

1999 SENATE POLITICAL SUBDIVISIONS

SB 2118


1999 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. Senate Bill 2118

Senate Political Subdivisions Committee

Conference Committee

Hearing Date January 7,1999

Tape Number	Side A	Side B	Meter #
1	x		1362 to 2180
Committee Clerk Signature 			

Minutes: See attached pages

Senate Bill 2118

Senator Lee: opens committee meeting on Senate Bill 2118

Committee Clerk: Read the introduction of the bill

Fiscal note attached to bill

Mary Feist, States Attorney General Office, opened the hearing on Senate Bill 2118 with the intent of reenacting section 44-05-03 of the North Dakota Century Code, relating to deed acknowledgment fees and associated costs.

Mary Feist, made mention of HB 1353, enacted by the 1997 session regarding the changing of fees that a notary public could charge .

Senator Lee: Any questions on SB2118

Senator Lee: So this bill is just a matter of consistency in the amount charged for a notary public?

Senator Kelsh: Making mention to statement “it is an infraction for any person other than the notary public to impose or collect any monetary fee charge, or commission in connection with the notarization of any document” I am assuming that this is the notary public, say you went to a bank and had a note notarized, is it legal for the bank to charge or the bank employee to collect the charge for the notary.

Mary Feist: No, it would be an infraction of the law to charge any additional fees associated with the notary public. The law was enacted so that no matter whom you work for, the most you can be charged for a notary public is \$5.00. Any arrangements between the employer and the employee, as far as notarization would be there concern.

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Senate Political Subdivisions Committee

Bill/Resolution Number sb2028 and 2118

Hearing Date 1-7-99

Senator Lee: Any further questions, no other people to testify

Senator Lee: discussion relating to her personal notary public and where in the state she is able to act as a notary public.

Motion: Senator Watne moved to DO PASS SB 2118, the motion was seconded by **Senator**

Lee

Roll Call: 6 yes, 0 no, 0 absent or not voting

Floor Assignment: Senator Watne

FISCAL NOTE

(Return original and 10 copies)

Bill/Resolution No.: SB 2118 Amendment to: _____

Requested by Legislative Council Date of Request: December 30, 1998

1. Please estimate the fiscal impact (in dollar amounts) of the above measure for state general or special funds, counties, cities, and school districts. Please provide breakdowns, if appropriate, showing salaries and wages, operating expenses, equipment, or other details to assist in the budget process. In a word processing format, add lines or space as needed or attach a supplemental sheet to adequately address the fiscal impact of the measure.

Narrative: There is no fiscal impact to the state and the political subdivisions. The sole intent of this bill is to make the fee for taking acknowledgments and administering an oath under the provisions of N.D.C.C. Chapter 44-05 to be the same as the fee that is allowed to be charged by a notary public in N.D.C.C. Chapter 44-06.

2. State fiscal effect in dollar amounts: None

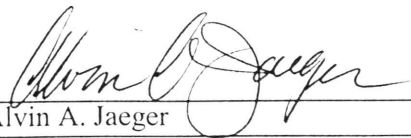
	1997-99 Biennium		1999-2001 Biennium		2001-03 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	None	None	None	None	None	None
Expenditures	None	None	None	None	None	None

What, if any, is the effect of this measure on the budget for your agency or department:

- a. For rest of 1997-99 biennium: None
(Indicate the portion of this amount included in the 1999-2001 executive budget:)
- b. For the 1999-2001 biennium: None
(Indicate the portion of this amount included in the 1999-2001 executive budget:)
- c. For the 2001-03 biennium: None

4. County, city, and school district fiscal effect in dollar amounts:

1997-99 Biennium			1999-2001 Biennium			2001-03 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
None	None	None	None	None	None	None	None	None

Signed: 
 Typed Name: Alvin A. Jaeger
 Department: Secretary of State
 Phone Number: 328-2900
 Date Prepared: January 4, 1998

SB 2118
SR030372

Date: 1-7-99
Roll Call Vote #: ~~SB 2118~~

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO.

