

Introduced by

Senators Cook, Burckhard, Hogue

1 A BILL for an Act to amend and reenact sections 57-40.6-01 and 57-40.6-08, subdivision i of  
2 subsection 1 of section 57-40.6-10, and section 57-40.6-12 of the North Dakota Century Code,  
3 relating to fees for 911 services; to repeal sections 57-40.6-02, 57-40.6-03, 57-40.6-03.1,  
4 57-40.6-04, and 57-40.6-05 of the North Dakota Century Code, relating to fees for 911 services;  
5 and to provide an appropriation.

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

7 **SECTION 1. AMENDMENT.** Section 57-40.6-01 of the North Dakota Century Code is  
8 amended and reenacted as follows:

9 **57-40.6-01. Definitions.**

10 In this chapter, unless the context otherwise requires:

- 11 1. ~~"Active prepaid wireless service" means a prepaid wireless service that has been used~~  
12 ~~by the customer during the month to complete a telephone call for which the~~  
13 ~~customer's card or balance was decremented.~~
- 14 2. ~~"Assessed communications service" means a software service, communication~~  
15 ~~connection, cable or broadband transport facilities, or a combination of these facilities,~~  
16 ~~between a billed retail end user and a service provider's network that provides the end~~  
17 ~~user, upon dialing 911, access to a public safety answering point through a permissible~~  
18 ~~interconnection to the dedicated 911 network. The term includes telephone exchange~~  
19 ~~access service, wireless service, active prepaid wireless service, and voice over~~  
20 ~~internet protocol service.~~
- 21 3. ~~"Automated notification system" means that portion of a telecommunications system~~  
22 ~~that provides rapid notice of emergency situations to the public.~~

Sixty-third  
Legislative Assembly

- 1       4. ~~"Communication connection" means a telephone access line, wireless access line,~~  
2       ~~unique voice over internet protocol service connection, or functional equivalent~~  
3       ~~uniquely identifiable by a number, internet address, or other designation.~~
- 4       5. "Emergency services communication system" means a statewide, countywide, or  
5       citywide radio system, land lines communication network, wireless service network, or  
6       enhanced 911 (E911) telephone system, which provides rapid public access for  
7       coordinated dispatching of services, personnel, equipment, and facilities for law  
8       enforcement, fire, medical, or other emergency services.
- 9       6. ~~"FCC order" means federal communications commission order 94-102 [961 Federal~~  
10       ~~Register 40348] and any other FCC order that affects the provision of wireless~~  
11       ~~enhanced 911 service.~~
- 12       7. ~~"Prepaid wireless service" means wireless service that is activated in advance by~~  
13       ~~payment for a finite dollar amount of service or for a finite set of minutes that~~  
14       ~~terminates either upon use by a customer and delivery by the wireless provider of an~~  
15       ~~agreed upon amount of service corresponding to the total dollar amount paid in~~  
16       ~~advance or within a certain period of time following the initial purchase or activation,~~  
17       ~~unless the customer makes additional payments.~~
- 18       8.2. "Public safety answering point" or "PSAP" means a communications facility or  
19       combination of facilities operated on a twenty-four-hour basis which first receives 911  
20       calls from persons in a 911 service area and which, as appropriate, may directly  
21       dispatch public safety services or extend, transfer, or relay 911 calls to appropriate  
22       public safety agencies.
- 23       9.3. "Public safety answering point service area" means the geographic area for which a  
24       public safety answering point has dispatch and emergency communications  
25       responsibility.
- 26       10.4. "Public safety telecommunicator" means an individual whose primary full-time or  
27       part-time duties are receiving, processing, and transmitting public safety information  
28       received through an emergency services communication system.
- 29       11. ~~"Subscriber service address" means, for purposes of wire line subscribers, the~~  
30       ~~address where the telephone subscriber's wire line telephone device is used and, for~~

1 ~~purposes of wireless subscribers, the place of primary use, as that term is defined in~~  
2 ~~section 57-34.1-02.~~

3 ~~12.5.~~ "Telephone access line" means the principal access to the telephone company's  
4 switched network, including an outward dialed trunk or access register.

5 ~~13.6.~~ "Telephone exchange access service" means service to any wire line telephone  
6 access line identified by a unique telephone number that provides local wire line  
7 access to the telecommunications network to a service subscriber and which enables  
8 the subscriber to access the emergency services communications system by dialing  
9 the digits 9-1-1 on the subscriber's telephone device.

10 ~~14.7.~~ "Unpublished" means information that is not published or available from directory  
11 assistance.

12 ~~15.~~ "~~Voice over internet protocol service~~" means a service that enables real-time two-way  
13 voice communications; requires a broadband connection from the user's location;  
14 requires internet protocol-compatible customer premises equipment; and permits  
15 users generally to receive calls that originate on the public switched telephone network  
16 and to terminate calls to the public switched telephone network.

17 ~~16.~~ "~~Wireless access line~~" means each active wireless and prepaid wireless telephone  
18 number assigned to a commercial mobile radio service subscriber, including end users  
19 of resellers.

20 ~~17.~~ "~~Wireless enhanced 911 service~~" means the service required to be provided by  
21 wireless service providers pursuant to the FCC order.

