

**2013 SENATE INDUSTRY, BUSINESS AND LABOR**

**SB 2112**

# 2013 SENATE STANDING COMMITTEE MINUTES

Senate Industry, Business and Labor Committee  
Roosevelt Park Room, State Capitol

SB 2112  
January 14, 2013  
Job Number 17130

☐ Conference Committee

Committee Clerk Signature



## Explanation or reason for introduction of bill/resolution:

Relating to fees for public utility applications

## Minutes:

Testimony Attached

Chairman Klein: Opened the hearing.

Illona A. Jeffcoat-Sacco, General Counsel, Public Service Commission: Written Testimony Attached (1).

Chairman Klein: Asked if they were looking at a \$50,000 increase.

Illona: Yes, in each of the fees and each section is in the bill.

Chairman Klein: Said that he understands that they try to get this done with as little cost as possible but if it is under the amount charged they will return the excess to the public utility. He also asked if they go over the cost frequently.

Illona: Said not frequently but the public utility staff is seeing increases when they go out on bids. She gave an example; the bid comes back at \$50,000 and you need an attorney and an administrative law judge and maybe an audit trip, you may have enough money but if the bid comes back at \$90,000 for the technical analyst then you may not. They do have many cases where they don't use it all.

Senator Andrist: Asked what they do when there is an overrun, do they have the authority to bill them for it.

Illona: Said they have the authority to go through the emergency commission to request a larger fee.

Senator Sorvaag: Asked if they have gone to the emergency fund.

Illona: Said they have but they wouldn't want to go very often because there is a lot of extra work and some risk in going to the emergency commission.

Chairman Klein: Stated that they could go to the emergency commission but not back to the utility and ask for more money?

Illona: Said that was correct.

Senator Sinner: Asked for an explanation of the expenses that are paid for by these fees and if there are any staff cost involved.

Illona: Said that there is only out of pocket expenses paid, no staff salary. If they were to travel to a hearing, then travel costs would come out of the fee. If they were doing a case without any outside technical expertise, no accountants or economists and staffers needed to travel to the cooperate office, that would be covered. If they would hire and accountant for an audit, that would be covered. If they hire a consultant to handle that and work with staff oversight, that would be covered. So it would be; travel, administrative law judge, outside technical expertise and outside legal expertise. She explained the need for outside legal expertise.

Senator Sinner: Asked if there had ever been any disagreement or contention of the expenses by the applicant.

Illona: Said she doesn't believe so. There may have been some differences on the consultant that was hired but that is something that isn't known until after the fact. She said that they are up front with the companies. She said it's been a good relationship with the companies. If the company doesn't feel the amount is correct and wants it lowered it goes to the commission and at a meeting a recommendation is made of the amount to be paid.

Senator Laffen: Asked if the emergency commission pays the overage where does the money come from, the taxpayers?

Illona: Said that is correct, it would be general fund.

Senator Laffen: Stated that all they are doing is setting an upper limit so the taxpayers don't end up paying for the bill.

Illona: Said that was correct, that the rate payers would pay.

Carly McCloud, Utility Shareholders: Said that this was discussed with the companies that are involved with the utility shareholders and they understand the budget constraints of the public service commission and have no problem with this increase.

Chairman Klein: Closed the hearing.

Senator Andrist: Motioned for a do pass.

Senator Sinner: Seconded the motion.

Roll Call Vote: Yes - 7 No - 0

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Absent: 0

Floor Assignment: Senator Andrist

**FISCAL NOTE**  
**Requested by Legislative Council**  
**12/21/2012**

Bill/Resolution No.: SB 2112

- 1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2011-2013 Biennium		2013-2015 Biennium		2015-2017 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	\$0	\$0	\$0	\$0
Expenditures	\$0	\$0	\$0	\$0	\$0	\$0
Appropriations	\$0	\$0	\$0	\$0	\$0	\$0

- 1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

	2011-2013 Biennium	2013-2015 Biennium	2015-2017 Biennium
Counties	\$0	\$0	\$0
Cities	\$0	\$0	\$0
School Districts	\$0	\$0	\$0
Townships	\$0	\$0	\$0

- 2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

This bill increases specific fees for processing various applications submitted to the Public Service Commission by jurisdictional investor owned gas and electric utilities. These fees are held in suspense using a special fund with specific project costing.