Senate Political Subdivisions Committee Committee

Subcommittee on _____
or

Conference Committee

Legislative Council Amendment Number _____

Action Taken Sent to Floor

Motion Made By Sen Watne Seconded By Lyson Leeson

Senators	Yes	No	Senators	Yes	No
Senator Lee (Chairman)	/				
Senator Lyson (Vice-Chaiman)	/				
Senator Flakoll	/				
Senator Watne	/				
Senator Kelsh	/				
Senator Nelson	/				

Total (Yes) 6 No 0

Absent 0

Floor Assignment Sen Watne

If the vote is on an amendment, briefly indicate intent:

Sen Watne to carry

REPORT OF STANDING COMMITTEE (410)
January 7, 1999 11:52 a.m.

Module No: SR-03-0372
Carrier: Watne
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2118: Political Subdivisions Committee (Sen. Lee, Chairman) recommends DO PASS
(6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2118 was placed on the
Eleventh order on the calendar.

1999 HOUSE POLITICAL SUBDIVISIONS

SB 2118

1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2118

House Political Subdivisions Committee

Conference Committee

Hearing Date 2-11-99

Tape Number	Side A	Side B	Meter #
1	x		7.0-13.9
Committee Clerk Signature <i>Pam Dever</i>			

Minutes: BILL SUMMARY: Relating to deed acknowledgment fees. Chairman Froseth opened the hearing with all committee members present except Rep. Disrud and Rep. Ekstrom. Bob Schaible, Assist. Sec. of the State : 7.0 testified in support of the bill on behalf of Al Jaeger, who is in Washington, D.C. (See attached testimony) This bill doesn't really impact our office.

Vice Chair Maragos : 9.4 Where does the money go that the notary publics charge?

Bob : The money that the notary charges, goes to the notary. The money that the county officials charge goes to the county.

Vice Chair Maragos : Acting in the capacity as a notary, the county official collects a fee, goes where?

Bob : Go to the county.

Chairman Froseth : 10.3 Notary publics generally don't charge a fee.

Bob : A notary public, by law, can charge a fee for their services. There is a fee to become a notary public. A lot of them do not collect a fee.

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House Political Subdivisions Committee
Bill/Resolution Number sb2118
Hearing Date 2-11-99

Rep. Delmore : 10.8 Will this bill encourage these particular officials to not wave that fee?

Bob : I rather doubt there will be much money made from this particular section of law, if passed.

Rep. Glassheim : The amount of money is five dollars for private. As far as county officials go, it could be anything from \$1.00 to \$5.00. You wanted to make it consistent?

Bob : That's correct.

Rep. N. Johnson : Just to clarify; this is only for administering oaths for elected officials, not for notarizing some official documents?

Bob : That's correct. It could probably only be \$100 a year collected for something like this.

Chairman Froseth : Hearing no more testimony for or against, the hearing was closed. Does committee wish to act?

ACTION: Rep. N. Johnson made a motion of DO PASS and Rep. Severson seconded the motion.

ROLL CALL VOTE: 13 YES and 0 NO with 2 ABSENT. Passed. Rep. Severson will carry the bill.

Please type or use black pen to complete

Date 2-11-99

Roll call vote # 1

1999 HOUSE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. SB 2118

House POLITICAL SUBDIVISIONS Committee

- Subcommittee on _____
 - Conference Committee
- } Identify or check where appropriate

Legislative Council Amendment Number _____

Action Taken DO Pass

Motion Made By Rep. N. Johnson Seconded By Rep. Severson

Representatives	Yes	No	Representatives	Yes	No
Chairman Froseth	/		Rep. Wikenheiser	/	
Vice Chair Maragos	/				
Rep. Delmore	/				
Rep. Disrud					
Rep. Eckre	/				
Rep. Ekstrom					
Rep. Glassheim	/				
Rep. Gunter	/				
Rep. Johnson	/				
Rep. Koppelman	/				
Rep. Niemeier	/				
Rep. Rose	/				
Rep. Severson	/				
Rep. Thoreson	/				

Total 13 -0-
(Yes) (No)

Absent 2

Floor Assignment Rep. Severson

If the vote is on an amendment, briefly indicate intent:

DO NOT USE HIGHLIGHTER ON ANY FORMS

REPORT OF STANDING COMMITTEE (410)
February 17, 1999 2:23 p.m.

Module No: HR-32-3359
Carrier: Severson
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2118: Political Subdivisions Committee (Rep. Froseth, Chairman) recommends DO PASS (13 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). SB 2118 was placed on the Fourteenth order on the calendar.