22 ~~18.8.~~ "Wireless service" means commercial mobile radio service as defined in 47 U.S.C.  
23 332(d)(1) and includes:

- 24 a. Services commonly referred to as wireless; and
- 25 b. Services provided by any wireless real-time two-way voice communication  
26 device, including radio-telephone communications used in:
- 27 (1) Cellular telephone service;
- 28 (2) Personal communications service; or
- 29 (3) The functional or competitive equivalent of a radio-telephone  
30 communications line used in cellular telephone service, personal  
31 communications service, or a network radio access line.

1     ~~49.9.~~ "Wireless service provider" means any entity authorized by the federal  
2             communications commission to provide wireless service within this state.

3             **SECTION 2. AMENDMENT.** Section 57-40.6-08 of the North Dakota Century Code is  
4     amended and reenacted as follows:

5             **57-40.6-08. Emergency services communication system, automated notification**  
6     **system, or emergency instructions - Liability.**

- 7             1. A public agency, public safety agency, ~~assessed~~ communications service provider, or  
8             person that provides access to an emergency services communication system or an  
9             automated notification system, or any officer, agent, or employee of any public agency,  
10            public safety agency, ~~assessed~~ communications service provider, or person is not  
11            liable for any civil damages as a result of any act or omission except willful and wanton  
12            misconduct or gross negligence in connection with developing, adopting, operating, or  
13            implementing any emergency services communication plan or system ~~as provided~~  
14            ~~under this chapter.~~
- 15            2. A person who gives emergency instructions through a system ~~as provided under this~~  
16            ~~chapter~~, to ~~persons~~ a person rendering services in an emergency at another location,  
17            or any person following ~~such~~ the instructions in rendering ~~such~~ services, is not liable for  
18            any civil damages as a result of issuing or following the instructions, unless issuing or  
19            following the instructions constitutes willful and wanton misconduct or gross  
20            negligence.
- 21            3. This section does not waive, limit, or modify any existing immunity or other defense of  
22            the state or any political subdivision, or any of its agencies, departments,  
23            commissions, boards, officers, or employees, nor does it create any claim for relief  
24            against any of these entities.

25            **SECTION 3. AMENDMENT.** Subdivision i of subsection 1 of section 57-40.6-10 of the North  
26     Dakota Century Code is amended and reenacted as follows:

- 27            i. Ensure that collected assessed communication fee proceeds ~~collected under this~~  
28            ~~chapter~~ are expended in accordance with guidelines developed ~~pursuant to~~ under  
29            section 57-40.6-12 and implement ~~an~~ a sufficient accounting system ~~sufficient to~~  
30            ~~meet the requirements of section 57-40.6-05.~~

1       **SECTION 4. AMENDMENT.** Section 57-40.6-12 of the North Dakota Century Code is  
2 amended and reenacted as follows:

3       **57-40.6-12. Emergency services communications coordinating committee -**  
4 **Membership - Duties.**

- 5       1. The governing body of a city or county, ~~which adopted a fee on assessed~~  
6 ~~communications services under this chapter~~, shall make an annual report of the  
7 income, expenditures, and status of its emergency services communication system.  
8 The annual report must be submitted to the emergency services communications  
9 coordinating committee. The committee is composed of four members, one appointed  
10 by the North Dakota 911 association, one appointed by the North Dakota association  
11 of counties, one appointed by the chief information officer of the state, and one  
12 appointed by the adjutant general to represent the division of state radio.
- 13       2. The committee shall:
- 14           a. Recommend to the legislative management changes to the operating standards  
15 for emergency services communications, including training or certification  
16 standards for dispatchers;
- 17           b. Develop guidelines regarding the allowable uses of the fee revenue ~~collected~~  
18 ~~under this chapter~~;
- 19           c. Request, receive, and compile reports from each governing body on the use of  
20 ~~the proceeds of the fee imposed under this chapter~~income, analyze the reports  
21 with respect to the guidelines, file its report with the legislative council by  
22 November first of each even-numbered year regarding the use of ~~the fee~~  
23 ~~revenue~~income, and recommend to the legislative assembly the appropriate  
24 ~~maximum fee allowed by section 57-40.6-02~~income adjustments;
- 25           d. Periodically evaluate chapter 57-40.6 and recommend changes to the legislative  
26 management; and
- 27           e. Serve as the governmental body to coordinate plans for implementing emergency  
28 911 services and internet protocol enabled emergency applications for 911.
- 29       3. The committee may initiate and administer statewide agreements among the  
30 governing bodies of the local governmental units with jurisdiction over an  
31 emergency 911 telephone system to coordinate the procurement of equipment and

1 services, fund the research, administration, and activities of the committee, and  
2 contract for the necessary staff support for committee activities.

3 4. The committee shall make recommendations to the state treasurer on factors to be  
4 used to allocate funds for emergency services communications systems.

5 **SECTION 5. REPEAL.** Sections 57-40.6-02, 57-40.6-03, 57-40.6-03.1, 57-40.6-04, and  
6 57-40.6-05 of the North Dakota Century Code are repealed.

7 **SECTION 6. APPROPRIATION.** There is appropriated out of any moneys in the general  
8 fund in the state treasury, not otherwise appropriated, the sum of \$20,000,000, or so much of  
9 the sum as may be necessary, to the state treasurer for the purpose of providing funding for  
10 911 services primarily based upon the population of each county and secondarily on other  
11 factors from recommendations of the emergency services communications coordinating  
12 committee, for the biennium beginning July 1, 2013, and ending June 30, 2015.