or at a school district election if the boundaries of the school district are coterminous with the boundaries of the governing body adopting the resolution proposing the adoption of the fee. The fee is not effective unless it is approved by a majority of the electors voting on the proposition. The ballot must be worded so that a "yes" vote authorizes imposition of the fee.~~

~~3. Once established by this section, the maximum fee may be increased, decreased, or eliminated by a majority vote of the electors. The question may be placed on the ballot of any general, primary, or special election by a resolution of the governing body, or by a petition signed by ten percent or more of the total number of qualified electors of the political subdivision voting for governor at the most recent gubernatorial election and submitted to the governing body. By action of the governing body, the fee amount collected may be adjusted, subject to the maximum approved by the voters, to meet the costs allowed by this chapter.~~

~~4. In any geographic area, only one political subdivision may impose the fee and imposition must be based on the subscriber service address.~~

~~5.3. In the interest of public safety, where the subscriber's telephone exchange access service boundary and the boundary of the political subdivision imposing the fee do not coincide, and where all of the political subdivisions within the subscriber's telephone exchange access service boundary have not complied with subsection 1, and where a majority of the subscribers within the subscriber's telephone exchange access service boundary have voted for the fee, a telephone exchange access service subscriber whose subscriber service address is outside the political subdivision may receive 911 services by signing a contract agreement with the political subdivision providing the emergency services communication system. The telephone exchange access service provider may collect an additional fee, equal in amount to the basic fee on those~~

~~subscribers within the exchange boundary. The additional fee amounts collected must be remitted as provided in this chapter.~~

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

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

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

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

1. The governing body shall adopt a resolution that proposes the adoption of the fee permitted under this section. The resolution must specify an effective date for the fee which is no more than two years before the expected implementation date of the emergency services communication system to be funded by the fee. The resolution must include a provision for submitting the proposed fee to the electors of the county or city before the imposition of the fee is effective. The resolution must specify a fee that does not exceed one dollar and fifty cents per month per communication connection and must be applied equally upon all assessed communications services. Prepaid wireless service is not subject to the fee imposed under this section.
2. A political subdivision shall add a fee of fifty cents to the fee imposed on assessed communications services established under subsection 1. The additional fifty cents per communication connection must be dedicated to the political subdivision obligation to the statewide interoperability radio network and remitted to the governing joint powers entity established under chapter 54-40.3 for the purpose of implementing a statewide interoperability radio network. The funds collected under this subsection must be expended in a manner consistent with the recommendations of the statewide interoperability executive committee.
3. The question of the adoption of the fee must be submitted on a petition on which the petition title of the proposition includes the maximum monthly rate of the proposed fee authorized under subsection 1. The question of the adoption of the fee may be

submitted to electors at a general, primary, or special election or at a school district election if the boundaries of the school district are coterminous with the boundaries of the governing body adopting the resolution proposing the adoption of the fee. The fee is not effective unless it is approved by a majority of the electors voting on the proposition. The ballot must be worded so that a "yes" vote authorizes imposition of the fee.

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

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

~~5.6.~~ In the interest of public safety, where the subscriber's telephone exchange access service boundary and the boundary of the political subdivision imposing the fee do not coincide, and where all of the political subdivisions within the subscriber's telephone exchange access service boundary have not complied with subsection 1, and where a majority of the subscribers within the subscriber's telephone exchange access service boundary have voted for the fee, a telephone exchange access service subscriber whose subscriber service address is outside the political subdivision may receive 911 services by signing a contract agreement with the political subdivision providing the emergency services communication system. The telephone exchange access service provider may collect an additional fee, equal in amount to the basic fee on those subscribers within the exchange boundary. The additional fee amounts collected must be remitted as provided in this chapter.

~~6.7.~~ A fee imposed under this section before August 1, 2007, on telephone exchange access service is extended to all assessed communications services and will remain in effect until changed pursuant to subsection ~~34.~~

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

3       1. There is imposed a prepaid wireless emergency 911 fee of two and one-half percent  
4 on the gross receipts of sellers from all sales at retail of prepaid wireless services in  
5 this state.

6       a. A retail transaction that is made, in person, by a consumer at a business location  
7 of the seller shall be treated as occurring in this state if that business location is  
8 in this state. Any other retail transaction shall be treated as occurring in this state  
9 if the retail transaction is treated as occurring in this state under the provisions of  
10 chapter 57-39.4 as those provisions apply to a prepaid wireless calling service.

11       b. Prepaid wireless emergency 911 fees collected by sellers shall be remitted to the  
12 commissioner.

13       c. An entity required to collect and remit the prepaid wireless emergency 911 fee  
14 shall register with the commissioner. The registration shall be made in the form  
15 prescribed by the commissioner, in which the registrant shall identify the name  
16 under which the registrant transacts or intends to transact business, the location  
17 of the business, the federal identification number, and other information as the  
18 commissioner may require.

19       d. Gross receipts from sales at retail of prepaid wireless services are exempt from  
20 the prepaid wireless emergency 911 fee imposed by this section when the sale is  
21 made to a person entitled to a sales and use tax exemption under subsection 6  
22 or 12 of section 57-39.2-04.