- B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

Zero fiscal impact to the agency resulting from proposed legislation.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

- A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

These fees are not revenue to the state nor are they included in the executive budget. These fees are collected and deposited into a special fund held for the single purpose of processing the filed application. Costs incurred are allocated to the fee and any remaining balance after processing the application must be returned to the company. Estimating the amount of fees collected during a fiscal period is not practical because jurisdictional investor owned utilities have sole discretion over if and when applications are filed.

- B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

Expenses incurred to process the case are allocated to the fee, which are held in a suspense account, based on the continuing appropriation provided in subsection 6 of section 49-02-02 of the North Dakota Century Code.

- C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

Subsection 6 of section 49-02-02 of the North Dakota Century Code provides continuing appropriation to utilize the funds upon receipt.

**Name:** Joshua C. Gallion

**Agency:** Public Service Commission

**Telephone:** 701-328-4020

**Date Prepared:** 12/27/2012

Date: 1/14/2013  
Roll Call Vote # 1

**2013 SENATE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. 2112**

Senate Industry, Business, and Labor Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken: ☒ Do Pass ☐ Do Not Pass ☐ Amended ☐ Adopt Amendment

☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Senator Andrist Seconded By Senator Sinner

Senators	Yes	No	Senator	Yes	No
Chairman Klein	x		Senator Murphy	x	
Vice Chairman Laffen	x		Senator Sinner	x	
Senator Andrist	x				
Senator Sorvaag	x				
Senator Unruh	x				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Senator Andrist

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

**REPORT OF STANDING COMMITTEE**

**SB 2112: Industry, Business and Labor Committee (Sen. Klein, Chairman)** recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2112 was placed on the Eleventh order on the calendar.



**2013 HOUSE INDUSTRY, BUSINESS AND LABOR**

**SB 2112**

# 2013 HOUSE STANDING COMMITTEE MINUTES

## House Industry, Business and Labor Committee

Peace Garden Room, State Capitol

SB 2112  
March 11, 2013  
Job 19717

☐ Conference Committee

*Kristie Hetzler*

### Explanation or reason for introduction of bill/resolution:

Relating to fees for public utility applications

### Minutes:

Attachment 1

Hearing opened.

**Illona Jeffcoat-Sacco, General Counsel with the Public Service Commission:** Refer to written testimony, attachment 1.

4:00 **Chairman Keiser:** Why don't we simply say the commission may charge for associated costs?

4:30 **Illona Jeffcoat-Sacco:** The fees provide more flexibility to the commission however on the other hand it is a hassle to have too much or too little.

6:09 **Chairman Keiser:** If you went to the emergency commission they gave you the immediate dollar so that you could continue to make payments. But you eventually recovered those dollars through the action of the commission to assess an increase in the fee structure. When you have to contract, how are we managing that people don't get carried away with the billing.

8:18 **Illona Jeffcoat-Sacco:** I have not have direct contact with the contracting but I believe there is usually a dollar figure, an estimated cap on those contracts. That can be good and bad. We want good contractors and I think we have balanced it well.

9:42 **Chairman Keiser:** How often do the examines go over the limit?

10:12 **Illona Jeffcoat-Sacco:** We are most likely to have a consultant and an attorney so that is where the balance comes in.

11:25 **Carlee McCleod,** President of the Utilities Share Holders of ND: We are not opposed to this and I just wanted to let the committee know we do not have a problem with it.

Hearing closed.

**Motion for a do pass made by Representative N. Johnson and seconded by Representative Frantsvog.**

**Representative Becker:** I agree with the issue of "just" going over the limit and I believe whatever the limit is that it will always just be above that.

**Chairman Keiser:** It is difficult to get accurate information and an eye should be kept on the contracts because they can become a problem.