1999 TESTIMONY

SB 2118

SECRETARY OF STATE
ALVIN A. JAEGER

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SECRETARY OF STATE
STATE OF NORTH DAKOTA
600 EAST BOULEVARD AVENUE DEPT 108
BISMARCK ND 58505-0500

January 7, 1999

TO: Senator Lee and Members – Senate Political Subdivisions Committee

FR: Al Jaeger, Secretary of State

RE: SB 2118 – Fee for taking acknowledgment and administering an oath

The intent of this bill is to make the fee provided for in N.D.C.C. § 44-05-03 (chapter titled Administration of Oaths) the same as the fee allowed to be charged by a notary public in N.D.C.C. § 44-06-14 (chapter titled Notaries Public). That section of law reads as follows:

“A notary public is entitled to charge and receive not more than five dollars per notarial act. A notary who charges a fee exceeding that amount is guilty of an infraction. It is an infraction for any person other than the notary public to impose or collect any monetary fee, charge, or commission in connection with the notarization of any document.”

The fee in 44-06-14 regarding notaries was changed in the 1997 session with the passage of HB 1353. Prior to the passage of that bill, there were eight fees listed in that section of law ranging from 10 cents (for administering an oath or affirmation) to \$1.50.

Because the service provided is the same under both chapters of the Century Code, we believe the “not more than” fee that can be charged should be the same in both.

SECRETARY OF STATE
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SECRETARY OF STATE
STATE OF NORTH DAKOTA
600 EAST BOULEVARD AVENUE DEPT 108
BISMARCK ND 58505-0500

February 11, 1999

SB
2118

TO: Rep. Froseth and Members - House Political Subdivisions Committee

FR: Al Jaeger, Secretary of State

RE: SB 2118 – Fee for taking acknowledgment and administering an oath

This bill does not pertain to a service or fee that is collected by the Secretary of State's office. Rather, it pertains to those officers who are authorized to administer oaths under the provisions of Chapter 44-05 (Administration of Oaths) of the North Dakota Century Code (see attached).

The sole intent of this bill is to make the maximum fee in N.D.C.C. § 44-05-03, the same as the maximum fee allowed to be charged by a notary public under the provisions of Chapter 44-06 of the North Dakota Century Code (Notaries Public). A section of that chapter, 44-06-14, reads as follows

"A notary public is entitled to charge and receive not more than five dollars per notarial act. ..."

Because the service provided is similar under both chapters of the Century Code, the adoption of this bill would make the law consistent by having the same "not more than five dollars" fee in both.

The fee in Chapter 44-05 has remained unchanged since 1973 (twenty-six years ago). The 1997 Legislative Assembly (Session Law Chapter 384) adjusted the fees for notary publics. Until that adjustment, notary fees had not been adjusted since 1981.

CHAPTER 44-05

ADMINISTRATION OF OATHS

44-05-01. Officers authorized to administer oaths. The following officers are authorized to administer oaths:

1. Each justice of the supreme court, each judge of the district court, the clerk of the supreme court, and the clerk's deputy.
2. The clerk of the district court, county auditor, register of deeds, and the deputy of each such officer within that officer's county.
3. Each county commissioner and public administrator within that officer's county.
4. Notary public anywhere in the state, upon complying with section 44-06-04.
5. Each city auditor, municipal judge, and township clerk, within that officer's own city or township.
6. Each sheriff and the deputy sheriff within the sheriff's county in the cases prescribed by law.
7. Other officers in the cases prescribed by law or by rule of the supreme court.

44-05-02. Person may affirm. A person conscientiously opposed to swearing may affirm and is subject to the penalties of perjury as in case of swearing.

44-05-03. Fee for taking acknowledgment and administering an oath. Any officer authorized by law to take and certify acknowledgment of a deed or other instrument is entitled to charge and receive not more than one dollar.

44-05-04. Place of filing oath of office. Unless otherwise provided by law, any public officer required to take an oath of office must file the oath as follows:

1. If a state official or member of a state board, with the secretary of state.
2. If a county official or member of a county board, with the county auditor.
3. If a city official or member of a city board, with the city auditor.
4. If a member of a district or political subdivision that is larger than a county, with the secretary of state.