**Roll call vote on motion for a Do Pass. Motion carries**

**Yes = 10**

**No = 5**

**Absent = 0**

**Carrier:** Representative Boschee

**FISCAL NOTE**  
**Requested by Legislative Council**  
**12/21/2012**

Bill/Resolution No.: SB 2112

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**Name:** Joshua C. Gallion

**Agency:** Public Service Commission

**Telephone:** 701-328-4020

**Date Prepared:** 12/27/2012

Date: 3-11-2013Roll Call Vote #: 1

**2013 HOUSE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. 2112**

**House Industry, Business, and Labor Committee**

Legislative Council Amendment Number \_\_\_\_\_

Action Taken: ☒ Do Pass ☐ Do Not Pass ☐ Amended ☐ Adopt Amendment☐ Rerefer to Appropriations ☐ Reconsider ☐ Consent CalendarMotion Made By Johnson Seconded By Frantsvog

Representatives	Yes	No	Representatives	Yes	No
Chairman George Keiser	✓		Rep. Bill Amerman	✓	
Vice Chairman Gary Sukut		✓	Rep. Joshua Boschee	✓	
Rep. Thomas Beadle		✓	Rep. Edmund Gruchalla	✓	
Rep. Rick Becker		✓	Rep. Marvin Nelson	✓	
Rep. Robert Frantsvog	✓				
Rep. Nancy Johnson	✓				
Rep. Jim Kasper		✓			
Rep. Curtiss Kreun	✓				
Rep. Scott Louser	✓				
Rep. Dan Ruby		✓			
Rep. Don Vigasaa	✓				

Total Yes 10 No 5Absent ✓Floor Assignment Boschee

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

**REPORT OF STANDING COMMITTEE**

**SB 2112: Industry, Business and Labor Committee (Rep. Keiser, Chairman)**  
recommends **DO PASS** (10 YEAS, 5 NAYS, 0 ABSENT AND NOT VOTING).  
SB 2112 was placed on the Fourteenth order on the calendar.

**2013 TESTIMONY**

**SB 2112**



## **Senate Bill 2112**

**Presented by:** Illona A. Jeffcoat-Sacco  
General Counsel  
Public Service Commission

**Before:** Senate Industry, Business and Labor Committee  
Honorable Jerry Klein, Chairman

**Date:** January 14, 2013

### **TESTIMONY**

Mister Chairman and committee members, I am Illona Jeffcoat-Sacco, General Counsel with the Public Service Commission. The Commission asked me to appear today in support of Senate Bill 2112, introduced at our request.

The Public Service Commission very much appreciates the legislature authorizing application fees for the Commission's use in processing larger and more complicated public utility applications. We find that in certain cases, the limits currently in statute are not sufficient. In many other cases the application fees are more than sufficient, and all funds not expended on processing the cases are refunded to the applicants.

The Commission is handling an increasing number of public utility related cases due to the state's energy boom and the corresponding increasing investment in utility plant. Many of these cases are highly complex and require more and different expertise than the Commission has on staff, or simply require more time than staff has available. The Commission strongly believes it is most efficient to outsource staff work on these cases when necessary, rather than

adding employee positions. This offers the Commission, the taxpayers, and most importantly, the utility's ratepayers the benefit of vigorous research, analysis and legal representation by persons with specific expertise, targeted to the specific needs of any particular case, without reducing the staff time available for other regulatory work, adding FTEs, or otherwise impacting the state's general fund.

This was the objective when the Legislature enacted fees for these types of cases in 2009, and the objective has been met and is effective. However, in the recent past, the available fee dollars are not sufficient. In the most recent rate case for Montana Dakota Utilities, PSC Case No. 10-124, the Commission retained a consultant to investigate the rate application and an attorney to handle the advocacy staff case. We also incur expenses for an Administrative Law Judge, legal notices, and sometimes travel expenses for an audit or hearing. The \$125,000 was not sufficient to cover the expenses in the MDU rate increase case (\$127,260.83).

Another example is the Northern States Power Company's most recently completed rate increase request. This request was made up of two applications, an increase for 2011 and a supplemental increase for 2012. Since NSP filed two separate applications, the Commission received two application fees, although both cases were investigated, heard and decided together. Total expenditures on these two cases exceed \$200,000 (\$201,699.65).

Increasing the fees will provide the Commission with the flexibility it needs to assign staff as efficiently as possible, and retain expertise where needed,

without impacting the general fund. Any monies not used are returned to the applicants. The Commission would appreciate your favorable vote on Senate Bill 2112.

Mister Chairman, this concludes my testimony. I will be happy to answer any questions you may have.

**Senate Bill 2112**

① SB 2112  
3-11-2013

**Presented by:** Illona A. Jeffcoat-Sacco  
General Counsel  
Public Service Commission

**Before:** House Industry, Business and Labor Committee  
Representative George J. Keiser, Chairman

**Date:** March 11, 2013

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